FINAL ENVIRONMENTAL IMPACT STATEMENT
for
KENSINGTON ESTATES
CHANGE OF ZONE APPLICATION

Hamlet of West Hills, Town of Huntington &
Hamlet of Woodbury, Town of Oyster Bay
Suffolk County & Nassau County, New York

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This document, together with the Draft Environmental Impact Statement concerning this proposal, represents a Final Environmental Impact Statement (FEIS). Copies are available for public review and comment at the office of the Lead Agency. Comments on the FEIS should be submitted to the Lead Agency listed above by December 27, 2010 to be included in the public record and considered in the Findings Statement.

Date FEIS Accepted: December 14, 2010

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SECTION 1.0

INTRODUCTION

1.0 INTRODUCTION

1.1 Purpose of this Document

This document is the Final Environmental Impact Statement ("FEIS") for the **Kensington Estates** change of zone application. This FEIS represents the next to last step in the New York State environmental review process, which is intended to provide the public and governmental review agencies with information regarding the proposal under review, as well as analyses of its potential environmental effects. This FEIS incorporates the Draft Environmental Impact Statement ("DEIS") by reference, so that the combination of these two documents constitutes the entire Kensington Estates EIS. This document fulfills the State Environmental Quality Review Act ("SEQRA") requirements for an FEIS, as administered by the Town of Huntington Town Board in its capacity as the Lead Agency having jurisdiction of the subdivision application.

The 18.6-acre project site is located on the Nassau-Suffolk border in the Hamlet of West Hills, Town of Huntington and the Hamlet of Woodbury, Town of Oyster Bay on the southeast intersection of Jericho Turnpike and Plainview Road. The subject site is comprised of three parcels, of which one is located within the Town of Huntington (13.5 acres), and the other two parcels are located within the Town of Oyster Bay (5.09 acres). For the portion of the property within the Town of Huntington (13.5 acres), a change of zone from R-40 to R-RM is proposed. For the portion of the property within the Town of Oyster Bay (5.1 acres), a change of zone from R1-1A to RMF-10 (3.72 acres) and R1-20 (1.37 acres) is proposed. It is also proposed to subdivide the 1.37 acre parcel into three single family lots. The project will provide high quality residential housing in a desirable area of the Towns of Huntington and Oyster Bay to fill a need in the area for high quality age restricted housing.

An application for a change of zone on the property was submitted to the Town of Huntington Town Board and the Town of Oyster Bay Town Board in October 2006. It was determined that the Town of Huntington would serve as Lead Agency for review of the project. The Town of Huntington issued a Positive Declaration on November 16, 2007 requiring the preparation of an Environmental Impact Statement, conducted scoping and issued a Final Scope dated January 24, 2008. The Final Scope reflects the initial proposed project of 136 age restricted housing units. Subsequently, after the public scoping and issuance of the Final Scope, through extensive community outreach with residents in the area, community groups and Town representatives, that the 136 unit plan was viewed as too dense. As a result, the applicant reduced the density to 80 single family attached age-restricted units and three single family residences along Plainview Road to provide a better layout and design, increase open space and provide more perimeter buffering, landscaping and a pond feature that will serve as a buffer between the roadway and the proposed housing units. The Preliminary Site Plan is provided as **Pocket 1** at the end of this document.

The Kensington Estates Draft EIS ("DEIS") was submitted to the Town of Huntington Town Board in September 2008 and revised based on comments from the Huntington and Oyster Bay Town planning staffs until the DEIS was deemed acceptable as complete by the Town of

Huntington Town Board on April 13, 2010 (see **Appendix A**). A public hearing was held on the DEIS on May 17, 2010, and the Lead Agency accepted written public and agency comments through June 21, 2010. As required by SEQRA, this document addresses all concerns and comments provided by the public and agencies during the hearing and comment period.

Section 2.0 of this document presents all of the comments on the DEIS that were provided verbally at the hearing and/or in written form received by the Lead Agency, along with a response to each.

After acceptance of the FEIS by the Lead Agency, the Town of Huntington Town Board, there will be a minimum 10-day period of consideration for preparation and adoption of a Findings Statement, prior to a decision on the subdivision application.

1.2 Organization of this Document

Appendix B contains a copy of the public hearing transcript, and **Appendices C and D** contain the written comments received by the Lead Agency from the involved government agencies and the public, respectively. All responses are provided in **Section 2.0**. As required by SEQRA, only those comments that are "substantive" in nature merit a response. Comments which are directed to a specific portion of the DEIS or other aspect of the project were responded to. General statements of opposition or support are not considered to be substantive and are therefore not addressed herein. It is noted that a significant number of letters in support of the project were received by the Town Clerk during the public comment period. A total of 485 support letters (442 from Town of Huntington residents, 18 from local businesses and 25 from immediately adjacent neighbors) were received. The Applicant has separately collected over 200 letters of support from Town of Oyster Bay residents and business owners. A copy of these letters are provided in **Appendix E-1**. It is noted that many of these letters were duplicative in terms of the letter's text (i.e., "form" letters), but signed individually by different residents/business owners. Due to the volume of these letters, only one example of the various types of "form" letters is included in **Appendix E-1**, in addition to any individually written letters of support. While these letters indicate reasons for these individuals' support for the project/proposed change of zone, the letters did not contain specific comments related to the DEIS. Additionally three petitions were submitted regarding the proposed project during the public comment period (one in support and two in opposition). Copies of these petitions are included in **Appendix E-2**.

Each comment has been delineated and numbered sequentially. The numbering system includes a letter code that indicates the source of the comment, followed by a number that is assigned to each consecutive comment from that source. As a result, the identity of the commenter can easily be determined. In addition, the subsection of **Section 2.0** where the response can be found (see explanation below) is provided adjacent to each comment. There were a total of 183 separate comments identified in the transcript of the public hearing and the various comment letters received. Because a number of the comments are similar to, closely related to and/or duplicate other comments, these related comments have been grouped together, so that only one

response would be necessary for each grouping. Each subsection of **Section 2.0** addresses one of these groups of comments. The comment numbers to which the response refers are listed in each subsection so that the reader may refer back to the appendix to review the comments in their original form. **Appendix F** contains correspondence and information related to and in support of various responses to these comments.

Each response provides the information necessary for the Lead Agency (the Town of Huntington Town Board) and other involved agencies to make informed decisions on the specific impacts of the project. This document fulfills the obligation of the Lead Agency in completing an FEIS based upon Title 6, New York Code of Rules and Regulations Part 617.9 (b)(8).

1.3 Update of Existing Site Conditions

As a result of the ongoing operations of the existing wood carving business and horse farm on the subject property, several areas of the site have been cleared since the submission of the Draft Environmental Impact Statement in January, 2010, resulting in physical changes to the subject site. Therefore additional field inspections in June 2010 and July 2010 were conducted to update the existing conditions of the site. These additional inspections served to document the current extent of cleared, unvegetated areas which are the result of the ongoing operations of the existing wood carving business and horse farm. Sub-meter accuracy GPS was utilized to document the current limit of clearing on the subject property. **Figure 1-1** depicts the limits of existing clearing as depicted on the Preliminary Site Plan (Pocket 1 of the DEIS) (based upon a survey of the property completed in December 2008). The hatched area in **Figure 1-1** shows the areas which have been cleared since the December 2008 survey was completed.

As depicted in **Figure 1-1**, the area of additional clearing is located in the northwest portion of the site adjacent to the Plainview Road and in the vicinity of northern property line shared with the northern out parcel (tax Lot 40). Additional clearing occurred in the southwest corner of the site, as well as a minor area in the eastern central portion of the site. The areas of additional clearing total approximately 1.12 acres. Field observations noted small mounds of tree stumps are located in the northwest corner for future use by the woodcarving business. A varying-width (approximately 10-20 feet) path connects the cleared northwest portion of the site to the central, low-lying portion of the site, where a larger area of existing clearing is located. Large piles of tree trunks, tree stumps and wood chips are located within the centrally cleared area. The gated entranceway along Plainview Road, in the southwestern portion of the site is now open and connected to the centrally cleared area. No changes were observed to the remaining areas of the site.

A small portion of the recent clearing documented in June/July 2010 (approximately 5,800 SF) was conducted in perimeter areas identified to remain natural on the Preliminary Site Plan for the proposed project. As a result, these areas will need to be supplemented with native vegetation as part of the proposed site construction. The **Landscape Plan** has been updated to indicate species that will be used to supplement these revegetation areas (see **Pocket 2**). All other areas of recently completed clearing were conducted in areas which are indentified for

removal/disturbance associated with proposed site development. As the DEIS evaluates the potential impacts of the proposed action as compared with existing conditions, the analysis and mitigation measures presented in the accepted DEIS do not significantly differ as a result of the additional clearing that occurred on the property. The proposed project will still conform to the Town of Oyster Bay Aquifer Protection Overlay District (APO) requirements, as only 5,800 SF of the recent clearing was conducted in areas designated to remain natural. As discussed in Section 2.2.2 of the DEIS, the APO clearing requirements would limit clearing on the Oyster Bay portion of the property to 3.29 acres. The proposed project previously proposed 1.59 acres of new clearing. The additional 5,800 SF of recently conducted clearing equates to 0.13 acres of additional clearing, therefore the 1.72 acres of clearing (0.13 acres recently cleared within areas designated to remain natural + 1.59 acres proposed for construction of the project) still meets the allowable clearing pursuant to the APO regulations. As noted above, the 0.13 acres cleared within areas designated to remain natural would be supplementally planted pursuant to the revised Landscape Plan. **Table 1** below provides an update of the existing and proposed habitat quantities based on the recent clearing described above.

TABLE 1
CHANGE IN HABITAT QUANTITIES

Change in Habitat Quantities	Existing Acres	Existing Percent	Future Acres	Future Percent	Change in Acres
Coastal Oak-Hickory Forest	9.04	48.47%	3.34*	17.91%	5.70(-)
Unvegetated	9.09	48.74%	--	--	9.09(-)
Roads, Buildings, Paved Surfaces	0.52	2.79%	6.25	33.51%	5.73(+)
Landscaped	--	--	7.66	41.07%	7.66(+)
Other (Recharge Basin, Pond)	--	--	1.40**	7.51%	1.40(+)
TOTAL	**18.65**	**100.00%**	**18.65**	**100.00%**	**------**

* Includes 1.22 acres to be supplemented with native vegetation and remain natural.
** Includes 1.40 acres of vegetation within the recharge basin and area along the pond bank.

SECTION 2.0

COMMENTS AND RESPONSES

2.0 COMMENTS AND RESPONSES

2.1 PROPOSED CHANGE OF ZONE DECISION

2.1.1 Density Increase/Intensity of Use

Comments T16, T18, T23, T24, T34, T69, T70, CASH1, CSCA1, CSCA2, CSCA3, CSCA7, KF2, WD1, WD5, WD15, WD18, WD23 and WD33:
These comments express concern regarding the density and increased intensity of use associated with the proposed change of zone application. Comments indicate that the project is not in conformance with the Town of Huntington Comprehensive Plan and Special Groundwater Protection Area Plans.

Response:
The applicant is entitled to apply for a change of zone on the subject property. The existing zoning is relevant as a "baseline" of what could occur on the site in conformance with existing zoning. The Town Comprehensive Plan Update is also relevant in terms of what land use options the Town may "foresee" for the site based on the recommendations of the Plan. The comment contends that the proposed project represents a 450% increase in density; however, the proposed increase from 15 individual single family homes to 80 smaller attached single-family age-restricted units and 3 single-family dwellings does not represent a 450% increase in the intensity of land use. Additionally, Section 5 of the DEIS provides a comparison of the proposed project with several alternatives, including redevelopment pursuant to existing zoning (see Table 5-1 of the DEIS), and this Section indicates that there are clear benefits to development of the subject property with 80 attached single-family age-restricted and three single-family homes and that the impacts of this development would be limited and all of them mitigated.

The existing conditions on the site include non-conforming uses that represent a relatively intense existing use of the subject site. This is also considered in the Alternatives section under the "No Action" alternative, which finds that there is substantial activity on the site including traffic, noise, parking, and activity associated with the existing equestrian, wood carving uses, and multiple other uses.

