

MEETING HELD DECEMBER 17, 2012

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, December 17, 2012 at 4:30 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees Daniel Brakewood, Saverio Terenzi, Bart Didden, Luis Marino and Joseph Kenner.

It should be noted that Trustee Branca was absent.

Also present were Village Manager, Christopher Steers; Village Clerk, Janusz R. Richards; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas; Director of Planning and Development Christopher Gomez; Police Chief, Joseph Krzeminski; Administrative Aide, Chris Ameigh; Village Planner, Jessica Youngblood; Mr. Dolph Rotfeld from Dolph Rotfeld Engineering; Mr. Ferrandino from Ferrandino & Associates Inc.; Mr. Frank Fish from BFJ Planning and Ms. Rose Noonan from the Housing Action Council.

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was declared opened at 4:42 p.m.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

WORKSESSION

Comprehensive Plan Process Finalization

The Board discussed with staff the State Environmental Quality Review Act (SEQRA) Findings Statement. Mayor Pilla asked for an executive session with staff and special counsel to discuss the actions on this evening's agenda.

MOTION FOR EXECUTIVE SESSION

At 4:54 p.m., on a motion of Trustee Didden, seconded by Trustee Kenner, the Board, staff and special counsel went into an executive session to discuss the actions on this evening's agenda.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

No action was taken in executive session.

At 5:59 p.m., on motion of Trustee Marino, seconded by Trustee Kenner, the Board of Trustees closed the first executive session.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

At 6:00 p.m. on a motion of Trustee Marino, seconded by Trustee Kenner, the work session re-opened for the Comprehensive.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

WORKSESSION - Continued

Comprehensive Plan Process Finalization

The Board, staff, Mr. Fish and Mr. Ferrandino discussed further the SEQRA Findings Statement for tonight's regular meeting.

Housing Rehabilitation Program

Ms. Rose Noonan spoke to the Board and staff regarding the drafted Housing Rehabilitation Program agreement. After further discussion with the Board and staff on this topic; Ms. Noonan said that she will come back to the Board at the end of year with the revisions to the drafted agreement.

MOTION FOR EXECUTIVE SESSION

At 7:04 p.m., on motion of Trustee Brakewood, seconded by Trustee Didden, the Board of Trustees adjourned into a second executive session to discuss the second addendum to consent decree.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES: None
ABSENT: Trustee Branca

No action was taken in executive session.

At 7:11 p.m., on motion of Trustee Didden, seconded by Trustee Terenzi, the Board of Trustees closed the second executive session.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES: None
ABSENT: Trustee Branca

At 7:12 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned into a third executive session to discuss negotiations with regard to successor collective bargaining CSEA agreement.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES: None
ABSENT: Trustee Branca

No action was taken in executive session.

At 7:22 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the third executive session was closed.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

At 7:23 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned into a fourth executive session to discuss the employment status with regard to a particular individual.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

No action was taken in executive session.

At 7:28 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the fourth executive session was closed.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

On motion of Trustee Didden, seconded by Trustee Marino, the public portion of the meeting was reopened at 7:29 p.m.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

AWARD PRESENTATION

Recognition award to Rosie Veltri, “Westchester Teen Idol”

Mayor Pilla said to the public that Ms. Rosie Veltri, who is a senior at Port Chester High School, the President of the Tri-M Music Honor Society, a selected member of the New York State All State Choir and has been proudly named 2012 Westchester Teen Idol. Mayor Pilla read the proclamation for Ms. Veltri that Tuesday, December 18, 2012 will be proclaimed Rosie Veltri, Westchester Teen Idol Day in the Village of Port Chester.

RESOLUTION

Add-On Resolution

TRUSTEE Didden made a motion to add-on a resolution to amend the stipulation of agreement with Detective Captain Schnell and the Village of Port Chester, seconded by Trustee Kenner.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

STIPULATION OF AGREEMENT
POLICE DETECTIVE CAPTAIN ALBERT SCHNELL

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE KENNER, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that on behalf of the Board of Trustees, the Mayor be and is hereby authorized to amend the April 2, 2012 Stipulation of Agreement between Police Detective Captain Albert Schnell and the Village of Port Chester with regard to his employment status; and be it further

RESOLVED, that the Board accepts the irrevocable resignation date changed from November 30, 2012 to December 24, 2012; and be it further

RESOLVED, that from November 30, 2012 through December 24, 2012, Detective Captain Albert Schnell shall utilize paid leave time which was accumulated and to be payable upon his resignation or retirement. One day shall be deducted for each regularly-scheduled work day between November 30, 2012 and December 24, 2012. The days utilized shall not be paid upon his resignation and/or retirement. Detective Captain Albert Schnell shall not accumulate any additional leave time for the period November 30, 2012 through December 24, 2012.

ROLL CALL

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 17, 2012

AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:

Public Hearing to establish a community residential facility for six (6) developmentally disabled persons on vacant property adjacent to 51 Betsy Brown Road, Port Chester, New York

The following Public Notices were duly published in the Journal News and the Westmore News on December 7, 2012, certified by Cecilia Hernandez,

Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Monday, December 17, 2012, at 7:00 P.M., in the Courtroom, 350 North Main Street, Port Chester, New York, to hear public comments on the proposal of Ability Beyond Disability to establish a community residential facility for six (6) developmentally disabled persons on vacant property adjacent to 51 Betsy Brown Road, Port Chester, New York.

Interested persons will be afforded the opportunity to be heard at this time.

Christopher Steers
Village Manager

Dated: December 4, 2012

On motion of Trustee Didden, seconded by Trustee Marino, the public hearing was declared open.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustee Branca

Mayor Pilla stated that the public hearing was duly noticed as required by law.

Mr. Cerreto said that under the New York State law, the Board can do one of the three following options for the Ability Beyond Disability application:

1. Accept application
2. Reject application
3. Suggest an alternative location

Mayor Pilla asked if there was anyone who would like to speak in favor or against on the proposal of Ability Beyond Disability to establish a community residential facility for six (6) developmentally disabled persons on vacant property adjacent to 51 Betsy Brown Road, Port Chester, New York.

Ms. Goldie Solomon commented about the existing 12 group homes in the village and how they are not on the tax roll.

Ms. Bea Conetta also commented about the existing 12 group homes in the village and is not in favor of another group home residing in the village.

Mr. Ceruzzi also commented about the group homes in the village that are not on the tax roll.

Ms. Collins of 139 Betsy Brown Road commented her concerns about the property not being on the tax roll and the impact the group home will have on the value of the homes in the neighborhood.

Ms. Scala of 60 Betsy Brown Road commented about the safety and security measures with having a group home in a residential area where there are children. Ms. Scala also commented about the environmental impact and the value of the homes in the neighborhood.

Mr. Ceccarelli commented about his written correspondences to the Housing Urban Development (HUD) and the many properties in the village that are off the tax roll.

Dr. Berkowitz of 150 Betsy Brown Road commented and asked several questions regarding the residents living there, the staff, the site plan structure of the house and the environmental impact of the house.

Mr. Collins of 139 Betsy Brown Road commented about the traffic congestion and security measures.

Mr. Frank of 110 Betsy Brown Road commented about the property value of the homes and thinks there should be a study regarding the property value.

Ms. Demetri of 50 Betsy Brown Road commented about the road safety and the property value of the homes in the neighborhood.

Mr. Scala commented about many people that were born and raised in Port Chester that do not want to live in Port Chester.

Mr. Fanning of Ability Beyond Disability answered questions that were asked by the residents. Mr. Fanning said that Ability Beyond Disability is a non-profit agency which has been in existence for 60 years. Ability Beyond Disability has a total of 55 group homes that are for developmental disabilities, mental retardation. Mr. Fanning said that the proposed home will consist of four woman and two men ranging in ages of thirties to mid-sixties. Mr. Fanning said that the proposed type of residents will not change and the facility will be staffed 24 hours a day. Mr. Fanning said that the homes tend to blend in with the other homes in the neighborhood and believes that people with disabilities belong in a residential community. Mr. Fanning said to the Board that he is willing to come up with a way to compensate the Village since the property will be off the tax roll.

Mayor Pilla said that the Board and staff will explore the proposed application.

On motion of Trustee Kenner, seconded by Trustee Marino, the public hearing was adjourned to a future date.

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

PUBLIC COMMENTS

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented about village properties that are off the tax roll and the high tax assessments. Ms. Solomon also commented that the village cannot afford to have more residential property and Starwood Capital should only construct commercial property and thinks they should build a hotel. Ms. Solomon wished the Board and staffs a Merry Christmas and a happy new year.

Ms. Bea Conetta commented that she is happy the Master Plan/Comprehensive Plan, and the Mayoral race. Ms. Conetta also commented about the proposed dissolving or Rye Town and wished everyone a Merry Christmas and happy new year.

Mr. Ceccarelli commented that he is not against development in the village and commented about various other issues in the village which included the mariner, the marina bulkhead, development in the village, Comprehensive Plan and Starwood Capital. Mr. Ceccarelli wished everyone happy holidays.

Mr. Richard Abel commented about the Comprehensive Plan, Starwood Capital and the Mayoral election.

Ms. Simmons commented about Starwood Capital and property taxes.

Mr. Morlino commented about rental properties and property ownership in the village.

Mr. Tony Gioffre commented on behalf of Starwood Capital. Mr. Gioffre commented that he knows there are a few members of the public that have emotional feelings with Starwood's proposal, but asked the public to reserve their comments and review the data that will be produced based upon the actual application that will be reviewed by the Board and staff. Mr. Gioffre also commented about the "PMU" scenario and senior housing which was discussed at the work session earlier this evening. Mr. Gioffre was everyone a Merry Christmas.

RESOLUTIONS

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE KENNER, the State Environmental Quality Review Act (SEQRA) Findings Statement was amended on portions of options presented and summary of the document.

Roll Call

AYES: Trustees Brakewood, Kenner, Marino, and Mayor Pilla

NOES: Trustees Terenzi and Didden

ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

RESOLUTION MAKING LEGISLATIVE FINDINGS BY THE BOARD OF TRUSTEES WITH RESPECT TO THE ADOPTION OF THE COMPREHENSIVE PLAN AND RELATED ZONING TEXT AND MAP AMENDMENTS

On motion of TRUSTEE KENNER, seconded by TRUSTEE BRAKEWOOD, the following resolution was adopted as amended by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, in May 2012 a draft Comprehensive Plan and draft related Zoning Text and Map Amendments were completed; and

WHEREAS, on February 6, 2012 the Village of Port Chester Board of Trustees was designated to act as Lead Agency for this Type 1 Action under the State Environmental Quality Review Act (“SEQRA”) to determine if the adoption of the proposed Comprehensive Plan and proposed related Zoning Text and Map Amendments (the “Proposed Action”) would have any significant adverse environmental impacts (which proposals were, for the purposes of SEQRA, considered together); and

WHEREAS, on April 2, 2012 the Board of Trustees of the Village of Port Chester, as Lead Agency, determined that the Proposed Action may have a significant adverse impact on the environment and that a Generic Impact Statement (“GEIS”) would be prepared; and

WHEREAS, on May 7, 2012 a Scoping Document for the Draft GEIS was adopted; and

WHEREAS, on October 1, 2012 a Draft GEIS was accepted by the Village of Port Chester Board of Trustees as adequate with respect to its scope and content for the purpose of commencing public review; and

WHEREAS, on October 22, 2012 the Village of Port Chester Board of Trustees conducted a public hearing on the Draft GEIS, and provided for a period for written comments that extended through and including November 1, 2012; and

WHEREAS, on December 3, 2012 a Final GEIS was accepted as complete by the Village of Port Chester Board of Trustees; and

WHEREAS, the Village of Port Chester Board of Trustees conducted a review of the entire record with respect to the Proposed Action (including testimony at the public hearing held on October 22, 2012 and written comments on both the DGEIS and FGEIS) and gave consideration to the potential significant adverse environmental impacts of the Proposed Action in light of the criteria set forth in the SEQRA regulations

NOW, THEREFORE, BE IT RESOLVED, by the Village of Port Chester Board of Trustees as follows:

1. Having thoroughly reviewed the record, the Village of Port Chester Board of Trustees hereby adopts the Findings Statement pursuant to SEQRA as attached hereto; and
2. The Village of Port Chester Board of Trustees' specific findings and determinations are recited in the attached Findings Statement and are hereby incorporated into this Resolution by reference.

