

**Transportation
Land Development
Environmental**
Services



VHB Engineering, Surveying and Landscape Architecture, P.C. | Affiliated with Vanasse Hangen Brustlin, Inc.

April 9, 2010

VIA FEDERAL EXPRESS

Ref: 27656.00

The Honorable Frank Petrone, Supervisor
and Members of the Town Board
Town of Huntington Town Hall
100 Main Street
Huntington, New York 11743

Re: Avalon at Huntington Station
Responses to Questions Raised at Public Hearing

Dear Supervisor Petrone and Town Board Members:

On behalf of our client, Avalon Bay Communities, Inc., we have reviewed the various comments made at the public hearing of March 9, 2010 and in written comments, which related to the following issues:

- Description of Public Benefits;
- Availability of Draft Environmental Impact Statement ("DEIS");
- Traffic Impacts;
- Affordability of Housing;
- School District Impacts;
- Sustainable Design and Energy Conservation;
- Sewer Availability;
- Connectivity with Mass Transit;
- Density and Other Code Requirements; and
- Site Grading and Subsurface Conditions.

Each of these issues is discussed below.

Description of Public Benefits

In response to the needs of the Town, as delineated in its comprehensive planning documents and as echoed by several speakers at the public hearing, Avalon at Huntington Station has been designed to provide much-needed housing options in the community. In addition to providing alternatives to the single-family residential housing stock of the Town of Huntington, one

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two- and three-bedroom apartments, townhouse units), Avalon at Huntington Station is offering both rental and ownership options among its units, with 132 affordable housing units interspersed. Notwithstanding this, it has been requested that the specific community-oriented benefits that are associated with this proposal be outlined. Such benefits include the following:

Creation of a pedestrian path from Avalon Huntington Station to the LIRR Station.

Avalon will develop one of Long Island's first transit-oriented developments within one-third mile of the Long Island Railroad ("LIRR") station, providing an attractive, well-lit walkway from the residences to the train station. AvalonBay will work with the amenities already established by the Town at Manor Field Park and develop a walkway that will enhance the area for both commuters and Town residents. The path would be designed to aesthetically match the appearance of the current path at the park with a concrete or other all-weather surface. The path would extend north from the area where it dead ends at the existing bleacher stands, continue to the fence/hedge line, and then turn west toward the exit on Second Street. At the Second Street entrance, a new sign package and entry gate with landscaping would be installed to create a more inviting entry experience to the park. With design participation from the Town, this package would likely include an upgraded main identification sign, surrounding signage as necessary, a new entry gate or arch, and appropriate landscaping and lighting to announce the arrival at the park. Along the path, from Manor Field Park at Second Street to the LIRR station, it is anticipated that there will be additional improvements. AvalonBay anticipates making spot sidewalk improvements or contributing to the Town the cost of making improvements where damaged sidewalks are present. Lighting is present along the path on Second Street and Lenox Road at various sections. However, AvalonBay is willing add lighting in strategic areas or contribute to the Town the cost of lighting in strategic areas as needed. Finally, where sidewalk does not exist along Lenox Road, AvalonBay would be willing to either create or subsidize the costs of creating a striped walkway or curbed sidewalk.

Strengthen the link to the LIRR station via bus or shuttle service.

AvalonBay has met with Mr. Stephen McGloin, Town of Huntington Director of Transportation and Traffic Safety, and Mr. Anthony Aloisio, Town of Huntington Director of Planning and Development, to discuss ways to increase the strength of the mass transit link to the train station. The Town believes there is an opportunity to institute a subscription or demand-responsive bus service option for residents of Huntington that would also service



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the residents of the new community. AvalonBay has agreed to work with the Town on furthering that concept. In the event that HART is unable to provide bus service to the site, AvalonBay would be willing to establish a shuttle service to transport residents to and from the LIRR, provided there is sufficient demand among residents of the complex.

Enhancement payment to the Huntington Union Free School District.

AvalonBay has worked with the Huntington School District and has reached an agreement regarding the projected number of children from the community and an associated enhancement payment to be made to the District. This contribution would be available to the District for its needs and purposes, including potential short-term education costs, to supplement the increased property taxes that AvalonBay will be contributing to the District.

Partnership with Huntington Country Farms.

AvalonBay has come to an agreement with the Huntington Country Farms community board, which will provide for additional aesthetic enhancements to the south side of East Fifth Street across from the proposed AvalonBay development, inclusive of new fencing and landscaping.

Traffic Signal at Park Avenue and East Fifth Street.

As described in detail within the DEIS, AvalonBay is proposing to install a new traffic signal at the corner of Park Ave and East Fifth Street at its expense, to remedy existing poor intersection function. The addition of this traffic signal, and its coordination with the existing signals at Pulaski Road to the south and Broadway to the north would also be expected to improve access conditions at the intersection of Park Avenue and Partridge Lane, by providing additional gaps in traffic between signal cycles.

Local Community Partnership

AvalonBay will partner with the Family Service League to enhance the Youth Program at Manor Plains Center, and will continue to contribute to and work with the Helping Hands Rescue Mission.



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Bike racks and/or bike lockers at the LIRR station.

In an effort to encourage transportation methods other than automobiles, and in response to local demand, AvalonBay will install facilities for bicycle storage for commuters. AvalonBay will work with the LIRR, Town of Huntington, and Friends of the Huntington Train Station community group in making pedestrian-oriented and beautification improvements to the train station, including signage, landscaping and safety improvements.

Availability of DEIS

As explained at the public hearing, due to the importance of the application and the applicant's desire to ensure that the Town Board had all relevant environmental information before it at the earliest possible time, the applicant commissioned the preparation of a voluntary DEIS in accordance with NYCRR §617.6(a)(4). Pursuant to 6NYCRR §617.6(a)(4) "[t]he draft EIS may be treated as an EAF for the purpose of determining significance."

The DEIS is a comprehensive document and evaluated the creation of the Huntington Station Transit Oriented District ("HSTOD") by the Town Board, the rezoning of the 26.58±-acre subject property from R-7 Residence to the proposed HSTOD, and the development of the subject property with 530 multi-family residential units in accordance with the provisions of the HSTOD.