The Comprehensive Plans recommendation for "parks, recreation, and conservation of land" would anticipate a public use/ownership of the site or continued use of the property as a horse farm. To date, an offer to purchase the property has not been made by a public entity for the purpose of preserving the property for open space conservation or by a private or public entity for continued operation of the existing horse farm use. Any such use would require an agency as a "willing buyer" and the applicant as a "willing seller". As noted, no such efforts have been made to date.

One of the commenters contends that "massive impacts upon the surrounding community" will occur, and the project will result in "the very detriment that the Comprehensive Plan sought to avoid." These claims are unsubstantiated and no data or information is supplied to support the assertions. The DEIS contains a substantial body

of information to assist the Town Board and involved agencies in analyzing the potential impact of the proposed project in consideration of land use and zoning as well as all relevant impact categories including community character (DEIS; Section 3.4) and land use plans (DEIS; Section 3.1).

In summary, the applicant has the right to apply for a change of zone. The project has merits in terms of providing needed housing, housing diversity, affordable units, removal of existing non-conforming uses, permanent land use, improved visual impacts, tax revenue, job creation and other benefits noted in the DEIS. The project must be reviewed based on its own merits in consideration of relevant factors which include existing zoning and land use plans. The DEIS contains information on existing zoning, land use and land use plans, as well as current development trends in Section 3.1 of the DEIS. In addition, the alternatives section (DEIS; Section 5.0) analyses the uses under existing zoning and the no action alternative and compares these to the proposed project. Consequently, the Town Board has sufficient information on which to base a decision, and the completion of the SEQRA process provides a basis for taking a "hard look" at the project.

Section 2.2.2 of the DEIS discusses the recommendations of the Special Groundwater Protection Area (SPGA) and conformance of the proposed project with these recommendations. The recommendations established for the West Hills-Melville SGPA and Oyster Bay SGPA identify the site as being within an area that should be restricted to low density residential development to promote the Plan's purpose of preserving and maintaining the quality of groundwater within the West Hills-Melville SGPA. The main purpose for establishing the SGPAs as it relates to the subject property is to provide the best available guidance concerned with the protection of groundwater through the development of a specific management program. The major objectives underlying the general recommendations of the Plans consist of maximizing the recharge of high quality groundwater to the aquifers and minimizing the pollutant loads from existing and future land use activities within the project area.

In general, the Plans suggest that in order to reduce contaminant loads, proper land use review for groundwater protection and waste treatment, as well as potential density reduction, more effective site plan review and the acquisition or preservation of critical parcels be used to maintain and improve groundwater quality. In addition, existing point or non-point sources should be minimized or eliminated and the establishment of new activities already associated with groundwater problems should be prevented. The development of the proposed project will preserve and maintain groundwater quality. It will result in the removal of a horse farm facility which has been noted to possess point (on-site contamination identified in the environmental site assessment) and non-point (manure generated from the existing agricultural use) sources which have the potential for significant impacts to the groundwater. In addition, the proposed project will be connected to the municipal sewer system and will result in the off-site disposal of sanitary wastes outside of the SGPAs (resulting in a reduction in potential nitrogen concentrations in recharge as compared to the as of right development of the property – see Section 5.2 of the DEIS). Finally, on-site drainage will be maintained through the installation of a system of catch basins which will discharge stormwater to the proposed

on-site recharge basin. The significant separation of groundwater from surface grade which ranges from 180 to 216 feet below ground surface is expected to sufficiently accommodate on-site recharge and allow for the attenuation of pollutants through the leaching process in unsaturated soils beneath the site. The proposed project conforms to the requirements and recommendations of the SGPA Plans and also satisfies the requirements of ECL Section 55-0117(6) with regard to the sites location in the Critical Environmental Area. Development of the property as a residential project would provide the suggested protections implied by the SGPA Plans recommendations. The project would be unobtrusive with regard to groundwater resources, as it would not engage in the mixing, packaging or generation of any toxic/hazardous industrial chemicals or solvents.

Comments WD2, WD4, WD16, WD19, WD21, WD34, CSCA4 and CSCA6:
These comments indicate that a change of zone resulting in an increase in density should be met with an increased public benefit. Additionally, a commenter asserts that the surrounding property owners currently benefit from the existing zoning and that the proposed zoning represents a "taking from the surrounding community a public benefit to which they were and continued to be entitled."

Response:
It is unclear how the property owners of the Cold Spring Hills community "benefited from the existing zoning." The land is not vacant or pristine as there is an equestrian business and a woodcarver occupying the site among other uses. If the land were developed as zoned, 15 individual single family homes would be constructed. The project proposed by the applicant would result in a planned multiple family residential community with buffers, coordinated architecture, privately maintained infrastructure, and housing diversity (i.e., other than single family homes) including needed age-restricted affordable housing. Improved visual character in the area and removal of non-conforming uses is a public need, community benefit and an expected municipal objective.

The applicant has the right to apply for a change of zone and the project must be considered based on its own merits. The DEIS analyses the potential impacts of the project and the Town Board will take a "hard look" at the project through the SEQRA process and will issue a decision based on the relevant available information.

The development of needed age-restricted affordable housing is a clear benefit the commenters do not acknowledge. Negative comments such as regarding the alleged 450% increase are incorrect, since the new homes will be smaller and would have less impact than individual single-family homes. Furthermore, the applicant proposes to provide 20% affordable housing consistent with the Town of Huntington requirements (which requires the construction of affordable units as well as an option, pursuant to the Town Code, to pay a fee to an Affordable Housing Trust and Agency Fund in lieu of constructing the remainder of the affordable units.

The project does not represent a "gift of the public treasure to a private entity". The Town Board will weigh the relevant environmental, social and economic issues in the Statement of Findings on the EIS process, and will render the most appropriate decision based on the best use of the land as determined by the zoning classification and the merits of the project. There is a substantial body of information contained in the EIS process that will assist in this decision.

The DEIS identifies benefits resulting from the proposed project in Section 1.2.4 as follows:

> The current non-conforming uses at the site detract from the otherwise visual appeal of the area. The proposed project would be an aesthetic improvement that would benefit the community. The project is designed with perimeter buffers, a pond feature and landscaping, to provide an enhanced project setting in the most visible areas of the site.
>
> The community will benefit economically from increased housing diversity and the increased value of the property. The majority of housing developed in the area is single family houses. The proposed project will offer an alternative to this housing type by constructing a mix of homeminiums and townhouses, which have less land area and associated maintenance requirements as well as provide a greater range in unit size than the single family housing stock in the area. In addition, the project will include a portion of the units to be dedicated as affordable, thereby increasing the diversity of the housing stock as compared to traditional, market rate single family houses. The proposed project will also result in generation of a substantial number of temporary jobs during the construction phase of the project, with some secondary job generation due to operation of site facilities and increased demand for on-site services (i.e. landscaping, maintenance, etc.). Consumer spending will "ripple" additional economic benefit to local merchants and businesses during and following construction. In addition, the project will generate a substantial amount of real property tax revenues to applicable taxing jurisdictions, though it will also result in an incremental increase in need for community services. The project will also provide a permanent land use for the site which the applicant believes has a high probability of success through full utilization.

In addition, a substantial benefit is quantified in Table 5-1 of the DEIS with respect to the impact on the school districts. The DEIS analysis shows that the proposed project is expected to result in a surplus of $459,608 for the South Huntington Union Free School District if developed as proposed. This is compared to a $79,062 deficit which would result from development under the existing zoning. The proposed project is also projected to generate a surplus of $59,931 to the Syosset Central School District, where development under existing zoning would result in a $42,619 deficit. The proposed sewer connection for the project would result in a decrease of nitrogen concentration in recharge than development pursuant to the as of right single family development of the property that would utilize on site sanitary systems.

As a result, there are benefits to be considered and these must be weighed by the Town Board with the other relevant environmental, social and economic considerations in order to reach an informed decision on the project. The project has merit in terms of economic and tax benefits to the school districts, reduction in nitrogen concentrations in recharge due to the proposed sanitary sewer connection, and providing needed senior housing that can not be achieved under the existing single family residential zoning of the property. The DEIS contains substantial information to assist the Town Board and involved agencies in assessing potential impacts and weighing environmental, social and economic factors to reach an informed decision.

Comments T26 and WD22:
These comments assert that the proposed change in zoning would result in multifamily units that are out of character with the surrounding single family residential development and that the increase in density will have an impact on the immediately surrounding properties as compared with the as of right single family subdivision.

Response:
As noted above, the DEIS evaluates the proposed project as well as several alternatives, including as of right development with single family dwellings. The site's location at the nexus of two existing roads (Plainview Road and NYS Route 25), with a mix of single family residential uses and commercial/multifamily uses in the vicinity result in a parcel that is transitional in nature. The plan has been designed to locate a ±185-foot buffer setback along NYS Route 25 pushing the residential units a significant distance from the roadway, and would situate single family homes along Plainview Road, opposite single family homes to the west. The central and southern parts of the site would be developed with multiple family buildings as depicted on the site plan supported by significant buffering. The applicant has worked with the surrounding communities in both Huntington and Oyster Bay conducting numerous outreach meetings over the course of four years and has modified the proposed plan on numerous occasions to address comments and concerns voiced at these meetings. These modifications have included: reducing the project density from 136 units to 80 units, increasing the proposed front yard setback along Jericho Turnpike to 185 feet (when only 100 feet is required in R-RM zoning district and 50 feet in the RMF-10 zoning district), providing three single family homes located along the property's Plainview Road frontage to provide better alignment of compatible uses and increased buffers, rotating buildings in the eastern portion of the property to reduce visual impacts and providing a vegetated berm along the eastern property boundary. Incorporation of these changes into the site plan and agreement by the Applicant to ensure continued maintenance of the drainage features/recharge basins for the project by the HOA resulted in a petition of support signed by the majority of adjacent property owners east of the property (see **Appendix E-1**). The proposed project meets all the applicable side, front and rear yard zoning dimensional requirements in the RMF-10 and R-RM zoning districts, which are either the same or more restrictive than those required under the existing R-40 and R1-1A single family residential zoning districts. As a result, the balance of uses proposed and site plan design will provide transitional qualities within the parcel, and will situate buffers in highly visible locations,

while situating appropriate uses at the perimeter and within the site to allow for appropriate land use compatibility. The DEIS contains a substantial body of information to assist the Town Board and involved agencies in analyzing the potential impact of the proposed project in consideration of land use and zoning as well as all relevant impact categories including community character (DEIS; Section 3.4) and land use plans (DEIS; Section 3.1). Finally, the applicant has secured the support of the majority of directly adjacent homeowners who will be the direct beneficiaries of the proposed site design and layout and who have participated in the planning of this development through their participation in the community outreach process.

Comment MF4:
This comment requests that the Board consider the originally proposed 136 unit plan as the commenter indicates that the increase in density may make the units more affordable and increase the Town's tax base.

Response:
Based on comments received from the surrounding community and local civic organizations, the Applicant has reduced the proposed unit count from 136 units to the proposed 80 attached single-family age-restricted units and 3 single-family dwellings. While the reduction in units does result in a reduction of tax base the various taxing jurisdiction, the resulting Preliminary Site Plan provides an improved site design that affords better site design, alignment of compatible uses and increased open space.

2.1.2 Precedent Setting Nature of Change of Zone

Comments T48, T56, T59, T62, T65 and KF1:
These comments express concern that the proposed change of zone application will set a precedent for development of other parcels and open space areas with increased density. Several commenters noted that there are currently other redevelopment proposals being considered for multi-family redevelopment in the area.

Response:
Sections 4.2 and 4.3 of the DEIS discussed the issue of precedent associated with the proposed change of zone application. The neighborhood character in the area is low density residential and there are large areas of open space in the community, such as Cold Spring Harbor Country Club, which have the potential for high-density development. However, the potential for redevelopment of similar sites for multi-family residential use exists with or without the proposed project, and in the case of the proposed project, is believed to be an appropriate decision with respect to removal of non-conforming uses, removal of uncontrolled curb cuts and intensity of use associated with the existing horse farm and wood carving business, and replacement with buffering along Route 25 and a quality residential housing project that provides compatible single family homes and affordable and market rate housing for seniors. Each project is reviewed on its own merits in terms of existing land use and zoning, surrounding land use, highest and best

use for a given site based on existing conditions, conformance to the Comprehensive Plan, and other environmental zoning and land use review criteria.