AND BE IT FURTHER RESOLVED that the attached Findings Statement as adopted herein shall be filed and circulated to all involved and interested agencies in accordance with the SEQRA regulations, 6 NYCRR Part 617.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Kenner, Marino, and Mayor Pilla

NOES: Trustees Terenzi and Didden

ABSENT: Trustee Branca

DATE: December 17, 2012

{See Insert "A" Adopted SEQRA Findings Statement}

Mayor Pilla stated that this amended resolution does not affect Starwood Capital with their petition.

RESOLUTION

ADOPTION OF THE VILLAGE OF PORT CHESTER COMPREHENSIVE PLAN

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE KENNER, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, pursuant to Village Law, Section 7-722, the Board of Trustees established a Comprehensive Plan Advisory Committee (“CPAC”) to propose the Village’s first-ever comprehensive plan; and

WHEREAS, such pro-active Board action thereupon commenced a multi-year, community-inclusive and iterative process that included the assistance of special planning consultants, special counsel and in-house planning and legal staff; an

WHEREAS, after public hearing, the CPAC proposed a draft comprehensive plan dated March 21, 2012 to the Board of Trustees; and

WHEREAS, on April 2, 2012, the Board of Trustees, as Lead Agency, determined that the comprehensive plan and enactment of related zoning amendments (“Proposed Action”), may have a significant impact on the environment and that a Generic Environmental Impact Statement (“GEIS”) be prepared in accordance with the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, after finalizing the draft comprehensive plan and enactment of related zoning amendments, a referral as made to the Westchester County Planning Board which commended the Village for undertaking this important project and recommended that the Board of Trustees adopt the same after consideration of the County’s comments and those of the Village’s residents; and

WHEREAS, the Board of Trustees held a hearing on June 18, 2012, July 16, 2012 and August 6, 2012 on the comprehensive plan and related zoning amendments and provided for a period of written comments that extended through and including August 16, 2012;

WHEREAS, on December 17, 2012, and following the Board's separate receipt and actions on the Draft and Final GEIS, the Board adopted a Findings Statement approving the Proposed Action thereby concluding SEQRA review; and

WHEREAS, the Board finds that the Comprehensive Plan will serve as the vision for future community-based, sustained and rational decision-making in furtherance of the public interest. Now, therefore, be it

RESOLVED, that the Comprehensive Plan annexed is hereby adopted as the Comprehensive Plan of the Village of Port Chester.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino, and Mayor Pilla

NOES: Trustee Terenzi

ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

AUTHORIZING SECOND ADDENDUM IN UNITED STATES v. VILLAGE OF PORT CHESTER TO IMPLEMENT THE CONSENT DECREE FOR THE 2013 VILLAGE ELECTION AS DRAFTED BY THE UNITED STATES DEPARTMENT OF JUSTICE

On motion of TRUSTEE MARINO, seconded by TRUSTEE BRAKEWOOD, the following resolution **was not adopted** by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the consent decree in the matter of United States v. Village of Port Chester provided for early voting for Trustee; and

WHEREAS, a First Addendum was required to implement the Consent Decree for the 2010 Village Election; and

WHEREAS, the 2013 Village Election includes both the Trustee and Mayor seats; and

WHEREAS, by resolution adopted on November 19, 2012 the Board of Trustees authorized the execution of a Second Addendum in the form annexed which contained a provision that would afford early voters the ability to vote for trustee and for mayor at the same time and place ; and

WHEREAS, the language in the proposed addendum with regard to early voting raised an apparent issue; and

WHEREAS, the addendum had not yet been presented to the court; and

WHEREAS, the Village's special counsel brought the issue to the attention of the parties who concurred that the language should be modified in an abundance of caution; and

WHEREAS, the attorney for the Federal Government has circulated a new draft for approval which has been reviewed and approved by the Village's special counsel. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby authorizes the execution of the Second Addendum to the Consent Decree in the form annexed on behalf of the Village of Port Chester, thereby superceding any prior draft or authority with respect thereto.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Marino, and Mayor Pilla
NOES: Trustees Terenzi, Didden, and Kenner
ABSENT: Trustee Branca

DATE: December 17, 2012

Motion not carried

RESOLUTION
STIPULATION OF AGREEMENT
CSEA – RANK & FILE

On motion of TRUSTEE MARINO, seconded by TRUSTEE DIDDEN, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester and the CSEA, Local 1000, AFSCME, AFL-CIO, Westchester Local 860 Village of Port Chester Unit (Rank and File) have entered into negotiations for a new multi-year labor agreement for the term of June 1, 2011 through May 31, 2015; and

WHEREAS, those negotiations have been successfully concluded; and

WHEREAS, a Memorandum of Agreement reflecting amendments to the existing labor agreement has been signed by the negotiating teams, and subject to the approval of both the Union and Village; and

WHEREAS, the Association has ratified the Memorandum of Agreement. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby ratifies and approves the Memorandum of Agreement with CSEA, Local 1000, AFSCME, AFL-CIO, Westchester Local 860 Village of Port Chester Unit (Rank and File) in the form annexed herein; and be it further

RESOLVED, that the Village Manager be authorized to execute the successor agreement when it is prepared, and be it further

RESOLVED, that the Board of Trustees authorizes the Village Treasurer to modify the General Fund Budget as follows:

From:		
Contingency – Contractual	1.1990.400	\$82,487
To:		
Justice Court – Personnel Services	1.1110.100	\$7,332
Finance – Personnel Services	1.1320.100	\$3,394
Village Clerk – Personnel Services	1.1410.100	\$1,054
Law – Personnel Services	1.1420.100	\$1,115
Buildings-Village Hall-Personnel Services	1.1621.100	\$1,011
Central Garage-Personnel Services	1.1640.100	\$5,194
Police Civilian-Personnel Services	1.3127.100	\$2,735

Building Dept-Personnel Services	1.3620.100	\$2,718
Code Enforcement-Personnel Services	1.3989.100	\$6,242
Street Administration-Personnel Services	1.5010.100	\$1,873
Street Maintenance-Personnel Services	1.5110.100	\$14,183
Street Cleaning-Personnel Services	1.5190.100	\$1,244
Nutrition (SNAP)-Personnel Services	1.6730.100	\$1,735
Nutrition (Transp.)-Personnel Services	1.6750.100	\$918
Parks-Personnel Services	1.7110.100	\$2,394
Youth Program-Personnel Services	1.7310.100	\$2,314
Refuse/Garbage-Personnel Services	1.8160.100	\$21,170
Social Security-FICA	1.9030.802	\$4,750
Social Security-Medicare	1.9030.810	\$1,111
Total		\$82,487

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino and Mayor Pilla
 NOES: None
 ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE KENNER the following resolution was amended to change the setting of the public hearing date from December 17, 2012 to Tuesday, January 22, 2013 (**Monday January 21, 2013 is a holiday**)

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino and Mayor Pilla
 NOES: None
 ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION
SET PUBLIC HEARING
MODIFYING THE AMNESTY PERIOD SET FORTH IN LOCAL LAW NO. 4
OF 2012 ESTABLISHING A PERMIT AMNESTY PROGRAM

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE KENNER, the following resolution was adopted as amended by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Tuesday, January 22, 2013, at 7:00 P.M., at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider a local law that would modify the amnesty period set forth in Local Law No. 4 of 2012 establishing a Permit Amnesty Program.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino and Mayor Pilla
NOES: None
ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

On motion of TRUSTEE KENNER, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that FRANK FERRARA, residing in Port Chester, New York, be and he hereby is appointed a member of the Port Chester LOCAL DEVELOPMENT CORPORATION, in place and in the stead of Philip Siemprevivo, effective immediately, and to serve at the pleasure of the Board of Trustees.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino, and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, by resolution adopted on September 18, 2012, MVM Construction, LLC, 100 Oak Street, Mount Vernon, NY 10550 was awarded the bid for the Concrete Sidewalks and Concrete Curbs Project (Bid No. 12-05) in the amount of \$148,310.00; and

WHEREAS, the contractor has been requested to provide a proposal for work similar to that in the current contract but outside of the scope of the bid items which includes the removal and replacement of the concrete coping on the existing retaining walls and removal of the concrete bedding of the existing Belgian block curb at Memorial Park and the resetting of an existing drain inlet with associated concrete apron repair and the layout and setting of a detectable warning strip and associated construction of a new handicap ramp at Lyon Park; and

WHEREAS, MVM has submitted a proposal for this additional work in the amount of \$6,651.51; and

WHEREAS, MVM Construction LLC is already mobilized to do work under the contract at these sites and is very familiar with the full scope of the additional work and has is completing the work under the original scope of the project to the satisfaction of the Village's consulting engineer, Dolph Rotfeld, P.E., and is prepared to commence the additional work as soon as possible, and

WHEREAS, the additional funds are available in the Sidewalk/Curb Improvement Project 5.5110.400.2011.120. Now therefore be it

RESOLVED, that the proposal submitted by MVM Construction, LLC for Change Order #1 is hereby accepted in the amount of \$6,651.51 thereby increasing the total contract price from \$148,310.00 to \$154,961.51 for the Sidewalk/Curb Improvement Project 5.5110.400.2011.120.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino, and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 17, 2012

RESOLUTION
ACCEPTANCE OF COURT AUDIT FOR FY 2011-2012

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that town and village justices annually provide their court records and dockets to their respective governing boards; and

WHEREAS, the State of New York Chief Administrative Judge has requested a copy of the Village of Port Chester's most recent examination and audit of the Port Chester Justice Court's records and a copy of the Board of Trustees' resolution acknowledging that the required examination and audit was conducted, together with a copy of the audit; and

WHEREAS, the Village has retained Drescher Malecki LLP, Buffalo, New York, as independent auditors; and

WHEREAS, the Board of Trustees was presented with the Village's audit for the Fiscal Year 2011-2012, including the Justice Court, and that same has been reviewed and is in order. Now, therefore, be it

RESOLVED, that the Village Board of Trustees acknowledges that the required audit was conducted of the Port Chester Justice Court for the fiscal year ending May 31, 2012 and hereby accepts said audit; and be it further

RESOLVED, that a certified copy of this resolution together with a copy of the audit for the aforesaid year be provided to the New York State Office of Court Administration pursuant to Section 2019-a of the Uniform Justice Court Act.

APPROVED AS TO FORM:

Village Attorney, Anthony Cerreto

Roll Call

AYES: Trustees Brakewood, Terenzi, Didden, Kenner, Marino, and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 17, 2012

REPORT OF THE VILLAGE MANAGER

Status of General Code Scanning Project

Mr. Ameigh said that the contract was for a little over a million documents to be scanned. Scanning for all historical building permits are complete and he estimates that scanning for code enforcement and everything else should be complete by June 2013.