As the voluntary DEIS was treated as a DEIS in accordance with NYCRR §617.6(a)(4), the Town Board used that document to conduct a coordinated review with all involved agencies, pursuant to NYCRR §617.6(b)(3)(i). In its letters to the involved and interested agencies, the Town Board provided copies of the DEIS and specifically asked that comments be provided to the Town Board. In addition, the Town Board decided to distribute the DEIS to interested agencies as well as to the Huntington Public Library (Station Branch). The involved and interested agencies to whom the DEIS was distributed include the following:

- Huntington Manor Fire Department;
- Huntington Public Library – Station Branch;
- Huntington Union Free School District;
- Long Island Power Authority;
- Long Island Rail Road;
- Town of Huntington Bureau of Fire Prevention;
- Town of Huntington Conservation Board;



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- Town of Huntington Department of Engineering Services;
- Town of Huntington Department of Environmental Waste Management;
- Town of Huntington Department of Parks and Recreation;
- Town of Huntington Deputy Supervisor;
- Town of Huntington Planning Board;
- Town of Huntington Superintendent of Highways;
- Suffolk County Department of Health Services – Office of Wastewater Management;
- Suffolk County Department of Health Services – Office of Ecology;
- Suffolk County Department of Public Works;
- Suffolk County Planning Commission;
- Suffolk County Planning Department;
- Suffolk County Water Authority;
- Suffolk County Clerk; and
- New York State Department of Environmental Conservation.

Moreover, to ensure that the public had proper access to the DEIS, the Town Board placed the DEIS on the Town website (http://town.huntington.ny.us/permit_forms.cfm).

Accordingly, not only did the Town Board comply with all the relevant State Environmental Quality Review Act ("SEQRA") regulations, it went far beyond the distribution requirements set forth therein.

Traffic Impacts

The DEIS included a comprehensive Traffic Impact Study ("TIS"), prepared by VHB Engineering, Surveying and Landscape Architecture, P.C. ("VHB"), which was summarized in and appended to the DEIS (Appendix K thereof). The following methodology was employed in preparing the TIS, and this methodology was reviewed with Mr. Stephen McGloin of the Town of Huntington Department of Engineering Services:

- The project site plan and related documents were reviewed to obtain an understanding of the project scope and layout;
- A review was made of the adjacent roadway system and the key intersections that might be significantly impacted by the project were identified;



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- Field inventories were undertaken to observe the number and direction of travel lanes at the key intersections;
- Manual turning movement counts were collected at the key intersections during AM and PM peak periods on a typical weekday as well as during a Saturday peak period;
- The existing traffic volumes at the key intersections (listed below) were expanded to future No Build year 2012;
- The traffic generated by the proposed development was projected, based on recognized traffic engineering standards and the relevant published rates included in the Institute for Transportation Engineers' *Trip Generation*, 8th Edition;
- The site-generated volumes were distributed along the adjacent roadway network and added to the No Build volumes to produce the proposed Build volumes;
- Capacity analyses were performed at the key intersections for the Existing, No Build and Build conditions;
- The results of the analyses for the Existing, No Build and Build conditions were compared to assess any significant traffic impacts due to the proposed project;
- Site access and on-site circulation were evaluated;
- The proposed on-site parking was reviewed; and
- The need for traffic mitigation measures was evaluated.

The intersections evaluated in the TIS are listed below.

Park Avenue at Pulaski Road: The signalized intersection of Park Avenue and Pulaski Road is a four-legged intersection with all four approaches providing an exclusive left turn lane, two through lanes and an exclusive right turn lane. The intersection is controlled by an eight-phase, semi-actuated traffic signal with protected-permitted phasing for all left turn movements.



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Pulaski Road at Lenox Road: The signalized intersection of Pulaski Road and Lenox Road is a four-legged intersection with Pulaski Road providing an exclusive left turn lane and a through lane on the east and west approaches. The north and south approaches provide a shared left turn, through and a right turn lane. The intersection is controlled by a two-phase, semi-actuated traffic signal.

Lenox Road at East Fifth Street: Lenox Road at East Fifth Street forms an unsignalized offset intersection at Lenox Road. All approaches provide a shared left turn, through and right turn lane. For the purposes of this study only the east leg of the intersection serving the project site was analyzed.

Park Avenue at East Fifth Street: Park Avenue at East Fifth Street is an unsignalized T-intersection, and is located just south of the LIRR tracks. The East Fifth Street approach to Park Avenue is marked as a single approach. The northbound Park Avenue provides an exclusive left turn lane and a through lane. The southbound approach provides a shared through and right turn lane.

The results of the intersection capacity analyses conducted as part of the traffic analysis revealed that the project will not have any significant impact on the operating Level of Service ("LOS") at the nearby signalized intersections of Pulaski Road/Park Avenue and Pulaski Road/Lenox Road. In fact, the LOS and average vehicle delay time at both of these intersections are minimally impacted under future conditions when the Build condition is compared to the No-Build condition.

At the unsignalized intersection of East Fifth Street and Lenox Road, the LOS for the westbound approach on East Fifth Street is impacted to a greater extent during the weekday morning peak hour due to the commuter traffic heading to the LIRR station. However, the Build LOS and delay times are still within acceptable parameters for peak conditions. During the weekday afternoon peak hour and the Saturday peak hour, this westbound movement would be minimally impacted by the proposed project.

At the unsignalized intersection of Park Avenue and East Fifth Street, the analysis shows that the eastbound movement on East Fifth Street operates at a very poor LOS with excessive delays under existing conditions and will get progressively worse under future No-Build and Build conditions. The applicant recognizes the poor condition of this intersection and has agreed to fund the installation of a traffic signal to mitigate the existing (and potential future) operating deficiencies.



