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FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

BAYSIDE MIXED-USE DEVELOPMENT

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Ulster County, New York

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TABLE OF CONTENTS

INTRODUCTION4

SECTION 1.0 – PROJECT SUMMARY5

1.1 Proposed Action.....5

1.2 Significant Beneficial and Adverse Impacts7

1.3 Supplemental Project Benefits8

1.4 Comparison of Impacts9

1.5 Project History10

SECTION 2.0 – PUBLIC COMMENT AND RESPONSES12

APPENDIX

A. Comment Letters Received on the DEIS

B. Public Hearing Transcript from December 12, 2011

C. Architectural Plans

D. Bald Eagle and Vernal Pool Evaluation Memorandum

E. Traffic Impact Study

F. Updated Economic & Demographic Estimates

G. Sanitary Sewer Agreement with Town of Marlborough

H. FEIS Site Plans – Dated 6/5/17

I. Stormwater Pollution Prevention Plan (SWPPP) – June 2017

J. Marlboro School District Letter

K. Site Cross-Sections

L. ACOE Jurisdictional Determination 2017

M. School Driveway & Parking Layout Plan

N. CBRE - Supplemental Phase 1B & Historic Resources Documentation



INTRODUCTION

SEQRA Process/Final Environmental Impact Statement (FEIS)

The New York State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617) requires that all actions including zoning amendments, site plan approvals and special permits assess the environmental impacts that would result from a given project.

As a first step in the SEQRA process, an Environmental Assessment Form (EAF) was prepared and submitted to the Town on May 27, 2010. The EAF provided a basic data on the project and its potential impacts. The EAF was circulated to inform various involved agencies (i.e., Town of Marlborough, Ulster County Health Department, New York State Department of Transportation, and the NYSDEC) for purposes of determining lead agency.

The Lead Agency is generally, but not always, the local governing body or the local planning board. In this case, the Lead Agency is the Town of Marlborough, Town Board. Upon review of the EAF, a determination of significance was prepared by the Lead Agency; a Positive Declaration was issued by the Lead Agency for this project based on its beliefs that the action could result in potentially significant adverse impacts. Therefore, the SEQRA process continues to Scoping the DEIS, followed by the preparation of a Draft Environmental Impact Statement, and then resulting in the subsequent preparation of this Final Environmental Impact Statement. As a last step, an Environmental Findings Statement is prepared and adopted based on the studies and conclusions reached and the SEQR process will be concluded.

The DEIS, as required by the Lead Agency for this project, provided the description of the Proposed Action, including the need for and benefits of a project, environmental impact analyses related to the action, an analysis of reasonable alternatives to the Proposed Action, and the identification of potential measures to mitigate potentially significant adverse impacts. It is noted that the DEIS is incorporated by reference into the Final Environmental Impact Statement (FEIS).

This is an FEIS prepared by the Applicant and submitted for review by the Lead Agency and its consideration for completeness and acceptance for public circulation. The document must be accepted by the Lead Agency and distributed to all agencies and interested parties, and posted on the internet before it can be adopted by the Lead Agency in its SEQRA Findings Statement. Adoption of the Findings Statement will conclude the SEQRA environmental review process. This adoption is required prior to granting any agency permits or approvals.

This FEIS is organized into the following sections:

Section 1.0 – Project Summary, outlines the proposed components of the Bayside Mixed-Use Development and the modifications made to the project since the preparation of the DEIS. This section also provides a timeline of the milestone actions taken over the history of the project.

Section 2.0 – Public Comment and Responses, is a comprehensive compilation of all the comments received during the public hearing and comment period along with the applicant’s responses thereto.

SECTION 1.0 – PROJECT SUMMARY

1.1 Proposed Action

As indicated in the DEIS the Bayside Mixed-Use Development project, encompasses ± 25.3 acres of land along N.Y.S. Route 9W in the Town of Marlborough, Ulster County, N.Y. (Tax Lot 109.1-4-29). The previous use and current use of the site is residential. The project is presently located within the Town’s Residential (R-1) zoning district.

The Proposed Action evaluated in this DEIS included the re-zone of the property from the current Residential (R-1) zoning district to a combination of Residential (R, ± 22.7 acres) and Commercial (C-1, ± 2.5 acres) districts for a proposed mixed-use development and also included the rezone of Tax Lot 109.1-4-28 (± 2.05 acres), owned by John T. Amodeo and Joseph Amodeo from R-1 to R as part of the action.

The DEIS development for the Bayside site included three (3) types of residential housing, totaling 101 units, all having three (3) bedrooms. The majority of the proposed units, seventy-three (73), were multiple-dwelling, townhouse style units and eighteen (18) duplex or two-family units on fee-simple lots. Lastly, ten (10) apartment units were proposed on the second floor of the proposed commercial building. The commercial building was proposed along the N.Y.S. Route 9W frontage and had first floor retail space of twelve thousand, six-hundred (12,600) square feet. The plan included dedication of some right-of-way land to the Town for a portion of the site access roadway which provides the main access to the development from N.Y.S. Route 9W. A coordinated access with the Marlboro Middle School parcel to the south was also proposed. The plans also called for a clubhouse for the residents; pedestrian circulation improvements such as sidewalks; crosswalks; tree lined internal roadways, stormwater management areas and a potential land donation to the Marlboro School District or the Town for future use.

At the time of the DEIS the proposed non-age restricted multiple dwelling development and mixed use buildings for the project site were not permitted within the R-1 District. Only an age restricted, multiple dwelling development was permitted. Therefore, the applicant proposed to rezone the project site as described above. The R District permitted multiple dwellings (without an age restriction) as a special use. The DEIS also sought the rezone of ± 2.5 acres of the project site along Route 9W to the C-1 (Commercial) district. This rezoning was proposed to facilitate the development of a mixed use building made up of first-floor commercial space and second-floor apartment units.

The DEIS project met all the required zoning bulk regulations for the proposed zone changes and uses with the exception of the provided side yard setbacks between the units. The proposed property lines are such that they would have run through the common (shared) wall which separates the individual units. Due to this, the provided setback is zero (0) feet. Therefore, the project sponsor was requesting an amendment of the side yard standard to zero feet and allowance of a zero lot line setback. In each of the proposed cases, the side yard was proposed to be diminished in order to create individual, fee-simple lots for each of the units.

Upon acceptance of the DEIS and receiving of comments from the public hearing back on December 12, 2011, the applicant has undertaken design modifications to address concerns raised on the project. The Town of Marlborough has also amended sections of the Town Code separately and apart from this project.

Since the DEIS, the Town of Marlborough also amended sections of the Town Code for site development permitted within the R-1 zoning District. Based on these amendments the current development plan is permitted as-of-right. An explanation of these Code amendments is as follows:

1. The R-1 zoning district now permits non-age restricted, multiple dwelling uses as a Special Use in the district.
2. The project will continue to propose a commercial development area on 2.41 acres along the Route 9W frontage. The Town of Marlborough has created the BC (Business Corridor) Overlay District, which is a floating zone that may be established for parcels along the Route 9W corridor and are currently in the R-1 district. Proposing to utilize this overlay district option as opposed to a rezone to the C-1 district will facilitate the proposed commercial development along the Route 9W frontage of the site.
3. Zero lot lines though now permitted in the code, are no longer required for the project since it has been converted to apartment units.
4. Design standards for Multiple Dwellings were modified as follows:
 - a. Front, side and rear yard setbacks were increased to a minimum of 75 feet;
 - b. The minimum distance between structures on a project site was increased to 1 1/2 times the height of the highest structure; and
 - c. The maximum allowed units per structure was increased to no more than 24 units in a single structure.

These Town initiated Code changes now promote a development such as the Bayside Mixed-Use project as in-kind with what the Town is seeking for this area of the municipality.

By updating the project to incorporate the Town changes above and undertaking The proposed Bayside Mixed-Use Development which has been proposed in this FEIS now consists of the following components:

- No rezone is required for the residential and commercial development of the project site;
- The rezoning of the Amodeo parcel is no longer a component of the proposed action;
- 104 Apartment Units: 84, 2-bedroom and 20, 3-bedroom units (refer to Appendix C of the FEIS for revised Architectural Plans);
- 266 on-site parking spaces (2 spaces per unit, an additional 16 spaces for the clubhouse and 42 spaces for the Commercial Building);
- A proposals to build parking for the Middle School on the school property is a component of the project;
- Recent investigations conducted by the Town for flows to the Marlboro Wastewater Treatment Facility have indicated that there is sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project; and
- The Dockside project is no longer an application before the Town, therefore additional analysis or combined impact review as part of this project is not warranted.

To establish an understanding and comparison of the 2011 DEIS project plan and the current proposed development, an Impact Comparison Table has been provided at the end of this section. The major plan components and potential impacts for each respective project are summarized.

Lastly, the project will be constructed in five (5) phases and construction will commence once all final permits have been received from the necessary agencies. Each phase has been proposed to include a maximum of 24 units and associated infrastructure to support the same. Depending on market demand and completion of the required infrastructure, the phasing and/or timing of construction may vary,

1.2 Significant Beneficial and Adverse Impacts

The development would continue to result in the certain short-term impacts as a result of site construction activities and long-term post construction operation of the project site and the same resulting additional traffic generation and demands for community services and public utilities as detailed in Section III of the DEIS. These impacts would also be addressed in the same mitigation measures which were proposed within Section III of the DEIS. The additional impact due to the change in the number of bedrooms (an increase of 26 bedrooms or 13%) has been addressed in the comment responses and appendixes of the FEIS. Though the bedroom count is an increase from the 2011 DEIS project, this is not the maximum allowable bedroom count for the proposed 104 units. The current Town Code allows each unit to have a maximum of three bedrooms per unit. If each unit

had three bedrooms, the total for the project would be 312 bedrooms. The current proposed project has 228 bedrooms or only 73% of the maximum allowed.

Following completion, the Proposed Action is anticipated to generate positive fiscal impacts to the Town of Marlborough and the Marlboro School District. It is estimated that when the proposed development is complete, the County of Ulster, Town of Marlborough and Marlboro School District will receive approximately \$769,990 in total annual tax revenue and \$57,692 in annual surplus revenue (after costs). Appendix F summarizes these updated tax figures generated by the project.

The Proposed Action will continue to have a positive impact on potential local employment opportunities based on the proposed 12,600 square foot commercial facility to be developed along NYS Route 9W and the anticipated temporary jobs created during the construction of the Proposed Action.

The Proposed Action continues to propose as part of the design, the creation of a looped water system with the existing 6" water main in Purdy Avenue. This benefits those serviced by these water mains in cases of emergency and unforeseen breaks or disruptions in flows.

1.3 Supplemental Project Benefits

As part of the project, the applicant has voluntarily committed to the following as part of the SEQR review and benefits to the Town:

1. A voluntarily contribution of \$20,000.00 shall be made to the Town of Marlborough to be used for future general municipal planning purposes, which will be paid within 30 days of the Bayside Development project receiving final approval from the Town of Marlborough Planning Board.
2. Although not required, and provided that the Marlboro School District wishes to accept the offer, the applicant proposes the development of two (2) , driveway connections from the existing Middle School parking lot to the proposed project access roadway to Route 9W. The applicant also proposes the construction of 28 parking spaces and restriping a portion of the existing parking area on the school property. The construction of these coordinated driveway connections and parking will be completed by the applicant. This will allow traffic from the school to access the modified, traffic signal controlled, Route 9W intersection with Young's Avenue and be a safer form of access to Route 9W. This will also provide some additional parking on the school property which is also needed.