Request for permission to hold a Procession

Mr. Steers said that the procession request came in after the last Board meeting and based on the request, he authorized the approval. Mr. Steers said that he wanted to make sure that the Board was aware of him authorizing the procession. Mayor Pilla thanked Mr. Steers for keeping the Board informed.

DISCUSSIONS

Bulkhead district

Mr. Gomez presented to the Board two scenarios for the bulkhead district. There was further discussion with the Board and staff on this topic. Mayor Pilla said that he would like to have an executive session with counsel to discuss the legal issue on the topic.

March Election Planning

Mr. Richards update the Board and staff regarding the voting machines. Mr. Richards also showed the Board and staff the updated calendar which included the forums and sample ballot. Mr. Richards said that all the information will be on the website and at the Port Chester - Rye Brook Library.

CORRESPONDENCES

From Mellor Engine & Hose Company No. 3 on the election of Mr. John Texiere to active membership

The Board acknowledged receipt of the correspondence.

From Port Chester Board of Ethics, dated December 4, 2012

The Board acknowledged receipt of the correspondence.

From Port Chester Board of Ethics, dated December 11, 2012

The Board acknowledged receipt of the correspondence.

From Monroe Yale Mann regarding Stop Work Order

The Board acknowledged receipt of the correspondence.

From Zarin & Steinmetz regarding the Final Generic Environmental Impact Statement (FGEIS)

The Board acknowledged receipt of the correspondence. **{See insert "B" written FGEIS comments}**

From Cuddy & Feder regarding the Final Generic Environmental Impact Statement (FGEIS)

The Board acknowledged receipt of the correspondence. {See insert "C" written FGEIS comments}

PUBLIC COMMENTS AND BOARD COMMENTS

Public:

Mr. Ceccarelli commented that he appreciated all the work the Board and staff have done and wished everyone a happy holiday.

Board:

Trustee Brakewood commented about the dog park and wished everyone a happy holiday.

Trustee Terenzi wished everyone a Merry Christmas, happy holidays and a happy new year.

Trustee Didden commented about the police department and their stepped up presence at the schools and their patrol patterns. Trustee Didden wished everyone happy holidays, Merry Christmas, Happy Hanukkah and a happy new year.

Trustee Marino commented about the police department and the proposed hiring of two police officers. Trustee Marino also wished everyone happy holidays and Merry Christmas.

Trustee Kenner wished everyone a Merry Christmas, happy holidays and a happy new year.

Mayor Pilla wished everyone happy holidays, Merry Christmas and a happy new year.

At 12:21 a.m., on motion of Trustee Kenner, seconded by Trustee Marino, the meeting was closed.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

Respectfully submitted,

Jacqueline Johnson
Deputy Village Clerk

**LEAD AGENCY'S FINDINGS STATEMENT WITH RESPECT TO ADOPTION OF
THE VILLAGE OF PORT CHESTER COMPREHENSIVE PLAN AND ZONING TEXT AND
MAP AMENDMENTS**

INTRODUCTION

This document is a Findings Statement prepared pursuant to and as required by the New York State Environmental Quality Review Act ("SEQRA"), Environmental Conservation Law Article 8, and the implementing regulations in Title 6, Part 617 of the New York Code of Rules and Regulations ("NYCRR") (the Regulations implementing the relating to the adoption of the Village of Port Chester *Comprehensive Plan and Zoning Text and Map Amendments* ("Proposed Action"). This Findings Statement draws upon the matters set forth in the administrative record for the Proposed Action, including the Generic Environmental Impact Statement ("GEIS"), consisting of the Draft Generic Environmental Impact Statement ("DGEIS"), dated September 26, 2012, and the Final Generic Environmental Impact Statement ("FGEIS"), dated November 30, 2012. The GEIS is expressly incorporated into these Findings by this reference.

This Findings Statement sets forth the findings and conclusions of the Lead Agency, as well as the matters upon which such findings and conclusions were based, and confirms that the Village of Port Chester Board of Trustees, as Lead Agency, has complied with all of the applicable procedural requirements of Part 617 in reviewing the Proposed Action including, but not limited to:

- A. Designation of the Board of Trustees as Lead Agency on February 6, 2012;
- B. Issuance by the Board of Trustees of a Positive Declaration on April 2, 2012, together with direction to prepare a DGEIS;
- C. Preparation and public review of a written Scoping Document for the DGEIS, and adoption of the written scope on May 7, 2012;
- D. Acceptance of the DGEIS as adequate in scope and content by the Board of Trustees and the filing and circulation of the DGEIS October 1, 2012;
- E. Holding of a Public Hearing on the DGEIS by the Board of Trustees on October 22, 2012;
- F. Receipt of all public comments on the DGEIS until November 1, 2012;
- G. Preparation of a FGEIS and acceptance of the FGEIS as complete by the Board of Trustees on December 3, 2012;
- H. Filing and circulation of the FGEIS by the Board of Trustees on December 4, 2012;
- I. Consideration of all public comments on the FGEIS until December 13, 2012;
- J. Adoption of this Findings Statement by the Board of Trustees.

This Findings Statement confirms that the Village of Port Chester Board of Trustees has given due consideration to the GEIS prepared in conjunction with this action and the public comments

submitted thereon. Further, this Findings Statement sets forth the facts and conclusions relied upon by the Village of Port Chester Board of Trustees to support its decision and indicates the social, economic and other considerations which form the basis thereof 6 NYCRR § 617.11(d).

DESCRIPTION OF THE PROPOSED ACTION

The Proposed Action, according to the Positive Declaration issued by the Lead Agency on April 2, 2012, involves the adoption of the proposed *Comprehensive Plan* and proposed *Zoning Text and Map Amendments* by the Board of Trustees. Thus, while treated together in the SEQRA process, including the GEIS, these are two separate components. For example, adoption of the draft *Comprehensive Plan* does not dictate for every area of the Village a particular amendment to the draft *Zoning Text and Map Amendments*, as there are certain areas where multiple alternatives could be considered consistent with the draft *Comprehensive Plan*. Accordingly, this Finding Statement differentiates between the draft *Comprehensive Plan* and draft *Zoning Text and Map Amendments*. Furthermore, as is commonplace, the Village Board of Trustees may adopt the proposed *Comprehensive Plan* and may defer adoption of some or all of the proposed *Zoning Text and Map Amendments*. In addition, the Village Board of Trustees notes that the Village will undertake a site specific review of proposed redevelopment of the former United Hospital site and, in the course of that site specific review, there will be additional opportunity for public hearing, input and comment concerning the potential impacts of the proposed redevelopment and any implementing rezoning. Finally, any other proposed rezoning to implement the *Comprehensive Plan*, as finally adopted, would also provide additional opportunity for public hearing, input and comment.

The *Comprehensive Plan* provides a blueprint of the Village's planning strategies and actions that are proposed for implementation over the next decade in the Village of Port Chester. As stated in the proposed Plan, the Village's vision involves capitalizing on Port Chester's existing physical, social, economic and human capital while improving growth and development patterns, physical constraints limiting waterfront access, and underutilized non-residential properties. In pursuit of this vision, the Plan's guiding principles are to:

- Place focus on major elements of the built environment, including maintenance and enhancement of residential neighborhoods;
- Revitalize commercial areas and the waterfront;
- Strengthen industrial areas;
- Improve transportation and infrastructure facilities;
- Identify opportunities for new development;
- Address the issues and challenges associated with governmental and non-governmental jurisdictions; and

- Provide a framework for collaboration and coordination among relevant decision-makers and stakeholders.

The central purpose of the Proposed Action – most particularly the proposed *Comprehensive Plan* – is to establish the nature and level of potential development in the Village of Port Chester under proposed land use policies and zoning regulations; make changes as necessary to existing regulations to ensure that future development is in keeping with the character of the Village; follow sound planning principles and standards; and protect public safety, health and welfare. Approvals authorized by the Proposed Action involve adoption of the proposed *Comprehensive Plan* and proposed *Zoning Map and Text Amendments* by the Village of Port Chester Board of Trustees.

This document focuses on the proposed *Comprehensive Plan* because, as noted above, it is the focus of the GEIS and would be the catalyst for amendments to the zoning text and/or map to achieve its goals and objectives.

ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

Land Use, Zoning and Public Policy

The Proposed Action is intended to guide development and preservation patterns in a proactive and predictable manner and ultimately realize the Village's vision for a sustainable and prosperous future.

The proposed Plan sets forth major land use strategies based on location and intensity. The three Planning Intensity Zones are based on the existing and future character of the Village of Port Chester. The 'Neighborhood Protection and Enhancement' designation seeks to protect and enhance the existing low-density character of neighborhood; the 'Limited Intensity Planning Zone' is intended to maintain and allow for additional appropriate uses; and the 'Higher Intensity Planning Zone' is proposed to allow for mixed-use development to reinforce key commercial activity in strategic downtown, train station and central waterfront areas in addition to absorbing future development pressure in residential areas. Overall, the proposed Plan encourages a focused land use plan to accommodate increased density in strategic locations – not Village-wide – while upzoning select residential neighborhoods helps achieve an overall reduction of density and impacts for those areas.

The Proposed Action involves changes to both residential and non-residential zones – consistent with the proposed *Comprehensive Plan* – to help reduce Village-wide density. In strategic residential zones, proposed upzoning via reductions in floor area ratio ("FAR") and building story height will help achieve neighborhood character protection and enhancement. The areas in which potential density would be reduced include selected One Family R20, R7, and R5; Two Family R2F; and Multi Family RA2, RA3 and RA4 districts. Changes in the non-residential/mixed use districts

include the elimination of the existing C4 General Commercial and PRSPD Planned Railroad Station Plaza Development districts and the modification of the existing DW Design Waterfront district. Strategic downzonings will occur in the existing C2 Central Business district, proposed to change to C2 Main Street Business, and three new districts – C5 Train

Station Mixed Use, C5T Downtown Mixed Use Transitional and PMU Planned Mixed Use – are proposed to allow for focused development.

In order to evaluate the land use and zoning recommendations described by the proposed *Comprehensive Plan*, a Build-Out Analysis was prepared, which indicated that implementation of the Proposed Action would result in a potential net reduction of 242 dwelling units. Additional analyses evaluated various zoning options for the proposed PMU and DW districts, providing a range of alternative amendments to the zoning text and map. Please see the GEIS section titled ‘Alternatives’ for additional information.

Because there is a potential net reduction in dwelling units anticipated from the Proposed Action, the Lead Agency finds that the proposed *Comprehensive Plan*, as implemented by amendments to the zoning text and/or map consistent with the Plan and assessed in the GEIS, will not adversely impact the overall environment of the Village due to reduced potential impacts to transportation, infrastructure, and the School District. The Proposed Action encourages increased density in strategic locations in order to target future development in appropriate districts.

Overall, the Lead Agency finds the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives, is consistent with local and regional planning policies, including *Westchester County 2025* and the *Local Waterfront Revitalization Program* (1992), which includes comprehensive strategies for the portion of the Village that abuts the Byram River.

Parks, Open Space and Recreational and Historic Resources

As part of the Proposed Action, the proposed *Comprehensive Plan* identifies the need to expand and improve existing community and visual resources, such as parks and open space, to provide Port Chester residents with needed active and passive recreation space. The proposed *Comprehensive Plan* recommends exploring innovative solutions designed to provide additional open space and recreational opportunities. Moreover, the proposed *Comprehensive Plan* aims to connect neighborhoods, parks and the waterfront through pedestrian and bicycle-friendly streets and trails via strategically acquiring parcels to link such spaces together. Another major component of the proposed *Comprehensive Plan* is to reactivate and enhance the public waterfront via the creation of new recreational opportunities and the preservation of key vistas and view corridors of the Bryam River and the Long Island Sound.

