

### **3.0 ENVIRONMENTAL EFFECTS**

#### **3.1 LAND USE, ZONING AND PUBLIC POLICY COMMENTS AND RESPONSES**

##### *The Proposed Revised Plan*

With a gross density of 0.51 dwellings per acre, the Revised Plan -- like the DEIS layout -- is expected to be compatible from a land use perspective with its surrounding neighborhood within the Town of Yorktown, and with land uses to the north and west. The project would have a lower residential density than the pattern of development to the south and east, where homes are generally located on lots of half-acre in size. Significant open space is provided between the proposed homes and existing single-family homes to the west in comparison to the DEIS layout, and community concerns over proposed active recreation (soccer field) located near existing homes have been addressed by the replacement of that facility with the Applicant's proposal to provide money in lieu of parkland. The project continues to have large open space buffer proposed adjacent to Route 6. Use of zoning flexibility to allow narrower and smaller lots than would otherwise be allowed in the R1-40 District does not effect the overall land use of the area. The DEIS proposal followed the R1-20 zoning requirements and had a greater density, though still compatible with its surrounding uses. Regarding public policy, the project would accomplish Comprehensive Plan goals related to open space preservation, while improving quality of life for area residents that will benefit from the proposed off-site sewer improvements. The Town Board has recently rezoned the property to permit the layout currently proposed.

**Comment 3.1-1 (Letter 20, Enid Lang, May 23, 2005; Letter 15, Ann B. De Felice, May 22, 2005; Letter 16, Alice Kiely, May 22, 2005; Letter 18, Marie and Richard Panella, May 22, 2005):** My family has owned our house on Stonewall Court for 18 years, and one of the reasons we bought it was because of the location on a cul de sac, and the quiet of the neighborhood. Your plan to build over 30 homes in our area and to possibly use our streets as an access road is totally unacceptable. For Yorktown to have been so cautious in the past about new developments, it is surprising to us that the Town would now approve this type of development in this area. Please reconsider the plan to put in this type of housing in this area. . . Additional noise and congestion from through traffic on local streets will negatively affect area residents. The Yorktown Farms site is already surrounded by densely developed property. The level of development proposed will decimate the area. It is important to keep undeveloped land to protect the quality of life that current taxpayers expect.

***Response 3.1-1:*** *The DEIS demonstrates that with 34 homes on approximately 43 acres, the proposed subdivision would be compatible with the density and character of the adjacent residential neighborhood in the Town of Yorktown, including nearby cul de sac streets such as Stonewall Court, Jennifer Court, Jefferson Court, and Timberlane Court. Proposed lot sizes of the 34-home layout average 0.81 acres in size, with some lots being much larger. The project also complies with the requirements of the underlying R1-20 District, which reflect the pattern of existing development in this section of the town.*

*Revisions to the project layout reflected in the currently proposed plan include a reduction in the number of homes to 22, significantly reducing the density of the project with commensurate reductions in traffic generation and environmental effects.*

*At the request of NYSDOT, site access for residents and visitors is proposed from the stub end of Gay Ridge Road only under the Revised Plan, with Route 6 access proposed for emergency access only. No access is proposed through existing cul-de-sac streets. Estimated levels of traffic generated by the proposed project are not projected to overwhelm the surrounding roadway network.*

**Comment 3.1-2 (Letter 12, Donna Genova, May 22, 2005; Letter 13, Vera Peitraniello, May 22, 2005; Letter 14, Joseph and Patricia Plitnick, May 22, 2005; Letter 15, Ann B. De Felice, May 22, 2005):**

Long time residents of the area have witnessed the dramatic growth/expansion of Yorktown. We are very concerned that the project will have [negative] effects. The property is the last buffer on the northeast side between the towns of Somers and Yorktown. We would like to maintain some suburban atmosphere, which originally existed when current residents arrived. Today's present generation should have the ability to experience an atmosphere in the town where children can play on cul de sac streets without excessive numbers of cars driving up and down the street. We are requesting that the Planning Board reject the proposal so that this area remains undeveloped. Quality of life would be negatively affected in the surrounding area. Potential negative effects of the project far outweigh the positive ones. The project represents an increased risk to the well-being of families with young children on nearby streets. A subdivision in this area would be very detrimental to the environment, and the quiet neighborhood we so enjoy. Continuation of development in the town will overcrowd the environment. We need to keep some of our green areas. The Town of Yorktown has lost its rural atmosphere.