2.1.3 Cumulative Impacts

Comments T70 and CASH2:
These comments request that the potential for cumulative impacts of the proposed project be evaluated in conjunction with the potential impacts of other projects proposed or considered in the area.

Response:
Section 4.2 of the DEIS evaluated the potential cumulative impacts of the proposed project as well as the following pending projects in the vicinity of the subject site:

- Votypka Development, a 33 unit market rate home development located on a 5.4 acre parcel in Woodbury (Town of Oyster Bay) located on the north side of Jericho Turnpike across from Woodbury Country Club.
- Woodbury Villas, an 80 unit market rate home development located on a 16.91 acre parcel on the Woodbury Country Club property on the south side of Jericho Turnpike, southwest of the Plainview Road intersection.
- Hunting Hills Estates, now Woodbury Estates (The Preserve), is a completed 32-unit project on 8.21 acres that is approximately 75% occupied.

The Traffic Impact Study (see Appendix F of the DEIS) prepared for the project evaluated four build scenarios which included the projected traffic resulting from the proposed project in conjunction with the Votypka Development, the Woodbury Villas project, Woodbury Estates and two potential development scenarios for the existing Cold Spring Country Club property located north of the subject site (one assuming development in accordance with the existing R40 residential zoning and one assuming development based on R20 residential zoning). The potential cumulative impacts of the proposed project and these additionally considered projects is discussed in Section 4.2 of the DEIS.

2.1.4 Need for Senior Housing

Comments T29, T32, T57 and KA1:
These comments note that an adequate supply of senior housing currently is available in the Town. One commenter notes that the current real estate market is flooded with unsold housing inventory.

Response:

The proposed project is conveniently located on Jericho Turnpike on the Nassau-Suffolk border. It is located within an area of commercial and residential development. The need

for the project is based on the demand for adult communities from Long Island's aging empty nesters. The applicant has designed the project to achieve the highest and best use of the site based on its surrounding uses and market trends. The project is consistent with each Town's goal of providing housing for a changing demographic towards smaller, non-traditional households as well as providing affordable units. There is also currently a need in the area for high quality age restricted residential housing. Much of the population of Long Island is aging, and the proposed flats and townhomes are a desirable type of residence due to their maintenance-free aspects.

Demographic information demonstrates the demand for senior housing is on the rise, on Long Island, and is expected to continue to rise. According to the U.S. Census Bureau, the percentage of residents aged 55 and older has substantially increased throughout Long Island between 2000 and 2008. In Oyster Bay, the share of the population has increased from 25.7% in 2000 to 29.6% in 2008. Likewise, Huntington's 55 and older population has increased from 23.4% in 2000 to 26.1% in 2008. It is important to note that trends among those aged 45 to 54 years old are also on the rise, as the baby boomer generation continues to age. This age cohort has increased by 2.9% in Oyster Bay and 2% in Huntington. Such demographic trends have important implications on the type of housing that is demanded over the next several years.

The Towns of Oyster Bay and Huntington have the potential to capture the increasing demands of active seniors by providing maintenance free, centrally located housing alternatives to traditional single family homes. Both Towns have much to offer – a diverse population, proximity to medical care, vibrant downtowns and hamlet centers, access to local beaches, libraries and the proximity of State and County parks are all factors that contribute to the character of the community, making the area a desirable place for senior residents to remain, as well as relocate to in consideration of retirement. Despite these favorable characteristics, only a few comparable senior housing communities exist within the immediate surroundings that are targeted to active seniors. This includes The Seasons at Plainview, which is comprised of 106 active adult homeminiums and 28 next generation homes. Other comparable communities in the community include the 78-unit Stone Ridge at Dix Hills, and The Greens at Half Hollow, with 1,100 residences. (The Greens sold all of their homes at a record pace indicating an unsatisfied demand). This demand, coupled with the relatively few comparable communities in the surrounding area indicates an untapped market and presents opportunities for a similar type of senior housing for seniors currently living in the community. Of the additional housing communities targeted to active seniors, the majority of these communities do not provide higher quality luxury construction that is comparable to the proposed project. The applicant believes that market conditions indicate a demand for active senior housing, as indicated by the significant interest in seminars conducted by "Seniors on the Move" (over 900 attendees), and as noted by many members of the community who spoke in support of the project during the DEIS public hearing held on May 17, 2010. According to a Multiple Listing Service of Long Island search on June 30, 2010, out of 717 homes in the Town of Huntington that are on the market for sale priced over $500,000, only 14 are dedicated to "adult communities". If the trend continues and the demand for such housing is not met, senior residents will

search outside the community/Town in order to find quality senior living arrangements. This would result in an invaluable loss, in terms of population, knowledge, family support networks (i.e., grandparents), local resources and revenue within the community.

Comments T2,T4, T6, T8, T14, T31, T39, T40, T41, T44, T58, T63, T73, T77, MC1, HK1, HT2, KB1, MF1, F3, F6, F7, F10, F13, RP1 and RP3:
These comments indicate a need for senior housing in the community and an interest in living in the Kensington Estates project or a community similar to the proposed project. Several of the comments indicate that senior housing of the high end quality proposed by the project is currently not readily available in the Town/area. Comments also indicate support for providing affordable senior housing.

Response:
Comment acknowledged. As discussed in the response to Comments T29, T32, T57 and KA1 above, the Applicant agrees that there is a need for senior housing in the area and that the proposed project is in a suitable location for such a use. As indicated in Section 9.2 Key Issues, Objectives, and Recommendations of the Town of Huntington's Comprehensive Plan,

> *much of the recent higher density development in Huntington has been in the form of senior housing. However, Huntington's future viability as a community depends on finding ways to retain middle class workers and families who raise their children in the Town. Addressing these issues is a priority Comprehensive Plan initiative with two primary, interrelated objectives:*
>
> - *Provide a more diverse housing stock with decent housing opportunities available to all income groups and household types.*
> - *Eliminate existing substandard, overcrowded, and illegal housing.*

The proposed project has been designed to provide a high quality senior housing product that is not readily available in the area, as well as provide affordable senior units.

2.1.5 Approval Process & Town Board Vote

Comment SCPC1:
Pursuant to the requirements of Sections A 14-14 to 25 of the Suffolk County Administrative Code, the above referenced application which has been submitted to the Suffolk County Planning Commission is considered to be a matter for local determination as there is no apparent significant county-wide or inter-community impact(s). A decision of local determination should not be construed as either all approval or disapproval.

Response:
Comment acknowledged.

Comment NCPC1:
As you are no doubt aware, additional steps in the approval process arc necessary as a portion of the subject property is located in unincorporated Oyster Bay Township. As some of the townhouses are located in Woodbury (Town of Oyster Bay), the applicant will be required to apply for a change of zone with the Town from single-family to townhouse. Additionally, the applicant will be required to apply to the Nassau County Planning Commission for a major subdivision (more than five lots) that will create the three single-family lots along Plainview Rd, the abutting ten homeminium units and the HOA property on the southeast comer of Jericho Turnpike and Plainview Rd. As part of the map review process (including sewer hookup), approvals from both the Nassau County Departments of Public Works and Health will be required as a portion of the subject property is located in the Town of Oyster Bay. Both departments would coordinate their review with the Town of Huntington and County of Suffolk.

Response:
Comment acknowledged. Table 1-4 of the DEIS provides a list of the required approvals for the proposed project as outlined in the comment. The Applicant will comply with the various agency application requirements.

Comments WD 17, WD36, and CSCA8:
It is also necessary that the Board recognize that the proposed zoning amendment is the subject of a written protest and that the Cold Spring Hills Civic Association has submitted petitions from six (6) surrounding neighbors who contest the proposed down zoning and who have asked the Town Board to deny the application. This number of protestors exceeds twenty percent of the owners of property surrounding the land included in the proposed change of zone. Pursuant to Town Law Section 265, having been presented with the protest petitions mentioned, any Town Board adoption of the requested amendment "shall require the approval of at least three-fourths of the members of the town board". In the instant case, this means that at least four of the five members of the Town Board must vote in favor of the zoning amendment in order for it to be adopted.

Response:
It is acknowledged that Section 265 of New York State Town Law includes a provision that a super majority vote of the Town Board is required for a change of zone proposal if "the owners of twenty percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred feet therefrom" provide written protest to the Town Board. The petition that was submitted is included in **Appendix E-2**. It is noted that the petition does not include any supporting calculations regarding the land area owned by the petitioners within 100 feet of the subject parcel.

2.1.6 Existing Use of the Property

Comments T1, T36, T46, T68, T75, WB1, F1, F4, F8, F10 and MF3:
These comments express concern and objection regarding the existing uses, stock piling of materials and maintenance of the property and the history of violations that have been issued on the property. Several commenters urge the Town Board for action to eliminate the existing use.

Response:
The subject site is primarily used as a horse farm and wood carving business, which is a pre-existing non-conforming use under the site's existing R-40 Residential zoning in Huntington and R1-1A One-Family Residence zoning in Oyster Bay, which allows primarily low-density residential uses. However, some of the buildings on-site have been constructed without obtaining a Certificate of Occupancy from the Town of Huntington and the site has been subject to violations from both the Towns and Nassau County.

Comments T36, T75 and MF3:
These comments indicate a desire to see the existing use remain.

Comment acknowledged. Despite the non-conformity of the site with respect to the underlying zoning districts, the horse farm and other uses have historically existed on the site and are a unique type of land use for the area. However, the landowner is entitled to sell the property for redevelopment and has entered into contract with the Applicant for sale of the property.

2.1.7 Economic Benefits of the Proposed Change of Zone

Comments T7, T10, T42, T50, T55, T58, T60, T72, T74, MC2, HK2, HT1, MF2, F14:
These comments indicate that the proposed project will result in significant economic impacts to the local community including job creation, increase in tax base, support of local services and businesses, support of the construction industry and use of local suppliers.

Response:
Comment acknowledged. The DEIS indicates that the proposed project will result in several significant positive economic impacts, including the purchase of local construction materials/supplies, hiring local workers for construction, considerable tax increase over existing conditions (as well as as-of-right zoning conditions) and local consumer spending by future residents. The proposed project will significantly increase the assessed value of the project site, and as a result, the estimated tax generation for the proposed project along with the estimated school tax revenue generated from the proposed project will be $850,241 in tax revenue, an increase of $792,665 annually (see Sections 1.2.2 and 3.3.2 of the DEIS).

2.1.8 Impacts on Community Character

Comments T26 and T51:
These comments express that the proposed multi-family units will be out of character with the surrounding community.

Response:
The proposed project will change the land use of the site from the existing non-conforming horse farm and wood carving/associated businesses to attached senior residential and single family residential land use. In the Applicant's opinion, the removal of non-conforming uses, removal of uncontrolled curb cuts and intensity of use associated with the existing horse farm and wood carving business, and replacement with buffering along Route 25 and a quality residential housing project that provides compatible single family homes and affordable and market rate housing for seniors would result in a positive change to the existing character of the site, surrounding areas and passersby traveling on adjacent roadways. The proposed project will significantly improve the current streetscapes by providing a pond and significant landscaping along the property frontage, use attractive high quality architecture and provide buffers from adjacent properties. The project is a residential use in a residential area, and has been designed with significant buffers from the roadway and adjacent residential uses; therefore the proposed project is not expected to cause a significant adverse impact on the character of the community. Additional discussion regarding the impact on community character was addressed in detail in Section 3.4.2 of the DEIS.

Comments T13, T38, T47 and RP2:
These comments express that the proposed project is suitable for the community and an improvement to the character of the community/visual improvement to the existing site conditions.

Response:
Comment acknowledged. As noted in the response to Comments T26 and T51 above, it is the Applicant's opinion that the proposed project will result in a significant visual improvement to the existing character of the site, remove an existing non-conforming use and establish a use which is compatible with the surrounding area.

2.2 DETAILS OF THE PROPOSED PROJECT

2.2.1 Grading & Drainage

Comment T21, WD7, WD8, WD25 and WD26:
These comments indicate concern regarding the proposed grading necessary for site development and potential for stormwater overflows to adjacent properties. The comments request details regarding the proposed grading program (quantities of cut and fill) and provisions for ensuring stormwater is contained on-site and will not impact adjacent properties. A comment also indicates concern regarding the potential impact to "the site's own natural wetlands."