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A comment was raised regarding purported existing traffic issues at other area intersections, specifically, the intersection of Park Avenue and Partridge Lane. Any problems that currently exist at this location are unrelated to the proposed development and should not be exacerbated by the proposed Avalon at Huntington Station. The volume of traffic that would be added to Park Avenue north of the LIRR, when viewed in the context of the existing traffic volumes on Park Avenue and the traffic associated with the commercial and industrial development in the area, is not expected to have any measurable impact on the traffic exiting from Partridge Lane. In terms of the East Fifth Street intersection, the proposed installation of a traffic signal at this location would substantially improve safety at this intersection. Furthermore, by coordinating the proposed signal with the existing signals at Pulaski Road to the south and Broadway to the north, this signal would likely benefit traffic exiting from the driveways in the vicinity (including traffic from Partridge Lane) by providing additional gaps between signal cycles.

Based on the results of the analyses conducted and presented within the TIS, as described above, the TIS offered the following conclusions:

- The proposed residential development will generate moderate amounts of traffic during peak periods;
- The adjacent roadway can accommodate the projected additional traffic volumes and will operate satisfactorily;
- The key intersections will operate satisfactorily with the recommended signalization of Park Avenue at East Fifth Street (which Avalon Bay Communities has agreed to fund), and with signal timing changes at Park Avenue and Pulaski Road;
- The development of this project will not contribute to the severity and frequency of accidents in the vicinity of the project site;
- The proposed site access located on East Fifth Street has shown that this access driveway provides satisfactory ingress and egress to the site; and
- The proposed action will have no significant adverse impact on the traffic operations of the local roadway network.



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The existing traffic conditions were summarized in Section 3.7 of the DEIS, and the traffic impacts were summarized in Section 4.7 of the DEIS. The entire TIS was included in Appendix K of the DEIS. Thus, the traffic and parking impacts of the proposed development were comprehensively evaluated in the DEIS.

Affordability of Housing

The proposed development has been designed to fully conform to the Town's requirements as set forth in the HSTOD. The Town has developed the HSTOD to ensure that persons of various incomes will have access to the rental and/or homeownership units that will comprise Avalon at Huntington Station, and requires that affordable, workforce and moderate-income housing be provided along with the market-rate housing. A summary of the relevant requirements of the HSTOD are as follows (also see annexed summary chart prepared by AvalonBay):

1. Affordable housing.

- A minimum of ten (10%) percent of the total number of for-sale units in a residential development shall be affordable housing.
 - For a two bedroom unit affordable for-sale unit, the maximum sales price will be eighty (80%) percent of the median family income for a family of three, multiplied by 2.5;
 - For a three bedroom affordable for-sale unit, the maximum sales price will be eighty (80%) percent of the average of the median family incomes for a family of four and family of five, multiplied by 2.5.
- A minimum of ten (10%) percent of the total number of rental units in a residential development shall be affordable housing.
 - For a one bedroom affordable rental unit, the maximum rent will be fifty (50%) percent of the median family income for a family of two, multiplied by .30;



- For a two bedroom affordable rental unit, the maximum rent will be fifty (50%) percent of the median family income for a family of four, multiplied by .30;
- For a three bedroom affordable rental unit, the maximum rent will be fifty (50%) percent of the median family income for a family of eight, multiplied by .30.

2. Workforce housing

- A minimum of fifteen (15%) percent of the total number of for-sale units in a residential development shall be workforce housing.
 - For a two bedroom workforce for-sale unit, the maximum sales price will be one-hundred twenty (120%) percent of the median family income for a family of three, multiplied by 2.5;
 - For a three bedroom workforce for-sale unit, the maximum sales price will be one-hundred twenty (120%) percent of the average of the median family incomes for a family of four and family of five, multiplied by 2.5.
- A minimum of ten (10%) percent of the total number of rental units in a residential development shall be workforce housing.
 - For a one bedroom workforce rental unit, the maximum rent will be eighty (80%) percent of the median family income for a family of two, multiplied by .30;
 - For a two bedroom workforce rental unit, the maximum rent will be eighty (80%) percent of the median family income for a family of three, multiplied by .30;
 - For a three bedroom workforce rental unit, the maximum rent will be eighty (80%) percent of the median family income for a family of four, multiplied by .30.



3. Moderate housing.

- Residential developments in the HSTOD are not required to provide moderate for-sale housing.
- A minimum of five (5%) percent of the total number of rental units in a residential development shall be moderate housing.
 - For a one bedroom moderate rental unit, the maximum rent will be one-hundred ten (110%) percent of the median family income for a family of one, multiplied by .30;
 - For a two bedroom moderate rental unit, the maximum rent will be one-hundred ten (110%) percent of the median family income for a family of two, multiplied by .30;
 - For a three bedroom moderate rental unit, the maximum rent will be one-hundred ten (110%) percent of the median family income for a family of three, multiplied by .30.

It is evident from the foregoing that the proposed development will serve a breadth of income levels and provide both affordable for-sale and rental opportunities. It should also be understood that the applicant is not proposing Section 8 housing on the site, but will be offering 25 percent of the units (132 units, of which 106 will be rentals and 26 will be for-sale units) at various levels of affordability. In fact, the affordable rental units are priced at levels consistent with Section 8 rental rates (fair market rents), and target persons with incomes that would be eligible for Section 8 vouchers (e.g., 50 percent of median income). Accordingly, the proposed development would address the housing needs of persons who might otherwise qualify for Section 8 vouchers.

A complete discussion of the affordable, workforce and moderate housing requirements are set forth in Sections 4.4 and 4.6 of the DEIS, and a copy of the Town's draft HSTOD is included in Appendix A of the DEIS.

With respect to the concern that affordable units must remain affordable, the proposed HSTOD legislation expressly provides that, as a condition of any change of zone to HSTOD, the applicant must impose covenants and restrictions that run with the land and restrict the



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sale, resale and rental of all market restricted (i.e., "affordable") units to ensure that they remain affordable. The HSTOD further requires that an applicant record the covenants and restrictions in the Office of the Suffolk County Clerk, and that a copy of the recorded instrument be submitted to the Planning Department as part of any application for site plan, subdivision or re-subdivision approval for the property. Moreover, all deeds transferring title to the market restricted units shall contain a reference to the Liber and Page of the recorded covenants and restrictions.