Additionally, the proposed *Comprehensive Plan*, as implemented by zoning changes, will strengthen the historic character of Port Chester by preserving qualities unique to the Village. Five resources are listed on the National Register of Historic Places (Bush-Lyon Homestead, Capitol

Theater, Port Chester Post Office, St. Peter's Episcopal Church and the Life Savers Building). The proposed *Comprehensive Plan* specifically recommends protecting and preserving the Village's historic resources through design standards and zoning controls used in conjunction with financial mechanisms, such as grants and tax incentives.

The Lead Agency finds the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives, is specifically designed to enhance the Village's visual and community character and to affect positive impacts on the community.

Environmental Resources

The proposed *Comprehensive Plan* promotes the conservation of natural resources through environmentally sound principles and strategies. It recommends protecting environmentally significant and sensitive areas, such as the Byram River Waterfront and, ultimately, the Long Island Sound. Additionally, the proposed Plan advises the Village to lead by example in terms of resource conservation and encourages the Village establish and adopt sustainable design and development guidelines through improved development procedures and green/retrofitting design practices. The proposed *Comprehensive Plan* also advances efforts to coordinate planning among neighboring communities, New York State and Federal agencies to address regional sustainability issues. For example, the proposed *Comprehensive Plan* recommends that the Village engage in collaboration with New York State regarding brownfield assessment and remediation for sites within the Village and form a joint venture with the State of Connecticut to help protect the Bryam River.

Overall, the Lead Agency finds the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives, will further the protection and enhancement of the Village's environmental resources and will not pose significant adverse impacts.

Socio-economic Resources

The proposed *Comprehensive Plan* recommends preserving, restoring and revitalizing Port Chester's housing stock and neighborhoods through strategic upzonings in existing multi-family residential neighborhoods and enforced building code regulations. Also, the proposed Plan encourages a mandate for all homes with accessory apartments to be owner-occupied to help ensure property maintenance and reduce the potential of tenant exploitation by an absentee landlord.

The proposed Plan, as effectuated by amendments to the zoning text and/or map, also encourages a range of housing types and densities to help balance future service costs. The Proposed Action will reduce overall potential density, thereby reducing population and associated impacts to traffic, infrastructure and the Port Chester Rye Union Free School District (School District). A range of housing types, including specialized housing options for the elderly, handicapped and young adult population, will assure a diversity of housing types in the Village, including multi-

family and affordable units. Strategic residential upzonings in select districts outlined in the Proposed Action will allow the Village to help protect neighborhood character through compatible scale, density and aesthetics.

The Lead Agency finds that the Proposed Action will not result in a substantial adverse impact on the socio-economic resources of the Village and encourages multifamily housing and mixed use in strategic districts (i.e., C5, C5T and PMU).

To help improve baseline economic conditions in the Village, the proposed *Comprehensive Plan* recommends strengthening and expanding business opportunities through supportive financing and redevelopment tools. Leveraging supportive industries in the Downtown Business District will help promote quality of life through new business and career ventures. The Lead Agency finds that the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives, will encourage positive economic expansion tailored to further the Village's economic development visions and will not significantly impose adverse impacts on the Village.

Infrastructure and Community Facilities/Resources

Overall, the proposed *Comprehensive Plan*, together with effectuating zoning modifications, seeks to maintain and enhance public infrastructure systems and services via preserving the quality of life and commerce within the Village.

SEQRA recognizes the importance of assessing the Proposed Action's impacts on a community's infrastructure and vital services, including police, fire protection, schools, emergency services, public works and recreation facilities. In terms of water supply, United Water Company provides four connections to the Village; however, the water pipes are substandard and require upgrading to increase capacity through cost-effective measures. The overall water system provides a separate storm and sanitary sewer system, and the proposed *Comprehensive Plan* recommends the maintenance and replacement of any inadequate pipes to better serve the needs of Port Chester residents. The stormwater collection system covers thirty-five (35) miles of storm sewers. The system is aging, and the proposed Plan suggests upgrading and replacing strategic sections in order to better manage stormwater runoff to the Byram River. Overall, the proposed *Comprehensive Plan* finds that areas of lower intensity planning strategies, i.e. upzoned districts, will likely have less adverse impact on the Village's infrastructure and community resources. The proposed *Comprehensive Plan* also encourages mitigation measures such as the improvement, upgrade or replacement of aging water and sewer infrastructure to reduce potentially adverse impacts from future development in the Village.

The Village of Port Chester Police Department has five divisions and provides protection in the Village. The Village of Port Chester Fire Department provides fire protection and emergency services to all of Port Chester in addition to nighttime services to neighboring Village of Rye Brook. The Proposed Action recommends adequately supporting the duties, responsibilities, staffing and

training of personnel to protect the health, safety and welfare of Port Chester residents. Doing so will help promote a high quality of public services for the comfort of residents and business owners. Because the Proposed Action anticipates a net reduction in dwelling units, there will be no additional burden imparted; however, a redistribution of employees and/or services may be required in the High Intensity Planning Zones.

Recreational facilities will also be enhanced as a result of the proposed *Comprehensive Plan*. It recommends maintaining and enhancing Village community resources in order to provide a sustainable and high quality parks and recreation system, providing and activating recreational programming for residents of all ages, and connecting neighborhoods, parks and the waterfront through pedestrian/bicycle friendly facilities.

Overall, the Lead Agency finds there will be no significant adverse environmental impact on community facilities and services as a result of the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives.

Transportation

The proposed *Comprehensive Plan* to manage all transportation systems in the Village of Port Chester, including roadways, public transit, and bicycle and pedestrian facilities. More specifically, the proposed *Comprehensive Plan* recommends managing the roadway network by investing in operational and reconstruction improvements, including the creation and implementation of a 10-year plan and the feasibility of reconfiguring Main Street and Abendroth Avenue from two-way streets to one-way streets. Managing traffic through signal timing upgrades and Village-wide congestion management studies is also recommended by both the Proposed Action and the *Route 1/North Main Street Corridor Study (2012)*.

In terms of public transportation, the proposed *Comprehensive Plan* encourages investing in mass transit as a means to help reduce vehicular congestion and parking demand. The proposed *Comprehensive Plan* supports efforts to develop a comprehensive parking approach in select residential and downtown areas. Shared parking or additional parking structures are suggested to help alleviate parking constraints as recently outlined in a parking feasibility study¹. Additionally, collaborating with Westchester County, the Metropolitan Transportation Authority, and other state/regional transportation agencies will help identify transit supply and demand linkages, aimed to reduce parking demand.

The proposed Plan also promotes improved bicycle and pedestrian facilities, including promoting infrastructure investments and creating a citizens advisory group to help provide strategies for a convenient and safe network. Additionally, the proposed *Comprehensive Plan* recommends public safety considerations, including developing walkways to and along the waterfront; linking

¹ *Preliminary Parking Garage Feasibility Analysis*, Desman Associates (2012); *Route 1/North Main Street Corridor Study (2012)*.

sidewalks into a continuous system; and creating design standards for all bicycle and pedestrian initiatives, especially at public parks, schools and buildings.

The Lead Agency finds that the proposed *Comprehensive Plan*, together with amendments to the zoning text and/or map adopted to achieve its goals and objectives, will not result in significant adverse impacts to transportation systems in the Village of Port Chester. Although more traffic may occur in the High Intensity Planning Zones, traffic will be reduced in the Limited Intensity Planning Zones and in the upzoned residential areas, resulting in an overall decrease of traffic impacts.

ALTERNATIVES

The GEIS evaluated the No Action Alternative (existing zoning). Additionally, two detailed analyses for the proposed PMU Planned Mixed Use district, including the proposed district zoning and a variant of the district, as well as a detailed assessment of the proposed DW Design Waterfront district were completed.

Under the No Action Alternative, land use development would continue to be regulated by the existing zoning, site plan, subdivision and other land use regulations guiding the physical development in the Village of Port Chester. This alternative would not further the Village's long-term planning goals and would prevent the Village from achieving its vision for the future. Without the adoption and implementation of the proposed *Comprehensive Plan* and effectuating zoning amendments, many of the public benefits identified would not be realized. While the existing regulations may be sufficient to protect natural resources, one benefit of the proposed *Comprehensive Plan* is that it suggests a manner in which the Village can accommodate growth while enhancing community character and protecting its valuable resources. The proposed *Comprehensive Plan*, as implemented by consistent amendments to the zoning text and/or map, will generate positive impacts, such as the flexibility for additional mixed-used development, the expansion of open space, a reduction in School District costs, and upgrading aging infrastructure services. Alternatively, development under the current zoning may potentially exacerbate usage and demand for public facilities and services, induce increased traffic volumes and congestion, and impair environmentally sensitive areas. Further, economic development potential in some areas could be limited. The absence of the proposed *Comprehensive Plan* and implementing zoning amendments would place the Village in a position of reacting to development instead of being proactive in its efforts.

Proposed PMU Planned Mixed Use District

The GEIS assessed three broad alternatives, a No Action Alternative (existing zoning) and two alternatives zoning amendments for the proposed PMU Planned Mixed Use district.

Detailed analysis was conducted for the former United Hospital site for several reasons. First, it is a gateway into the Village of Port Chester from Interstate 95 / Interstate 287. Second, the site's

large size (approximately 15.4 acres) is unusual in southern Westchester County and can provide exceptional redevelopment potential for the Village. Because the site has the potential to provide such redevelopment value, determining appropriate land uses and densities was an iterative process discussed among the Comprehensive Plan Advisory Committee (“CPAC”), project consultants, and the public over a five (5) year period². Additional information was derived from the *Route 1/North Main Street Corridor Study (2012)*, which recommended repositioning the Route 1 corridor as a network of clustered, retail nodes in conjunction with mixed use buildings to strengthen the corridor’s competitive share of the regional market.

The No Action Alternative for this site would retain the existing R2F Two Family Residential zoning. Under this scenario, a maximum build-out potential of 240 dwelling units is permitted by-right and can include both single and two-family structures. The R2F district does not permit non-residential uses, which does not further the Proposed Action’s recommendations for mixed uses. Moreover, the site could remain vacant or underutilized if the No Action Alternative is adopted. Benefits derived from a No Action Alternative include lower densities, potentially more open space due to the general character of a residential district, and potentially less obstructed sight lines to and from the district. The associated impacts, as previously outlined, would likely be minimal except for potential impacts incurred by the School District; however, as noted in the GEIS, the impacts of any residential development on the School District would depend on the type and mix of units, understanding that an efficiency unit will likely generate fewer public school children than a two or three-bedroom unit.

The owner of the property in this district has proposed a rezoning to a PMU district which differs from that recommended in the proposed *Comprehensive Plan* (discussed below), primarily by allowing increased density (the “Increased Overall Density Scenario”). In addition to the proposed zoning text and map amendments, the owner has advanced a development proposal that has both residential and commercial uses, which would be generally consistent with the proposed *Comprehensive Plan’s* recommendation for mixed uses in this area. One factor relevant to these Findings, and addressed further below, is whether the Village Board of Trustees prefers to await the site-specific environmental and land use review before determining what amended zoning text and map for this site would be most consistent with the goals and objectives of the proposed *Comprehensive Plan*. Such a site-specific assessment is (properly) not included in this GEIS but would be in the Environmental Impact Statement (“EIS”) that would be prepared for the owner’s proposal. For example, as noted below, the proposed *Comprehensive Plan* recommends efficiency (studio) and one-bedroom units targeted to serve young professionals, empty nesters or a combination of both to reduce potential impacts to the School District; to the extent the owner’s proposal incorporates that recommendation, it could avoid adverse impacts to the District.