Response:

Sections 1.4.2, 2.3.2 and 2.4.2 of the DEIS provide a detailed description of the proposed grading plan, including the estimated cut and fill volumes necessary for the proposed site development. An excerpt from Section 2.3.3 of the DEIS is provided below:

> The grading to establish suitable road profiles for safe access to and circulation within the site will control overall site grading; roads will maintain slopes ranging from one to four percent. From the roads, grading will be conducted to provide locations for residential structures. Once complete, slopes of 1:3 or less will be established in newly graded areas. In general, following development, the site will continue to slope from a topographic high located along the southern property line towards the north. Other areas of the property will be altered due to excavation relating to homesite locations and drainage features. The greatest areas of excavation will occur in the southeast portion as well as in the northern parts of the site where the on-site recharge basin and pond, respectively, are proposed. Such topographic alterations are commonly needed to ensure stormwater capacity and to provide slopes that will allow stormwater systems within the site to flow by gravity to the enhanced natural low points of the site. The recharge basin will require an excavation cut of approximately 14 feet and the pond will require an excavation cut of approximately 12 feet. Additional grading will also be required in areas of steep slopes in order to provide appropriate surface areas for the internal roadway network, individual driveways and the foundation areas for the residential structures. Grading for the proposed road surfaces will require a combination of cut and fill. Aside from the recharge basin and pond, it is estimated that cuts ranging from 2 to 6 ft below ground surface will be required to accommodate development. Overall, it is estimated that 38,000 cubic yards (CY) of soil will need to be excavated to create suitable grades for the road and building locations as well as to provide adequate stormwater retention capacities within the proposed recharge basin and pond. Fill ranging from approximately two to six feet above ground surface will be required resulting in approximately 28,000 CY of needed fill. This indicates that a net quantity of 10,000 CY of material will be removed from the site. If found to be suitable, soil removed from the site will be sold as fill or else will be disposed of at an appropriate facility permitted to accept such material. As noted all created slopes will be 1:3 or less and will be stabilized using ground cover material. It is noted that the proposed project will be subject to review by the Town of Huntington Planning Board which pursuant to §198-65(H) of the Town of Huntington Code, allows the Planning Board to "make changes to a site plan in

> order to protect steep slopes and the environment, and may require conditions and restrictions as deemed necessary to assure compliance with all applicable laws, rules and standards." The Board may take into account the degree of slope, the suitability of the location for construction, attempts to mitigate clearing and grading and the environmental features of the lot during this review.

The Preliminary Site Plan provided as Pocket 1 of the DEIS provides existing topographic elevations of the property and the proposed topographic contours once development is complete. This plan clearly shows the limits of proposed grading and land disturbance and identifies the proposed 1:3 grade transitions, installation of retaining walls and stormwater retention facilities which will ensure grading activities are maintained within the property boundaries and that post construction contours direct stormwater runoff to on-site stormwater retention structures. Additionally, Sections 2.1.2, 2.2.2, 2.3.2, 2.4.2 and 4.1 of the DEIS include detailed description of construction methods and requirements which will be required should the project be approved. These include the preparation of a Stormwater Pollution Prevention Plan and detailed Erosion Control Plan in accordance with the NYSDEC Phase II SPDES Program and Chapter 170, Article II of the Town of Huntington Code. Erosion control methods including the installation of perimeter silt fencing, diversion swales and other best management practices, as well as the requirement for a minimum of weekly inspections of installed erosion controls by a qualified professional in accordance with Chapter 170 of the Town Code and the NYSDEC General Permit for Stormwater Discharges from Construction Activities ("General Stormwater Permit" or "GP-0-10-001"). The implementation and maintenance of erosion controls during site construction activities will ensure construction operations and stormwater runoff are properly controlled during the duration of the construction period; thus reducing potential impacts to adjacent property owners.

A comment asserts that grading activities will have an impact upon the "site's own natural wetlands." There are no wetlands onsite. A flagged freshwater wetland is located offsite approximately 80 feet to the east of the subject property (see flagged wetland boundary on the Preliminary Site Plan, Pocket 1 of the DEIS). The wetland area is owned by New York State and functions as a recharge basin that accepts stormwater run-off generated on Jericho Turnpike. The potential for impacts to this off site wetland are discussed in detail in Sections 2.4.2, 2.5.1 and 2.5.2 of the DEIS. It is noted that the regulated wetlands adjacent area which extends onto the property is currently cleared, mainly unvegetated area used in conjunction with the existing horse farm. There would not be any additional clearing within the wetland adjacent area, and the proposed project would maintain a minimum limit 80 feet from the wetland for any proposed grading or clearing related to construction activities, and subsequently revegetate existing exposed soil and newly disturbed areas within 100 feet of the wetland boundary. Native trees and shrubs will additionally be supplementally planted within the currently barren understory and unvegetated areas in the northeast and northwest corners of the site (see **Pocket 2**, Landscape Plan). After construction of Kensington Estates and the improvements described herein, the condition of offsite flagged wetlands should improve.

Sections 1.4.2 and 2.4.2 of the DEIS provide a detailed description of the proposed drainage system for the project. An excerpt from Section 2.4.2 of the DEIS describing the proposed drainage system is provided below:

> The proposed site drainage system will consist of a series of stormwater catch basins which will divert runoff directly to the proposed stormwater pond and recharge basin. The proposed drainage system will be designed to accommodate a 9-inch storm event. Overall, development of the proposed project requires that the on-site drainage system maintain a capacity to collect and recharge 287,643 CF of stormwater generated on the site. The on-site drainage system will be designed to exceed this capacity and will be capable of accommodating approximately 300,000 CF of stormwater runoff which exceeds the required capacity by 12,357 CF.
>
> The drainage system is designed to convey stormwater to inlets in the central and northern portions of the property to a collection system which overflows to the extended detention pond. The pond will serve a dual purpose of providing peak flow attenuation as well as pollutant removal. The pond will be lined to maintain a static water level of approximately four feet in depth (normal water elevation of 238 feet). The freeboard provided in the pond (between a normal water elevation of 238 feet to the high water design elevation of 242 feet) allows for storage of stormwater over an extended period of time to allow suspended solids to settle out of stormwater. The NYSDEC Stormwater Design Manual recognizes stormwater ponds as an effective method for removal of phosphorus, nitrogen, metals, pathogens and suspended sediment. During severe rain events, the ponds are designed to overflow to three diffusion wells which will recharge stormwater on-site to the underlying aquifer. Stormwater generated in the southern portion of the property will be direct to inlets which overflow to a recharge basin located in the southeastern corner of the property. Drywells will be provided to accommodate roof runoff from the three single family dwellings.

As the existing development/uses on the site do not include stormwater management/drainage systems, the installation of the proposed drainage system will result in a significant improvement to drainage conditions and stormwater runoff that may currently impact adjacent properties. The proposed drainage system installed as part of the construction of Kensington Estates will result in conveyance and recharge of all site-generated stormwater resulting from in excess of a 100-year storm event, thereby significantly reducing the potential for off-site runoff of stormwater.

2.2.2 Disturbance of Steep Slopes

Comments TOB1, WD6 and WD24:
These comments request clarification regarding the discussion of the yield factors in accordance with the Town of Huntington Steep Slope Ordinance and expanded discussion/quantification regarding the disturbance of slopes greater than 25%, and mitigation offered to limit disturbances of the same.

Response:
Section 2.1.2 of the DEIS provides details regarding the Town of Huntington and Town of Oyster Bay slope ordinances. Pursuant to Chapter 198-65 of the Town Code, the number of multi-family units which may be constructed within a R-RM zoned property is determined by the Planning Board in accordance with the R-RM zoning district requirements and the Town's site improvement specifications for flat areas. The number of dwelling units permitted in a Hillside Area is determined by calculating the average slope percentage and applying the yield factor provided in Chapter 198-65D of the Town Code. The proposed project involves a change of zoning to the R-RM zoning district, so the discussion provided in Section 2.1.2 of the DEIS evaluates the conformance of the proposed project with the multi-family site development restrictions of the Town of Huntington slope ordinance. Therefore, the calculation for the number of units permitted within the proposed R-RM zoned portions of the property (13.5 acres) is calculated by applying the allowable yield in R-RM zoning district (1 unit/3,000 SF) to the flat areas of the property (71.7% of the site within the proposed R-RM zoning has slopes of less than 10%, or ±434,776 SF). For this acreage, the site can accommodate 144 units. The remaining 28.3% of the site (170,571 SF) has an average slope of approximately 15.57%, which are classified as "Hillside Area". The yield factor provided in Chapter 198-65.D of the Town Code for Hillside Areas between 15 and 19.99% is 1 unit/6,000 SF of area, or 28 units. Thus, under the Steep Slope Ordinance, this site could yield a total of 172 units. (Note that if the site was all less than 10% slopes, the allowable yield in R-RM zoning district of 1 unit/3,000 SF were applied to the entire 13.5 acres of proposed R-RM zoned area, the yield would be 202 multifamily units). As the project proposes only 66 units within the Town of Huntington, it conforms to this regulation.

With respect to disturbances of steep slopes, Table 5-1 of the DEIS provides the acres of steep slope areas which would be disturbed assuming construction of the proposed project as compared to the various alternative projects evaluated. The total area of slopes 25% or greater that would be disturbed under the proposed project within the Town of Oyster Bay portion of the property would be approximately 0.09 acres. The area of slopes 25% or greater that would be disturbed within the Town of Huntington portion of the property would be approximately 0.32 acres, for a total area of 0.42 acres (or 2.28%) of the overall property. It is noted that much of the areas identified as having slopes of 25% or greater under existing conditions are within areas of the property that have been modified by the current wood carving business and other businesses that operate on the subject property (creating woodchip and other stockpile areas) rather that native slopes. The area of slopes greater than 25% on the subject property is limited and mitigation measures including the use of retaining walls to limit the necessary grading of the property have been incorporated into the project plan. Natural vegetation will remain where possible between the walls and the property lines. The proposed grading program has been designed to minimize potential impacts to topography to the maximum extent practicable.

2.2.3 Sewage/Wastewater Treatment

Comments T19, T22, WD10, WD11, WD28 and WD 29:
These comments request information on how sanitary wastewater will be treated on the subject property, how the treatment will take place and what back-up measures are in place should the main facility fail. The comments request details on the proposed location, building dimensions, hours of operation and operational impacts of the proposed pump station and question what would happen/potential impacts if the Nassau County system is unable to handle the wastewater generated from the project.

Response:
As described in Section 1.4.4 and 2.4.2 of the DEIS, all sanitary wastewater is proposed to be transferred off-site via a connection to the Nassau County sewer collection district #3-p for treatment at the Cedar Creek sewage treatment facility. No sanitary wastewater will be treated on site. Discussions with NCDPW indicate that the applicant will be required to construct a pump station to accommodate a connection to the existing main located along Jericho Turnpike (see Appendix G of the DEIS). The pump station would be located in the northwestern portion of the property and designed to collect sanitary wastewater from the units and pump the wastewater to the existing sewer main located in Jericho Turnpike. The building associated with the pump station is anticipated to be 10' by 20' in size, and can be faced with building materials analogous to the proposed residential units thereby blending in with its surroundings. The detailed plans for this pump station and the sewer connection are currently being prepared and will be subject to the review and approval of NCDPW.

The pump station is required to be designed so that one pump or one set of pumps will handle normal peak flow conditions. In accordance with the Great Lakes-Upper Mississippi River Board State and Provincial Health & Environmental Managers *Recommended Standards for Wastewater Facilities* (commonly referred to as the "Ten States Standards"), all critical equipment and electrical systems are required to be redundant and back up power provided to ensure continued operation in the event of a power failure. Redundancy is built into the system so that in the event that any one pump is out of service, the remaining pump or pumps will handle the designed flow. Therefore, total failure of the system is extremely unlikely. In the unlikely event that a full system failure would occur, wastewater would be collect in the pump station wet well and sanitary collection system on the subject property. The equipment is required to be installed with emergency activation and alarm capabilities to ensure that power is provided to maintain pump station operations and alerts are activated in the event of equipment malfunction or failure. This installation is required under Ten-State Standards, and serves the necessary protection measures for proper pump station operations. The pump station operates 24 hours a day, year round. Maintenance is performed once per day (for approximately one hour) by a system operator which must be incorporated into the home owner's association offering plan and operating agreements that require filing with the NYS Attorney General's office. Pump station operation and maintenance activities are routine in nature and are not anticipated to be obtrusive to nearby properties. These operations are conducted unnoticed in residential

communities all over Long Island every day.