1.4 Comparison of Potential Impacts

	2011 DEIS Project	2016 FEIS Project	Remarks
Zoning	Proposed Rezone to the R District	Current R-1 District – no revisions required	Current Zoning permits this project As-of-Right
Residential Units	101 units (all 2 bedrooms)	104 (84, 2 bedrooms & 20, 3 bedrooms)	<ul style="list-style-type: none"> • Similar # of units • Intervening zoning revisions now allow 3 bdrm. units
Total Bedrooms	202 ¹	228 ²	26 bedrooms, No significant increase
Unit Type	Townhomes/Duplexes	Apartments	Apartments are As-of-Right
Commercial	12,600 s.f.	12,600 s.f.	Same amount
Parking	291 spaces	266 spaces	8.5% Reduction
No. of Structures	26	6	77% Reduction
Bldg. Coverage (S.F.)	127,667	79,705	37.5% Reduction
Bldg. Setbacks along Purdy Avenue	40 ft. Req'd/42 ft. provided	75 ft. Req'd/158.8 ft. provided	Zoning revision increased req'd setback & project currently proposes 2X the requirement
Building Height	2.5 Stories/35 ft. maximum	Proposed 2.5 Stories/34'-1" Ht.	Both scenarios are within code allowances
Total Impervious Surface (Acres)	7.53	5.14	31.7% Reduction
Length of Roadways	±3,402 feet	±2,278 feet	33% Reduction
Overall Site Disturbance (Acres)	15.75	13.73	12.8% Reduction
Wetlands Disturbance	0.02 Acres	0.0 Acres	No proposed disturbance with current plan
School Age Children	18	20	No significant increase
Peak hour traffic trips (new)	AM-102 PM- 172	AM-105 PM- 177	No significant increase
Water Demand³	Resid: 22,220 gpd Comm: 1,260gpd Total: 23,480 gpd	Resid: 25,080 gpd Comm: 1,260gpd Total: 26,340 gpd	Increase in flows due to the zoning now allowing 3 bdrm. units
Water Piping (feet)	4,877	2,358	51.6% Reduction
Sewage Generation³	Resid: 22,220 gpd Comm: 1,260gpd Total: 23,480 gpd	Resid: 25,080 gpd Comm: 1,260gpd Total: 26,340 gpd	Increase in flows due to the zoning now allowing 3 bdrm. units
Sewer Piping (feet)	Gravity: 3,430 Forcemain: 620	Gravity: 2,389 Forcemain: 0	41% Reduction and no pump station req'd

Recreation /Proposed Amenities for Development	Community Clubhouse	Community Clubhouse	Minor reduction in clubhouse footprint
Project Donations	1.25 Acres to Town	<ul style="list-style-type: none"> \$20,000 contribution to Town Planning Project Coordinated driveways and parking for the Middle School 	The applicant has included additional Donations to benefit the School District

¹ The Town of Marlborough Zoning Code only permitted a maximum of two-bedrooms per multiple dwelling unit.

² Though this is a minor increase in the total number of bedrooms from the 2011 DEIS project, this is not the maximum allowable bedroom count for the proposed 104 units. The current code allows each unit to have a maximum of three bedrooms per unit. If each unit had three bedrooms, the total for the project would be 312 bedrooms. The current proposed project has 228 bedrooms or only 73% of the maximum allowed.

³ Residential and Commercial GPD flow rate referenced from NYSDEC Design Standards for Wastewater Treatment Works, 2014.

1.5 Project History

The following is the timeline of the SEQRA process for the Bayside Mixed-Use Development to date, and the anticipated next steps for this project:

- Town Board declared intent to be Lead Agency for project/circulated EAF: **September 2, 2010**
- Town Board declared itself Lead Agency for project and issued a Positive Declaration: **October 25, 2010**
- Public Scoping session held: **November 18, 2010**
- Close of comment period on Scope: **December 2, 2010**
- Final DEIS Scoping document adopted by Lead Agency: **February 14, 2011**
- Applicant submits Draft of DEIS to Lead Agency (and staff/consultants) for completeness review: **May 13, 2011**
- Lead Agency provides written comments on adequacy of DEIS as submitted (as to scope adequacy and content): **July 1, 2011**
- DEIS Accepted as Complete by the Lead Agency: **November 14, 2011**
- DEIS distributed to all involved and interested agencies: **November 22, 2011**
- Public Hearing held on DEIS: **December 12, 2011**
- Sewer Agreement established with the Town of Marlborough: **June 13, 2016**
- Town Board declared an SEIS is not required for the project: **September 12, 2016**
- Applicant submits Draft Final Environmental Impact Statement (DFEIS): January 24, 2017
- Lead Agency provides written comments on adequacy of DFEIS as submitted: February 6 and March 1, 2017



- FEIS Accepted by Lead Agency: June 26, 2017
- FEIS distributed to all involved and interested agencies, FEIS posted on internet: July 19, 2017
- Lead Agency prepares, then adopts, SEQR Findings Statement: TBD

SECTION 2.0 – PUBLIC COMMENT AND RESPONSES

In accordance with SEQR, this FEIS provides written responses to substantive comments on the DEIS received by the lead agency during the public review period, including the oral comments made and recorded at the public hearing. All written comments received by the lead agency during the public comment period on the DEIS are included in Appendix A. The stenographer transcript of the DEIS public hearing is included in Appendix B.

This has been presented in a comment/response format and organized by subject matter following the same sequence as the information was presented in the DEIS. The source and date of the comment is noted in each. In several cases, some responses to comments which were previously addressed in this document refer to the prior response.

Below is an index of the written comments received on the DEIS with date and author of the letters:

<u>Letter #</u>	<u>Date</u>	<u>Responder</u>
1	12/06/12	New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP), Ruth L. Pierpont, Deputy Commissioner for historic Preservation
2	12/13/11	Town of Marlborough Councilman Anthony Pascale
3	12/16/11	McGoey, Hauser and Edsall Consulting Engineers P.C., John Szarowski, P.E.
4	12/20/11	New York State Department of Environmental Conservation, Joseph R. Murray, Environmental Analyst 1, Division of Environmental Permits
5	12/21/11	Creighton Manning, Kenneth Wersted, P.E.
6	02/06/12	Town of Marlborough Planning Board
7	03/06/12	Van DeWater and Van DeWater, LLP, Audrey L. Friedrichsen
8	07/20/16	Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle
9	12/12/16	New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP), Philp A. Perazio, Historic Preservation Program Analyst – Archaeology Unit

Comment I-1- (Public Hearing Transcript) Joseph Junta, December 12, 2011

What is their intent in building these things? Is it strictly money or what?

Response I-1: The applicant, Bayside Construction, LLC, is in business as a developer to build successful projects. The experience of the applicant identified this community and project site (which is owned by the applicant) as an outstanding opportunity to build a mixed-use development that is supported by the Town Code and Comprehensive Plan, municipal services and relationship to the surrounding community. Once approved and built the goal is to achieve 100% occupancy for the development.

Comment I.B-1- (Public Hearing Transcript) Jim Garofalo, December 12, 2011

My first concern is that the Board has already decided when they're going to close the public hearing. Seeing how the location of the document on the web site was late in coming and the location was not included in the advertisement, I would think that the Board might want to consider holding it open a little bit longer and making sure that people had an opportunity to access the document that's on the web site.

Response I.B-1: Per SEQOR regulations, the lead agency is required to keep the review period open for 10 days following the close of the public hearing, for the receipt of additional written public comments. The public hearing was held and closed on December 12, 2011 and then submissions of written comments were open till December 30, 2011 (an additional 18 days). Access to the complete DEIS document was provided by the applicant.

Comment I.F -1- (Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, July 20, 2016)

Additionally, the District is requesting that the Town Board also deem the Marlboro Central School District an involved agency, and include the District on the circulation of all SEQRA documents on this Project.

Response I-1: The Scoping Document which was developed in coordination with the Town of Marlborough Town Board (Lead Agency) explored those entities and agencies which would be instrumental in the permitting and approving the project. The Marlboro Central District does not have the jurisdiction to undertake an approval or action to permit this project. It therefore would better be considered as an 'interested agency' and has been treated as such since the beginning of the project. The applicant has involved the District in the proposed project along the way and will continue to do so moving forward. The District can participate in the SEQOR review as an 'interested agency' having the same ability in the review process as a member of the public.

Comment II.A-1 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What is the intended development, and timing of development, on the Amodeo parcel if it is rezoned as a part of the overall application? Is incorporation into the Bayside Project one feasible alternative?

Response II.A-1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment II.B-1 (Letter 2, Councilman Anthony Pascale, December 13, 2011):

Show Density calculations for Proposed Zoning Changes from R-1 to R.

- Is 2.1 acres of commercial used to calculate density (final)?
- How is the 7.88 acres of wetlands used in calculations of final numbers?

Response II.B-1: Below is a table which shows the calculation method utilized, per the Town Code §155, Zoning, to determine the ‘net buildable area’ and ‘net density’ for developing the total allowable unit count for the Bayside parcel.

Gross Site Area	Jurisdictional Wetlands Area	Net Buildable Area	Allowable Density	Net Project Density
25.31 Acres	7.4 Acres	17.91 Acres	6 Units/Acre	107 Units

The original wetlands area utilized for the site was referenced in Appendix E, ACOE Jurisdictional Determination in the DEIS. This is the total area of on-site, non-isolated waters of the U.S. as determined by the Army Corps. of Engineers (ACOE). The proposed action has a total of 104 dwellings units, three (3) less than the allowable, net project density. Since the original ACOE Jurisdictional Determination expired in June 2012, a request for an updated Determine was submitted to the ACOE and a subsequent site meeting was held with Mr. Brian Orzel of the ACOE on August 10, 2016. At this time Mr. Orzel re-confirmed the extents of the jurisdictional wetland and an updated Determination letter was received on April 28, 2017. Refer to Appendix L for a copy of the Jurisdictional Determination.

- *The allowable density for the Bayside project site is calculated as depicted above and permitted for development of the entire project site. The gross site area, including any portion for potential development, is included in determining the ‘net density’ for the project site.*
- *In order to obtain the project’s ‘net density’ the jurisdictional wetlands area has been subtracted from the gross site area to get the net buildable area. This area is then multiplied by the maximum allowable density of 6 dwelling units per acre (per section §155-30.A.2.d).*

Comment II.B-2 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Can the access way currently servicing the Marlboro Middle School, in relation to Route 9W, be rerouted to share the benefit of a new traffic control light?

Response II.B-2: The current driveway out to Route 9W on the Middle School property, just south of the Bayside project site, is currently exit only. The proposed action has included, and continues to propose, in the design of the project coordinated access driveways with the school property. This allows vehicular traffic from the Middle School, including school buses, to gain access to and utilize the signalized intersection of Route 9W and Young Avenue. This proposed access driveways are being constructed by the project sponsor and at no cost to the school district. In addition to the coordinated driveways, the project sponsor will also be constructing an additional 28 parking spaces and re-striping a portion of the existing parking areas for the school. Refer to Appendix M for the proposed plan.

Comment II.B-3 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will the Project make parking, on the Project's property, available to the Marlboro Central School District?

Response II.B-3: There is no proposed parking on the Bayside project site for the school. Parking on the project site is for use by the private residents of the development. As mentioned above in Response II.B-2, the project sponsor will be constructing an additional 28 parking spaces and re-striping a portion of the existing parking areas for the school. Refer to Appendix M for the proposed plan.

Comment II.B-4 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Are the access and interior roads to the Project to be private roads or town roads?

Response II.B-4: The project is proposing a combination of public and private roadways. The first portion, beginning at the Route 9W-Young Avenue intersection and heading west into the site ± 694 feet, is proposed as a Town Road and offered for dedication. The remaining of the interior roadways of the development are private. This series of two-lane roadways will serve as access to the proposed apartments and the clubhouse. The private roadways are proposed to be maintained as part of the developments established Homeowner's Association.

Comment II.B-5 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What is the range of powers of the Town of Marlborough to enforce any and all project conditions dealing with appropriate design and construction of improvements, infrastructure, and other physical impacts on the environment?

Response II.B-5: The DEIS provides a comprehensive analysis and detailed description of the existing environmental conditions, potential impacts to the environment and local resources and the proposed mitigation measures employed by the project to minimize the recognized impacts. The review being conducted by the Town of Marlborough Town Board and its consultants is to analyze these impacts and provide a SEQR determination for the project. Should the Town Board approve the development requested, which is currently a permitted use within the R-1 zone, the project will still require the approvals of the Town Planning Board which include site plan, special use permit and subdivision.

The Planning Board review shall go into a more detailed review of the site design. For example, the proposed landscaping of the site, proposed site lighting, final building façade treatments and site construction details before the Planning Board will approve the action. Additional approvals for the design of the sanitary sewer and water distribution systems are required by the Ulster County Department of Health. The NYSDEC is another agency which dictates requirements for the sites stormwater design and mitigation. Upon approval given by the Planning Board and outside agencies, then the Town Building Department is the jurisdictional entity that will confirm the developer adheres to the approvals received from the preceding boards.

Comment II.B-6 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Are there discussions between the Project and the Marlboro Central School District concerning the school district's use of project road infrastructure and the traffic light on Route 9W, and/or the connection of the project roadway to potential municipal parking? What were the dates and nature of past communications with the Marlboro Central School District and the Project regarding traffic, parking, and other infrastructure issues of mutual concern?