The HSTOD also imposes restrictions on the resale and rental of market restricted units that further insure that they will remain affordable to persons of varying incomes. For instance, the HSTOD requires that the maximum resale price of market restricted units be calculated based on the same formulas used to calculate the original sale price or rental rate of such units. While the HSTOD also permits the maximum resale price of a market restricted unit to be increased by an amount not to exceed fifty (50%) percent of the documented and approved capital improvements made by the seller, any such increase may not exceed \$10,000.

In addition to the above, the HSTOD requires that the resale and rental of market restricted units be monitored by the affordable housing program administrator to ensure that the market restricted units remain affordable.

Based upon this information, it is clear that the HSTOD requires that the proposed development will provide both rental and for-sale units that will not only be affordable, but will remain affordable to persons with varying incomes.

School District Impacts

As explained in detail in Section 4.6.4 of the DEIS, over a period of more than one year, the applicant has undertaken extensive consultations with the Huntington Union Free School District ("UFSD") to cooperatively develop estimates of the number of school-aged children that would be expected to be generated by the proposed Avalon at Huntington Station, and to address the potential impacts of the development on the local school district.

A study of the number of school-aged children within existing AvalonBay Communities, Inc. developments in Nassau and Suffolk Counties was conducted by Freudenthal & Elkowitz Consulting Group, Inc, last revised April 2007 (see *AvalonBay Communities, Inc. School-Aged Children Generation Analysis – Long Island, New York*, contained in Appendix G of the DEIS), using data supplied by the affected public school districts, in order to determine a school-



aged children generation factor that is more specific to AvalonBay developments on Long Island than factors that reflect national or State-wide data. The aforesaid AvalonBay study documented that there were, at the time of study preparation, 1,621 one-, two- and three-bedroom rental residential units among five AvalonBay communities on Long Island. These communities were located in five different public school districts. The results of the study indicate that 262 school-aged children reside within the five AvalonBay communities on Long Island studied, reflecting a factor of 0.162 school-aged children per unit.

When specific comparative data are not provided, estimates of the number of school-aged children are generally based on the proposed unit count and bedroom mix. In addition to the bedroom mix, several elements are known to affect the number of school-aged children generated by a residential development. Such elements include, but are not limited to: unit type; ownership type; value or price; location; and/or age of the units. Published factors, which can be applied to a proposed development in order to project school-aged children generation, are available from a variety of sources, and reflect, depending on the source, national, state-wide, and/or local data. A study conducted by the Rutgers University Center for Urban Policy Research entitled, *Residential Demographic Multipliers – Estimates of the Occupants of New Housing* (2006) (hereinafter the "Rutgers Study"), based on United States Census data, provides school-aged children generation factors for a variety of unit types and values for residences in New York State. As the factors provided are based on United States Census data for New York State only, these factors are considered to be more accurate than factors that reflect national data. The data provided within the Rutgers Study corroborates that unit type, number of bedrooms, ownership type, and value influence the number of school-aged children ("SAC") generated by a particular residential development.

Based upon consultations with the Huntington UFSD, it was determined that the proposed development would generate between 81 and 103 school-aged children. In consultations with the Board of Education, the estimated number of school-aged children to be generated by the proposed Avalon at Huntington Station was compared against the estimated number of school-aged children that would be generated by the 109-unit, single-family residential subdivision previously approved for the subject property by the Town of Huntington (a full discussion was presented in Section 6.2 of the DEIS). Based on the published factors of the Rutgers Study, it was determined that 128 school-aged children would be expected to be generated by the 109-unit, single-family residential subdivision of the subject property. Thus, approximately 25 – 47 more school-aged children would be expected to be generated by the 109-unit subdivision when compared to the proposed Avalon Bay at Huntington Station.



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Thus, the proposed development has a lesser potential to adversely impact the Huntington UFSD than the previously-approved subdivision. It should also be noted that property taxes generated by the subject property would significantly increase upon implementation of the proposed action (including property taxes received by the Huntington UFSD), and the proposed Avalon at Huntington Station is expected to represent a net tax positive to the Huntington UFSD.

Notwithstanding the analyses contained in the DEIS, as explained during the public hearing, the applicant has entered into an agreement with the Huntington UFSD, and has agreed to provide a \$1.5 million enhancement payment as an additional public benefit.

Sustainable Design and Energy Conservation

Section 10 of the DEIS provided an evaluation of the impacts of the proposed development on energy. As explained in the DEIS, the proposed development would derive the benefits associated with transit-oriented development, including a reduced reliance on automobiles as a means of travel and the encouragement of mass-transit use. In this regard, energy efficiency is inherent to the proposed transit-oriented development. Notwithstanding this, in order to achieve energy efficiency throughout the proposed residential development, several energy-conserving and sustainability-oriented measures are incorporated into the project design. As provided by AvalonBay Communities, Inc., the following will be incorporated into the proposed development:

Site:

- Site lighting designed to balance adequate illumination with an overall reduced power density (watts per square foot);
- Utilization of site lighting products to control up light;
- Provision of bike racks as an element of "alternative transportation;"
- Provision of walking paths through the site which link to the communities park area and to the Huntington train station; and
- Compact development design and reduced total parking to maximize green spaces.

Landscape:

- Use of native planting materials and drip irrigation systems, where appropriate, which will reduce water consumption; and



- Pervious ground cover where appropriate.

Common area and residential units:

- Use of occupancy sensing to reduce energy consumption when spaces are unoccupied;
- Installation of fluorescent fixtures in practical locations, including kitchens and exterior hallways, and use of metal halide bulbs for outdoor lighting in lieu of incandescent bulbs;
- Proper sizing, siting and maintenance of air conditioning system components and filters, and the use of sufficient attic ventilation;
- Use of natural gas heating and hot water;
- Installation of adequate and appropriate window treatments to help control heat gain/loss;
- Use of high-efficiency rated EnergyStar appliances (e.g., refrigerators, washers/dryers); and
- Use of high r-value insulation in exterior walls and ceilings.