As discussed in Section 2.4.2 of the DEIS, the Nassau County Cedar Creek sewage treatment facility has approximately 14 million gallons per day (mgd) of available capacity (the plant treats approximately 58 mgd of sanitary wastewater, operating well below its permitted capacities of 72 mgd) and adequate capacity is available to accept the projected sanitary wastewater flow from the proposed project. The applicant is currently in discussions with NCDPW regarding the design of the pump station/details of the Nassau County sewer connection and there has been no indication that such connection could not occur.

2.2.4 Ecological Impacts

Comments WD13 and WD31:
What will be the impact of the proposed development on the current ecological setting at the subject site? What species of flora and fauna have been identified and, if the proposed project were to be approved and developed, what will happen to the plants and animals currently at/on the site.

Response:
A detailed inventory of existing vegetation and wildlife directly observed or expected to be present on the property given the habitats on site is provided in **Section 2.5.1** of the DEIS. A thorough discussion of the potential impacts of the proposed development on the site's ecology is provided in **Section 2.5.2** of the DEIS. This discussion provides a detailed list of species observed or expected on the property and identifies potential impacts anticipated as a result of the proposed development.

Comment TOB3:
The DEIS states "landscaping would be maintained in accordance with applicable laws and regulations which govern the use of fertilizer and pesticide products." It would be helpful in evaluating the mitigating value of this measure if additional information were provided regarding the specific laws and regulations that would apply in this case, as well as any aspects of the proposed landscape maintenance plan that would exceed the minimum requirements set forth under said laws and regulations.

Response:
The planned development intends to landscape approximately 7.16 acres (38 percent) of the site. Some of the species used will be ornamental trees and shrubs, particularly surrounding the proposed buildings; however efforts have been made to retain existing natural vegetation and to utilize native species in common areas throughout the site. Those areas that are not going to be maintained as natural are subject to current Suffolk County fertilizer and New York State pesticide regulations.

In January 2008, Suffolk County local law No. 41-2007 went into effect which aims to reduce nitrogen pollution to ground and surface waters by reducing the use of fertilizer in the County. The law which helps implement the County's fertilizer reduction initiative imposes a ban on the application of all fertilizers between November 1 and April 1; a period where the ground is likely to be too cold to absorb nutrients, resulting in increased leaching of nitrogen into the groundwater and surface waters. The law also requires that all licensed landscapers take an approved turf management course which teaches the proper use and application of fertilizers and methods to minimize nitrogen leaching. Furthermore, the law requires that retail establishments post signs to advise consumers about the risks of nitrogen-based fertilizers and assist them in choosing fertilizers that pose the least harm to the environment. Retailers must also make brochures available about the proper use and application of fertilizer products.

The New York State Department of Environmental Conservation (NYSDEC) is the agency in New York State designated to regulate pesticides. The NYSDEC Division of Solid & Hazardous Materials regulates pesticide applications in New York State and is responsible for compliance assistance, public outreach activities and enforcement of State pesticide laws. Under Sections 33-0301 and -0303 of the Environmental Conservation Law (ECL), the NYSDEC has jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides. The NYSDEC also regulates the registration, commercial use, purchase and custom application of pesticides. State law dictates that pesticides must be used in such a manner as to prevent contamination of people, pets, fish, wildlife, crops, property, structures, lands, pasturage or waters adjacent to the area of use. Pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the NYSDEC. During pesticide use, the certified applicator, certified technician or commercial pesticide apprentice must have in their custody a copy of the label for each pesticide being used. The certified applicator, certified technician or commercial pesticide apprentice must make each label available for inspection upon request of the NYSDEC.

Comments TOB4, TOB5 and TOB9:
These comments request clarification regarding the current quantity of existing Coastal Oak-Hickory Forest habitat and how much of this habitat would be cleared as a result of the project.

Response:
As described in Section 1.3 of this Final EIS, since the preparation of the DEIS, an additional field inspection was conducted to update the existing conditions of the site. This additional inspection served to document the current extent of cleared, unvegetated areas which have resulted as part of the ongoing operations of the existing horse farm and wood carving business. Based on this updated information, the following revisions are necessary to the DEIS:

The last paragraph and Table 2-6 on page 2-36 of the DEIS are revised as follows:

Vegetation
The site is primarily wooded, but buildings and other unvegetated areas associated with the horse farm and wood carving business occur in the north and central portions of the site. These unvegetated areas comprise approximately 9.09 acres (49 percent) of the subject property. In the northeast corner of the site, only approximately 3,800 SF (0.09 ac) within the 21,000 SF (0.48 ac) wetland adjacent area on the property is currently vegetated. The remaining adjacent area is presently unvegetated and utilized as a fenced exercise area for the horses residing on the property. The natural environment consists of mature coastal oak-hickory forest, which is concentrated in the southern portion of the property. The aerial photograph in ***Figure 1-2*** *illustrates the forested habitat areas identified on the subject property.* ***Table 2-6*** *identifies the acreage of each habitat on the subject site. The descriptions provided in this section are a result of field inspections conducted during November 2006, a tree survey conducted in December 2008, and an assessment of additional cleared areas in June and July 2010. Additional clearing of forest areas on the property had been conducted since December 2008 as part of the site's ongoing operations, which includes wood carvings and resultant wood chip mulch. These additional cleared areas total approximately 1.12 acres, are currently unvegetated, and are comprised of wood debris (e.g. wood chips, tree stumps, etc.).*

TABLE 2-6
EXISTING HABITAT QUANTITIES

Habitat Quantities	***Acres***	***Percent***
Coastal Oak-Hickory Forest	*9.04*	*48.47%*
Unvegetated	*9.09*	*48.74%*
Buildings	*0.52*	*2.79%*
TOTAL	***18.65***	***100.00%***

The second paragraph on page 2-37 of the DEIS is revised as follows:

The forested habitat on site occupies approximately 9.04 acres (48.47 percent) of the subject property.

Within **Section 2.5.2** (Anticipated Impacts) of the DEIS, the vegetation impacts of the DEIS is revised as follows:

Vegetation Impacts
The impacts to the ecological resources of a project site are generally a direct result of clearing of natural vegetation, increase in human activity and associated wildlife stressors, and the resulting loss and fragmentation of wildlife habitat. The development will require the clearing of approximately 5.70 acres of the existing natural vegetation on site. In accordance with the Town Code of Oyster Bay, a Tree Study for the property (see ***Pocket 3)*** *indicating the density of existing large trees eight (8) inches in caliper and larger has been prepared and depicts the existing limit of mature trees on the property. As a result of the proposed clearing activities, the majority of mature trees to be removed occur in the central and southern portions of the property. However, several trees will be retained within the approximately 3.34 acres of woodland proposed to remain or be supplemented with native vegetation in the northwest corner of the property (±0.66 acres), along the eastern site boundary (±1.07 acres), and along the backyards of buildings 4, 6 and 10-14 (±1.61 acres). The Condo Owners Association will restrict any*

further development on those portions of the site, thereby ensuring permanent protection of these areas.

In the northeast corner of the site, there would not be any additional clearing within the wetland adjacent area, and the proposed project would maintain a minimum limit of 80 feet from the wetland for any proposed grading or clearing related to construction activities, and subsequently revegetate existing exposed soil and newly disturbed areas within 100 feet of the wetland boundary. Native trees and shrubs will additionally be supplementally planted within the currently barren understory and unvegetated areas in the northeast and northwest corners as well as in the central western portion of the site (see ***Landscape Plan, revised July 2010****). The proposed plantings, as well as any disturbance or creation of a pond overflow to the wetland will be subject to obtaining a NYSDEC Article 24 permit. Based upon the watershed study conducted for the project (see* ***Section 2.4.2****), it is anticipated that there will be reduced overland flow to the existing recharge basin as a result of the stormwater infrastructure proposed for the project. Although the recharge basin will still receive direct flow of stormwater runoff from Jericho Turnpike, it is likely that this basin will capture and retain less water than prior to implementation of the proposed project. As a result, it can be expected that the emergent and woody wetland vegetation community within this basin may expand as the water surface area recedes, ultimately transforming the feature into a shrub swamp and eventually a forested swamp vegetation community.*

The changes in habitat quantities are listed below in ***Table 2-12****:*

TABLE 2-12
CHANGE IN HABITAT QUANTITIES

Change in Habitat Quantities	***Existing Acres***	***Existing Percent***	***Future Acres***	***Future Percent***	***Change in Acres***
Coastal Oak-Hickory Forest	9.04	48.47%	*3.34**	*17.91%*	5.70(-)
Unvegetated	9.09	48.74%	--	--	9.09(-)
Roads, Buildings, Paved Surfaces	*0.52*	*2.79%*	*6.25*	*33.51%*	*5.73(+)*
Landscaped	--	--	*7.66*	41.07%	*7.66(+)*
Other (Recharge Basin, Pond)	--	--	*1.40***	7.51%	*1.40(+)*
TOTAL	***18.65***	***100.00%***	***18.65***	***100.00%***	***------***

** Includes 1.22 acres to be supplemented with native vegetation and remain natural.*
*** Includes 1.40 acres of vegetation within the recharge basin and along the pond bank.*

The habitat on site is not unique or sensitive, particularly in view of the fragmentation of habitat, the current level of existing site disturbance, adjacent roadways and resultant noise and activity, the surrounding residential development with domestic pet intrusion and other activity in the area. The planned development includes retention of approximately 3.34 acres (18 percent) of the site in natural woodland vegetation and an additional 1.4 acres will be established in native vegetation as grasses within the proposed recharge basin (±0.76 acres) and trees, shrubs and aquatic vegetation along the banks of the pond (±0.64 acres). Overall, approximately 12.40 acres (66 percent) of the site will either remain natural, be established with natural vegetation or will be landscaped. As a result, the site will continue to provide some natural habitat, as well as landscape habitat. Given the lack of site sensitivity, and the planned retention of natural

and landscaped areas, no significant adverse impacts to vegetation or habitat are expected.

There are no known rare, threatened or endangered species on or in the immediate vicinity of the subject property. Exploitably vulnerable species are protected primarily because they are indiscriminately collected, rather than due to rarity within the State. The presence of these plants would not preclude development of the site, as a property owner is permitted to remove exploitably vulnerable plant species from a site. The existing woodland habitat on site is somewhat fragmented due to the on-site activities and off-site influences. Regional and local impacts will be negligible, as the quantity of woodland vegetation to be removed is relatively small in size and nearly 14 percent of the natural vegetation will be retained.

Within **Section 2.5.3** (Proposed Mitigation) of the DEIS, the third bullet is revised as follows:

- *Approximately 4.74 acres (25%) of the site will remain or become established with native vegetation. This includes the ±2.12 acres of forested edges to remain and ±1.22 acres of supplemental planting of native forest vegetation (e.g. sweetgum, black tupelo, red oak, white oak, nannyberry, arrowwood) in the northeast corner and western side of the site where woodland trees and understory have been cleared. Also included are approximately 0.76 acres of native grasses within the recharge basin, as well as approximately 0.64 acres of native vegetation along the banks of the pond to be comprised of trees (e.g. red oak, white oak, red maple, sweet gum, black tupelo), shrubs (e.g. summersweet clethra, redstem dogwood, yellowtwig dogwood), aquatic vegetation (e.g. pickerel rush, cattail) and grasses (e.g. fescues, ryegrass, clover) (see **Landscape Plan, revised 6/25/10**).*

Comment T61:
Commenter requests that the proposed pond be stocked with large mouth bass.

Response:
Comment acknowledged. The applicant has not yet determined if the proposed pond will be stocked with fish.

2.2.5 Affordable Units

Comments T25, T49, WD3, WD9, WD14, WD20, WD 27, WD32, CSCA5 and AS1:
Several comments indicate that the proposed units are priced such that they are not affordable. Comments also request that additional affordable units be provided, indicate that the proposed increase in density requested by the change of zone to R-RM should be accompanied by a minimum of 20% affordable units provided or a project that is more affordable in nature to better serve the Town's senior population. Comments also request how much money the applicant will be required to pay into the Town of Huntington Affordable Housing Trust.