Response II.B-6: Over the history of the project, numerous meetings have been held with the Marlboro Central School District Superintendent of Schools and School Board. The topic of each of these meetings was generally reviewing the proposed scope of development for the Bayside site and its relationship with the Middle School site regarding proposed traffic and/or parking improvements, pedestrian connections and drainage concerns. These meetings go back to the infancy of the project in 2005. However, most recently and of most relevance to the current project proposal, two (2) meetings were held to discuss the details of the project and the relationship with the Middle School site. On April 21, 2016 the applicant's representatives, Town of Marlborough Officials, Ulster County Planning representatives and Superintendent of Schools, Michael Brooks met to review the project at the County Offices for a Gateway Meeting. Then on March 23, 2017 a site meeting was held with the applicant, Maser Consulting, Supervisor Lanzetta, Councilman Corcoran, Pat Hines, Marlboro Central School District representatives Michael Brooks, Patrick Witherow & Larry Cavazza to review the latest FEIS site plans.

Proposals to build parking for the Middle School on the project site and reconfiguring a portion of the existing parking area on the northern side of the school have always been in the discussions and are still a component of the project based on the March 23, 2017 meeting. These preliminary layouts exceeded the parking improvements and land donation offered by the applicant. The applicant is also offering 2 coordinated access driveways to the proposed Town Road section of the Bayside Development.

These proposed improvements provide for improved safety for pedestrians and vehicles for this portion of the Route 9W corridor. With the proposed access road to Route 9W and the coordinated driveways with the Middle School, buses and vehicles are able to make left turns onto Route 9W via a signal controlled intersection. This is unlike the current exit driveway from the Middle School. In addition, sidewalks are proposed along these same driveways to be constructed by the Bayside project. This will allow safe pedestrian circulation from the development and Middle School down to Route 9W and to travel along the project frontage.

Another topic of discussion with the school district over the history of the project is a concern about stormwater run-off from the Bayside site impacting the school property. Due to the size of the project, a State Pollutant Discharge Elimination System Permit (SPDES GP 0-15-002) is required from the New York State Department of Environmental Conservation (NYSDEC). As part of this permit and the Code of the Town of Marlborough, §135, 'Stormwater Management', the preparation of a Storm Water Pollution Prevention Plan (SWPPP) for the development (See Appendix I, for the updated SWPPP) is required and must be designed in order to comply with these regulations and to provide proper mitigation for stormwater runoff. These drainage design practices are required to be implemented to provide the required water quality benefits, channel protection, overbank flood protection, and extreme flood protection. The Proposed Action has been designed to minimize downstream effects from stormwater runoff following development of the project site. The stormwater management system will control flows and discharge maintained or lower flow rates in the overall post-development condition as compared to pre-development conditions. The stormwater management areas as designed are also setback from the School to further remove the safety concern of the District.

Comment II.B-7 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What is the potential for unwanted 2-way traffic, rather than just 1-way exit traffic, with the road associated with use by the school?

Response II.B-7: The coordinated driveways with the Middle School are proposed to be a one-way out (eastern driveway) and a two-way access (western driveway) to best facilitate the proposed circulation patterns desired by the District. This area will have the necessary signage to deter the use of these driveway as an access to the school. The signage will include 'Do Not Enter' and 'One Way' signs, along with painted markings on the pavement will be installed for the eastern driveway and the necessary pavement markings and control signs will be provided for the two-way, western driveway. To further deter unwanted traffic entering the school property, the district has requested that the driveways be gated. The School District will manage when these gates are opened and closed. The applicant has agreed to provide these improvements as part of the development cost for the project.

Comment II.B-8 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will there be bus stops and turnarounds for buses at the Project?

Response II.B-8: The proposed roadway layout for the project has been designed with a continuous main loop road to circulate through the development. This loop will adequately accommodate turning radii for pedestrian vehicles, delivery and garbage trucks and buses. Buses will utilize the loop road and not need to turn around within the development. Pick-up locations for the development will be coordinated and ultimately determined by the Marlboro School District. For those students attending the Middle School, sidewalks have been provided throughout the development and connecting to the Middle School Property.

Comment II.B-9 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Identify all currently proposed potential parking areas for the public and/or school use. What other municipal or school parking alternatives are feasible?

Response II.B-9: The current project does not propose the construction of any public or school use parking facilities on the project site. The required parking for the commercial component of the project will be provided and utilized by the patrons working at or visiting that facility. As mentioned in Response II.B-3 and II.B-6 above, the Bayside site plan includes the layout for public/school parking adjacent to and on the Middle School property.

Comment II.B-10 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What are the proposed pedestrian crossings across Route 9W which are associated with the Project? What lighting and traffic control features do they possess? What alternative of additional controlled pedestrian crossings of Route 9W would be feasible?

Response II.B-10: The New York State Department of Transportation (NYSDOT) has completed improvements to the Route 9W-Young Avenue intersection. Among others, this included a traffic signal and a crosswalk with pedestrian indicators to cross Route 9W on the southern side of the intersection, as well as overhead lighting of the intersection and sidewalk. The sidewalk on the west side of Route 9W which originally ended at the Marlboro Middle School Driveway was extended to Young Avenue.

The Bayside project proposes to incorporate a pedestrian crossing at the main site access roadway at Route 9W as well as extending the sidewalk from the main entrance, along Route 9W, north to Purdy Avenue. The new roadway connection to Route 9W opposite Young Avenue will form a full movement (four-way) intersection. Similar crossing mechanisms used by NYSDOT will be implemented by the Bayside project for safe pedestrian use. Additional lighting for the new cross-walk and sidewalk will be included as part of the improvements for this project. Proposed light fixtures will also be included in the Bayside development along all its roadways, sidewalks and parking areas. The applicant will be required to work with NYSDOT and receive their approval to modify the Route 9W-Young Avenue intersection, traffic signal and cross-walk.

In the immediate vicinity of the Bayside project, the crossing of Route 9W provided by NYSDOT warrants the safest location. This crossing is at a signal controlled intersection which stops traffic and will provide adequate time for crossing the highway. Other adjacent streets such as Purdy Avenue or the Marlboro Middle School Driveway do not have control of the through motor vehicle traffic on Route 9W. A pedestrian must wait for suitable gaps in the traffic to cross the highway. However, with the improvements conducted by NYSDOT and the proposed sidewalk improvements included in the Bayside project, safe travel along the entire street frontage of the Bayside project will be provided. No alternative or additional intersections adjacent to the Bayside project or associated with the projects improvement area would appear to be safer.

Comment II.B-11 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Is there an adequate connectivity to the existing hamlet area of the Town of Marlborough? What are the connecting improvements which integrate the project and the existing Town's hamlet?

Response II.B-11: The southernmost corner of the project site is approximately 1,200 feet from the Western Avenue/Route 9W intersection. Sidewalks or large shoulders along Route 9W currently provide a walkaway connection to the Hamlet. The Bayside project is also providing an extension of this walkable connection further north to Purdy Avenue.

Comment II.B-12 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What alternative pedestrian routes from the project are feasible to allow continuity of travel access to the hamlet area other than along Route 9W? What property rights from other owners would be necessary?

Response II.B-12: The Route 9W connection provides the most direct route to the Hamlet. Other routes to the Hamlet would need to be over public land or rights-of-way and the most apparent alternative route would be along the established Town roadways (i.e. Birdsall Avenue to White Street and to Western Avenue into the Hamlet). These public lands could be reviewed as acceptable access routes into the Hamlet or other private easements for a more direct pedestrian path could be sought. These, however, are out of the control and purview of the proposed Bayside project.

Comment II.B-13- (Public Hearing Transcript) Jim Garofalo, December 12, 2011

The area that is proposed to be donated to the school district, which is over here (indicating), one of my concerns is taxes. And certainly when you donate land to the school district it comes off the tax rolls. So what should be done is looking at minimizing the amount of land that's going to be donated to the school district.

Response II.B-13: The proposed action no longer includes a donation of land to the School District or the Town. At this time, that land will remain in the ownership of the applicant.

The proposed Bayside project is estimated to yield an annual surplus of \$57,692 after the annual estimated tax revenue of \$769,990 is paid out to the Municipality, County and School District. See Appendix F for the estimated Tax Revenue calculations for the project.

Comment II.B-14- (Public Hearing Transcript) Jim Garofalo, December 12, 2011

Now, it was my understanding that the purpose of this land would be to put it, put a parking lot and some work had been done previously in actually looking at where that parking lot would be going.

Response II.B-14: See Response II.B-6 above.

Comment II.B-15- (Public Hearing Transcript) Jim Garofalo, December 12, 2011

I'm also concerned that the way this is configured with the sidewalk that's going to be coming on the west side of Route 9W, that that would then become the responsibility of the school district to remove snow and maintain the sidewalk, as well as possibly elements along the access road if that becomes their property.

Response II.B-15: The proposed access road for the Bayside project and adjacent sidewalk are currently proposed with an associated right-of-way and would seek dedication to the Town of Marlborough. The portion of the existing sidewalk being referred to is not on the Bayside parcel, it is located within the NYSDOT right-of-way for Route 9W. There is no proposed land donation for the project.

Comment II.B-16- (Public Hearing Transcript) Jim Garofalo, December 12, 2011

In addition, the access point, I think a little more attention has to be paid to this access point (indicating over here that goes to the school. What happens here is the buses come in, they pull in here. Now particularly this first location, in order for them to exit out and get to the traffic light, they would have to make a turn, a complete left turn almost 180 degree, go right and then right. I'm a little concerned about whether or not that actually can be made.

Response II.B-16: The driveways with the Middle School have been proposed in coordination with the School District and their desired circulation for the Middle School. These driveways and parking areas will have the necessary signage and be gated as requested by the School District to deter the use of this driveway as an access to the school. Bus and vehicular traffic will still access the Middle School from Birdsall Avenue and the existing exit driveway to Route 9W on school property will remain unchanged with the exception of providing additional parking spaces along this driveway for the school's use. The benefit of the coordinated driveways that is proposed by the Bayside project is to allow traffic exiting the school the ability to traverse through the project site and have access to the traffic signal at Route 9W and Young Avenue. This is especially beneficial to those vehicles looking to make a left turn on to Route 9W and travel north.

Comment II.B--17 (Public Hearing Transcript) Chris Brand, December 12, 2011

This or any other project should ensure they fit community standards and the quality of life presently enjoyed by the residents before moving forward.

Response II.B-17 : The Town of Marlborough has established community wide zoning based on extensive investigation and studies over the years. This includes the Town of Marlborough’s Comprehensive Plan Update (the Plan) adopted in 2002. The Land Use chapter of the Plan establishes long-range goals for different uses and their associated densities within the Town of Marlborough. These uses include agriculture, residential, commercial and industrial. The residential sub-section of this chapter states “residential growth should occur primarily in and around the hamlets of Marlboro and Milton” and “as much of the remaining demand as possible should be directed toward available buildable land east of Lattintown Road and outside of viable agricultural districts”.

Additionally, there is the Marlboro Hamlet Master Plan (Final Draft, March 2010) which studied the existing and future uses of land in the Hamlet and was created with input from local residents and stakeholders, designated the Bayside parcel as part of the ‘Hamlet Expansion’ area which was to focus on residential development.

The Town of Marlborough Town Board has also taken steps to modify the Town Code to further encourage residential development such as the Bayside project by including ‘Multiple Dwellings’ as a special use to the R-1 zone (Local Law #1-2014). The Bayside project no longer requires a zone change based on this Town initiated Code amendment. The Town also created the BC (Business Corridor) Overlay District to encourage development along the Route 9W corridor. Again, the Bayside project is seeking to implement this overlay district along the Route 9W frontage of the site. Request for the re-zone of this area to the C-1 zone is no longer required to facilitate the commercial component of the project.

Based on these Town studies and initiated Code changes the type of development proposed by the applicant is in kind with what the Town is seeking for this area of the municipality.

Comment II.B-18 (Public Hearing Transcript) Chris Brand, December 12, 2011

The project's nature -- application also calls for an exemption from currently established lot line ordinances and setbacks and seeks zero foot setbacks for the proposals on page 2-39. I say no.

Response II.B-18: The modified Site Plans and proposed residential rental buildings do not require zero-lot lines for the proposed units. The allowance of zero-lot lines, however, is permitted within the Town of Marlborough Zoning Code. The proposed project is in conformance with the setback requirements established for Multiple Dwellings in section §155-30 of the Town Code.

Comment II.B-19 (Public Hearing Transcript) Chris Brand, December 12, 2011

Allowing the zoning change will significantly alter the number of homes and their density along Purdy Avenue, in particular, which is most certainly inconsistent with the existing surrounding properties.