The above measures, together with the principles of transit-oriented development, are expected to ensure that energy efficiency is achieved at the proposed Avalon at Huntington Station.

Based on the foregoing, no significant adverse energy-related impacts are expected to result from implementation of the proposed action.

Sewer Availability

Section 4.2.1 of the DEIS evaluated the impact of the proposed development on the Huntington Wastewater Treatment Plant, as sewage flow from the proposed development would be directed to and treated by the Huntington Wastewater Treatment Plant. As advised by Town staff, the permitted capacity of the plant is 2.5 million gallons per day ("gpd") and the 2008 annual pumpage was 657± million gallons (1.8 million gpd, on average). The proposed Avalon at Huntington Station is expected to generate approximately 133,825 gpd (i.e., representing approximately 5.4 percent of total daily capacity, and approximately 19 percent of remaining daily capacity), such that the Huntington Wastewater Treatment Plant has sufficient available capacity to accommodate the projected flow.



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As part of the proposed action, a new sewer pump station would be constructed at the southeast corner of the subject property, and would connect the on-site infrastructure to the existing force main that runs along East Fifth Street, Lenox Road, East Second Street and State Route 110, reaching the gravity sewer system at State Route 110 and Broadway/Railroad Avenue. This information was discussed in the DEIS.

Despite this, questions were raised at the public hearing regarding whether this development could be accommodated by the Huntington Wastewater Treatment Plant. First, as part of the prior approval of the change of zone from I-1 Light Industry to R-7 Residence, the Town of Huntington Town Board passed a resolution, dated December 12, 1989, which indicates, in pertinent part, that the Huntington Sewer District was expanded to include this property (a copy of this resolution is annexed hereto). In addition, a connection fee to the Huntington Sewer District was paid by the owner of the previously-approved, 109-lot single family subdivision. Accordingly, the subject property has access to the Sewer District. Also, the applicant is working with the Town of Huntington Department of Environmental Waste and its consulting engineer on the details of the connection of the proposed development to the Huntington Sewer District.

Connectivity with Mass Transit

As explained in the DEIS and at the public hearing, the applicant is proposing a variety of improvements to improve connectivity with and access to mass transit. As previously explained, the applicant is proposing to develop a well-lit pedestrian pathway between the subject property and the LIRR station, which is approximately one-third of a mile from the subject property. In addition, the applicant has agreed to work with the Town to provide bicycle racks at the LIRR station. The applicant has also agreed to implement various beautification measures along the path, and surrounding the LIRR station, with the cooperation of the Town of Huntington, the LIRR and the Friends of the Huntington Trail Station community group. Questions were raised regarding the feasibility of residents of the proposed development actually walking to the LIRR station. In the applicant's experience, if the pathway is well lit, and there is enough activity, persons will use the pathway.

As previously indicated, the applicant has met with Stephen McGloin and Anthony Aloisio. The purpose of the meeting was to discuss the transit-oriented aspects of the project and ways to strengthen the link between the site and the LIRR using the available resources of the Town's HART bus system. One option that was discussed is the possible re-routing of one of the existing HART commuter bus routes currently serving the Huntington train station



during the morning and afternoon commuter peaks to have the commuter buses serve the subject site. Mr. McGloin, who is in charge of HART, indicated that these commuter routes have extremely low ridership and this would probably not be a viable option due to schedule constraints. However, he did indicate that there may be an opportunity to institute either a subscription or a demand-responsive bus service which could serve the residents of the proposed development, as well as the surrounding neighborhood and other areas of the Town more efficiently and effectively than the existing fixed commuter routes. AvalonBay is agreeable to assisting the Town in further exploring this concept. In the event it is determined that HART is unable to provide bus service to the site, as indicated during the public hearing, AvalonBay would be willing to establish a shuttle service to transport residents to and from the LIRR, provided there is sufficient demand among residents of the complex.

Density and Other Code Requirements

During the public hearing, questions were raised with respect to why the development is proposed at 530 units (approximately 20 units per acre). As explained by Matthew Whalen, Vice President, Development, AvalonBay Communities, Inc., during the public hearing, it is the density that allows AvalonBay to offer the myriad public benefits that have been included as part of this development proposal. As previously explained, 25 percent of the units in this development will be affordable, and the proposed density is required to support this commitment. As detailed previously, AvalonBay would take steps to meet the needs of the local residents through its commitments to enhance the Huntington train station, contribute to the local school district, enhance local roadway and infrastructure conditions, and partner with local community groups and family and youth programs.

Also, when evaluating density, one must evaluate not only calculated numbers, but the impacts associated with the proposed density. In this case, the subject property abuts the Long Island Railroad tracks and is situated between primarily industrial and commercial uses to the north, zoned I-5 (General Industry), and multi- and single-family residential uses, zoned R-7, R-10 and R-20 Residence. Accordingly, this multi-family use will serve as a transition between residential uses and industrial uses. A detailed impact analysis was presented in the DEIS, and it was concluded that no significant adverse impacts would result from this proposed development that would not be mitigated by the applicant. Moreover, as was explained at the public hearing, the proposed development has only 36 more units than the existing, well-maintained Avalon Court in Melville (which is situated behind Costco, and does not benefit from a location near mass transit).



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A comment has also been made that the granting of the requested change of zone of the subject property may represent improper "spot zoning." However, this is not the case. Improper spot zoning occurs when a small parcel of property is rezoned, and does not conform to established surrounding zoning or the land use plans or policies of the municipality. Pursuant to information provided by Project Counsel, Anthony Guardino, Esq., spot zoning has been defined by the Courts as "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners." *Rodgers v. Tarrytown*, 302 N.Y. 115 (1951).