The more limited PMU zoning scenario proposed in the GEIS allows a mix of land uses as recommended by the proposed *Comprehensive Plan*. The range of uses for the decommissioned

² As referenced in Board of Trustees meetings and CPAC workshops (May 16, July 16, 2012).

hospital at 406 Boston Post Road includes residential, commercial, office and community facilities. Under this PMU district, each land use is assigned a specific floor area ratio (FAR) with varying zoning allowances for both non-restricted and age-restricted residential development. Table 1 outlines the different FARs by land use.

Table 1 Proposed PMU District FAR Allotments by Land Use

Land Use	Permitted FAR
Hotel/Conference Center	0.40
Commercial	0.20
Unrestricted Residential	0.20
Age Restricted Residential	0.30
Community Facility	0.10

See §345-62 in the *Zoning Text and Map Amendments* for additional detail.

As indicated in Table 1, the maximum FAR allowed for a hotel/conference center is 0.40; the maximum FAR allowed for commercial and unrestricted residential is 0.20; the maximum FAR for age restricted residential is 0.30; and the maximum FAR allowed for a community facility is 0.10. All land uses, when combined, cannot exceed a permitted FAR of 0.8³. The variation of density by land use is designed to provide a range of opportunities that does not reduce the overall density permitted in the existing R2F district.

The maximum build-out potential for this scenario, inclusive of maximizing residential potential, resulted in a possible 432 dwelling units and approximately 336,000 square feet of non-residential space. The associated impacts would likely affect the existing infrastructure and transportation systems as well as the School District to a greater extent than the No Action Alternative due to the increase in dwelling units/development potential. However, the proposed *Comprehensive Plan* recommends efficiency (studio) and one-bedroom units targeted to serve young professionals, empty nesters or a combination of both, which is incorporated into this PMU scenario. Thus, a development under this scenario would be expected to reduce undue burden to the School District. Also, senior housing, to the extent included, would help reduce traffic and School District impacts. However, as with each alternative scenario, the precise impacts could vary based on specific development proposals.⁴ Furthermore, even if this PMU alternative is adopted, the zoning regulations would be subject to modification based upon a site specific EIS and evaluation of the parameters of a proposal submitted by the property owner.

³ A 0.2 FAR bonus up 1.0 FAR can be achieved pursuant to §345-67 of the Zoning Code Text and Map Amendments.

⁴ The Board notes that the owner submitted information regarding asserted comparables by which to gauge the number of school children from its proposal. That information is part of the GEIS; however, a detailed analysis of such a submission best awaits a site-specific review of a particular proposal

The Increased Overall Density Scenario studied in the GEIS mirrors the rezoning proposal of the owner noted above. The proposal includes a permitted and unrestricted FAR to be 1.60 for all land uses combined – not apportioned by land use. This approach could afford additional development flexibility. Under this alternative PMU scenario, the maximum build-out potential results in 820 dwelling units and 20,000 square feet of non-residential space. The proposal – and proposed PMU district – provides a specific mix of residential and non-residential uses. The property owner conducted independent studies, which posited fiscal and socio-economic benefits, including job creation and tax generation. Although this scenario complies with the proposed *Comprehensive Plan's* general recommendation to increase mixed use development opportunities, the scenario could have potential adverse impacts imposed on local traffic patterns, water and sewer line capacities, and costs to the School District. As noted above, however, the extent to which potential impacts are realized would depend on the actual development proposal.

Overall, both PMU scenarios align with the recommendations of the proposed *Comprehensive Plan* by offering a mixed use landscape with housing targeted to efficiency (studio) and one and two-bedroom units. However, the owner's proposed PMU district, by allowing 820 dwelling units, exceeds the maximum build-out potential of either the No Action or proposed PMU scenario of 242 and 432 dwelling units, respectively. Such an increase has a greater potential than the other two alternatives to adversely affect the School District and existing transportation and infrastructure networks.⁵

There are, of course, potential variations to the alternative scenarios for the former United Hospital site based on the range of impacts identified in these alternatives. For example, the existing zoning could be modified to allow commercial uses, thus providing for a mix of uses. It could also be amended to restrict the types of housing units, thus limiting certain potential impacts. The potential for such variations has been considered by the Village Board of Trustees in making these Findings.

Proposed DW Design Waterfront District

The GEIS generically analyzed the proposed DW Design Waterfront district, located from Willett Avenue and Mill Street on the eastern side of Abendroth Avenue and including a portion on the north side of Mill Street from the Byram River to North Main Street (**See Appendix F**), at the request of the Mayor and discussed at the October 22, 2012 Board of Trustees Meeting (**See Appendix D, p. 39, Lines 16-23**). The proposed DW district recommends an FAR of 1.6 with rear, front, and side yard setbacks in addition to a parking requirement. There is also a proposed reduction in building story height. The proposed DW district is in concert with the proposed *Comprehensive Plan*, i.e. providing more appropriate land uses along the Byram River waterfront, improving sightlines to the water's edge and helping to manage potentially adverse environmental

⁵ Concerns regarding additional public school children generated and impacts to transportation and infrastructure were expressed by CPAC, the Board of Trustees and the public throughout the *Comprehensive Plan* process.

impacts through specific dimensional regulations. However, it will reduce development potential due to setback and FAR restrictions as well as the inclusion of a parking requirement.

CONCLUSION

The Lead Agency finds that the Proposed Action, as described below, is consistent with the goals and objectives of the Village of Port Chester, that such objectives are reasonable, taking into account all of the circumstances, characteristics and environs of the Village, and that the alternatives required to be studied in the Scoping Document were studied to sufficient degree to permit the Lead Agency to make a determination. The proposed *Comprehensive Plan* seeks to balance growth and development with the protection of neighborhood and Village character through the use of targeting appropriate land use and zoning strategies, i.e. strategic upzonings in select residential districts and strategic downzonings in select non-residential districts. The overall vision of the Proposed Action includes the reduction of density on a Village-wide basis in order to reduce environmental impacts to transportation, infrastructure, the visual landscape, economics and the School District. The amendments to the zoning text and map described below are consistent with the overall goals and objectives of the proposed *Comprehensive Plan*.

Proposed PMU Planned Mixed Use District

The Proposed Action provides a range of land uses and densities for the proposed PMU district, including residential, commercial, office and community facilities.

The range of alternatives for the zoning of the former Untied Hospital site, as noted above, includes a No Action Alternative scenario and two variants of the proposed PMU district, whereby maximum build-out potential and generic impacts (land use and zoning, transportation, infrastructure, visual, environmental and fiscal) were evaluated.

The Village finds, with respect to the former United Hospital site, that the following zoning amendments would be consistent with the Comprehensive Plan:

Option 1

The No Action Alternative scenario would maintain the existing R2F Two Family Residential zoning, which does not permit non-residential uses and thus may not be in concert with the proposed *Comprehensive Plan*. The potential adverse impacts of this alternative, pursuant to the GEIS, are primarily in regard to impacts on the School District. In light of the owner's extant proposal to amend the zoning text and map for this site, and for a specific redevelopment of the property, the Village Board of Trustees finds that the best approach to assure consistency with the Comprehensive Plan and overall Village interests is for that proposal to undergo a site-specific environmental review under SEQRA. This would allow the Village Board of Trustees, which is the designated Lead Agency for that environmental review, to consider the detailed site-specific impacts of the particular proposal, rather than relying on the generic assessment in the GEIS. That

site-specific review would analyze in detail the potential impacts of the proposed rezoning on critical areas of concern, including transportation, infrastructure and the School District, and would incorporate any proposed measures to mitigate any adverse impacts. The assessment in a generic EIS, such as prepared for the Proposed Action, properly and appropriately did not contain the level of detail that can be ascertained through a site-specific SEQRA review.

Option 2

The PMU Planned Mixed Use district scenario aligns with the overall goal for mixed uses in the Proposed Action. Specifically, the proposed district includes the appropriation of FARs by land use with a permitted combined FAR density of 0.80, bonusable up to 1.0⁶ (**Table 1**). With a potential maximum build-out of 432 dwelling units, associated impacts would likely affect the surrounding transportation and infrastructure systems and, with the increase in potential dwelling units from 240 (existing R2F district) to 432, potentially burden the School District. One measure to help reduce potential School District impacts is the allowance of only efficiency (studio), one bedroom and two bedroom units. Moreover, the permitted 0.30 FAR for age restricted housing will likely reduce traffic, infrastructure and School District impacts. Overall, this alternative, which is part of the Proposed Action, appears to best meet the goals and objectives of the Comprehensive Plan. However, given the pending application by the owner for zoning amendments accompanied by a specific redevelopment proposal, it is possible that some variant of this district could be found, after a site-specific review, to be as or even more consistent with the proposed *Comprehensive Plan*.

Option 3

The owner's proposed PMU district scenario includes a mix of residential and non-residential uses and thus aligns with this broad-based goal of the Proposed Action. The proposal recommends a bulk FAR of 1.6 with no specific appropriation of FAR by individual land use. The provision of an overall FAR, rather than having the FAR limited to specific uses, would provide more flexibility than the PMU district that is part of the Proposed Action. However, this increased FAR could result in a potential build-out of 820 dwelling units and 20,000 square feet of non-residential space, and potentially adversely affect transportation and infrastructure systems. Although the recommended unit structure of efficiency (studio), one bedroom and two bedroom units would serve to limit potential impacts to the School District, and specific development proposals might include measures to mitigate any significant adverse effects, the permissible density would tend to exacerbate the potential for adverse impacts, even with a site-specific review of the owner's development proposal.

As noted above, the owner's proposed zoning amendments are accompanied by a detailed redevelopment proposal, which will be subject to a site-specific review. Although the owner has provided certain preliminary information relating to that proposal, that information cannot

⁶ Pursuant to §345-67 of the Zoning Map and Text Amendments.

substitute for the comprehensive evaluation to be undertaken pursuant to SEQRA and Village Law. Such a further assessment is of particular significance given the importance of the area to Village planning, and thus to the public interest. Accordingly, while the Village Board of Trustees may consider amendments to the zoning arising from the owner's proposal, that consideration would follow and be predicated upon the comprehensive site-specific evaluation.

Based on the foregoing, the Village Board of Trustees:

approves the PMU Planned Mixed Use scenario, recognizing that the owner's proposal for rezoning and redevelopment of that site and concomitant detailed, comprehensive site-specific environmental review under SEQRA could result in modifications to this district.

Proposed DW Design Waterfront District

Another detailed zoning alternative analyzed was the proposed DW Design Waterfront district, from Willett Avenue and Mill Street on the east side of Abendroth Avenue and including a portion on the north side of Mill Street from the Byram River to North Main Street, after potential development concerns were raised by Village officials and the public (**See Appendix C**).

Option 1

With the adoption of the proposed DW Design Waterfront district scenario, from Willett Avenue and Mill Street on the east side of Abendroth Avenue and including a portion on the north side of Mill Street from the Byram River to North Main Street, there is a reduction in development potential of approximately fifty (50) percent or almost 422,000 square feet due to the increased setback regulations and a reduction in FAR (**See Appendix F**). These dimensional regulations ultimately reduce the 'development envelope' of a parcel, thereby reducing the amount of commercial space available. Benefits of the proposed DW district include the preservation of sightlines to the Byram River waterfront through a building height and land use intensity 'step-down' approach and setback regulations that will likely reduce the amount of impervious surface and environmental impacts to the Bryam River. The proposed district is also in concert with the *Local Waterfront Revitalization Program* (1992) that encourages water-dependent uses.