***Response 3.1-2:*** *The layout described in the DEIS included proposed park parcels on the northern end of the site totaling approximately 7.5 acres. In addition, a substantial amount of the site was to be left undisturbed by grading activities, including the rear portions of the proposed lots that abut existing homes in Yorktown to the west of the site. The Revised Plan includes even greater area of open space on the project site.*

*No access connections are proposed to neighboring cul-de-sac streets. Access is proposed from Gay Ridge Road, which terminates at the project site's western boundary. As stated above and described in the DEIS, estimated levels of traffic generated by the proposed project are not expected to overwhelm the surrounding roadway network. The Revised Plan further reduces these impacts with 12 fewer homes than the action evaluated in the DEIS.*

*With the proposed open space buffer on Route 6, and given the compatible scale and density of the proposed project with its surrounding neighborhood, no adverse effects on neighborhood character are anticipated. Land abutting the site to the east in the Town of Somers is expected to remain preserved as open space as part of the Windsor Farms project in that town.*

*Ongoing development trends in Yorktown will not be significantly altered by the proposed project. The Town's comprehensive planning process has proposed measures to limit development in parts of the town that are not served by existing infrastructure, and that are characterized by large lot development. This is not so in the case of the project site, which is located adjacent to Route 6 and in an area that is characterized by homes on lots of approximately one half acre in size. The proposed project is considered to be an appropriate use of the site as it is located in an area that has available infrastructure and existing zoning that permits residential development, including at greater levels than currently proposed.*

*It should also be noted that the alternatives analysis found in Chapter 4.0 of the DEIS compares the project to an alternative Office development on the project site, which was a recommended use for the site in the previous Town Development Plan adopted in 1983. That alternative use would result in much greater effects on neighborhood character and traffic than the proposed residential project.*

**Comment 3.1-3 (Letter 19, Daniel Kiely, May 22, 2005)** The DEIS indicates that the northern portion of the town is far more densely populated at 1,772 persons per square mile than either the southern portion of the town at 392 persons per square mile or northern Westchester at 825 persons per square mile. The proposed subdivision's population density at 1,824 persons per square mile is even more densely populated than what we already have.

**Response 3.1-3:** *The average density of the project layout described in the DEIS is approximately one home per 1.26 acres. The average lot size was 0.81 acres. This density is lower than the majority of the homes in the surrounding area. Figure 2-4 of the DEIS shows the surrounding Neighborhood Context compared to the project proposal. As demonstrated in this figure, the proposed density of the project is consistent and in many cases lower than the density of residential development on nearby streets such as Gay Ridge Road, Jennifer Court, Timberlane Court, Stonewall Court and Jefferson Court. The currently proposed Revised Plan further reduces lot density, with 12 fewer proposed homes and an overall density of one unit per 1.96 acres of land.*

**Comment 3.1-4 (Letter 1, Yorktown Planning Department, June 13, 2005):** The Executive Summary states that the proposed action comports with the Town Development Plan. This is false. The plan calls for Office Campus Development for this parcel.

**Response 3.1-4:** *Comment noted. As described in Chapter 4.0 of the DEIS, however, alternative office development would result in greater impacts related to traffic, noise and neighborhood character, and increased levels of impervious surfaces created on the project site. The DEIS also includes an Office Market Study indicating that market conditions would not be conducive to office development on the project site.*

**Comment 3.1-5 (Letter 1, Yorktown Planning Department, June 13, 2005):** There are numerous references to dedicating two separate parcels to the Town as Parkland totaling 7.5 acres and an active recreation park of 2 acres. The Town's Land development regulations require a 10% set aside for *active recreational* parkland. The 7.5 acre parcels do not satisfy that requirement and the 2 acre active parcel is deficient by 2.3 acres. Secondly it is not clear if the stormwater basin is included in the 5.034 acres noted for Parcel 'A'. If so, it should be separated as the Town would not accept parkland planned for stormwater infrastructure.

**Response 3.1-5:** *The Applicant proposes to pay the requisite recreation fee in lieu of setting aside land within the proposed development for active public recreational purposes. With regard to dedicated open space, the current proposed Revised Plan includes two open space (completely vegetated) lots that include land to remain in their natural state, are not intended for recreation use, and will accommodate the surface stormwater management facilities and wetland mitigation for the project. Approximately 4.7 acres at the north end of the project adjacent to Route 6 will remain open, including some 0.9 acres used for stormwater basins, 0.5 acres used for wetland mitigation, and 1.0 acres of wetland to remain undisturbed. At the south end of the project, approximately 5.1 acres of land will remain open, including some 1.2 acres used for stormwater basins and 1.8 acres of wetland to remain undisturbed.*

**Comment 3.1-6 (Letter 1, Yorktown Planning Department, June 13, 2005):** The Executive Summary states that vacant land to the subject parcel's east is zoned for lots of 40,000 sf or more. The vacant land to east of the subject parcel is zoned for 80,000 sf and 120,000 sf lots, not 40,000 sf. Reference maps in other sections of the document confirm this.