In this case, the Town Board's grant of the rezoning will not constitute improper spot zoning for the following reasons:

First, the Town Board's creation of the HSTOD and the grant of the rezoning are entirely consistent with the recommendations and goals of the Town's comprehensive plan, as last updated in 2008. As explained in detail in Sections 4.2 and 4.11 of the DEIS, the Town of Huntington adopted the Horizons 2020 Comprehensive Plan Update ("Horizons 2020 Update") in 2008 to update the Town of Huntington Comprehensive Plan (1993) ("1993 Comprehensive Plan"). Both of these documents set forth recommendations, policies, goals and strategies for the Town. Generally, the relevant recommendations set forth in the 1993 Comprehensive Plan relate to reducing reliance on individual automobiles, encouraging variety among the Town's housing stock and affordable housing options, and respecting environmental limitations when considering new development. Additionally, the 1993 Comprehensive Plan recommends high-density residential development at the interface between existing commercial/industrial uses and single-family residential neighborhoods, and in areas of the Town where mass transit nodes, shopping opportunities and employment centers are most available and accessible. The "Comprehensive Plan" map, included within the 1993 Comprehensive Plan, identifies the subject property for high-density residential use.

The recommendations offered within the Horizons 2020 Update that are most relevant to the proposed action generally relate to addressing potential impacts of new development upon community facilities, addressing the need for affordable housing options and a diversified housing stock in the Town, the encouragement of land use patterns that reduce automobile usage and increase mass transit ridership, and the promotion of energy conservation. As demonstrated in the DEIS and during the presentation at the public hearing, the proposed action has been designed to fulfill the relevant goals, strategies and recommendations set forth in the Town of Huntington's 1993 Comprehensive Plan and the Horizons 2020 Update.



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Second, since the HSTOD allows multiple-family development, the grant of the rezoning will result in a multiple-family development located directly across the street from the Huntington Farms multiple-family development that currently exists on the south side of East Fifth Street. Accordingly, the Town Board's grant of the rezoning will not result in a use classification that is different for that of the surrounding area. Moreover, the Avalon multiple-family development, like the Huntington Farms development, will, as previously explained, serve as a transition from properties zoned and developed for industrial purposes to the north and the properties that are zoned and developed for single-family residential purposes located to the south.

By way of example provided by Mr. Guardino, in *Randolph v. Town of Brookhaven*, 45 A.D.2d 1046 (2nd Dept. 1974), the Court held that the rezoning of a 24-acre parcel from single-family to multiple-family residence did not constitute improper spot zoning where adjacent uses included multiple dwellings, and the rezoning was consistent with a comprehensive plan that recommended multiple dwellings as a buffer between single-family residential and other uses.

Third, because the adoption of the HSTOD is consistent with the recommendations, policies, goals and strategies of the Town's 1993 Comprehensive Plan and the Horizons 2020 Update, the grant of the rezoning will serve the general welfare of the Town. In addition, because the HSTOD requires that a property provide public benefits in connection with approved multiple-family developments, the grant of the rezoning will result in tangible benefits to the public.

Finally, the property consists of 109 separate tax lots, comprising a total of 26.58± acres. As such, it is not a small parcel of property.

It should also be understood that although the subject property may be the only property that currently meets the minimum ten-acre criterion for rezoning to the HSTOD, there is nothing that precludes assembly of parcels in the eligible geographic area to meet this criterion. Also, should the Town Board ultimately determine that the reduction in the minimum lot size criterion of the HSTOD is required in order to achieve the goals of its adopted comprehensive plan, the Town Board could modify such criterion.

Based on the foregoing, it is evident that the rezoning of the subject property to HSTOD does not constitute spot zoning.



Site Grading and Subsurface Conditions

Section 4.1.2 of the DEIS discussed the site grading and need for soil removal. The grading of the site is dictated by the requirements the Americans with Disabilities and Fair Housing Acts. There is a grade change in excess of 30 feet from the northeast corner of the site to the southwest corner of the site. To comply with the aforesaid regulations, the site must be leveled-out to provide acceptable slopes for parking areas and walks. The amount of material could be reduced by raising up the entire site. However, this would require the installation of retaining walls along East Fifth Street and would also increase the elevations of the building heights relative to East Fifth Street. To limit the impact of removing the soil on the surrounding area, the applicant has agreed to develop a schedule of operations that will be reviewed and approved by the Town.

Questions were also raised regarding subsurface conditions, due to former agricultural use of the site. As explained in Sections 3.1.3 and 4.1.3 of the DEIS, subsurface investigations at the subject property have revealed the presence of heavy metals (copper, zinc and arsenic) in concentrations exceeding regulatory thresholds within the upper soil strata throughout the site. In order to address the presence of contaminated soils at the site, a Soil Management Plan will be developed, acceptable to the Town of Huntington, to eliminate the potential for exposure to contaminants by future residents at the proposed Avalon at Huntington Station. The soil management measures/plan components will generally include:

- Calculation of the quantities of impacted soils;
- Stripping and/or excavation of shallow, impacted soils and the expected provision of temporary stockpiles;
- Identification of on-site receiving areas for the burial of impacted soils;
- Capping of buried impacted soils with clean topsoil cover, pavement and concrete, or other permanent impermeable surface to eliminate potential exposures to future users of the site; and
- Conducting of post-excavation sampling and analysis to document sufficient mitigation.

The Soil Management Plan to be implemented would be designed in accordance with Suffolk County Department of Health Services ("SCDHS") guidance, and would be reviewed and approved by the Town of Huntington prior to its implementation. As such, no significant adverse impacts associated with subsurface conditions at the subject property are expected to result from implementation of the proposed action.



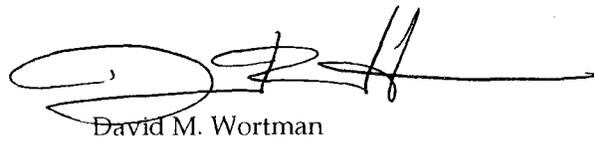
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We trust that this information satisfies the Town Board's inquiries. If further information is required, please do not hesitate to contact either of the undersigned or Project Counsel, Anthony Guardino, Esq., at (516) 227-0675.