Response II.B-19 : The proposed development of the project site, with respect to the frontage along Purdy Avenue, has been substantially reduced on the FEIS Site Plans (refer to Appendix H). For ‘Multiple Dwelling uses in the R-1 zoning district, the Town has increased the minimum required front yard setback from 50 feet to 75 feet. No proposed buildings front on or have direct access to Purdy Avenue. The majority of the frontage on Purdy Avenue will remain vegetated (its existing condition) or in

instances where grading was required for the emergency access (which is proposed to be gated) and the access driveway to the western stormwater management area, which is also gated.

Comment II.B-20 (Public Hearing Transcript) Chris Brand, December 12, 2011

The DEIS states further on page 2-21: Rather than seclude these units from the existing residential nature of the street, there are design elements that insinuate these units will be accessed from Purdy Avenue in a manner similar to the existing homes along the street, end quote.

Response II.B-20 : Regarding the Duplex Units, Page II-21 of the DEIS actually states, “Rather than seclude these units from the existing residential nature of that street, there are design elements that insinuate that these units would be accessed from Purdy Avenue, in a manner similar to the existing houses along the street.” No access to the duplex units from Purdy Avenue was previously proposed on the project. This concept remains the same for the current site plans. No daily-use driveways accessing the Bayside development are proposed. As stated above, an emergency access and access driveway to the western stormwater management area, both of which are gated, are the only openings onto Purdy Avenue.

Comment II.B –21 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

5. General Development Concerns:

Fencing should be erected and maintained by the Property owner/developer along the length of the school property to prevent access to District property.

Response II.C-1: Review of proposed fencing will be conducted during the Site Plan application process with the Town Planning Board.

Comment II.C-1 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

How is snow removal to be managed by the Project?

Response II.C-1: Similar to the other site maintenance and up-keep for the project, a Home Owner’s Association will be created for the development and will handle the need for snow removal.

Comment II.C-2 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What are the reasons underlying the various phases of the project, particularly in terms of development and environmental impact issues such as installation of infrastructure and site grading sequences. To what extent can each phase of the project, as constructed, stand alone without reliance upon infrastructure planned for future phases which may or may not occur?

Response II.C-2: Project build-out has been proposed in five (5) separate phases. The extent and components of the phases is detailed on the Erosion and Sediment Control Plan in the FEIS Site Plans (refer to Appendix H). Each phase has been established to construct the roadway and parking, utilities (i.e. sanitary sewer, water, stormwater, electric, gas and communication infrastructure), associated site grading, residential or commercial structures and landscaping to have a complete portion of the project before moving onto the next proposed phase. Once the next phase of the project is initiated, the same improvements will be extended to support that portion of the development for

that given phase. The proposed phasing and sequence of construction for the project is similar to that proposed within the DEIS.

Comment III.A-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

While impacts of the conceptual development plan for the Amodeo parcel are identified, no soil erosion or sediment control plan is proposed, and no real mitigation is proposed. The DEIS states rather that "The NYSDEC and Town of Marlborough Code requirements will be adhered to and reviewed at the time Amodeo seeks approval from the Town to develop this parcel."

Response III.A-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.B-1 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): The Runoff Reduction calculation provided in the SWPPP does not appear to have correctly accounted for the conservation areas and disconnected impervious. The area to be placed into conservation does not appear in Table 3: Runoff Reduction and Water Quality Calculations, page 5. The acreage total for the disconnected impervious seems to be more than the total proposed impervious.

Response III.B-1: Based on the modifications to the proposed development, revised FEIS Site Plans and a SWPPP have been prepared and provided in Appendix H and I respectively. Since the prior DEIS, the New York State Department of Environmental Conservation has released an updated Stormwater Design manual and SPDES General Permit for Stormwater Discharges (GP-0-15-002). The modified SWPPP has been prepared in accordance with these updated standards. A deeded conservation area has not been proposed for the current project proposal.

Comment III.B-2 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): The area to be placed into permanent conservation must be clearly depicted on the site plans. A deed restriction will be required on all areas placed into permanent conservation.

Response III.B-2: Although the majority of the western portion of the project site is not being disturbed by the development due to the existing wetlands; a formal easement is not being proposed for "conservation easement" credit toward runoff reduction requirements because it is no longer a component of the stormwater mitigation design. A Revised SWPPP has been prepared in accordance with the 2015 General Permit and design manual.

Comment III.B-3 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011):

The stormwater management plan includes infiltration. Percolation testing in compliance with the New York State Stormwater Management Design Manual, August 2010, is required. Test locations and results must be clearly shown on the site plans and included the SWPPP report.

Response III.B-3: On-site soil testing was performed, however, it did not yield favorable results for infiltration practices and rock was encountered throughout the site to further require deviation from the previous design.

Comment III.B-4 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): The proposed development must either include soil restoration or increase the TR-55 Curve number in accordance with the Design Manual.

Response III.B-4: Soil restoration shall be conducted in accordance with the NYSDEC Deep-Ripping & Decompaction Manual, April 2008 in all disturbed, pervious areas proposed for landscaping or grass in the developed condition. Reference to, and inclusion of the NYSDEC Manual has been utilized in the SWPPP.

Comment III.B-5 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): Silt fence must be depicted parallel to the existing contours. Silt fence installed incorrectly can exacerbate erosion along the silt fence.

Response III.B-5: Silt fence has been provided on the plans and where not parallel to the contours to traverse steeper terrain, a detail has been provided to instruct the contractor on proper installation.

Comment III.B-6 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): Details for the proposed stormwater management features will be required.

Response III.B-6: Comment noted. Details for the proposed stormwater management network, including but not limited to, basins, manholes, piping, etc. will be provided in the Site Plan submission to the Planning Board in the future.

Comment III.B-7 (Letter 3, McGoey, Hauser and Edsall Consulting Engineers P.C., December 16, 2011): A figure locating all the proposed green infrastructure practices is required.

Response III.B-7: The post-development watershed map provided in the Appendix of the SWPPP identifies the proposed Stormwater management practices and locations.

Comment III.B-8 (Letter 4, New York State Department of Environmental Conservation, December 20, 2011): Compliance with the State Pollutant Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-10-001) – Compliance with the SDPES General Permit is required for any project that disturbs greater than one acre of land area. Coverage under GP-0-10-001 may be obtained by the preparation of a Stormwater Pollution Prevention Plan (SWPPP) and the filing of a Notice of Intent form with the Department pursuant to the permit requirements. In addition, because the project site is located within a regulated Municipal Separate System Sewer Systems (MS4) area, and “MS4 SWPPP Acceptance Form” must also accompany the sponsor’s Notice of Intent filing.

Response III.B-8: Comment noted. The project will comply with the current State Pollutant Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002).

Comment III.B-9 (Letter 4, New York State Department of Environmental Conservation, December 20, 2011):

The DEIS contains no assessment of the presence of vernal pools and their habitat value to the biodiversity of site and general area. The presence of any such pools and their associated species and potential impacts due to the development should be included as part of the FEIS.

Response III.B-9: No vernal pools were observed on the project site. See attached memo (Appendix D) for the evaluation description.

Comment III.B-10 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What state or local regulations will apply to management of stormwater generated by the Project? What will be the provisions for enforcement of project conditions dealing with management of stormwater generally, and in terms of avoiding post-construction conditions which do not adhere to approved stormwater management designs? What are the relative roles of the Town and the DEC in these regards?

Response III.B-10: The project is subject to meeting the design and mitigation of stormwater run-off from the site by the NYSDEC and its GP-0-15-002, SPDES General Permit for Stormwater Discharges from Construction Activities. This requires the review of existing stormwater flows and post construction stormwater flows from the project site. Since the project will require greater than 1 acre of land disturbance, a Stormwater Pollution Prevention Plan (SWPPP) is required under these regulations and has been prepared by the applicant. The NYSDEC also regulates the design of stormwater mitigation elements proposed for the site in their Storm Water Management Design Manual (NYSSMDM).

The stormwater management system designed for the development will control flows and discharge reduced flow rates in the post-development condition as compared to pre-development conditions (refer to Table 2: 'Present and Proposed Peak Flow Summary to the Design Points' of the SWPPP in Appendix I).

Since the Town of Marlborough is a regulated Municipal Separate Storm Sewer System (MS4) community they are tasked with the review, approval and enforcement of any stormwater management system proposed for construction within the Town. The review and enforcement undertaken by the Town is also provided during the construction of the project by the means of erosion and sediment control oversight. This is another requirement of NYSDEC within GP-0-15-002.

Once the project has been constructed and stormwater measures are in place, it is then the site operator or owner's responsibility to maintain these improvements and maintain the treatments levels as designed. The Town's MS4 official also has the authority to inspect and require maintenance of the constructed stormwater facilities.

As outlined above, the NYSDEC and Town of Marlborough, both, play integral parts in regulating and enforcing that stormwater management facilities are sufficient.

Comment III.B-11 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Discuss mosquito and other insect control regarding stormwater facilities associated with the Project? For example, will there be retention of stormwater which promotes mosquito or other insect populations?

Response III.B-11: The proposed open, stormwater management facilities design for the development are a series of three (3) bio-retention areas. These are drainage facilities that capture runoff from surrounding impervious areas and are sized to provide runoff reduction and water quality at shallow depths (six inch deep surface ponding area per the NYSDEC design criteria) and then utilize an engineered soil strata and vegetation for treatment. The systems have been designed to hold volume of larger rain events and are controlled by the outlet control structure; depth in excess of six inches is a short term condition. The ponding is required to dissipate within a maximum of 48 hours from the storm event. This requirement minimizes occurrences of standing water and the concern of mosquito breeding. This is uncharacteristic of the existing, protected wetlands on the west portion of the site.

Comment III.B-12 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will there be additional quantities of runoff from the project to or near the small bridge on Birdsall Avenue?

Response III.B-12: As mentioned above, the stormwater management system designed for the development will control flows and discharge reduced flow rates in the post-development condition as compared to pre-development conditions (refer to Table 2: 'Present and Proposed Peak Flow Summary to the Design Points' of the SWPPP in Appendix I) to see the proposed reductions. Therefore, based on the designed reductions, no additional runoff will be added to the Birdsall Avenue culvert from development of the project site.

Comment III.B-13 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

How are stormwater management area to be constructed and maintained so as to be consistent with nearby school uses and school grounds?

Response III.B-13: Stormwater management facilities for the development are designed, to be constructed and maintained in accordance with the State and Local requirements. These are approved and accepted practices for New York State regardless of the adjacent uses. These facilities are located on private property and do not impact the school site or it's functionality.

Comment III.B-14 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What are the stormwater measures proposed with respect to the stream that exists near the area of the adjacent school?

Response III.B-14: As mentioned in section III. B. WATER RESOURCES in the DEIS, the stream in question (a Tributary to Lattintown Creek, ID# H-103-2), also meanders through the western portion of the Bayside parcel and is a component of the Federal Wetlands area on-site. No disturbance of this wetland is proposed based on the development of this project site. The proposed stormwater management facilities discharge outside and to the wetland area via NYSDEC approved treatment measures.

Comment III.B-15 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What are the stormwater measures related to an old culvert pipe located at Birdsall Avenue? Will the culvert pipe be picking up more stormwater volume as a consequence of the project, and will it be adequate to handle stormwater?

Response III.B-15: See Response III.B-12 above.

Comment III.B-16 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What is the potential for green-friendly pedestrian or recreational infrastructure through or otherwise impacting the wetland on site? What permits would be required?

Response III.B-16: The applicant is proposing no disturbance to these recognized, valuable natural habitats. No permits for such improvements are being sought by the applicant.

Comment III.B-17 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

With respect to the wetland in the westerly portion of the site, is it federal, state or local wetland? What are the buffer area requirements applicable to development near that wetland?

Response III.B-17: The wetlands located in the western portion of the project site are jurisdictional wetlands of the Army Corps of Engineers (Federal). These wetlands do not have a required buffer area.

Comment III.B-18 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

While impacts to wetlands and additional impervious surface are acknowledged as potential impacts of the development of the Amodeo parcel, no wetland delineation is provided at this time and no mitigation measures are proposed because "impacts (if applicable) will be assessed at the time Amodeo seeks approval from the Town to develop this parcel," and with regard to stormwater, the DEIS states that "the NYSDEC and Town of Marlborough Code requirements will be adhered to and reviewed at the time Amodeo seeks approval from the Town to develop this parcel."

Response III.B-18: The rezone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.B-19 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There does not appear to be a separate map of the on-site regulated wetlands per the Army Corps of Engineers Jurisdictional Determination, or any identification of the purported isolated, non-jurisdictional wetland which is to be filled in, in this section of the DEIS. The location of the non-jurisdictional wetland and the project's impacts to such wetland do not appear to be clearly delineated on the project plans included in Appendix Q.