Option 2

The elimination of the proposed DW Design Waterfront district scenario, from Willett Avenue and Mill Street on the eastern side of Abendroth Avenue and including a portion on the north side of Mill Street from the Byram River to North Main Street (**See Appendix F**), will maintain the area's existing zoning, C2 Central Business. As part of the Proposed Action, the remainder of the existing C2 Central Business district is proposed to be C2 Main Street Business to allow for more appropriate land uses in the overall downtown area. The same bulk requirements, i.e. FAR and setbacks, remain consistent between the two C2 districts with the exception of a potential density bonus available in the proposed C2 Main Street Business district. There is also a change in permitted building height from eight stories (70 feet) to five stories (60 feet), respectively. Both of these districts are potentially inconsistent with the proposed *Comprehensive Plan* and *Local*

Waterfront Revitalization Program (1992) for this area due to permitted building heights and lack of permitted water-dependent uses.

Option 3

The adoption of a modified DW Design Waterfront district with appropriate dimensional regulations and schedule of permitted water-dependent uses is in concert with both the proposed *Comprehensive Plan* and *Local Waterfront Revitalization Program (1992)*. A modified district boundary will create a rational nexus between portions of the Abendroth Avenue/Mill Street and desired water-dependent uses. Further, dimensional regulations, including FAR, setback requirements, and building height cap (4 stories), will provide viable future development and public waterfront access opportunities without having significant, adverse impacts to the surrounding environs within the thresholds recommended and evaluated, respectively, in the **FGEIS Appendix F**.

Based on the foregoing, the Village Board of Trustees

approves the adoption of a modified DW Design Waterfront district along Abendroth Avenue/Mill Street with appropriate dimensional regulations and schedule of permitted water-dependent uses in concert with both the proposed *Comprehensive Plan* and *Local Waterfront Revitalization Program (1992)*.

Summary

Based upon the foregoing, having considered the relevant environmental impacts, facts and conclusions disclosed in the Generic Environmental Impact Statement; having weighed and balanced relevant environmental impacts with social, economic, transportation, community facilities and other considerations; and having set forth the rationale for its decision in the foregoing Findings, the Lead Agency now certifies that the requirements of New York Code of Rules and Regulations Part 617, Title 6 have been met; and further certifies that, consistent with social, economic and other essential consideration from among the reasonable alternatives available, the Proposed Action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

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December 5, 2012

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OF COUNSEL

Via Overnight Mail

Hon. Dennis Pilla and
Members of the Village Board of Trustees
Village of Port Chester
222 Grace Church St.
Port Chester, NY 10573

Re: Proposed Comprehensive Plan And Zoning Amendments
Written Comments Regarding The FGEIS

Dear Mayor Pilla and Members of the Village Board:

As you know, we represent TJI Realty ("TJI"), the owner of 25 Abendroth Avenue (the "Property"). We have had an opportunity to review the FGEIS, which we understand was accepted as complete on December 3, 2012.

We were pleased that the Village Board carefully considered our clients' concerns regarding the proposed rezoning of the applicable subarea to the DW District. We were also pleased that the further analysis of the DW District set forth in Appendix F of the FGEIS recommended that your Board reconsider rezoning the subarea to the "DW design Waterfront district as currently conceived in favor of a modified DW district with more appropriate dimensional regulations." (FGEIS, Appendix F at 392).

It is our understanding that your Board intends to discuss the proposed zoning map and text amendments at an upcoming Village Board work shop meeting. In light of the substantial time and effort already expended by the Village in connection with the Comprehensive Plan and zoning amendments, and the fact that the potential impacts of the DW2 Design Waterfront District have already been addressed in Appendix F of the FGEIS, our client submits that it would make sense for the Village to consider revising the proposed map and text amendments at this time to include a new DW2 Design Waterfront District, rather than deferring to a later date.

Mayor Pilla and
Members of the Village Board of Trustees
December 5, 2012
Page 2

Accordingly, in furtherance of the recommendation in Appendix F of the FGEIS, we have enclosed a Technical Memorandum from TJI's planning consultant, Syrette Dym, AICP, dated December 5, 2012 (the "Memo"). The Memo proposes for your Board's consideration a new "DW2 Design Waterfront District," which would, in terms of density, act as a transitional district between the proposed C2 Main Street Business District and the proposed DW Design Waterfront District. The permitted uses in the DW2 District would remain identical to the DW District, in order to encourage uses that are more compatible with the waterfront. We believe the Memo reflects the recommendation of the FGEIS, while remaining consistent with the goals and objectives of the proposed Comprehensive Plan.

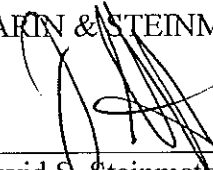
We urge your Board to incorporate the proposed DW2 District into the SEQRA Findings Statement, and to make the minor revisions necessary in order to implement the DW2 District to the proposed zoning map and text amendments prior to their adoption. We hope that your Board and your consultants take this suggestion seriously, and we look forward to the opportunity to work together to achieve a mutually beneficial result.

If you have any questions, or if you require any additional information, please do not hesitate to contact us. Thank you for your consideration.

Respectfully submitted,

ZARN & STEINMETZ

By:



David S. Steinmetz
Jody T. Cross

Encls.

cc: (via regular mail)
Chris Gomez, Director of Planning & Development
Christopher Steers, Village Manager
Vince Ferrandino, AICP
Frank Fish, FAICP
Sarah Yackel, AICP
Anthony Cerreto, Esq.
Syrette Dym, AICP (w/out encls.)
TJI Realty

Syrette Dym, AICP

52 Wendt Avenue, Larchmont, NY 10538

914-575-9127(cell)

sdym@verizon.net

TO: David Steinmetz, Zarin & Steinmetz
 Jody Cross, Zarin & Steinmetz
 Kathleen Lanza, TJI Realty Corp.

FROM: Syrette Dym, AICP

RE: Proposed dimensional Regulations for a New DW-2 District as part of Village of Port Chester Proposed Rezoning

DATE: December 5, 2012

TJI Realty Corp. and its representatives are pleased to see that the conclusions of the Appendix F: DW Design Waterfront District Analysis, prepared by Ferrandino & Associates, November 2012, reached the same conclusion stated in our submitted technical memorandum of October 31, 2012. That is, that its property located at 25 Abendroth Avenue and the fifteen other parcels included in the Abendroth Avenue corridor should not be rezoned to the existing DW Design Waterfront district, but to a modified DW district, perhaps designated as DW2. Based on the analysis presented in Appendix F of the FGEIS and, in light of the goals and objectives of the comprehensive plan as well as established planning principles, we would recommend the following dimensional regulations for any proposed DW2 Design Waterfront district.

Schedule of Regulations for Proposed Nonresidence Districts Part 2, Dimensional Regulations				
Type of Use	Districts			
	C2 Central Business(1)	C2 Main Street Business	DW Design Waterfront	DW2 Design Waterfront
Maximum Floor Area Ratio	3.2	3.5 (0.5 FAR bonus available)	1.6	3.0
Maximum Floor Area Ratio for 1 Story	NR	NR	0.4	NR
Minimum Size of Lot:				
Area, nonresidential (square feet)	NR	NR	10,000	NR
Area per dwelling unit (square feet)	750	250	750	250
Width (feet)	40	40	40	40
Depth (feet)	NR	NR	NR	NR
Minimum Yard Dimensions:				
Front (feet)	NR	NR	20	NR
Side				
One (feet)	NR(a)	NR (a)	(c)	NR (a)

Total of 2 on interior lot (feet)	NR (a)	NR (a)	(c)	(d)
Rear (feet)	20	20	30	20
Maximum Height of Building:				
In stories	8	5	4	5
in feet	70	60	50	60
Minimum Usable Open Space on Lot:				
For each dwelling unit (square feet)	100	50	100	50
(1) To be eliminated (a) If provided, at least ten(10) feet per yard; (c) Each twenty-five (25) feet or one-half height of the building whichever is greater; NR - non required; (d) Each 10 feet				

The proposed dimensional regulations mirror those of the newly to be created C2 Main Street Business District to which it is adjacent with the exception that there is a slightly lower FAR adjacent to the waterfront. The FAR is lower to encourage a step down in density from Main Street uses to those lining the waterfront.

The lot area per dwelling unit of 250 square feet was selected to encourage the findings of the comprehensive plan that the waterfront should provide smaller units serving a demographic that will support downtown uses while not adding significant school population.

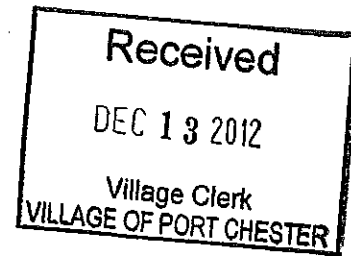
The requirement for no front yard is based on the existing character of the Abendroth Avenue corridor which has buildings built to the streetwall. Both Willet Avenue and Highland Street provide breaks in this streetwall. The existing loft building setback from Abendroth Avenue is likely to remain in its current configuration even in any future adaptive reuse scenario, also providing a break in the zero setback streetwall along the corridor. There is not a heavy pedestrian flow along Abendroth Avenue and the pedestrian flow should be directed toward adjacent Main Street business uses. The only side yards that should be provided are those for interior lots. Given the mix of uses that could be developed, it is recommended that 10 foot interior side yards would be sufficient, resulting in a total of a 20 foot distance between any newly developed uses on adjacent lots. The 20 foot rear yard setback of the C2 district is appropriate for these waterfront parcels since the opportunity for developing a continuous waterfront walkway in this waterfront segment is limited due to old and newly developed parcels that have already precluded this opportunity. In any event, 20 feet would be sufficient for individual parcels to create their own waterfront open spaces, some of which may be accessed by the public from intervening streets leading to the waterfront.

A height limit of 5 stories and 60 feet has been recommended as a way to continue the pre-existing character of development along the corridor, as well as a way to provide sufficient developable square footage when parking requirements are considered. Even if parking requirements are modified, on site parking will likely be provided in the first story of any building leaving four additional stories for the proposed use. This height will provide a step down from the height of new uses that will be permitted in and around the rail station at heights of up to eight stories and 90 feet with available bonuses of two additional stories.

December 13, 2012

**BY HAND AND
ELECTRONIC MAIL**

Mayor Dennis Pilla
And Members of the Board of Trustees
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573



Re: Village of Port Chester Final Generic Environmental Impact Statement

Dear Mayor Pilla and Members of the Board of Trustees:

Reference is made to the Village of Port Chester Final Generic Environmental Impact Statement ("FGEIS") that has been prepared for the proposed 2012 Comprehensive Plan and Zoning Code and Map Amendments. We are land use counsel for affiliates of Starwood Capital Group (hereinafter "Starwood"), the owner of certain property located at 406 Boston Post Road, more commonly referred to as the former "United Hospital Site." As the owner of the former Hospital Site, Starwood has a significant interest in the growth and development of the Village of Port Chester, and has a large stake in how the Board ultimately defines the goals set forth in its Comprehensive Plan and in what ultimately is adopted in its revisions to the Zoning Code and Map. Indeed, since the publishing of the draft Comprehensive Plan in January 2012, we have appeared at every Board public hearing, at work sessions with the Board and at meetings with Village Staff in connection with this matter.