Sincerely,
VHB Engineering, Surveying and Landscape Architecture, P.C.



Theresa Elkowitz
Principal



David M. Wortman
Project Manager

TE/DMW/lm
encs.

cc: M. Whalen, w/encs.
C. Capece, w/encs.
A. Guardino, Esq., w/encs.
A. Aloisio, w/encs.
S. McGloin, w/encs.



Avalon Huntington Station
530 Total Homes

Rental Apartment Homes 80% of Total Homes 424 Total Rental Apartments	Home Ownership 20% of Total Homes 106 Home-Ownership
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Market Rate
75%
(398 Total Market Rate)

<p align="center">318 Market Rate Apartment Homes</p>	<p align="center">80 Market Rate Home-Ownership Units</p>
<p align="center">106 Income Restricted Apartment Homes</p> <p><small>Breakdown of Income Restricted Rental Homes are as follows: 10% of Rentals at 50% AMI = Rents starting at approx \$862 / mo 10% of Rentals at 80% AMI = Rents starting at approx \$1,473 / mo 5% of Rentals at 110% AMI = Rents starting at approx \$1,805 / mo 25% Income Restricted</small></p>	<p align="center">26 Income Restricted Home-Ownership Units</p> <p><small>Breakdown of Income Restricted Home-Ownership is as follows: 10% of Homes at 80% AMI = Cost to Home owner approx \$160,000 15% of Homes at 120% AMI = Cost to Home owner approx \$195,000 25% Income Restricted</small></p>

Income Restricted
25%
(132 Income Restricted)

57.

RESOLUTION ADOPTING FINDINGS PURSUANT TO 6 NYCRR 617.9 AND APPROVING APPLICATION OF INSTRUMENT SYSTEMS CORPORATION #88-ZM-245 FOR A CHANGE OF ZONE FROM I-1; LIGHT INDUSTRY DISTRICT, TO R-7, RESIDENCE DISTRICT, FOR THE 29.565 ACRE PARCEL OF PROPERTY LOCATED ON THE NORTH SIDE OF EAST FIFTH STREET, WEST OF PARK AVENUE IN HUNTINGTON STATION, DESIGNATED ON THE S.C.T.M. AS 0400-104-01-043.1; AUTHORIZING THE CLUSTER DEVELOPMENT OF THE SUBJECT PREMISES PURSUANT TO TOWN LAW SECTION 281; GRANTING THE EXTENSION OF THE HUNTINGTON SEWER DISTRICT TO THE SUBJECT PARCEL AS WELL AS THE ADJACENT PARCEL DESIGNATED AS 0400-104-01-043.2.

Resolution for Town Board Meeting Dated: December 12, 1989

The following resolution was offered by: **COUNCILWOMAN TRIOLO**
and seconded by: **COUNCILMAN HANSE**

WHEREAS, INSTRUMENT SYSTEMS CORPORATION, 100 Jericho Quadrangle #225, Jericho, New York 11753, submitted application #88-ZM-245 for a change of zone from I-1 Light Industry District to R-7 Residence District, for property located on the north side of East Fifth Street west of Park Avenue, Huntington Station, New York, containing approximately 29.565 acres, and designated 0400-104-01-043.1 on the Suffolk County Tax Map, and

WHEREAS, by resolution dated July 12, 1989 the Planning Board recommended to the Town Board that a public hearing be held upon the proposed rezoning pursuant to section 264 of the Town Law and Section 198-129 of the Town Code and that a positive declaration be issued pursuant to SEQRA, and

WHEREAS, the Town Board, as lead agency, having by resolution dated August 15, 1989, issued a positive declaration under the State Environmental Quality Review Act ("SEQRA") and accepted the draft environmental impact statement ("DEIS") as complete, having fixed a public comment period from August 16, 1989 through September 28, 1989, and having set the matter down for September 16, 1989 for a public hearing on the rezoning action, cluster authorization, and extension of the Huntington Sewer District pursuant to SEQRA, and

WHEREAS, a combined public hearing pursuant to section 264 of the Town Law, section 198-129 of the Town Code, and 6 NYCRR 617.8 having duly been held by the Town Board on September 16, 1989, at which all persons desiring to be heard were heard, and

WHEREAS, the Town Board having, on August 15, duly adopted a resolution pursuant to section 8-0109 of the Environmental Conservation Law and 6 NYCRR 617.8 accepting the DEIS, the hearing testimony and evidence, and the subsequent comments, as the final Environmental Impact Statement ("FEIS"), and accepting the FEIS as complete, and directing that the same be filed with the appropriate involved agencies for consideration pursuant to 6 NYCRR 617.3(f), and

RESOLUTION ADOPTING SEQRA FINDINGS - I.S.C.

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WHEREAS, the advisory comment period having come to a close and

WHEREAS, the Town Board having had ample opportunity to consider the merits of the rezoning application and having taken a hard look at the environmental aspects of the matter, pursuant to SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Huntington hereby, pursuant to § NYCRR 617.9, adopts the Findings annexed to this resolution, and

BE IT FURTHER RESOLVED, that the Town Board imposes the following mitigating conditions, also described in the appended statement of findings and conclusions, in compliance with section 617.3(b) of SEQRA and authorizes its filing in accordance with 617.10(i) of SEQRA; and

1. Any development of the subject property must be in an attached cluster configuration, total yield not to exceed 109 units as proposed. The size of the units may be determined by the Planning Board during subdivision and site plan review.
2. Attached cluster development of no more than 109 units shall occur within an interior area of the total site to be bounded by property to be retained by a homeowner's association and by land to be dedicated as parkland and reserved as a recharge basin. New residential units shall be sited as far away from the Long Island rail road tracks as practicable.
3. A restrictive covenant shall be filed, prior to subdivision approval by the Planning Board, specifying that common areas will remain impervious open space in perpetuity, either for temporary recreational use (i.e., playing field) or as natural and scenic buffer. Such open space shall be considered encumbered and must be maintained in accordance with a conservation master plan to be submitted by the applicant for review by the Planning Department as part of the landscape plan.
4. A landscape plan shall be submitted, subject to the review and approval of the Planning Department depicting existing vegetation to be maintained and dedicated areas to be reserved, and those areas to be revegetated with predominantly native and naturalizing species. The applicant shall provide for the replanting of as much indigenous vegetation as possible and/or allow specified areas to undergo natural succession.