Response III.B-19: Within the DEIS, Exhibit III.C-1 depicts the areas of regulated, isolated and upland areas of the project site. These wetlands, based on the site inspection and determination of the Army Corps of Engineers (April 28, 2017 Jurisdictional Determination provided in Appendix L confirms the isolated, non-jurisdictional nature of the area), are deemed to not meet the minimum jurisdictional requirements to be considered a protected wetlands. Per Appendix D of the FEIS, a site investigation was also conducted for the potential of vernal pools which can be associated with the on-site wetlands. However, the site investigation confirmed that there are no vernal pools on the project site.

This therefore allows the applicant to utilize this area for developmental needs without the need to further discuss special impacts to this area as a regulated wetland or special area of consideration which would require a specific mitigation. The other sections of the DEIS sufficiently describe what impacts exist and the proposed mitigation measures to be implemented for the physical site disturbances which this area is now an associated part of.

Comment III.B –20 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

4. Stormwater

Again, due to the substantial change in the Project size, and layout and potential changes in stormwater regulations, the DEIS must be updated to address the stormwater runoff, especially given the potential impact of the newly identified water resource on the Project site.

Response III.B-20: Based on the modifications to the proposed development, a revised SWPPP have been prepared and provided in Appendix I. Since the prior DEIS, the New York State Department of Environmental Conservation has released an updated Stormwater Design manual and SPDES General Permit for Stormwater Discharges

(GP-0-15-002). The modified SWPPP has been prepared in accordance with these updated standards.

Comment III.B-21 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016)

Furthermore, it is noted that the wetland delineation for the area designated as federal wetland was effective for 5 years from the date of the June 4, 2007 letter of designation. Therefore, it appears the federal wetland delineation must also be updated.

Response III.B-21: A revised Jurisdictional Determination (JD) was submitted to the Army Corps of Engineers (ACOE) on June 13, 2016 and an on-site inspection of the wetlands with the ACOE was conducted on August 10, 2016. Reissuance of the JD was received on April 28, 2017 and a copy is provide in Appendix L. The boundaries of the jurisdictional and isolated wetlands areas on the project site remained in-kind with the original JD issued by the ACOE.

Comment III.C-1 (Letter 4, New York State Department of Environmental Conservation,

December 20, 2011): According to the Department Records, the following state-listed threatened species has been recorded within or near the project site: Bald Eagle, *Haliaeetus leucocephalus* (Linnaeus, 1766). Although the Bald Eagle has been delisted at the federal level by the U.S. Fish and Wildlife Service, this species remains a protected species within New York State pursuant to 6 NYCRR Part 182: Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern; Incidental Take Permits.

Therefore, the potential impacts of the proposed project on this species should be fully evaluated within the DEIS. In addition, project modifications may be needed to adequately mitigate any potential impacts identified. To avoid impacts to bald eagles and their habitats, project plans should incorporate mitigation as described in the U.S. Fish and Wildlife Service National Management Guidelines (NBEM Guidelines). If the potential adverse impacts cannot be entirely mitigated using the NBEM Guidelines, an impact assessment will be required and should be incorporated as part of the DEIS.

Response III.C-1: The project site does not contain suitable habitat for the critical life stages of Bald Eagle. See attached memo (Appendix D) for the Bald Eagle habitat evaluation.

Comment III.C 2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

Again, there is no information or assessment of habitat for flora and fauna provided and it is left for the time that detailed design plans are prepared and a formal application is made to the Town of Marlborough Planning Board for this parcel. Therefore, no impacts are identified at this time, and the DEIS concludes that mitigation measures (as applicable) will be determined at the time Amodeo seeks approval from the Town to develop this parcel, so none are proposed.

Response III.C-2 : The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.C -3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The reference to Appendix P on pages III.C-16 and 27 is incorrect; it should be Appendix Q. See also Comment 2, above.

Response III.C-3: Comment noted.

Comment III.C - 4 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS states with regard to impacts to flora, "Mitigation measures proposed to compensate for the potential impacts listed above can be organized into two major categories:" However, in the discussion that follows, the two categories and their mitigative effects are not clearly identified. (Section III.C. 1; pp. III.C-17, 18).

Response III.C-4: The mitigating measures proposed for the project are : #1. Avoidance of resources (paragraph 1 on page III.C-18) and #2. Landscape Enhancements (paragraph 3 on page III.C-18).

Comment III.C - 5 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There is no mention of the loss of the isolated non-jurisdictional wetland in the discussion of impacts to either general habitat or rare species habitat. (p. IIIC-27.)

Response III.C- 5: See response III.B-19 above.

Comment III.D-1 (Letter 1, NYSOPRHP, December 6, 2011):

In order for use to complete our evaluation of the historic signification of all buildings/structures/districts within or adjacent to your project area we will need the following additional information:

- Clear, original photographs of building/structures 50 years or older. * Within or immediately adjacent to the project area
- Clear, original photographs of the surroundings looking out from the project site in all direction, keyed to a site map.
- DEIS suggests that there are 2 NR-listed properties 'near by.' Please place them on a map in relationship to your APE.

Response III.D-1: To address the above comments from NYSOPRHP, Maser Consulting P.A. re-submitted the original Phase 1A/B report via the State's Cultural Resource Information System (CRIS) website for re-evaluation in addressing the comments. Based on this recent submission a second comment letter was issued on December 12, 2016 and responses are provided below.

Comment III.D-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

For this area of environmental concern, the discussion of impacts and mitigation takes the same form as for Flora and Fauna.

Response III.D-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.D-3 (Letter 9, NYSOPRHP, LLP, December 12, 2016):

The report's historic background section does not state whether or not the historic map review indicated the presence of any map-documented structures (MDS) within the project area. However, on page 19 the report states that one house and several outbuildings are present. Photos of these structures suggest that at least some may be of considerable age and could, therefore, have associated archaeological deposits or features. If that is the case, OPRHP Phase I guidelines (2005) state that testing at 7.5 meter intervals, beginning at 1 meter from the structures should be undertaken. The report does not indicate that this testing was undertaken. Therefore, we recommend that such testing be conducted or that a justification be provided

stating why it is not necessary. In addition, the locations of these structures and the photo angles that show them should be added to the project plan.

Please provide a revised report that addresses these comments.

Response III.D-3: Based on our historic background review, no map-documented structures were identified on this project site. OPRHP Phase I guidelines for testing were utilized for investigation around these existing on-site structures and contained no cultural materials, therefore no additional testing is necessary. Additional photo-angles of the structures will be added to the project plan and provided to OPRHP for final review.

Upon further discussion and review of the project site with OPRHP, a Supplemental Phase IB Archaeological Field Reconnaissance and Historic Resource Documentation studies have been prepared and submitted to the State for further review. A copy of these studies has been attached to the FEIS as Appendix N. Final response from the OPRHP is pending.

Comment III.D-4 (Letter 9, NYSOPRHP, LLP, December 12, 2016):

Comments regarding above-ground resources are being provided separately.

Response III.D-4: An additional study regarding the above-ground resources was prepared and has been provided to OPRHP. A final response from the OPRHP is pending. A copy of the study has been attached to the FEIS as Appendix N.

Comment III.E-1 (Letter 5, Creighton Manning, December 21, 2011):

The traffic study was completed in accordance to industry acceptable procedures and methodologies.

Response III.E-1: Comment Noted. No further response necessary.

Comment III.E-2 (Letter 5, Creighton Manning, December 21, 2011):

The technical assumptions used to develop the No-Build traffic volumes, site trip generation, future Build traffic volumes, and the resulting level of services analyses are considered acceptable.

Response III.E-2: Comment Noted. No further response necessary.

Comment III.E-3 (Letter 5, Creighton Manning, December 21, 2011):

Future levels of service (with improvements) are considered acceptable at the Route 9W intersections at Purdy Avenue, Young Avenue, Birdsall Road, Dock Road, Western Ave, and King Street. It is noted that a drop in level of service, (LOS D to LOS E) is expected at the Birdsall Road approach to Route 9W during the PM peak hour and at the Dock Road approach during the AM peak hour, but this is considered acceptable given the low volumes on these approaches (1 vehicle every 1 to 2 minutes) and the minimal queuing expected.

Response III.E-3: The updated analysis of these locations is based on updated background volumes, as well as the current development plan. The new traffic volumes have modified some of these results slightly, as indicated in Table No. 1 in the report; however, we agree that the effect of the project generated volumes will not significantly change operating conditions.

Comment III.E-4 (Letter 5, Creighton Manning, December 21, 2011):

Although NYSDOT has improvements planned for the Route 9W/Young Avenue intersection in 2012, residual congestion will continue to be present, particularly during the arrival and dismissal periods of the elementary and middle schools. The appropriate signal design and timings will be necessary to accommodate school traffic and minimize delays to Route 9W drivers at non-school peak hours.

Response III.E-4: The NYSDOT improvements have been completed at this location. As part of the Highway Work Permit for the proposed Bayside Development, traffic signal modifications will be completed to accommodate site traffic and minimize delays to Route 9W drivers.

Comment III.E-5 (Letter 5, Creighton Manning, December 21, 2011):

The signal timings for the improved conditions at Young Avenue will be the discretion of NYSDOT. Therefore, the assumed timings in the traffic study and subsequent results may differ, and new signal timings may be required after the signal is installed and once the Bayside project is complete.

Response III.E-5: We are in agreement with this comment. As indicated previously, the traffic signal design for the project will incorporate the modification plans that the NYSDOT requires under the Highway Work Permit.

Comment III.E-6 (Letter 5, Creighton Manning, December 21, 2011):

As the study notes, the alignment of the site driveway will need to be coordinated with NYSDOT such that the planned improvements at Young Avenue do not require significant changes if/when the Bayside project is constructed.

Response III.E-6: The site roadway will be aligned with Young Avenue and the traffic signal will be modified to include control of the site access. The final details will be handled under the Highway Work Permit with NYSDOT.

Comment III.E-7 (Letter 5, Creighton Manning, December 21, 2011):

It is noted that without the hamlet area improvements, delays are expected to increase significantly at the King Street intersection as a result of the Bayside and Dockside projects, for which their respective studies each include the other as a No-Build project. Given that the hamlet area improvements may occur at some unknown point after 2015, the Town should be prepared to expect further increases in delays over the years if these two projects are completed.

Response III.E-7: Comment noted. Some of the background traffic growth originally anticipated has not occurred, so traffic conditions are expected to be somewhat better than originally projected. However, the updated traffic study still indicates that delays will continue to increase over the years at the King Street Location.

Comment III.E-8 (Letter 5, Creighton Manning, December 21, 2011):

DEIS comments:

- a. Page III.E-1 Reference to the growth rate in paragraph 5 should be 1.5% per year, not 2%.
- b. Exhibit III.E-9B – Figure correctly depicts the PM peak hour, not AM peak hour volume as labeled.
- c. Exhibit III.E-11 – Figure volumes are actually AM trip assignment, not Trip Distribution. Replace volumes with JCE Figure #11.
- d. Exhibit III.E-13, JCE Fig. #13 – Volume edits to intersection #1.
- e. Exhibit III.E-14A, JCE Fig. #14A – Volume edits to intersection #2.
- f. Exhibit III.E-15, JCE Fig #15 – Volume edits to intersection #1, 2 & 7
- g. Exhibit III.E-15A, JCE Fig #15A – Volume edits to intersection #1 & 2

h. Exhibit III.E-15B, JCE Fig #15B – Volume edits to intersection #1 & 2.

Response III.E-8: The above comments have been incorporated into the revised Traffic Impact Study (See Appendix E).

Comment III.E-9 (Letter 5, Creighton Manning, December 21, 2011):

Regarding the Amodeo parcel; the addition of 5 single family homes on the referenced property will add a negligible amount of traffic to the Route 9w intersections. As such, that proposal will not change the results or conclusions of the Bayside DEIS or traffic impact study.

Response III.E-9: Comment noted. The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.E-10 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There is a need to clarify how "traffic generated by this parcel was generally accounted for in the growth rate applied to the other study intersections." (p. III.E-41.)

Response III.E-10: Comment noted. See response E.9 above.

Comment III.E – 11 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The final sentence on page III.E-19: "The 2015 Build traffic Volumes associated with the without [sic] Dockside Development and With Dockside with Access to Dock Road Alternatives are shown on Exhibits III.E- 14A, 15A and 14B, 15B, respectively, for each of the peak hours." is unclear and requires clarification. There should also be further explanation of the combined traffic impacts of both the Bayside and Dockside projects.