Response:
The Town of Huntington requires that affordable housing equal to 20% of the increase in density for applicant-initiated zone changes resulting in an increase in density be provided. However, the Town Code provides the option for the developer to construct all the affordable units or choose to construct a portion of the units and pay a fee to an Affordable Housing Trust and Agency Fund in lieu of providing the remaining required affordable units. The applicant proposes to construct 15% of the units (9 units) and will pay into the Town of Huntington Affordable Housing Trust and Agency Fund pursuant to the fee established in Section 198-13.I of the Town Code for the additional 5% of the units. The proposed project provides both market rate and affordable units. It is the Applicant's intention to utilize high quality materials and construct units of luxury quality. The sale price of the market rate units will be determined by market conditions at the time the units are built. The sale price of the affordable units will be pursuant to the requirements of Section 198-113.I.5 of the Town Code.

2.2.6 Buffers

Comment T30 and T67:
A commenter requests that a 200 foot buffer be provided around the perimeter of the property, while another commenter indicates that the site plan layout provides good buffers to the surrounding community.

Response:
The proposed development was designed to adhere to the front, side and rear yard and dimensional requirements of the two proposed multi-family zoning districts (R-RM in Huntington and RMF-10 in Oyster Bay). As discussed in Section 1.1 of the DEIS, the applicant has conducted numerous outreach meetings with surrounding property owners and civic organizations and responded to comments and concerns by making numerous modifications to the Preliminary Site Plan. These modifications have included: reducing the project density from 136 units to 80 units, increasing the proposed front yard setback along Jericho Turnpike to 185 feet (when only 100 feet is required in R-RM and 50 feet in the RMF-10), providing three single family homes located along the property's Plainview Road frontage to provide better alignment of compatible uses and increased buffers, rotating buildings in the eastern portion of the property to reduce visual impacts and providing a vegetated berm along the eastern property boundary. [It is noted that the NYSDOT requested roadway widening along the property's Jericho Turnpike frontage (see **Section 2.3.1)** will reduce the currently proposed 185-foot buffer along Jericho Turnpike by approximately 10-15 feet (depending on the area of the existing right of way and NYSDOT's specifications for the roadway widening)].

The proposed project meets all the applicable side, front and rear yard zoning dimensional requirements in the RMF-10 and R-RM zoning districts, which incidentally are either the same or more restrictive than those required under the existing R-40 and R1-1A single family residential zoning districts.

2.2.7 Use of the Recreation Building

Comment WD 35:
What will be the anticipated impacts experienced by residents of 40 and 42 Plainview Road as a result of the proposed community's use of the recreation building and tennis court? Will there be any lights around the tennis court and, if so, where will they be located and when will they be required to be turned off? What will be the exact use and hours of operation of the recreation building? Will outside guests be allowed to utilize the recreation building? Will catered events be permitted in the recreation building? Will alcohol be served in the recreation building? Will there be any access to the tennis court or recreation building from Plainview Road?

Response:
The proposed recreation building will be for the exclusive use the residents within the multi-family portion of the site and their guests. The use and maintenance of the recreational building will be the responsibility of the homeowners association (HOA), the details of which will be specified in the home owner's association offering plan and operating agreements that require filing with the NYS Attorney General's office. The hours of operation, permitted occupancy and terms and conditions of private use of the building by one of the home owners for special events will also be dictated in the HOA operating agreement. It is anticipated that residents will be able to reserve the recreation building for small private parties (i.e., birthday parties, small luncheons, family dinners or small celebrations), and that residents would be permitted to utilize an outside food vendor and serve alcoholic beverages for such small scale events. Such events would be limited in size as the recreation room within the recreation building will be less than 1,000 SF in size (anticipated to be 25' by 35' in size, accommodating 30-45 people). Non-residents will not be permitted to rent or sponsor parties/events at the recreation building; this restriction will be included in the HOA operating agreement.

A lighting plan for the overall project, including the tennis courts will be required during site plan review of the project. All lighting fixtures will be shielded to ensure light is not cast onto adjacent property and to ensure dark sky compliance.

2.2.8 Long Term Management of the Project If Approved/Constructed

Comments T28, T29 and T33:
These comments indicate concern regarding assurances that the property will be maintained in the long term and what may happen if the Applicant is granted the change of zoning but ultimately does not build the project/sells it to another developer. One comment requests that the Town place a restrictive covenant on the property to ensure the project remains limited to those 55 years and older.

Response:

As noted above, a Condo Owners Association will be established for the multi-family portion of the development, which will be responsible to maintain common areas, roadways, drainage features and landscaping, thereby relieving the Towns of this responsibility and expense. COA offering plans and operating agreements provide detailed requirements for future maintenance responsibilities and are legally binding/require filing with the NYS Attorney General's office. As noted in Section 1.4.1 of the DEIS, the multi-family units will be occupied only by person aged 55 years and older with a deed restriction to prohibit persons under 19.

With respect to the Applicant selling the property subsequent to a change of zone approval, it is the Applicant's intention to construct the proposed project subsequent to issuance of all of the required approvals (change of zone, site plan, etc.) from Huntington, Oyster Bay, Nassau County, and Suffolk County. In the event that the property was sold, any proposed project different than that which is approved would require further site plan review and approval prior to construction and would be subject to adherence with the adopted SEQRA Findings Statement. The SEQRA Findings Statement must incorporate as conditions to the decision those mitigative measures that were identified to minimize adverse environmental impacts to the maximum extent practicable during the environmental review of the project. Additionally, during the site plan review of the project, additional opportunities will be provided for public input on the proposed plan.

2.2.9 Modifications to the Site Plan

Comments T43 and T45:
These comments acknowledge that the Applicant reached out to the community and made revisions to the site plan to reduce the proposed density, proposed single family dwellings along Plainview Road in an effort to be more in character with the surrounding area, reorient buildings and roadways to improve site design and provide additional buffers and landscaping.

Response:
Comment acknowledged. The Applicant made significant efforts to reach out to the community and modify the site plan as necessary to address voiced concerns.

2.3 TRAFFIC

2.3.1 Proposed Access

Comments DOT1and DOT2:
We previously recommended that there should be only one access to NY 25 from this parcel and it should be relocated opposite Avery Road to access the existing signal. All other access points should be removed and the right-of-way restored in such a manner so as to prevent access along the rest of the NY 25 frontage. We also recommended that NY 25 should be widened between Plainview Road and Avery Road to provide increased left turn lane storage capacity eastbound and westbound. This may involve property dedications.

The DEIS indicates that the property owner is willing to dedicate property; however, the property owner does not appear to be willing to construct the changes. If these changes cannot be implemented as part of the development of the subject site, we must withdraw our previous recommendations. NYSDOT will not undertake and/or fund highway improvements necessitated by traffic increases from developments.

We recommend that all NY 25 access to the subject site should be at the east end of the property frontage and that only right turn movements shall be permitted. All left turn movements should occur through Plainview Road as this site has frontage on the local road. As we previously noted access through this local road would enhance the safety and mobility of NY 25.

Response:
The site access as proposed in the DEIS and as depicted on the Preliminary Map would provide site access at the existing signal opposite Avery Road and all other existing access points along Jericho Turnpike would be removed to ensure a single point of access to the subject site from Jericho Turnpike. Emergency access only would be provided to Plainview Road. The Applicant proposed a land dedication to allow for future widening of Jericho Turnpike between Plainview and Avery Road as the analysis contained in the TIS prepared for the proposed project (Appendix F of the DEIS), found that the Kensington Estates project will not add any traffic on the eastbound NYS Route 25 left turn lane at Avery Road and will add only 5, 6 and 7 vehicles on the westbound NYS Route 25 left turn lane at Plainview Road during the weekday AM, weekday PM and Saturday midday peak hours, respectively. The results of the capacity analyses also indicate that, the traffic from the Kensington Estates project will not significantly impact the operation of the intersection and therefore did not warrant mitigation.

However, based on the NYSDOT comments above, the Applicant met with the NYSDOT on June 29th and July 21st 2010 to discuss the details of the requested mitigation in order to ensure that the proposed site access would remain as proposed at the existing signal opposite Avery Road. As a result of these meetings, the Applicant has agreed to dedicate to NYSDOT sufficient property and widen Jericho Turnpike along the subject property's Jericho Turnpike frontage to accommodate the side-by-side left turn lanes and other

highway features on Jericho Turnpike between Plainview Road and Avery Road as recommended by NYSDOT. The existing signals at Avery Road and Plainview Road will be rebuilt by NYSDOT to accommodate the requested roadway widening; however the Applicant will be responsible for constructing the vehicle detection equipment and installing traffic signal heads for the proposed access approach (see **Figure 2-1**). These roadway improvements would allow for the proposed project access to remain as depicted on the Preliminary Site Plan (full access to Jericho Turnpike opposite the existing signal at Avery Road and emergency access only to Plainview Road). It is noted that the requested roadway widening along the property's Jericho Turnpike frontage will reduce the currently proposed 185-foot buffer along Jericho Turnpike by approximately 10-15 feet (depending on the area of the existing right of way and NYSDOT's specifications for the roadway widening).

2.3.2 Plan Recommendations

Comment DOT3:
The exit driveway should be equipped with a stop sign, stop line and an "All Traffic" sign with a three (3) o'clock arrow.

Response:
Based upon the final determination by NYSDOT regarding access, the exit driveway will be equipped with a stop sign, stop line and an "All Traffic" sign with a three (3) o'clock arrow if required.

2.3.3 Traffic Impact Study Revisions

Comment DOT4:
Left turn restriction signs should be installed for westbound NY 25 at the site driveway.

Response:
Based upon final determination by NYSDOT regarding access, left turn restriction signs will be installed for westbound NY 25 at the site driveway if required.

Comment DOT5:
The consulting engineers should submit four (4) hard copies of the TIS.

Response:
As requested, four copies of the TIS will be submitted.

Comment DOT6:
The TIS incorrectly states that Plainview Road is a connector to the Northern Parkway. This is not the case as there is no direct connection to the Northern Parkway, though there is a connection for I495 and NY25.

Response:
The TIS is hereby amended to remove the above referenced statement.

Comment DOT7:
Twelve (12) sets of the site plans shall be submitted for our review. The plans must include all of the information we require. We recommend that the applicant consult our driveway policy manual, which includes a checklist of items that should be on site plans submitted for our review. All work and material details shall be shown on the plans referenced to NYSDO specification item numbers.

Response:
Based upon final determination by NYSDOT regarding access twelve (12) sets of site plans will be submitted.

2.3.4 Increased Traffic to Plainview Road

Comment T37, T54 and T66:
These comments express concern regarding increased traffic from the proposed project and specifically the left turn lanes on Jericho Turnpike at Plainview Road and Avery Road. One commenter requests that the Town Boards of Huntington and Oyster Bay work together to come up with reasonable solutions for the traffic conditions resulting from the proposed project and the proposed Woodbury Country Club projects.

Response:
A Traffic Impact Study was prepared to evaluate future traffic conditions resulting from the proposed project (included as Appendix F of the DEIS). The findings of the TIS were that the Kensington Estates project will not add any traffic on the eastbound NYS Route 25 left turn lane at Avery Road. The proposed project will add only 5, 6 and 7 vehicles on the westbound NYS Route 25 left turn lane at Plainview Road during the weekday AM, weekday PM and Saturday midday peak hours respectively. The traffic from Kensington Estates will not significantly impact the operation of the intersection. The TIS (see Appendix F of the DEIS) prepared for the project also evaluated four build scenarios which included the projected traffic resulting from the proposed project in conjunction with the Votypka Development, the Woodbury Villas project, Woodbury Estates (The Preserve) and two potential development scenarios for the existing Cold Spring Country Club property located north of the subject site. Review of the capacity analyses results provided in the TIS indicate that the traffic from Kensington Estates and Woodbury Country Club (Woodbury Villas) will not significantly impact the operation of the intersection. However, as noted in Section 2.3.1 above, the Applicant has agreed to undertake roadway widening of Jericho Turnpike along the subject property's frontage to accommodate side-by-side left turn lanes on Jericho Turnpike between Plainview Road and Avery Road pursuant to the recommendations of NYSDOT.