*Response 3.1-6: Comment noted. Land to the east in the Town of Somers is planned to be preserved as open space as part of the Windsor Farms project.*

**Comment 3.1-7 (Letter 1, Yorktown Planning Department, June 13, 2005):** The Executive Summary states that there is substantial open space on lots 1 & 10 of the proposed action. This is an inappropriate characterization as these are private lands subject to allowable uses by its owner and are essentially larger only to provide the necessary stormwater infrastructure for the subdivision. Normally, open space connotes a section of land in its natural state, in public ownership, and protected from alterations that satisfy human needs.

*Response 3.1-7: Comment noted. The open space referred to in the FEIS connotes land that will be forever "green" (vegetated) and without buildings. Refer to Response 3.1-5.*

**Comment 3.1-8 (Letter 1, Yorktown Planning Department, June 13, 2005):** Page 1-3, Paragraph 3 of the Executive Summary contradicts the preceding pages' claim that the project comports with the development plan. Further, the cited market study, discussed here and elsewhere in the DEIS, sets forth "factors" that refute the subject parcel's viability as a potential office campus site. The report essentially discusses two separate subjects, planning issues that affect zoning, and current market factors, that do not. The report presents as fact, that the site's characteristics such as location, nearby amenities, proximity to major transportation corridors, and affordable housing stock hinder its development as an office site. These claims are subjective and are not supported by fact in the document. The report goes on to discuss the current state of the office market in the region. While it presents credible evidence in that regard, it fails to notice that zoning in and of itself is not market sensitive, but rather aimed at appropriate uses that respond to environment, land, transportation and to provide a balance of land uses within a given town or region and does not take into account the fluctuation and changes in the economy and markets over time. For instance, the DEIS recites the well known office glut in lower Westchester of the 1980's and points out that vacancies persisted until the 1990's. Clearly this reveals that, over the long term, the areas' zoning was appropriate, whereas reliance on market factors was not.

The document repeatedly in subsequent chapters states that office development is unlikely and irrational due to lack of public transportation, restaurants, lodging, access to highways, moderate cost housing. These factors cited are at once inconsequential and false. Both Putnam and Westchester Bus routes pass the site on Rte 6, there is not only access to, but 900' of frontage on a highway with a regional corridor (TSP) within 1-2 miles of the site. There are food service establishments with one mile in either direction. There is no clear understanding of what is meant by "moderate income housing" and therefore, cannot be directly commented on. The DEIS correctly points out that lodging is not available. Despite the obvious positive characteristics of the site, we would point out that those amenities are, nonetheless, not requisites to office development, as illustrated by the existence of IBM's Thomas J. Watson research facility, Contractors Register, and the recently announced 50,000 sf office complex at Bryant Pond Road in Putnam Valley. The DEIS also states that the office zoning is inconsistent with the residential character south of Route 6. Here the DEIS fails to cite all of the commercial properties proximal to the site: Navajo Road Industrial Park, the Schaeffer property immediately

to the north, Whispering Pine, Different Strokes pool store, three (3) retail/office developments at Mahopac Avenue and further, that within a mile, there has been a major renovation and expansion of Somers Common, west of that is proposed a large planned mixed use village development, and north of that, a major retail center. Across Rte. 6 from the subject parcel is an active application on the Schaeffer property for 105,000 sf of office/light industrial. Clearly, the development trend is for commercial square footage along Rte 6 and the predominant land use pattern is one of commercial development on properties that front on Rte. 6. While the subject property does abut residential development to the west & south, its frontage on Rte 6, commercial development abutting to the north, the predominately commercial development along the Rte. 6 corridor, its proximity to the Taconic State Parkway, and the general gradient and lay of the land make this parcel highly conducive to commercial, or, as per the town plan, office campus development. Given all the retail, office, and light industrial projects currently existing or proposed and under review in the area, we would offer that there is a demonstrated market and need for such, and that the unlikelihood of this parcel developed as such is overstated in the document.