Response III.E -11: See Appendix E for the revised Traffic Impact Study. Although the Dockside project is no longer an active application with the Town, the potential traffic generation from the project has been maintained within the Traffic Report as part of the No-Build Traffic Volumes. Combined traffic impacts of both the Bayside and Dockside projects are considered in the "Build" conditions of the report.

Comment III.E –12 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The conclusions of the traffic analyses for both the Bayside and Amodeo parcels depend on improvements to the roadways in the surrounding area to be carried out by the NYSDOT (at Young Avenue and in the Marlboro Hamlet area). Are these improvements definitely going to be carried out on schedule? The DEIS contains no analysis of the traffic capacity of the surrounding roadways under the Build condition in the absence of the proposed NYSDOT improvements.

Response III.E-12: The improvements at Route 9W and Young Avenue have been completed and are reflected in the revised Traffic Study (as the existing condition). The analysis of the Marlborough Hamlet in the revised Traffic Study analyzes conditions with and without improvements. The improvements for the Marlboro Hamlet area remains on the State's Transportation Improvement Program (PIN 8T0439) for future construction.

Comment III.E-13 (Public Hearing Transcript) Chris Brand, December 12, 2011

According to a recent study published in autospies.com, the national average of vehicles per household is 2.28 for a total of 230 additional vehicles within the Bayside project alone. This number is a far cry from the estimated additional traffic predicted in table 3.E-1 of the DEIS which conjectures peak a.m. vehicle entry at 40 vehicles, a.m. exits at 62, peak p.m. peak entries at 96 vehicles, and p.m. exits at 76 at the

entrance of the proposed development. These numbers taken at face value would mean over 100 additional vehicles at minimum travelling at times when and where school aged children are travelling to and from school.

Response III.E-13: The trip estimates are based on Institute of Transportation Engineers (ITE) data and reflect the accepted methodology used by NYSDOT. It is important to note that the traffic volumes used in the analysis represent the volumes for the peak one hour period, and that for residential developments, the total traffic generation typically occurs over a two hour or more period. Thus, the analysis accounts for car ownership levels in the trip generation rates.

Comment III.E-14 (Public Hearing Transcript) Chris Brand, December 12, 2011

This same table shows Purdy Avenue, which has 20 homes at similar ratios. However, Purdy does not include the proposed retail space associated with the Bayside proposal. Where are these vehicles accounted for?

Response III.E-14: These volumes represent the traffic generation for the entire project, including the commercial development portion along Route 9W.

Comment III.E-15 (Public Hearing Transcript) Chris Brand, December 12, 2011

Furthermore, their projections for 2015, 9W traffic trip numbers in table 3.F-3A surmise a total of 1,645 vehicles in the a.m. and 1,718 vehicles in the p.m. if the proposal is not built. And 1,682 vehicles in the a.m., but surprisingly only 870 vehicles in the p.m. if the proposal is built. Is the developer claiming the Bayside project will decrease the number of vehicles on 9W by a projected 848 vehicles in the future? I say no.

Response III.E-15: The table has been revised to reflect the correct volume for the PM peak hour which is higher than that under the no-build condition. The revised PM No-Build and Build volumes for the Route 9W/Purdy Avenue intersection which was in question are 1,765 and 1,822 respectively.

Comment III.E –16 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

2. Transportation and Traffic:

As we noted above, given the passage of time since the initial SEQRA review of the Project, changes in traffic patterns, the change in housing type, the increase in size of the residential capacity of the Project, the transportation and traffic analysis must be updated. We would like to point out a few of the District's concerns in this area.

First, the driveway access from the Middle School to Route 9W is regularly used by area residents as an alternate access point to 9W even when they do not have school business. This pass through traffic disrupts the school operations and creates an unnecessary safety hazard for students, staff, and buses which will not be resolved by diverting the access for the District to the proposed Town road to be built on the Project site. The District proposes that the access from the Middle School property to the Project site be limited only to school traffic and that the access be secured during the times buses are not transporting to or away from the school preferably by a gate and fencing.

Next, parking at the Middle School is a severe problem. As it was previously proposed, the location of the access road will result in the loss of scarce parking spaces. The District requests that the access point be relocated, so that it does not impact the Middle School. Further, we request that the developer provide additional parking spaces to alleviate the current and increased traffic to the school.

Not mentioned in this study which we believe may help alleviate traffic congestion, is the construction of sidewalk and walker access to the Middle School . In updating the study, we request that the Town direct the developer to address the construction of pedestrian access to the Middle School.

Response III.E-16: Based on the modifications to the project from the DEIS, an updated Traffic Impact Study has been prepared (refer to Appendix E). The existing School driveway, on School property to Route 9W will remain, the applicant is not proposing any changes to this driveway. The proposed coordinated driveway with the Middle School is exit only traffic from the School to the proposed access roadway for the Bayside Development. A sidewalk connection is also proposed at this same location and will extend into the Bayside project site and down to Route 9W.

These proposed improvements provide safer circulation for pedestrians and vehicles for this portion of the Route 9W corridor. With the proposed access drive to Route 9W and the coordinated driveway with the Middle School, buses and vehicles are able to make left turns onto Route 9W via a signalized intersection. This is unlike the current exit driveway from the Middle School. In addition, sidewalks are proposed along the same roadways to be constructed by the Bayside project. This will allow safe pedestrian circulation from the development and Middle School down to Route 9W and to travel along the project frontage. A sidewalk is also proposed for the western, two-way coordinated driveway with the Middle School site.

In addition to the two coordinated driveways with the Middle School, the project sponsor will also be constructing an additional 28 parking spaces and re-striping a portion of the existing parking areas for the school. Refer to Appendix M for the proposed plan.

Comment III.F-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS contains a substantive discussion of potential noise impacts from the concept plan for 5 single family dwelling units for the Amodeo parcel, but with "other mitigation measures (as applicable) [to be] determined at the time Amodeo seeks approval from the Town to develop this parcel.

Response III.F- 1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.F –2 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

3. Project Noise and Dust Generation:

Response III.F-2: The DEIS provided an analysis of potential noise from the site during construction and upon completion, and included proposed mitigation measures for the same. On page III.F-13 of the DEIS, it acknowledges the Marlboro Middle School and Elementary School as sensitive receptors. It also describes the potential noise levels which could be expected from construction activities at the classrooms with exterior walls facing the project site. The level are expected to be in a range of 15 – 45 dB. The acceptable noise level for classrooms during class is 35 dB. During construction, there is a short-term potential to exceed 35 dB. To mitigate these potential noise impacts the DEIS has proposed to include reoccurring discussions with the School District during construction to further reduce potential disruptions. This is in addition to the Town Noise Ordinance which regulates hours of construction and noise level restrictions. All enforceable through the police or code enforcement officer

of the Town and could incur potential monetary penalties. No additional mitigation is proposed at this time.

Updated Erosion and Sediment Control Plans have been prepared and are included in Appendix H. Notation regarding the management of dust by the contractor during construction is included as part of the ‘General Soil Erosion and Sediment Control Notes’.

Comment III.G-1 (Letter 4, New York State Department of Environmental Conservation, December 20, 2011): DEC has recently issued a “Guide for Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact Statements” (<http://www.dec.ny.gov/regulations/56552.html>). Applicable sections of this document should be considered and discussed relative to the project design. The Appendix contains a list of proposed measures that should be considered individual, and as a group, for incorporation into project design.

Response III.G-1: According to the “Guide for Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact Statements” by the DEC the mitigation measures discussed in G-3 coincide with those listed in “Section G. Mitigation Measures” from the guide, including but not limited to utilizing energy efficient buildings and products.

Comment III.G-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS contains a substantive discussion of potential air quality impacts from the concept plan for 5 single family dwelling units for the Amodeo parcel, but with "other mitigation measures (as applicable" [to be] determined at the time Amodeo seeks approval from the Town to develop this parcel.”

Response III.G-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.G - 3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

This section contains no discussion of any impacts due to the project on the area's compliance with the NAAQS standards discussed in the Existing Conditions portion of this section.

Response III.G -3: Based on the mitigation measures described in the DEIS, including the New York State’s stringent vehicle emissions standards and using low sulfur fuel, energy efficient designs and energy efficient products, the two sources of air pollution associated with the project will have a minimum impact on the Ulster County area and are not anticipated to alter compliance with the current NAAQS.

Comment III.G -4 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

Both the impacts and mitigation of CO from vehicle emissions associated with the project depend, in part, on the proposed NYSDOT improvements. See Comment #6(b), above.

Response III.G -4: The NYSDOT improvements to U.S. Route 9W and Young Avenue have since been completed. In regards to the NYSDOT proposed signalization of Route 9W and King Street, it currently has an LOS of F. There would be no change in LOS if the intersection remains un-signalized for the build and no-build alternatives of the Bayside project.

If the proposed signalization is completed then the LOS would improve to B for eastbound and A for all other directions (see Appendix E for the Traffic Impact Study).

There would be no change to the LOS for the build and no-build alternatives of the Bayside project. Therefore the mitigation measures established within the DEIS would be sufficient whether the NYSDOT improvements are completed or not.

Comment III.G - 5 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There is no apparent attempt to quantify air quality impacts from stationary sources.

Response III.G -5: The development will consist of 104 apartments units and each apartment will have its own heating unit. The project proposes to utilize natural gas with individual combined residential furnace and boiler systems to provided heat and hot water to the separate units. Residential boilers and furnaces operate by flue gas traveling through several channels or tubes which heat the water or air circulated outside the channels or tubes. The stationary sources impact to air quality were discussed but not quantified due to the insignificant impacts these 104 units will have on air quality.

Natural gas is one of the major combustion fuels used throughout the country. It is mainly used to generate industrial and utility electric power, produce industrial process steam and heat, and heat residential and commercial space. Natural gas consists of a high percentage of methane (generally above 85 percent) and varying amounts of ethane, propane, butane, and inerts (typically nitrogen, carbon dioxide, and helium). The average gross heating value of natural gas is approximately 1,020 British thermal units per standard cubic foot (Btu/scf), usually varying from 950 to 1,050 Btu/scf.

The emissions produced from natural gas-fired furnaces is primarily carbon dioxide (CO₂), with the remaining emissions consisting of nitrogen oxides (NO_x), carbon monoxide (CO), methane (CH₄), nitrous oxide (N₂O), volatile organic compounds (VOCs), trace amounts of sulfur dioxide (SO₂), and particulate matter (PM). According to the U.S. Environmental Protection Agency (USEPA), natural gas is the cleanest of the fossil fuels. Residential furnaces for example have an emission factor rating of “B” for Nitrogen oxides and Carbon monoxide where “A” is excellent and “E” is poor.

The project is new construction that will utilize natural gas heating units. The combined residential furnace and boiler systems and heating/hot water systems for the commercial component of the development are required to comply with the current USEPA emission standards for these types of heating units. Therefore, no significant impacts to air quality are anticipated from the stationary heating sources associated with this project.

Comment III.H-1 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

In determining the Project’s scope and density, what deductions were made to net buildable area for environmentally encumbered lands in relation to existing Town Code provisions?

Response III.H-1: See Response II.B-1 above.

Comment III.H-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

It is unclear why the applicant proposes to re- zone the Amodeo parcel at this time. There is no discussion of compliance of the proposed re-zoning of this parcel with any Town plans or other justification for the proposed re-zoning. The DEIS simply concludes that there will be a net increase of two (2) dwelling units under the conceptual development plan.

Response III.H-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.H -3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS cites to a 2009 Marlboro Hamlet Study at pages III.H-2 and 4. In addition, the "Marlboro Hamlet Master Plan" is cited at page II-38. However, the Marlboro Hamlet Master Plan apparently remains in draft form and was not formally adopted by the Town. Please justify the use of the unadopted document as a basis for the zoning and land use analysis.

Response III.H -3: The Marlboro Hamlet Master Plan and Study, though not adopted by the Town, is prominently posted on the Town of Marlborough's website for use as a public reference. This reference was put together by a professional planning consultant with direct input from local residents and stakeholders. It is a secondary reference not the basis for the zoning and land use analysis. The 2002 Town Comprehensive Plan Update and recent Zoning amendments separately undertaken by the Town for the R-1 zoning district are substantiated support and which permit this type of development on the subject parcel.

Comment III.H - 4 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS states that "the Proposed Action includes an amendment to the Town of Marlborough Zoning Ordinance which would allow the creation of a zero lot line subdivision." (p. II-3). There is no further discussion of this item in Section III.H. However, it appears that recent amendments to the Zoning Code specifically provide for a zero lot line subdivision in the case of a townhouse multiple dwelling.