2.3.5 Evaluation of Round Swamp Road

Comment T71:
Some of the traffic from Kensington Estates is expected to utilize Round Swamp Road to access the Northern Parkway or the Long Island Expressway. However, the Kensington Estates Traffic Study did not include Round Swamp Road. We have been told by the developer that efforts will be made to direct construction vehicles away from Round Swamp Road, but residential traffic after construction may be an issue.

Response:
Only four vehicles from the Kensington Estates project are projected to head east on Jericho Turnpike during the weekday AM, PM and Saturday midday peak hours. Some of these four vehicles may utilize Round Swamp Road via a right turn. It should be noted that, the traffic light at Round Swamp Road allows the eastbound right turns to be processed during two signal phases (eastbound phase and right turn overlap with northbound Round Swamp Road phase). It is therefore the professional opinion of Nelson & Pope that the traffic from Kensington Estates that may utilize Round Swamp Road is insignificant, and should not justify including Round Swamp Road as an analyzed intersection in the Traffic Study.

2.4 COMMUNITY SERVICES

2.4.1 School Impacts/School Taxes

Comment TOB6:
The DEIS indicates that the Syosset School District would receive $59,931 in net revenue from the proposed development. The tax estimates provided on page 3-33 used to derive this estimate should be updated to include appropriate reference citations and explanations for all factors included in the calculation.

Response:
According to the New York State District Report Card, Comprehensive Information Report 2006-2007, the per-pupil expenditure for the Syosset Central School District was $21,632. The proposed three single family residences are estimated to generate approximately four school age children. As a result, the expenditure to educate would be $86,528. It is estimated that the Syosset School District will receive approximately $146,459 in annual tax benefits from taxes on the three single-family homes as well as the 14 units of the Kensington Estates development located on the Oyster Bay side of the property and as a result, there will be a net gain of $59,931/year after the cost to educate the estimated four children who will occupy the single family homes.

Comments T3, T11, T12, T44, T64, HT3, F2, F5, F9 and F12:
These comments indicate support for the project as the project would provide increased tax revenue to the school districts without generating significant school aged children.

Response:
The proposed project will result in several benefits to the school district including the generation of significant taxes to the school districts while creating no additional school children. The 80 senior, age-restricted units will not generate any school children, and thereby not require additional district expenditure to provide services while contributing significant additional tax revenues. The three single family homes will generate only a few additional school children; the additional cost for which will far more than be covered by the substantially increased tax revenue that will be generated. Specifically, the South Huntington School District will receive approximately $459,608 and the Syosset School District will receive approximately $146,459 in annual tax benefits as a result of the project. This represents an increase over existing tax revenues of $444,339 and $120,963 to each district, respectively. The school district benefits derived from the proposed project were directly addressed in Section 3.3.2 of the DEIS.

2.4.2 Police, Fire and Town Services

Comment TOB7:
The DEIS states that all issues regarding emergency response and jurisdiction will be worked out with the Nassau and Suffolk Police Departments during site plan review.

However, the site plan review process in the Town of Oyster Bay occurs concurrently with the review of the zone change application. Therefore, it is recommended that emergency access and jurisdictional/inter-municipal coordination issues be resolved in conjunction with the SEQR process, including not only the two police departments and fire departments (addressing emergency response and access-considerations), but also roadway maintenance and other Town-level services, and water supply.

Response:
Section 3.3.2 of the DEIS identifies the anticipated impacts of the community service providers and letters from the individual service providers were included in Appendix G of the DEIS. As shown on the Preliminary Site Plan, none of the individual units are split between community service provider jurisdictions. Three single family houses and 14 multi-family units are located within the Town of Oyster Bay and the remaining 66 multi-family units are located within the Town of Huntington. As discussed, units within and under the taxing jurisdiction of Suffolk County and Nassau County, will be serviced by the SCPD or NCPD, respectively. With respect to 911 emergency response, the both the Suffolk County and Nassau County police departments indicated that the subject property's telephone vendor (i.e. Verizon) determines jurisdiction of the individual units (i.e. 631- area code in Suffolk County and 516- area code in Nassau County) and from there routes the calls to the appropriate emergency service provider. Jurisdictional connection to the 911 emergency telephone system is not determined by individual police departments; however property owners paying taxes to Suffolk County Police Department are entitled to service by the SCPD, as well as Nassau County Police Department, respectively. Similarly, follow-up phone calls were made to the Huntington Manor Fire District and the Syosset Fire District confirming that the two districts would serve units in their respective districts, similar to Police districts. Fire Districts will be provided with information on construction of the units by the approval of building permits from each respective Town. The applicant will continue to coordinate among all stakeholders.

As discussed in Section 3.3.2, the South Huntington Water District will provide water service for the units located within the Town of Huntington and Jericho Water District will provide service to the units located within the Town of Oyster Bay. The internal roadways will remain privately-owned, under the maintenance responsibility of the COA created for this portion of the project.

2.4.3 Recycling

Comment TOB8:
The DEIS does not describe the recycling program that would be implemented for the proposed project (e.g. methods that residents would use to separate recyclables, methods and facilities to collect this material for retrieval by a hauler, etc).

Response:
Because the multi-family portion of the proposed project will be served by private hauler (contracted through the COA), it is anticipated that all residents will dispose of household garbage in the receptacles located throughout the development and the private hauler will collect and transport to a private facility where it is screened for recyclable materials and then sorted and processed.

The three single family residents will utilize municipal curbside pickup collected on a weekly basis, including pickup of recycling. Pursuant to Town of Oyster Bay guidelines, residents will be issued a 20-gallon yellow S.O.R.T (Separate Oyster Bay's Recyclables Today) container, into which glass, metal and plastics are placed.

2.5 CONSTRUCTION

2.5.1 Construction Access

Comments T20, T53, WD12 and WD30:
These comments express concern regarding the location of the construction access and the use of Plainview Road for construction vehicles.

Response:
Section 1.5 and 4.1 of the DEIS provide detailed discussions of the proposed construction activities. Construction access for the attached single-family age-restricted units will be exclusively from Route 25, and all activities will be staged and conducted within the site. The potential for impacts to adjacent and nearby properties during and by these actions would be minimized by the absence of vehicle access in areas proximate to residential neighborhoods, limiting development to the interior of the property with buffers surrounding the development area, the limited overall duration of construction, and limiting construction activities to normal weekday daytime hours. Construction activities will not occur outside weekday daytime hours (7 AM to 6 PM), and will conform to applicable Town regulations regarding construction noise generation and hours. Construction of the three single family dwellings would be done on an individual lot basis and will be much smaller in scale/duration than the attached single-family age-restricted unit project. Construction access for development of the three individual single family lots would be from Plainview Road. Safeguards for construction activities (erosion and dust control, etc.) are provided in Section 4.1 of the DEIS.

2.6 PUBLIC HEALTH ORDINANCES & REQUIREMENTS

Comment TOB2:
Page 2-12 - As was requested in CSF's prior comment letter, dated October 21, 2008, the applicant has prepared a Pesticide Report which provides information regarding testing for pesticides, including arsenic. Several locations on the site contain levels of arsenic that exceed USEPA Soil Screening Guidance. The conclusions of the report recommend further action in the form of additional sampling and soil management, and the preparation of a Soil Management Plan. Page 2-16 indicates that these issues will be resolved prior to site development. It is recommended that the applicant develop a Soil Management Plan, as well as provide any information relating to mitigation of the elevated arsenic levels prior to the conclusion of the SEQRA process.

Response:
The Pesticides Report completed for this project revealed elevated concentrations of arsenic was detected in two (2) samples, Pest-1 and Pest-3. The sample Pest-1 was located in the southwest portion of the property and exhibited elevated concentrations of arsenic in both the 0-3 and 3-6 inches samples. The sample PEST-3 was located off the northeast corner of the outparcel situated on the west side of the property. This sample exhibited elevated concentration of arsenic in the 0-3 inch sample only. None of the elevated concentrations found in the samples where found to exceed the NCDH guidance values set forth in NYSDEC TAGM (7.5 mg/Kg for arsenic). However, because samples Pest-1 and Pest-3 revealed concentrations of 5.75 mg/Kg and 4.34 mg/Kg, respectively for arsenic, it was recommended that a Soil Management Plan (SMP) be prepared in order to outline the procedures of handling the elevated concentrations of arsenic in accordance with Suffolk County Department of Health Guidelines. The following provides a synopsis of measures employed by a SMP for the subject site:

The first step of the SMP would be to collect additional soil samples in the vicinity of the two (2) samples which exhibited elevated arsenic concentrations in order define the area of excavation required to remove all of the arsenic laden soils. A work plan outlining the details of this sampling is provided in **Appendix F-1**. Once the area of concern has been defined, the SMP can be implemented. The best option for the SMP on this project would be to scrape the upper six to twelve (6-12) inches of soil from the affected areas and stockpile it on-site for future burial. Since this project is proposing a pond on the north end of the property, the bottom of the pond should be over excavated by approximately three (3) feet in order provide sufficient area for the stockpiled material to be buried. Once the stockpiled material has been buried, a layer of clay should be installed over the contaminated material in order to provide an impervious cap for the buried material, as well as providing a stable base for the pond bottom liner. If material is required to re-establish the previous grade of the excavated area, the material removed from the over excavation of the pond could be utilized. In order to determine if the SMP has been implemented correctly, endpoint samples should be collected from several locations in the excavated area. These samples should be analyzed for the presence of arsenic only. During the SMP process, steps should be taken to minimize the generation of dust which migrate to adjacent properties.

Comment NCDH1:
A realty subdivision plans and applications must be submitted to the Nassau County Department of Health (Department) for the approval of the design of the water supply, and on site sewage disposal system or sewer connection, to serve each residential development of five (5) or more units or lots.

Response:
The applicant will submit realty subdivision plans and all necessary applications to the Nassau County Department of Health (NCDH) for the approval of the design of the water supply and sewer connections during the site plan review of the project and prior to the start of construction.

Comment NCDH2:
Private Sewage Disposal System plans and applications must be submitted to the Department for the approval of the design of all individual on site sanitary sewage disposal systems that are proposed to serve apartment buildings, and institutions as well as non residential developments including restaurants, office buildings, recreational or other commercial and industrial buildings.

Response:
All wastewater generated by the project is proposed to be conveyed off-site by connecting to the existing sanitary sewer system for ultimate treatment and disposal in the Cedar Creek Sewage Treatment Plant. Sanitary plans and profiles, once completed, will be submitted to NCDH for review and approval.

Comment NCDH3:
Applications for the approval of all realty subdivisions and individual on site sewerage disposal systems must include a current letter of water availability from a public water supplier and a current letter of sewer connection availability from the local public sewer district. The installation of private wells as a source of drinking water, cooking, sanitary or laundry use, in an area served by a public water system, is prohibited.

Response:
As discussed in Section 3.3.2 of the DEIS, letters of water availability were submitted to the local water districts to confirm service and adequate water capacity is available to service the proposed project. Water service for units located within the Town of Huntington will be provided from the South Huntington Water District. A Letter of Water Availability from the South Huntington Water District is pending. Jericho Water District will provide service to the units located within the Town of Oyster Bay. A water availability letter from Jericho Water District is provided in Appendix G of the DEIS. Once responses are received from both the districts, they will be forwarded to NCDH.

All wastewater generated by the project is proposed to be conveyed off-site by connecting to the existing sanitary sewer system for ultimate treatment and disposal in the Cedar Creek Sewage Treatment Plant (STP). A letter of sewer availability has been submitted to determine if the Cedar Creek STP maintains enough capacity to receive

sanitary waste from the proposed project and a response is pending. Correspondence from the Suffolk County Department of Public Works (SCDPW) (Appendix G of the DEIS) states that the Suffolk County Sewer Agency has no objections to the wastewater from the project going to the Nassau County sewer system. According to information available from the Nassau County Department of Public Works, the Cedar Creek sewage treatment plant has approximately 14 million gallons per day (mgd) of available capacity (the plant treats approximately 58 mgd of sanitary wastewater, operating well below its permitted capacities of 72 mgd). Preliminary discussions with NCDPW indicate that the applicant will be required to construct a pump station to accommodate a connection to the existing main located along Jericho Turnpike (see Appendix G of the DEIS). Detailed plans are currently being prepared by the applicant and will require the review and approval of NCDPW. A letter of sewer availability will be provided to NCHD with the necessary applications for sewer connection.