The Village is proposing to rezone the United Hospital Site from a Two-Family Residential ("R2F") Zoning District to the proposed, new Planned Mixed Use ("PMU") District. We recognize that the future development of the United Hospital Site is a critical factor in the overall implementation of the Comprehensive Plan, which is demonstrated by the fact that the FGEIS specifically mentions the United Hospital Site on approximately 55 pages – significantly more than any other property in the Village. With that in mind, we respectfully submit this letter as Starwood's comments on the proposed 2012 Comprehensive Plan and Zoning Code and Map Amendments FGEIS, specifically as it relates to the draft PMU District which applies only to the United Hospital Site.

The PMU Zoning Text and Map Amendments

Reference is made to proposed Section 345-62, the proposed PMU Zoning District Text Amendment, and our comments previously presented to the Board of Trustees and Village Staff. The successful redevelopment of the United Hospital Site will be dependent on, among other things, the economic feasibility and factors such as market conditions, demand drivers, and financing conditions. With the current draft Amendments, the Village is proposing to rezone the

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And Members of the Board of Trustees
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United Hospital Site from a R2F District to the proposed, new PMU District. Accordingly, we respectfully suggest the Board make the following revisions to the proposed PMU Text to afford the flexibility necessary to maximize the redevelopment potential of this property in a way that is both economically viable and beneficial to the community:

- The proposed bulk regulations for the PMU District must be revised to allow for the opportunity to increase the Floor Area Ratio (“FAR”) to 1.60 in order to meet current and anticipated market conditions. This increase would of course have to be evaluated as part of the recently initiated State Environmental Quality Review Act (“SEQRA”) process for the site-specific redevelopment of the United Hospital Site.
- In the alternative, should the Board decide not to increase the FAR to an as-of-right 1.60, it can maintain the presently proposed FAR of 0.80, but must eliminate the PMU FAR bonus cap of 0.20.¹ This alternative would provide a sensible way to encourage mixed-use development on the United Hospital Site starting with the existing residential ‘as-of-right’ 0.80 FAR and the ability to layer appropriate bonuses on top of that for other uses. The PMU Text should be revised to stipulate a maximum FAR of 1.6 consisting of one or more uses “where any new development would be properly controlled so as to not result in potential adverse impacts on public schools, traffic and infrastructure” (the same concept that is applied to the Fox Island Subarea). As stated herein, the successful redevelopment of the United Hospital Site will be dependent on economic feasibility. Thus, capping the FAR at 0.80 now without any market studies or data is arbitrary, capricious, and shortsighted for a Village that is looking for innovative ways to grow its ratables.

A revision reflected in either of these bullet points would be consistent with the proposed Comprehensive Plan and still leave the Board of Trustees with control and complete discretion over any proposed density increases that would be available under the proposed Floor Area Bonus Program.² Either requested revision above would permit the Board to evaluate Starwood’s proposal and concept on its merits and not in a vacuum, and further make a determination based on the proposed design, mitigation of potential impacts, a review of market conditions and good planning principles.

¹ See, Footnote 5 in Section 345 Attachment 3B, Schedule of Regulations for Nonresidential Districts Part 2, Dimensional Regulations. Please note that the only Zoning District in the entire Village that this FAR bonus density cap will be applicable to is the PMU. Moreover, the Village fails to identify any basis as to why it singles out the United Hospital property as the only property in the Village which this FAR bonus cap applies. Further, the FGEIS fails to provide any grounds whatsoever as to how the 0.20 FAR cap was arrived at, other than a conclusory explanation that this amount constitutes a 25% increase over the as of right FAR.

² See, Floor Area Bonus Program available pursuant to proposed Zoning Code Section 345-16.

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The United Hospital Site is the only major residential/mixed-use site in the Comprehensive Plan that had specific FAR requirements. In the noted section of the Comprehensive Plan, the language read “the existing FAR of the United Hospital Site is 0.80; it is recommended that this FAR be maintained under the proposed rezoning.” (Emphasis added.)³ The Plan however, failed to provide any basis as to why this Site is being treated differently than the Purdy Avenue or Fox Island Subareas. For these areas, the Plan simply suggested a “de-emphasis on future residential uses,” and that “...any new residential development would be properly controlled so as to not result in potential adverse impacts on public schools, traffic and infrastructure.”⁴ Further, while the Plan suggests the FAR be maintained, the proposed PMU Text for the United Hospital Site would actually downsize residential development from 0.80 FAR to 0.20 FAR, and only contemplates buildings with more than one use. This downsize in residential FAR constitutes an arbitrary and capricious reduction that equates to a 75% diminution of the current ‘as-of right’ zoning. The proposed PMU Text would destroy the greater part of the value of the Site because it permanently precludes the use for which it is most readily adapted. New York’s highest court has held such actions to be an unconstitutional *de facto* taking.⁵

In addition to the above mentioned essential modifications relative to the PMU density requirements, we also strongly suggest that the following changes be made to the proposed Zoning Text in order to achieve the foregoing goals, as well as those set forth in the Comprehensive Plan:

- The PMU FAR should not be dissected (as proposed) based on individual uses as factors of a total FAR, but rather propose a single maximum FAR for the entire parcel consistent with the existing zoning of the Hospital Site, as well as every other zoning district in the Village, regardless of which FAR scenario the Board adopts.⁶ The Board along with Village Staff agreed to revise the Draft Comprehensive Plan to remove the chart that imposed rigid allocations of FAR for specific planner approved uses – i.e., hotel/conference center, commercial, residential, age restricted, and community facility. However, the Board has not yet amended the draft PMU Text to conform with that change. The FGEIS does not provide any evidence justifying the inclusion of these unprecedented development limitations. Striking the rigid FAR matrix allocations will make the proposed PMU Text consistent with the draft Comprehensive Plan revisions that the Board has already approved. Such changes to the PMU text will not curb the Board’s control over the review and approval of Starwood’s project plans. Further, any density or height bonuses sought by Starwood will be completely discretionary and thus subject to transparent review and approval by the Board. Put another way, if the Board incorporates

³ See, Proposed Port Chester Comprehensive Plan, dated March 21, 2012, p. 154.

⁴ See, Proposed Port Chester Comprehensive Plan, dated March 21, 2012, p. 153.

⁵ See, *Vernon Park Realty, Inc. v. City of Mount Vernon*, 307 N.Y. 493 (1954).

⁶ Indeed, the only property in the entire Village that this apportioned FAR and building height approach will be applicable to is the United Hospital Site.

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Starwood's proposed PMU revisions, the Village will have zoning in place that is consistent with the Comprehensive Plan, and the flexibility to review Starwood's proposal on the actual merits of the application, while preserving complete control over any bonus increases.⁷

- Similarly, a single maximum PMU building height of 8 stories/85 feet should be adopted, rather than the dissected approach of maximum permitted heights based on individual uses. In accordance with the proposed Comprehensive Plan, this revision to the proposed zoning text would foster innovative building design consistent with "Village" character.
- The Board should consider a broader density program that permits the acceptance of a "community facility" and/or land in lieu of, or in addition to, a monetary contribution in exchange for such floor area or height bonus that is now contemplated to maintain the maximum flexibility in the future.
- "Ground floor office as accessory to multi-family development" should be a Permitted Principal Use in the PMU District as opposed to a Special Exception Use. The PMU text proposes to permit "office, office building..." as a Principally Permitted Use. We do not see the distinction between these two uses, particularly given the lack of Code definitions distinguishing between them. Nor can we find any justification for such distinction in the FGEIS. This lack of distinction could lead to an ambiguous and arbitrary interpretation of these two effectively equivalent uses and the imposition of an additional layer of processing that might not be warranted. Accordingly, the "ground floor office as accessory to multi-family development" must be eliminated as a specially permitted use.

The FGEIS Contains a Deficient Analysis of School Impacts

The FGEIS provides a fiscal analysis relative to the school children associated with the proposed rezoning of the United Hospital Site.⁸ This analysis however, only utilizes the multipliers provided in the 2006 Rutgers University study, and fails to properly supplement its findings as recommended by the authors of the study, with a "local analysis, including a study of public school generation of occupied housing developments comparable in character (i.e., type, size, price, and tenure) and location to the subject development being considered by the analyst"⁹ despite such an analysis being provided to the Village.¹⁰

⁷ See, Cuddy & Feder submission, dated December 3, 2012, for Starwood's Revisions to Zoning Amendment Text.

⁸ See, FGEIS, p. 129-130.

⁹ See, Rutgers University, Center for Urban Policy Research. "Residential Demographic Multipliers: Estimates of the Occupants of New Housing," June 2006.

¹⁰ See, Preliminary Fiscal and Socioeconomic Impact Assessment, prepared by VHB Engineering, Surveying, and Landscape Architecture, P.C., p. 10.

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At the public hearings and meetings, the Board of Trustees expressed an objective, which is further identified as a goal in the Comprehensive Plan, that the overall density of the Village relative to producing school aged children be controlled.¹¹ Assuming *arguendo* that the methodology utilized in the GEIS analysis (of using only the Rutgers multipliers) is accurate, the number of public school children generated Village wide with the PMU – Increased Density Scenario (i.e., the Starwood proposal) would still result in a net negative of 223 students.¹² Thus, the Village’s goals emphasized in the FGEIS and by the Board of Trustees would actually be accomplished by adopting Starwood’s proposed revisions to the PMU text in this regard.

Further, the FGEIS is deficient in that it fails to identify any estimated tax assessment and resultant tax revenues for public school children generated for any PMU scenario. The FGEIS identifies that, “[b]ecause the PMU is a proposed district, there are no existing residential PMU tax assessments available for this zone.”¹³ As discussed more fully below, the Village was provided with a fiscal analysis that the FGEIS failed to consider as part of its SEQRA review.

The Record Does Not Support the Adoption of the Village’s Proposed PMU Zoning Amendment

Given that the FGEIS specifically references the United Hospital Site numerous times on more than 55 pages – significantly more than for any other property in the Village – it is well settled that this Site presents one of the most important redevelopment opportunities in the Village, and should be paid specific attention from a rezoning perspective.

The FGEIS repeatedly states (and as Board members have acknowledged) that the United Hospital Site must be evaluated on a site specific basis in order to fully understand the impacts and potential redevelopment opportunities.¹⁴ Indeed, it further acknowledges that on November 19, 2012 the Board of Trustees “accepted Starwood’s petition for rezoning,” and will undertake a detailed analysis of the rezoning of this property.¹⁵ As such, if the Board chooses not to incorporate Starwood’s requested changes to the PMU Text (or adopt the PMU – Increased Density Scenario) at this time, then we respectfully request that the Board follow the guidance set forth by its Planning Consultant in the FGEIS and reserve its review and adoption of a new PMU zoning amendment until the necessary site specific environmental review can be completed.

While it is true that the FGEIS should include a generic evaluation, the approach that the Village chose to follow for its proposed PMU district (in completely changing the zoning for the United Hospital Site), the Village failed to consider, and thus summarily rejected the detailed testimony

¹¹ See, FGEIS, p. 13, 72; Port Chester Comprehensive Plan, dated November 30, 2012, p. 133, 135, 138, 140, 142, 153.

¹² See, FGEIS, Table 37, p. 130; Table 40, p. 132.

¹³ See, FGEIS, Table 37, p. 130.

¹⁴ See, FGEIS, p. 193, 195, 196, 198 (among others).

¹⁵ See, FGEIS, p. 196.