Response III.H -4: The allowance of zero-lot lines is permitted within the Town of Marlborough Zoning Code, however, the modified Site Plans and proposed residential rental buildings do not require zero-lot lines for the proposed units. The project does not require an amendment.

Comment III.H -5 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

Section III.H contains only an Exhibit showing existing zoning. (Ex. III.H-1.) The DEIS should also include an equivalent exhibit showing the proposed zoning of the area after re-zoning of both the Bayside and Amodeo parcels to allow for comparison.

Response III.H -5: The DEIS did include such a map as part of Appendix Q-DEIS Site Plans. Sheet #1 of the plans clearly delineates the extents of the project site to be re-zoned. However, based on modifications undertaken by the Town to the Zoning Code a re-zone of the project site is no longer required. The proposed residential project use 'Multiple Dwellings' is a Special Use permitted within the R-1 zoning district. Additionally, the prior proposal requested a re-zone of a portion of the project site to C-1 zoning district for the allowance of the proposed commercial development along Route 9W. This proposal is no longer required due to the Town's creation of the BC (Business Corridor Overlay District) zone. This zone permits commercial development of property with 250 feet of the NYSDOT right-of-way for Route 9W within the R-1 zoning district via approval from the Town Board. The proposed residential and potential commercial development of the project site is depicted on the FEIS Site Plans, Appendix H. Lastly, the development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.H -6 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

For the Bayside parcel, Section III.H contains no discussion of the impacts and changes to the permitted and specially permitted uses on the property or to the applicable bulk and area requirements which will result from the proposed re-zoning to R and C-1.

Response III.H -6: As discussed above, based on modifications undertaken by the Town to the Zoning Code a re-zone of the project site as previously proposed is no longer required. Zoning for the proposed residential and commercial component of the project are in place.

Comment III.H - 7 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

For the Bayside parcel, Section III.H summarily states that "the proposed design of the Bayside mixed-use development meets the dimensional and density allowances as set forth with no narrative discussion of how. Section III.H should include a discussion of how the site-specific development associated with the proposed re-zoning meets the applicable requirements of the Town of Marlborough Town Code for special uses, site plans and subdivisions.

Response III.H - 7: As stated above, the proposed project no longer requires a re-zoning of the property. The multiple dwelling use is an permitted special use in the R-1 zoning district and the proposed commercial development along the Route 9W frontage is approvable through the Town's Business Corridor Overlay District. The modified Site Plans included with the FEIS (see Appendix H) itemize the required zoning bulk requirements and provided conditions for the development. The project is in compliance with these zoning requirements.

Also, Refer to Response II.B-1 above regarding the density calculation detailed for the project.

Comment III.H -8 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The section on Anticipated Impacts to the Bayside parcel includes a discussion of how the proposed re-zoning and development are purportedly generally in keeping with the existing conditions in the surrounding area and would advance the recommendations of the 2009 Hamlet Study. See Comment #7(a), above. However, it does not contain a discussion of compliance with the recommendations of the Town's 2002 Comprehensive Plan.

Response III.H -8: Refer to response III.H-3 above regarding the 2009 Hamlet Study reference. Based on the recent Zoning amendments undertaken by the Town and to support the Town's Comprehensive Plan for the Hamlet area and for the R-1 zoning district, multiple dwelling (non-age restricted) are now a permitted special use in the zone. This zoning amendment allows the Bayside residential development to be an as-of-right development under its current zoning designation and a re-zone is not a required component of the project. The Town has also developed a Business Corridor Overlay District along portions of Route 9W to promote commercial development. This encouraged development by the Town is also being sought as part of the Bayside development.

The basis of these zoning amendments, all separately undertaken by the Town and in coordination with their Comprehensive Plan, reduce the overall impacts of the Bayside development and do not warrant additional discussion as an impact since the development is now an as-of-right project.

Comment III.H – 9 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The discussion of mitigation measures for the Bayside parcel states that specific design, buffering, screening and landscaping elements are proposed to mitigate the impacts of the proposed site-specific development project. However, Appendix Q contains no proposed landscaping or other specific plan showing such measures.

Response III.H -9: Refer to the FEIS Site Plans, Appendix H, for a Landscape Plan which proposes treatments for such landscape elements as building foundation plantings, street tree plantings and screen plantings for the project.

Comment III.H-10 (Public Hearing Transcript) December 12, 2011

These proposed zoning density and setback changes would severely alter the existing residential consistency currently found on Purdy Avenue and elsewhere in the existing R1 zoning district where the majority of this proposal lies.

Response III.H-10: Refer to Response II.B-1 above regarding the allowable density for the project. The applicant is proposing a density within the maximum allowed per the Town Code. Refer to the Layout Plan in Appendix H, which shows the allowable setback for a multiple dwelling use in the Town's R-1 Zoning district. Recent modifications to the Town Code now require setbacks of 75 feet for front, side and rear yards. These are greater than those previously established within the Town Code.

Comment III.H-11 (Public Hearing Transcript) December 12, 2011

If this Town Board believes the present zoning in the Marlboro hamlet should be changed, the Board should utilize work that should be done by planning consultants for the town, not developers. Following Town Law they would do a SEQRA review for any rezoning or changes in the official map based on what is best for the community, not a particular development. And the Town Board would seek advice from the Town Planning Board as well as the County Planning.

Response III.H-11: The applicant is no longer seeking a re-zone of the property. The Town of Marlborough Town Board has modified to the Town Code to permit the proposed residential development with the current R-1 zoning district. Input for this particular project has been received from the Town Planning Board and County Planning Department.

Comment III.H-12 (Public Hearing Transcript) December 12, 2011

We know that this is not the only zoning change that is being requested by developers. By segmenting review of different developments, the cumulative impacts are not being addressed in a cogent manner.

Response III.H-12: The applicant is no longer seeking a re-zone of the property.

Comment III.I-1 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

What are the current projections for price and marketability of the units proposed by the Project?

Response III.I-1: Based on a market analysis conducted by the applicant, the proposed apartment units will be renting at \$1,350-\$1,500 per two-bedroom unit and \$1,600-\$1,750 per three-bedroom unit. Further investigation by the applicant concluded a need for apartment units in this geographic region.

Comment III.I-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS demonstrates that the proposed re-zoning and development of the Amodeo parcel will result in an increase in the annual municipal deficit for the property. However, no mitigation measures are proposed for this identified impact, stating instead that "mitigation measures (as applicable) will be determined at the time Amodeo seeks approval from the Town to develop this parcel."

Response III.I-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.I-3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response III.I-3: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.I-4 (Public Hearing Transcript) Chris Brand, December 12, 2011

Who will buy these townhouses?

Response III.I-4: The applicant is no longer proposing townhouse style units. The project proposes a mixture of 84, two-bedroom and 20, three-bedroom apartment units (total of 104 units) within five separate buildings.

Comment III.I-5 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

6. Financial and Student Population Impact on School District:

The analysis of the financial impact on the District and the increase in the student population is significantly outdated and not representative of the current configuration of the Project.

Response III.I-5: Refer to Appendix F for updated Economic & Demographic Estimates.

Comment III.J-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

See Comment#7(c), below.

Response III.J-1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action. Also, the Dockside project is no longer an application before the Town. Updates to the project based on the current proposal and a comparison to the prior 2011 project have been provided within Section 1.0 of the FEIS.

Comment III.J-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response III.J-2: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.J -3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There is a discrepancy between the Bayside DEIS and the Dockside DGEIS in their estimates of total population, schoolchildren and property values for the Dockside parcel. There should be treatment of the discrepancy and discussion of any impacts on the analysis of the combined community facilities and services impacts of these two projects contained in the DEIS and as required by scoping.

Response III.J -3: Being that the Dockside project is no longer an application before the Town, further analysis is not warranted. Updates to the project based impacts for the current proposal and a comparison to the prior 2011 project have been provided within Section 1.0 of the FEIS.

Comment III.J -4 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS states that "with the addition of the projected Dockside students it is possible that there will be capacity issues at the Intermediate and High Schools" but contains no discussion of mitigation of this impact.

Response III.J -4: Being that the Dockside project is no longer an application before the Town, further analysis is not warranted. Based on the current development proposal for Bayside, the generation of school aged children (SAC) for the project was reviewed and estimated at 20. This is an increase of 2 SAC from the 2011 project proposal. At that time it was indicated to the applicant that the School District could accommodate the additional SAC, therefore no mitigation measures are proposed.

Per the DEIS, the Marlboro School District had 2,085 enrolled students (2009–2010) and the most recent student enrollment (2015-2016) is down 78 total student to 2,007.

Comment III.J -5 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS should provide an analysis of the total impacts on community facilities and services of the proposed re-zoning and development of both the Bayside and Amodeo parcels in the DEIS, as well as an analysis of the total combined impacts of the Bayside (with Amodeo) and Dockside re-zoning and developments.

Response III.J -5: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action. Additionally, the Dockside re-zoning and development application has been withdrawn and no further combined impact analysis is therefore provided nor relevant at this time.

Comment III.J -6 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The project must comply with the requirements of Town Code Sections 155- 31.E(4)(x), 134-19.A and 134-30 regarding the reservation of land for a park or recreational purposes or the payment of a fee in lieu thereof.

Response III.J -6 : The proposed land donation to the Town has been removed based on discussions with the Town Supervisor and it not being a desirable piece of property for the Town. Further discussions will be held with the Town Board and the applicable recreation fees will be determined.

Comment III.J - 7(Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There does not appear to be any discussion of the Coastal Zone Consistency determination required for the project.

Response III.J -7: Based on review of the current requirements for the need of a Coastal Zone Consistency review by the NYS Department of State, it is not required for the proposed Bayside project. Discussion of this requirement was previously provided in the DEIS on page II-2.

Comment III.J-8 (Public Hearing Transcript) Chris Brand, December 12, 2011

The DEIS claims this project in its entirety will bring an additional 216 residents to Marlboro, 88 of which will be attending Marlboro schools. However, there are discrepancies between the Marlboro, I'm sorry, between the Bayside and Dockside DEIS numbers. Dockside's DEIS claims a lower figure of only 53 students for the Bayside project.

Response III.J-8 : Refer to Response III.J -4 above.

Comment III.J-9 (Public Hearing Transcript) Chris Brand, December 12, 2011

Section 3.J-6 also states, quote, with the addition of the projected Dockside students, it is possible that there will be capacity issues at the intermediate and high school. I think it would be more accurate to say there will most definitely be problems with capacity, particularly with the newly built housing along 9W in Middle Hope. The recent bankruptcy protection filed by Dynegy, combined with the influx of these new students, could be disastrous and will certainly mean higher school taxes for all Marlboro residents. I say no.

Response III.J-9: The Dockside project is no longer an application before the Town, further analysis is not warranted for that particular project. Refer to Response III.J -4 above regarding the projected SAC for the Bayside development.

An updated summary of estimated service costs and tax revenues has been provided for the updated Bayside development (refer to Appendix F) and this concluded an annual surplus of \$57,692.

Comment III.K-1 (Letter 4, New York State Department of Environmental Conservation, December 20, 2011):

Article 17, P/C/I/SPDES – Required by Town for providing service for the proposed sewer extension.

Response III.K-1: The Town of Marlborough and Bayside Construction, LLC have entered into a Sewer Agreement which reserves a capacity of 23,832 gallons per day for the total estimated sewer flows from the proposed Bayside project which are outside of the Marlborough Sewer Improvement Area. Refer to Appendix G for a copy of this agreement.

Comment III.K-2 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

The DGEIS notes that the proposed source of wastewater collection and treatment will be facilities of the Marlboro Sewer Improvement Area, as they may be modified and expanded in terms of capacity and areas of service. Is the current public wastewater treatment plant adequate in size to handle the proposed treatment demand of the Bayside project, and/or the cumulative impacts and demands of the Bayside and the Dockside project?

Response III.K.2: Recent investigations conducted by the Town for flows to the Marlboro Wastewater Treatment Facility have indicated that there is sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Being that the Dockside project is no longer an application before the Town, further analysis or combined impact review is not warranted.

Comment III.K-3 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will the enlargement of capacity and service area for the existing public wastewater system occur prior to construction and occupancy of the Bayside project, and/or the Bayside and Dockside projects combined, or will there be a phasing of increases in capacity and service area that occurs along the path of construction or occupancy?

Response III.K.3: The Marlboro Wastewater Treatment Facility has sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Being that the Dockside project is no longer an application before the Town, further analysis or combined impact review is not warranted.

Comment III.K-4 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Is it anticipated that any rezoning approval of the Bayside project will be conditioned on the increase in capacity and service area of the municipal wastewater facilities?