**Response 3.1-8:** *The office use rezoning that was initially considered in the draft Comprehensive Plan was not carried forth as a recommendation in the final version of the Comprehensive Plan. As presented in the Comprehensive Plan FGEIS, the project site was ultimately recommended for a rezoning to R1-80. Nevertheless, an office market study prepared for the DEIS by Housing and Neighborhood Development Services indicated that office development is not a likely use of the site, given market conditions, the location of the site, and the lack of available office support services. Most of the commercial projects cited in this comment are non-office commercial uses. However, notwithstanding the issue of the feasibility of office development on the project site, there are more compelling reasons related to the compatibility of office use with the adjacent single-family residential uses to the west and south, and traffic considerations. The Office Alternative examined in the DEIS would generate significantly more traffic than the proposed residential project, and is not consistent with the objectives of the Applicant.*

*The conclusion that office campus development would be unlikely is still valid, in the Applicant's opinion, with the New York Times reporting in July 2005 that in the last year the office vacancy rate in Westchester has hardly budged, and second-quarter numbers for 2005 from the real estate firm Newmark & Company indicate that the County's business sector, while not in a recession, is failing to grow.<sup>1</sup> The Westchester Business Journal also reported in June 2005 that a leading office developer, Robert P. Weisz of the RPW Group, does not expect rents or sales prices in the Westchester office market to rise high enough to justify construction of new office space in this decade.<sup>2</sup>*

**Comment 3.1-9 (Letter 1, Yorktown Planning Department, June 13, 2005):** The DEIS states that "Patterns for Westchester" supports the proposed project in terms of density and land use. The discussion of "Patterns" as it pertains to the site's appropriate residential density neglects to acknowledge that "Patterns" is highly generalized and that its presentation of "medium density suburban" on the subject parcel includes office campus developments (ref. map, Figure 3.1-6). "Patterns" makes no acknowledgment of commercial zoning and identifies the Jefferson Valley

<sup>1</sup> "Pocket of Office Demand," Elsa Brenner, *New York Times*, July 10, 2005, New York Times Website, <http://www.nytimes.com/2005/07/10/realestate/10wczo.html?pagewanted=print>.

<sup>2</sup> "Office Vacancy Rates Forecast to Drop," Rick Archer, *Westchester Business Journal*, June 27, 2005, page 7.

Mall as the center of Jefferson Valley with a residential density of 6-26 dwelling units. Clearly, the County was setting forth broad brush recommendations without any regard to specific sites, commercial zoning or development, or other pertinent planning issues. On the other hand, in 2004 the County authored the Sustainable Development Study. That study recommended a 75% reduction of residential density. This it did for an area 1-2 miles from the subject site, where "Patterns" recommended in 1995 density of 1-3 and 2-4 du/acre. Clearly, land use goals in Yorktown's Comprehensive Plan have been affirmed by the County, not refuted by it.

**Response 3.1-9:** *Comment noted. Because of its available infrastructure and surrounding context, the project site is considered to be an appropriate location for the proposed use. The proposed project is consistent with land use recommended in Patterns, which provided a recommended land use map that designated the site for future development at densities consistent with those currently proposed by the Applicant. While the Sustainable Development Study does not appear to recommend a reduction in density for the project site in the Applicant's opinion, but rather addresses portions of Route 6 located to the west of the Taconic State Parkway, the Revised Plan further reduces the proposed density on the project site from the DEIS plan.*

**Comment 3.1-10 (Letter 1, Yorktown Planning Department, June 13, 2005):** The DEIS describes presenting the Town Board with a plan for commercial uses along Rte. 6 frontage of the site, and states that the town rejected that proposal and raised no objections to the residential subdivision despite its master planned designation as OB. It further states that Town Board made a determination that non-residential uses were not desirable on the site. Those statements are misleading. The Town Board rejected a specific proposal for a retail strip mall, not blanket non-residential uses. The town has required study of the site as an OB as part of this DEIS and has offered the parcel as OB in the Draft Comprehensive Plan.