5. Parkland dedication (2.95 acres) supported by the Planning Board in yield qualification shall be depicted on the subdivision map. Provision of an additional 0.6 acre dedication, should it be required by the Planning Board, may result in slight reconfiguration of the plan. Setbacks should be maintained as close to the plan in the FEIS as possible, while providing maximal scenic and conservation buffers. The applicant shall fence the addition to Manor Field Park to protect both the integrity of the parkland and that of the proposed residential community.
6. During the subdivision and site plan review by the Planning Board the applicant shall provide traffic and safety mitigation measures to the satisfaction of the Director of the Transportation, Traffic Safety Department and the Suffolk County Department of Public Works to include the realignment of East Fifth Street along the property's entire frontage thereon to correct an existing reverse curve in the roadway.
7. Said application shall receive the approval of the Suffolk County Department of Health Services (SCDHS) upon submission of satisfactory data, proof of public water supply availability, and acceptable liquid sanitary waste disposal design details. The SCDHS shall be duly notified that it is the conclusion of this SEQRA review that to mitigate potential increased impact to groundwater quality within the capture zone of public supply wells, it is incumbent that the applicant connect the subject property (S.C.T.M. 0400-104-01-043.1 and 043.2) to the Huntington Sewer District.
8. Upon submission of plan for subdivision, the applicant shall apply for permits from the Department of Environmental Control to enable connection to the Huntington Sewer District to serve the entire ISC property on the north side of East Fifth Street, west of Park Avenue. The Town Department of Environmental Control shall direct specific line and station improvements to be borne by the applicant, as well as connection costs, calculated on wastewater volume generation of the full 35.595-acre site. The Town Department of Environmental Control shall explore "key money" type mechanisms to insure that the application does not effectively reduce the design lifetime of the Huntington STP to the expense of taxpayers in the existing district.

9. Grading, drainage, and erosion/sedimentation control plans shall be submitted with the conditional final map, subject to review and approval of the Planning Department, which will depict the construction of a recharge basin as noted on the preferred plan and which will provide satisfactory capture, retention, and return of all stormwater on the site.

BE IT FURTHER RESOLVED, that upon application of Instrument Systems Corporation and upon its own motion, and effective immediately pursuant to law, the Town Board hereby authorizes cluster development pursuant to section 281 of Town Law, extends the Huntington Sewer District, and rezones the following subject property from I-1 Light Industry District to R-7 Residence District is more particularly described as:

Beginning at point on the northerly side of East 5th Street, said point of beginning being the following three course westerly from the intersection formed by the westerly side of Park Avenue and the northerly side of East 5th Street:

1. South 50° 36' 30" West 926.80 feet, to a point;
2. South 30° 19' 30" West 207.47 feet, to a point;
3. South 54° 13' 00" West 10.30 feet, to the point of beginning.

Running thence, from said point of beginning, in a westerly direction along the northerly side of East Fifth Street the following two courses:

1. South 54° 13' 00" West, 570.40 feet, to a point;
2. South 64° 46' 30" West, 783.79 feet, to a point.

Thence, in a northerly and westerly direction along the easterly and northerly property line of land now or formerly of State of New York, the following two courses:

1. North 20° 13' 10" West, 364.70 feet; to a point;
2. South 60° 10' 50" West, 311.06 feet, to a point on the easterly side of Wicks Avenue.

Thence, in a northerly direction along the easterly side of Wicks Avenue and the easterly property line of land now or formerly of Huntington Commercial Association:

12/2/74

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North 18° 07' 30" West 648.54 feet, to a point on the southerly right of way line of the Long Island Railroad.

Thence, in an easterly direction, along the southerly right of way line of the Long Island Railroad:

North 76° 53' 50" East 1702.80 feet, to a point.

Thence, in a southerly direction along the westerly property line of land now or formerly of Trustees Net Realty Holding Trust:

South 13° 06' 10" East 581.65 feet, to the point of beginning.

BE IT FURTHER RESOLVED, that upon application of Instrument Systems Corporation and upon its own motion, and effective immediately pursuant to law, the Town Board hereby further extends the Huntington Sewer District described on the S.C.T.M. as 0400-104-01-043.2, to include property more particularly described as:

All that certain plot, piece, or parcel of land with building and improvements thereon situate, lying, and being at Huntington Station, Town of Huntington, County of Suffolk, State of New York, and more particularly bounded and described as follows:

Beginning at the corner formed by the intersection of the westerly side of Park Avenue with the southerly line of the Long Island Railroad (Port Jefferson Branch, formerly Wading River Branch);

Running thence southerly 37° 48' 30" east along the westerly side of Park Avenue 18.19 feet to the northwesterly side of East Fifth Street (Gardiner Avenue);

Running thence along the northwesterly side of East Fifth Street (Gardiner Avenue) the following three courses and distances;

- (1) South 50° 36' 30" West 926.80 feet;
- (2) South 30° 10' 30" West 207.47 feet;
- (3) South 54° 13' 00" West 10.30 feet to the land formerly of Wicks, now or formerly of Instrument Systems Corp.;

Running thence along land formerly of Wicks, now or formerly of Instrument Systems Corp., northerly 13° 06' 10" West 581.65

12/12/21

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feet to the southerly line of land of the Long Island Railroad (Port Jefferson Branch, formerly Wading River Branch);

Running thence northerly 76° 53' 50" east along the southerly line of land of the Long Island Railroad (Port Jefferson Branch, formerly Wading River Branch) 975.47 feet to the westerly side of Park Avenue, the point or place of beginning.

VOTE:

AYES: 5

NOES: 0

The resolution was thereupon declared duly adopted.

12/12/11