Response III.K.4: The Bayside project no longer requires a re-zone, the proposed development is as-of-right per the current Town of Marlborough Zoning Code. The Town of Marlborough and Bayside Construction, LLC have entered into a Sewer Agreement. Refer to Appendix G for a copy of the Sewer Agreement for the project.

Comment III.K-5 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will necessary solutions to the increase of capacity and service area of the municipal wastewater facilities be identified and enforceably committed to by the Project prior to rezoning approvals?

Response III.K.5: Refer to Appendix G for a copy of the Sewer Agreement for the project.

Comment III.K-6 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Is there adequate land associated with the existing municipal wastewater treatment plant to allow for physical expansion of facilities to an adequate degree?

Response III.K.6: The Marlboro Wastewater Treatment Facility has sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Comment III.K-7 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Will the increase of capacity and service area of the public wastewater facilities include potential for future development along the Route 9W corridor, or merely be limited to creating adequate capacity for the Bayside and Dockside projects?

Response III.K.7: The Marlboro Wastewater Treatment Facility has sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Since the Dockside project is no longer an application before the Town, the applicant is not conducting further analysis or combined impact review as they are not warranted.

Comment III.K-8 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Is the Town or the Project considering the addition of modular expansion units at the existing wastewater treatment plant as a part of sharing adequate collection and treatment of wastewater?

Response III.K.8: The Marlboro Wastewater Treatment Facility has sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Comment III.K-9 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Are there discussions between the Town and the Project concerning expansion of public water supply infrastructure to service the Project?

Response III.K.9: The project site is located fully within the Town's Water District. The total water demand for the project is estimated at 26,340 gallons per day (GPD) and will be supplied to the site via construction of new water mains and appurtenances at the expense of the applicant. The FEIS Site Plans in Appendix H include a Utilities Plan which depicts the proposed design of the water infrastructure (i.e. water mains, fire hydrants, typical services to each apartment unit and valve locations) to service the project site. This design will be reviewed and approved by the Town and its Engineering Consultant's as well as the Ulster County Department of Health prior to any construction activities.

Comment III.K-10 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS contains a full discussion of the potential impacts of the development of the re-zoned Amodeo parcel with regard to utilities, this time with no caveat leaving additional review until the time a specific development is proposed for the parcel.

Response III.K-10: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.K-11 (Public Hearing Transcript) Chris Brand, December 12, 2011

First and foremost, the developers have never adequately addressed the land ownership issue and right-of-way maintained by Mr. Harry Lyons, a longtime Marlboro resident and taxpayer. On page 3.K-1 of the DEIS the developer does acknowledge the deeded right-of-way to the water supply but not the legal right-of-way legally held and maintained by the Lyons family. Quote. A historic deed dated back to previous owners for the project site references an existing spring located on site with water supply rights granted to

an adjacent landowner and its heirs. The mitigation measures on page 3.K-3 of the DEIS are consistent with the builder's reputation: Insulting and unscrupulous. Provisions for the deeded water Covenant rights mentioned above will be made on site via an outside tap located at the clubhouse. I say no.

Response III.K-11: The presence and mitigation measures proposed for the existing deed reference to the water supply rights for an existing spring located on the site are clearly described in Section III.K.2 of the DEIS.

Additionally, both Mr. Lyons property and the Project Site are and will be served by a public water supply. This obviates any need for private rights to utilize a historic water source on the Project Site. This private water source has not been utilized to the Project Sponsor's knowledge since the construction of the public water supply in this area of the town. To allow any future use of a private water source in areas served by a public water supply is contrary to the requirements of the New York State Public Health Code, Part 5, Subpart 5-1, Section 5-1.31(b), which requires a supplier of public water to not only prevent cross-connections, but also prevent a user from establishing a separate source of water supply. To suggest that the Project could not advance due to a historic deeded right to a private water source would be contrary to the State Health Code, and would also require the town to insert itself into a property right claim for where the possibility of actually utilizing the private water source would be contrary to the State Health Code and would be inconsistent with the public health, safety and welfare.

Comment III.K-12 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response III.K-12: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.K-13 (Public Hearing Transcript) Chris Brand, December 12, 2011

3.K-6, alternatives include a new sewer plant or sewer district nearby. Where would this facility be located? Who would be responsible for its maintenance? And more importantly, who would foot the bill, are questions left unanswered. I say no.

Response III.K-13: The Marlboro Wastewater Treatment Facility has sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). Refer to Appendix G for a copy of the Sewer Agreement for the project.

Comment III.K-14 (Letter 8, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Judith Crelin Mayle, July 20, 2016

In our review of the DEIS dated November 4, 2011, there is no mention of the existence of this water resource, whether it is still in use and the potential impact of the Project on the reservation of rights to this water source. We note that depending on the location of the access to the underground spring and its depth, the Project construction could disturb the water source and create significant problems. As an example, if the spring access is located in the area of the detention ponds, instead of detention ponds, the developer may be creating permanent ponds which are of no use in stormwater management. Further, since no one knows the status of the underground pipes, releasing the water source could also have a negative impact.

Response III.K-14: The presence and mitigation measures proposed for the existing deed reference to the water supply rights for an existing spring located on the site are clearly described in Section III.K.2 of the DEIS.

Additionally, both Mr. Lyons property and the Project Site are and will be served by a public water supply. This obviates any need for private rights to utilize a historic water source on the Project Site. This private water source has not been utilized to the Project Sponsor's knowledge since the construction of the public water supply in this area of the town. To allow any future use of a private water source in areas served by a public water supply is contrary to the requirements of the New York State Public Health Code, Part 5, Subpart 5-1, Section 5-1.31(b), which requires a supplier of public water to not only prevent cross-connections, but also prevent a user from establishing a separate source of water supply. To suggest that the Project could not advance due to a historic deeded right to a private water source would be contrary to the State Health Code, and would also require the town to insert itself into a property right claim for where the possibility of actually utilizing the private water source would be contrary to the State Health Code and would be inconsistent with the public health, safety and welfare.

Comment III.L-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS simply concludes that the view of the Amodeo parcel will change from three (3) houses to five (5) under the conceptual development plan. The identification of impacts and mitigation measures for this area of environmental concern is again left until the time that "Amodeo seeks approval from the Town to develop this parcel."

Response III.L-1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment III.L -2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

This section contains only narrative discussion of the potential aesthetic and visual impacts of the proposed project. As per the NYSDEC policy document "Assessing and Mitigation Visual Impacts," for SEQRA review purposes, the DEIS should contain a visual assessment using either graphic viewshed and line-of-sight profile analysis or more sophisticated visual simulations and digital viewshed analysis, as needed, in order to determine the proposal's visual impact.

Response III.L -2: Refer to Appendix K for Site Cross-Sections prepared for the proposed project. These depict the proposed impacts to the land (i.e. grading and removal and areas of maintained existing vegetation) and the corresponding proposed impacts (i.e. grading areas of cut or fill and introduction of landscape plantings for screening, buffering or revegetation measures. These further depict the proposed sufficient mitigation and separations distance from adjacent development relate to each other.

Comment IV-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS leaves the quantification of Adverse Impacts Which Cannot be Avoided as well as the identification of Alternatives, the Irreversible and Irretrievable Commitment of Resources, Growth Inducing Aspects and the Effects on the Use and Conservation of Energy Resources (DEIS Sections IV, V, VI, VII and VIII) for the Amodeo parcel to the time Amodeo seeks approval from the Town to develop the parcel, despite the fact that the applicant seeks to re-zone the parcel now.

Response IV-1-: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment IV-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response IV-2: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment V-1 (Letter 2, Councilman Anthony Pascale, December 13, 2011):

Please show how density calculations are made for the R-1 Zoning for property with Adult Multiple Dwelling – Special Uses in R-1 District. (Municipal Sewer/Municipal Water). (No Zone Change).

Response V-1: Refer to Response II.B-1 above for the project density calculation. This calculation would apply to a proposed Adult Multiple Dwelling use or a non-age restriction Multiple Dwelling development within the R-1 zoning district. The Bayside project no longer requires a re-zone for the proposed Multiple Dwelling development.

Comment V-2 (Letter 6, Town of Marlborough Planning Board, February 6, 2012):

Concerning the DEIS for adult multiple dwellings in the R-1 district (a maintenance of the current R-1 district designation), explain and justify the Project's calculation of unit count.

Response V-2: Refer to Response V-1 above.

Comment V-3 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS leaves the quantification of Adverse Impacts Which Cannot be Avoided as well as the identification of Alternatives, the Irreversible and Irrecoverable Commitment of Resources, Growth Inducing Aspects and the Effects on the Use and Conservation of Energy Resources (DEIS Sections IV, V, VI, VII and VIII) for the Amodeo parcel to the time Amodeo seeks approval from the Town to develop the parcel, despite the fact that the applicant seeks to re-zone the parcel now.

Response V-3: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment V-4 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

There should be a more expanded discussion of how the alternatives do not comply with the Town Master Plan or meet the objectives of the project sponsor, if that is the case. Also, there are no alternatives studied for the Amodeo parcel.

Response V-4: Within the DEIS it states the various factors which makes each of the alternatives not viable for this project site. The most noteworthy of them for the 'No Action' and 'As-of-right Single-Family Residential Subdivision' alternatives is that it would maintain an underutilized property in the Marlboro Hamlet area and do not keep with the preferred development of the Hamlet areas in the Town's Master Plan. The 'As-of-right Adult Multiple Dwelling' alternative is not a salable product for the applicant at the time of the DEIS and also in the current market.

The re-zone and development of the Amodeo parcel is no longer a component of the proposed action. No further studies of the Amodeo parcel are being prepared.

Comment V-5 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response V-5: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment V-6 (Public Hearing Transcript) Chris Brand, December 12, 2011

Bayside did not provide adequate time or resources researching viable alternatives which would fit with the zoning and character of the preexisting community. In fact, on page V-14 they state in a footnote, adult multiple dwelling alternate not studied due to unmarketable product. In other words, neither alternatives would be as profitable as asking the town and residents to make multiple concessions in order that they may receive the largest return on their investment regardless of the impacts.

Response V-6: The applicant, Bayside Construction, LLC, is in business as a developer to build successful projects. Zoning in-place at the time of the preparation of the DEIS did not permit a non-age restricted, multiple dwelling development within the Town's R-1 zoning district. The re-zoning of the project site was the proposed mechanism to allow the development that the applicant found most beneficial to the use of the land and in coordination with applicable Town studies such as the Comprehensive Plan. Since the DEIS, the Town has amended provisions in the Code to allow such a multiple dwelling development to be an as-of-right use of the applicants property, thereby removing the most substantive perceived 'concession' for the project. No re-zoning is required and the applicant can proceed with the approvals for an as-of-right development.

Comment VI-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS leaves the quantification of Adverse Impacts Which Cannot be Avoided as well as the identification of Alternatives, the Irreversible and Irrecoverable Commitment of Resources, Growth Inducing Aspects and the Effects on the Use and Conservation of Energy Resources (DEIS Sections IV, V, VI, VII and VIII) for the Amodeo parcel to the time Amodeo seeks approval from the Town to develop the parcel, despite the fact that the applicant seeks to re-zone the parcel now.

Response VI-1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment VI-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response VI-2: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment VII-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response VII-1: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment VII-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS leaves the quantification of Adverse Impacts Which Cannot be Avoided as well as the identification of Alternatives, the Irreversible and Irretrievable Commitment of Resources, Growth Inducing Aspects and the Effects on the Use and Conservation of Energy Resources (DEIS Sections IV, V, VI, VII and VIII) for the Amodeo parcel to the time Amodeo seeks approval from the Town to develop the parcel, despite the fact that the applicant seeks to re-zone the parcel now.

Response VII-2: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment VIII-1 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The DEIS leaves the quantification of Adverse Impacts Which Cannot be Avoided as well as the identification of Alternatives, the Irreversible and Irretrievable Commitment of Resources, Growth Inducing Aspects and the Effects on the Use and Conservation of Energy Resources (DEIS Sections IV, V, VI, VII and VIII) for the Amodeo parcel to the time Amodeo seeks approval from the Town to develop the parcel, despite the fact that the applicant seeks to re-zone the parcel now.

Response VIII-1: The re-zone and development of the Amodeo parcel is no longer a component of the proposed action.

Comment VIII-2 (Letter 7, Van DeWater and Van DeWater, LLP, March 6, 2012):

The combined impacts of the Amodeo and Bayside parcel developments should be discussed in the FEIS for each area of environmental concern.

Response VIII-2: A discussion of the combined impacts of the Amodeo and Bayside developments is not required since the re-zone and development of the Amodeo parcel is no longer a component of the proposed action.