**Response 3.1-10:** *See Response 3.1-8. The Comprehensive Plan no longer includes a recommendation to rezone the site for office use, but rather recommends that it be rezoned R1-80, for homes on lots of two acres or more. This plan was implemented when the site was so rezoned in 2005, however, the Town subsequently considered the substantial off-site sewer improvements proposed by the Applicant in its approval for rezoning the site to R1-40.*

**Comment 3.1-11 (Letter 1, Yorktown Planning Department, June 13, 2005):** Section 2.4.2 of the Project Description does not articulate what the town's objectives are, nor how the project meets those objectives. This section only speaks of the tax revenue, creation of a playing field, and preservation of open space. However, the DEIS in other sections, states or infers that the project comports with the Town's Development Plan & Draft Comprehensive Plan and the policies and goals stated therein. If in fact, the project comported with the goals and objectives of Yorktown, the project would not propose the four homes on lots 14, 16, 18, 20, which by their placement, destroy a fairly large portion of the middle wetland. The document states that the "general design concept focuses on minimizing impacts and preserving and protecting wetlands," yet of the 3700 lf of road, fully 1500 lf is laid out in wetlands or wetland buffer, and 10 of the 34 homes, structures and/or lawn & landscaping areas will encroach into buffer areas or wetland areas.

**Response 3.1-11:** *The Revised Plan is now proposed as a mitigation alternative that reduces direct wetland impacts to 0.25 acre and wetland buffer impacts to 2.23 acres. No proposed residences are located in any wetland or wetland buffer. Most of the wetland and wetland buffer impact is associated with a wetland crossings to achieve site*

access (roadway connection to Gay Ridge Road and emergency only access to Route 6). This plan for access was reviewed by the Town, among a number of alternative schemes, and was identified as the preferred plan. Unavoidable wetland and wetland buffer disturbances to implement the Revised Plan are proposed to be mitigated through enhancement of wetlands on the project site. The proposed wetland mitigation location area has also been identified on the Revised Plan at the north end of the property where it would be hydrologically connected with an established wetland area.

**Comment 3.1-12 (Letter 1, Yorktown Planning Department, June 13, 2005):** The DEIS states in the Land Use Chapter (ref, page 3.1-9) that the recommendations of the Draft Comprehensive Plan are not justified and that the SDS concluded traffic is not a problem in the immediate environs of the subject parcel. What the SDS concluded is that traffic hot spots result from regional influences, one of which, is residential development density. While not every portion of every road is operationally deficient, the SDS concluded that the portions that are, will benefit from reduced density and smart growth techniques throughout the region. The DEIS then states that the character of the environs is clearly that of the residential neighborhood to the immediate west. However, it is only the residential neighborhood to the west that is of a smaller lot context. The lands to the east are zoned for 2 & 3 acre lots and the vacant residential land north of the Schaeffer property is set to be rezoned to either 2 or 4 acre lots. Further, the entire section ignores the commercial development to the north of the site (Schaeffer) and the zoning context it provides. While other sections of the DEIS cite nearby commercial development, all which have frontage on Rte 6, it fails to compare the subject parcel to those similarly situated commercial parcels.

**Response 3.1-12:** *Comments noted. The project site is situated in a transitional area with residential densities existing to the immediate south and west, future residential use to the east, and commercial corridor development (existing and future) to the north. However, in keeping with the goals of the Applicant to develop a residential project, the current proposal is designed to complement the residential neighborhoods to the south, east and west, while providing a buffer from the Route 6 corridor. The current Revised Plan is the product of review by the Town in relation to the rezoning that occurred in 2005 as recommended in the Comprehensive Plan as well as consideration of the substantial off-site sewer improvements proposed by the Applicant in the Town's approval for rezoning the site to R1-40. The Revised Plan proposes a density reduction from the DEIS plan.*

**Comment 3.1-13 (Letter 2, Bruce Barber, June 13, 2005):** Please provide date of existing Town Development Plan. Please provide details of what in this Plan is contemplated in the Yorktown Comprehensive Plan.

**Response 3.1-13:** *The Town Development Plan was adopted in May of 1983. This plan recommended office use for the Yorktown Farms project site.*

*The June 2003 draft of the current Comprehensive Plan recommended rezoning the Yorktown Farms project site for either office use for single-family residential use with a two-acre minimum lot size (R1-80). The final draft Comprehensive Plan revises this proposed zoning for the Yorktown Farms site. Currently only the R1-80 District is proposed. In the Applicant's opinion, the R1-80 District is not appropriate for the project site given the surrounding residential context, which is characterized by residential densities that reflect the current R1-20 zoning. The availability of existing municipal water and sewer lines are among the other planning factors as described in this chapter*

*that make the site appropriate for R1-20 development. It should also be noted that the Revised Plan for Yorktown Farms reduces the number of lots proposed in comparison to alternative project layouts.*