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and data provided in connection with evaluating the generation of school children, fiscal benefits, traffic impacts, and market data for certain preferred uses in the PMU district. Such dismissal of this important information is contrary to the intent and purpose of a generic evaluation in that the SEQR regulations expressly recommend GEISs "...include an assessment of specific impacts if such details are available."¹⁶ Conversely, the FGEIS repeatedly, and inadequately suggests that these crucial issues be deferred and reviewed as part of Starwood's site specific analysis.

Accordingly, if the Board of Trustees is still not inclined to make Starwood's proposed changes to the PMU Text now, the Board should "do no harm" by not adopting any PMU zoning map or text amendments for the United Hospital Site. State Law does not mandate the simultaneous adoption of zoning amendments with a Comprehensive Plan, but rather encourages their adoption after careful consideration, and in accordance with the Plan.¹⁷ The "do no harm" alternative, which has been vetted by the Village Attorney and Staff, would leave the existing R2F zoning intact. While the "do no harm" approach is not ideal for the Village or for Starwood, it is certainly preferable to a situation that pits both parties against each other at a time when we should be working together. Moreover, this option would at least prevent the Board from adopting a zoning amendment that is in conflict with the changes made to the approved Comprehensive Plan.

The Village Failed to Hold Public Hearings in accordance with State Law

"When a SEQR hearing is to be held, it should be conducted with other public hearings on the proposed action, whenever practicable..."¹⁸ Moreover, New York courts have held that a legislative body should not hold separate hearings on an EIS and a zoning amendment, as such a process fails to result in a complete environmental review.¹⁹ Therefore, in the given situation, where the proposed action involves the adoption of a Village wide Comprehensive Plan and associated Zoning Amendments, the public should have been provided an opportunity to review and comment on the environmental impacts associated with the proposed language before it was effectively finalized by the Village (i.e., before the public hearing on the Plan and the Amendments was closed).

On August 6, 2012, the Board of Trustees closed the public hearing on the Comprehensive Plan and Zoning Text and Map Amendments prior to preparing an EIS, or conducting a SEQRA public hearing. The primary purpose of a DEIS is "to relate environmental considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the environment, and to solicit comments which will assist the agency in the decision making process in

¹⁶ See, 6 NYCRR § 617.10(a).

¹⁷ See, NYS Village Law Sections 7-704; 7-222(11)(a).

¹⁸ 6 NYCRR § 617.9(a)(4)(ii); see, 6 NYCRR § 617.14(b); NYS Environmental Conservation Law § 8-0109(5).

¹⁹ See, Brookville Taxpayers Assoc. Inc., v. Town of Oyster Bay, New York Law Journal, May 8, 1985, p. 15, col. 3.

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determining the environmental consequences of the proposed action.”²⁰ An EIS is needed to “assemble relevant and material facts upon which an agency’s decision is to be made”, “...analyze the specific advisers impacts and evaluate all reasonable alternatives.”²¹ Moreover, where a public hearing is required, its purpose is to further “...aid the agency decision-making processes by providing a forum for, or an efficient mechanism for the collection of, public comment.”²² In other words, these environmental review tools provide a process to identify environmental impacts associated with a proposed action, consider any ways to mitigate such impacts, and ultimately develop the details of the action based on that information.

Given that SEQRA encourages the coordination of public hearings, the Village’s hearing on the Comprehensive Plan and Zoning Text and Map Amendments should have remained open and continued as a joint hearing on the GEIS. Indeed, the GEIS should have been prepared in advance of the Village closing the public hearing on the Comprehensive Plan and Zoning Text and Map Amendments to allow for the public to comment, and for the environmental review to explore any mitigation techniques to address identified impacts and, as a result, dictate the final language of the proposed action. That was not the case here. The public hearing was improperly conducted and closed prior to even commencing the SEQRA process. As a result, the associated environmental impacts and mitigation measures were not considered or evaluated as part of the public hearing and preparation of the proposed Comprehensive Plan and Zoning Text and Map Amendments. Thus, any comments or evaluations of impacts and mitigation from the SEQRA review were not considered in preparing the final language of these documents. Such action is clearly violative of the well settled rule that environmental findings must be made and adopted prior to finalizing a proposed action. This further demonstrates that the Village predetermined its environmental findings, and thus failed to take a “hard look.”²³

Miscellaneous

Below please find additional deficiencies with, or comments to the FGEIS:

- The FGEIS identifies that one of the Comprehensive Plan’s goals is to reduce the overall residential density on a Village wide basis.²⁴ There has been significant discussion, as evidenced in the FGEIS, and a concerted effort to limit residential density targeted at the United Hospital Site, without a proper and comprehensive justification as to whether there are any significant adverse impacts that would validate a reduction in density.

²⁰ NYS Environmental Conservation Law § 8-0109(4).

²¹ 6 NYCRR § 617.9(b)(1); see, 6 NYCRR § 617.2(n).

²² 6 NYCRR §§ 617.9(a)(4); see also 6 NYCRR § 617.3(d).

²³ See, MYC New York Marina, L.L.C. v. Town Bd. of Town of East Hampton, 17 Misc.3d 751, 842 N.Y.S.2d 899 (N.Y. Sup., 2007)(courts review FEIS to determine whether agency identified relevant areas of environmental concern, took hard look at them, and made reasoned elaboration of the basis for its determination).

²⁴ See, FGEIS, p. 13.

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Notwithstanding, the proposed revisions to the Village's Zoning Amendments include recommendations to add residential density to the Kohl's site directly across the street from the United Hospital. This recommendation is even more arbitrary in light of the fact that the CD zoning district, where this property is currently located, prohibits residential development.

- The FGEIS and Comprehensive Plan reference goals to preserve the Village's downtown area, and for the PMU District to avoid detracting from and competing with the downtown portion of the Village.²⁵ Yet, the Village is proposing to adopt a PMU Scenario that would permit approximately 336,000 square feet of retail/commercial space. Quite simply, this PMU Scenario is in direct conflict with the foregoing goal, and thus does not conform with the proposed Comprehensive Plan. We question the intent and manner in which an economically viable project can succeed in this vain with the significant restraints being imposed on it by the proposed PMU zoning text.
- Another stated goal of the Board and its Comprehensive Plan is to avoid traffic impacts, particularly with respect to the proposed PMU rezoning.²⁶ However, the Village's proposed PMU Scenario generates significantly more net new trips when compared with PMU-Increased Overall Density Scenario (proposed by Starwood), demonstrating a significant disconnect between the Village's objectives and its proposed actions.²⁷
- The FGEIS tax assessment analysis fails to consider the likely reduction in value of the United Hospital Site and corresponding tax revenues as a result of the pending Tax Certiorari action against the Village and its taxing jurisdictions.²⁸
- The Comprehensive Plan recommends that a hotel/conference center is a preferred use in the PMU District, but the FGEIS fails to provide any supporting documentation that would demonstrate this being a feasible use at this Site (such as a market analysis). Indeed, Starwood provided testimony and market data, which demonstrates that an approximately 250,000 square foot hotel/conference center is not an economically viable use in the Village at this time. This analysis was not evaluated in the FGEIS and was completely disregarded by the Village.
- The adoption of the proposed Comprehensive Plan and Zoning Text and Map Amendments would be arbitrary and capricious as the Village failed to evaluate a

²⁵ See, FGEIS, p. 187.

²⁶ See, Port Chester Comprehensive Plan, dated November 30, 2012, p. 135.

²⁷ See, FGEIS, p. 109; Table 24, p. 110.

²⁸ See, FGEIS, p. 196.

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sufficient range of alternatives in the GEIS. An EIS "... must analyze the significant adverse impacts and evaluate all reasonable alternatives."²⁹ The alternatives that should be considered in a generic EIS should generally be broader than a site-specific environmental review so "that the resulting generic EIS will support a range of future agency choices and decisions."³⁰ More specifically, in the context of reviewing a comprehensive plan and zoning revisions, SEQRA suggests that the analysis involve "different patterns or mixes of zoning within the study area; and a range of uses within a zone, including the most likely course of development as well as the most intensive use."³¹ In other words, a broad "discussion is necessary for agencies to fulfill the mandate that they choose alternatives which minimize or avoid adverse environmental effects",³² particularly with respect to a generic EIS. Nonetheless, the Village's environmental review failed to evaluate even the most obvious of future uses. For example, the GEIS does not evaluate a hospital re-use scenario at the United Hospital Site, despite the fact that the property is improved with existing hospital center infrastructure.³³ The Response to our November 1, 2012 letter incorrectly states that the GEIS "is not required to address conditions or impacts associated with a hospital use since the former United Hospital has been inactive since 2005, and the site will not likely be a hospital in the future." To the contrary, this analysis was necessary not only because it was required to serve as a baseline for measuring and comparing anticipated impacts at the United Hospital Site, but also because the proposed PMU Text expressly permits hospitals as a future Special Exception Use. Thus, it constitutes a reasonable alternative scenario, if not an expected one that should have been analyzed.

- The GEIS failed to utilize a proper baseline analysis for purposes of assigning mitigation measures, particularly with respect to sewer, water and traffic impacts.
- The FGEIS and Responses to DGEIS Comments state that numerous alternative scenarios have been evaluated. However, the FGEIS merely identifies alternative scenarios in relation to certain and specific individual impacts, but fails to consider the impacts in their totality as an alternative scenario to the proposed action. This is evidenced by Section 4.0, "Analysis of Alternatives", which improperly identifies and evaluates only a "no action" alternative to the proposed 2012 Comprehensive Plan. Further, the "no action" discussion

²⁹ 6 NYCRR § 617.9(b)(1).

³⁰ See, The SEQRA Handbook, 3rd Ed. (2010), p. 146.

³¹ See, The SEQRA Handbook, 3rd Ed. (2010), p. 147.

³² See, Gerrard, et al, Environmental Impact Review In New York [Matthew Bender 2012] § 5.14[1]; NYS Environmental Conservation Law §§ 8-0109(1); 8-0109(8); 6 NYCRR § 617.11(d)(5).

³³ See, Village's proposed PMU Zoning Amendment, Section 345-62(D)(2).

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should include a description of the likely circumstances if the proposed action does not proceed.³⁴

- In response to comments relative to the possible range of uses at the United Hospital Site, the FGEIS states that the Comprehensive Plan recommends a range of uses for the proposed PMU district to “encourage true mixed use development” thereby insinuating that the PMU – Increased Residential Scenario is not true mixed use development.³⁵ We respectfully submit that a proposal, such as Starwood’s, which involves commercial, residential and community facility uses, and meets the objectives of the Comprehensive Plan, certainly constitutes a “true” mixed use proposal. Indeed, the FGEIS language is contradicted later in the document wherein it states: “The Starwood proposal... is in general conformance with the draft Comprehensive Plan, which recommends balanced development between proposed upzoned and downzoned areas to help minimize adverse impacts to the Port Chester-Rye Union Free school district (school district), infrastructure and traffic.”³⁶

Conclusion

We look forward to appearing at the Board of Trustees December 17, 2012, work session to continue to discuss the current status of Starwood’s proposed development plans and the foregoing comments in more detail. We strongly encourage the Board to amend the proposed text of the 2012 Port Chester Planned Mixed Use (“PMU”) Zoning District to address the above mentioned revisions, or to incorporate the R2F alternative. Thank you for your continued consideration.

Very truly yours,



Anthony B. Gioffre III

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³⁴ See, The SEQRA Handbook, 3rd Ed. (2010), p. 124; MYC New York Marina, L.L.C., 842 N.Y.S.2d 899 (N.Y. Sup., 2007).

³⁵ See, FGEIS, p. 184.

³⁶ FGEIS, p. 192.

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