Comment NCDH4:
The construction of realty subdivisions, and other residential and non residential developments that require Department approval may not proceed until realty subdivision or private sewage disposal system plans are approved by the Department, as well as by other county and local agencies having jurisdiction including the local building department.

Response:
It is acknowledged that the construction of realty subdivisions require the review and approval of the Department, NCDPW and the Town, as well as other involved agencies prior to the start of construction. The project sponsor will submit the necessary applications and obtain approvals from the various permitting agencies prior to the start of construction.

Comment NCDH5:
All land development in the Special Groundwater Protection Areas (SGPAs) of Nassau County must comply with the requirements of Article X of the Nassau County Public Health Ordinance (NCPHO). This regulation limits the number of dwelling units to one per 40,000 square feet for residential developments, limits the daily design rate of sewage discharged per square foot of net area for non-residential developments to no more than .00375 gallons per square foot, and prohibits all discharges of industrial wastewaters, whether or not treated.

Response:
Article X of the Nassau County Public Health Ordinance (NCPOH) requires that residential development within an SGPA be developed at a density not to exceed one dwelling unit per acre, unless connection to the public sewer system is realized. As noted above, all wastewater generated by the project is proposed to be conveyed off-site by connecting to the existing sanitary sewer system for ultimate treatment and disposal in the Cedar Creek Sewage Treatment Plant (STP). Sanitary plans and profiles will be submitted to the Department for review once completed. The proposed project conforms

to the requirements and recommendations of the SGPA Plan and also satisfies the requirements of ECL Section 55-0117(6) with regard to the site's location in the CEA.

Comment NCDH6:
Engineering plans and specifications for the construction of new or modification of existing water mains which will serve the proposed development must be submitted, through the public water supplier, to the Department for review and approval.

Response:
It is acknowledged that engineering plans and specifications will need to be prepared by the Jericho Water District and South Huntington Water District (paid for by the applicant) and will be submitted to the NCHD Bureau of Environmental Protection for review and approval immediately upon completion.

Comment NCDH7:
Evidence must be provided to the Department indicating that all water mains constructed as part of the development will be deeded to the public water supplier along with a dedicated easement as may be necessary, to assure proper operation, repair and maintenance.

Response:
Legal descriptions of the water main easements will be prepared and recorded after the plans and specifications are completed by the Water Department Engineers.

Comment NCDH8:
Dead-end water mains shall not be proposed unless otherwise approved by the Department pursuant to conditions specified in Article VI of the NCPHO. All water mains should be connected to adjacent street mains or looped for improved water distribution.

Response:
It is acknowledged that all water mains should be connected to adjacent street mains or otherwise looped for improved water distribution. Water main connection plans and specifications prepared for the proposed project by the Water District will comply with all applicable NCHD requirements and regulations.

Comment NCDH9:
The developer must comply with any water supply requirements for backflow prevention devices on water service lines.

Response:
Engineering plans and specifications prepared for the proposed project by the Water Districts will comply with all applicable NCHD requirements and regulations with respect to backflow prevention devices.

Comment NCDH10:
Engineering plans and specifications for the construction of any new or modified public swimming pool must be submitted to the Department for review and approval.

Response:
Engineering plans and specifications for the construction the proposed swimming pool will be submitted to the Department for review and approval.

Comment NCDH11:
The installation, removal, or abandonment of all toxic and hazardous materials storage tanks or areas containing fuel oil, waste oil and regulated petroleum or chemical products must be performed in accordance with the requirements of Article XI of the NCDPHO and the Article XI NCPHO Regulations.

Response:
Under the development plan for the proposed project, all of the remaining buildings will be demolished and all service facilities will be removed. Removal of any storage tanks will be done in accordance with the requirements of Article XI of the NCPHO and Article XI of the NCPHO regulations. Appropriate filings will be submitted and approval will be obtained prior to the demolition of any on-site structures.

Comment NCDH12:
Any hazardous materials encountered at this site must be removed by an industrial waste transported registered with the NYSDEC and be taken to an approved hazardous waste disposal facility. The NYSDEC and NCDH must be notified upon discovery of any hazardous substances in order to determine if further investigation is necessary.

Response:
Based on a review of the Phase I ESA, historical aerial photographs indicate that dumping had occurred in the south-southwestern section of the property though a field inspection of the site did not reveal the presence of any mounding or piles. However, several other piles of non-hazardous debris consisting of tires, abandoned vehicles, manure and discarded construction debris were observed in other areas of the site. Based on the recommendations of the Phase I ESA, a Phase II ESA was conducted to determine if surface soils had been impacted by dumping. Although no exceedances of regulatory standards or cleanup objectives were noted (except for one detection of benzo(b)fluoranthene) it was recommended in the Phase II ESA that if soils in the southwestern section of the site are to be disturbed they will need to be handled in accordance with all applicable regulations. A work plan for a Supplemental Limited Phase II ESA has been prepared and provided as **Appendix F-1** in order to provide the proposed remedial activities for the removal of any petroleum contaminated soils in the southwestern portion of the subject property. Should the removal of hazardous materials be required, they will be removed from the site and disposed of at an appropriate facility by a reputable and licensed waste transporter.

Comment NCDH13:
A Phase I Environmental Site Assessment (ESA) must be submitted to the Department for review prior to the approval of all realty subdivisions and other residential or property redevelopment projects. A Phase II and Phase III ESA must also be submitted to the Department if completed.

Response:
Two (2) copies of the Phase I and Phase II ESA prepared for the subject property were provided to NCDH for review in December 2006. A Phase III ESA has not been prepared for the subject property. However, should preparation of a Phase III ESA become necessary, the completed report will be forwarded to the NCDH upon completion.

Comment NCDH14:
The following information must also be submitted to the Department as part of, or in addition to, the ESA:

a. *Information that describes the past use of the property including a site map, which shows the present and former locations of buildings, and subsurface structures including underground storage tanks, drywells, leaching pools, cesspools and any floor drains connected to these structures.*
b. *The results of approved laboratory testing of soil and groundwater on the site below all drywells, leaching pools or cesspools which have received discharges of sanitary wastes, waste water, interior drainage, petroleum products or toxic or hazardous waste.*
c. *A map and a listing of the names and the addresses of all properties within 250 feet of the proposed development.*

Response
The information requested in item (a) is included in the Phase I ESA prepared for the subject property and the information requested in item (b) is included in the Phase II ESA. A map which provides a listing of the names and addresses of all properties within 400 feet of the proposed development was provided to NCDH in December 2006 response letter (see **Appendix F-2**).

Comment NCDH15:
Drywells, leaching pools or cesspools must be closed or permitted for use in accordance with all applicable federal, state or local regulations. The agencies regulate subsurface contaminant discharges include the USEPA, which administers the Underground Injection Control (UIC) program, the NYSDEC, which administers the State SPEDES permitting program and the NCDH, which assists both agencies in the implementation of selected program requirements.

Response:
All drywells, leaching pools and/or cesspools which presently exist on the site will be decommissioned as part of the demolition activities scheduled for the existing on-site

structures. The closure of these underground injection points will be conducted in accordance with all applicable federal, state and local regulation. Prior to abandonment the appropriate agencies will be notified and the proper applications submitted.

Comment NCDH16:
The NYSDEC Region I Stony Brook Office must be contacted in order to obtain and then submit a record to the Department of the location of all petroleum and chemical spills and Inactive Hazardous Waste Sites within 0.25 miles of this site, and the status of the investigation or remediation of the contamination at these locations.

Response:
A database search for the subject property and surrounding area has been included in the Phase I ESA report provided with this letter. Review of the information provided does not identify the site as having any current or prior outstanding reportable spill issue associated with it. Further review of the database search identifies 25 separately mapped and 101 unmapped spill incidents within one-quarter mile of the site. However, it was concluded in the Phase I ESA that all of the reported incidents were noted to be either relatively minor or would not potentially have an adverse impact on the site.

Comment NCDH17:
All properties being considered for residential development should be surveyed for potential contamination sources (i.e. gasoline stations, automotive repair shops, dry cleaners, manufacturing facilities, etc.) at the site and adjacent to or surrounding the property. If any sources of potential contamination are suspected in proximity of the site, the property should be further investigated to determine the impact of this contamination in the soil, groundwater and soil gas beneath the site.

Response:
The Phase I ESA and the Phase II investigation conducted at the subject property provide a comprehensive evaluation of the environmental condition of the subject property. As noted above, a work plan for a Supplemental Limited Phase II Environmental Site Assessment (ESA) has been prepared in order to provide: further delineation of the presence of arsenic in the area of the former agricultural field; the removal of any above ground and/or underground fuel oil storage tanks; the sampling of the on-site sanitary system associated with the former Dougal Family residence; the proposed remedial activities for any arsenic contaminated soils and the removal of any petroleum contaminated soils in the southwestern portion of the subject property. The work plan (see **Appendix F-1**) outlines the methods, procedures and protocols proposed for conducting soil sampling at the subject property. Any noted conditions will be investigated and/or remediated in accordance with the recommendations and approvals from the appropriate regulatory agencies.

Comment NCDH18:
The Department will require the removal of all contamination sources on the site and may require the completion of testing to determine if any organic or inorganic chemical contaminants are present in the soil or groundwater at the site. This includes soil vapor

testing to determine if there is potential for contamination of indoor air by volatile organic chemicals. The Department may also request the installation of a soil gas ventilation system to protect indoor air quality in any proposed new or modified site buildings.

Response:
Please see response to Comment NCDH17 presented above. Any asbestos containing materials, subsurface tanks or leaching facilities found during construction will be removed or properly abandoned according to NCDH and NYSDEC protocols and NYS Department of Labor Industrial Codes.

Comment NCDH19:
A rodent survey and demolition permit must be obtained from the Department's Office of Community Sanitation prior to the demolition of the site.

Response:
Before the start of any demolition, the Nassau County Public Health Ordinance requires that the owner or applicant/developer, obtain a certificate issued by the Health Department stating that the premises and its buildings/structures are free of rodent infestation. Therefore, prior to demolition activities, Nassau County Department of Health Services (NCDHS) will be contacted to schedule a site inspection and rodent survey. If rodents are not present on the subject property, the NCDHS will issue a "Rodent Free" Certificate which must be obtained in conjunction with the permit for building demolition. If rodents are present, a private exterminator must be hired to remove the rodent population from the site. The NCDHS inspector will then issue a "Rodent Free" Certificate once the rodents have been removed from the site to the satisfaction of the inspector.

All necessary permits required for demolition of the existing on-site structures as well as future development will be obtained prior to the initiation of site activities. This would include the above referenced rodent survey and demolition permit.

Comment NCDH20:
A New York State Department of Labor (NYSDOL) licensed inspector must survey any existing buildings or structures for the presence of Asbestos Containing Building Material (ACBM) prior to demolition. If ACBM's are identified they must be handled in accordance with NYSDOL and USEPA regulations.

Response:
Prior to demolition of any of the on-site buildings, a complete asbestos survey of the existing on-site buildings will be conducted by a licensed NYSDOL inspector to determine if any ACBM is present which would require removal. Should any of these materials be encountered or noted to be present then they will be handled in accordance with all NYSDOL and USEPA regulations.

Comment NCDH21:
The physical position (County) of the areas of concern (AOC) described in the report must be denoted as either located in Nassau or Suffolk County. For example, the AOC where past agricultural use has occurred is not County specific (Page 53 of the ESA). We do concur with the preparer's recommendation to perform a surficial soil sampling study to delineate the aerial and vertical extent of the contamination or to verify the presence or absence of contaminants related to agricultural activities during past property uses.

Response:
The area of the former agricultural field is located in both Nassau and Suffolk Counties. The soil sample identified as TP-1 in the Nelson, Pope & Voorhis, LLC (NP&V) Pesticide Report dated December 12, 2008 was located approximately on the County Line and TP-3 was located within Suffolk County; however, a portion of the arsenic contaminated soil may be located in Nassau County.

Please note, as described in comment response TOB2 above, the arsenic contaminated soil is expected to be scraped from the former agricultural field and be buried beneath the proposed pond located within Suffolk County. This soil management technique has been approved by the Suffolk County Department of Health Services (SCDHS). The work plan provided in **Appendix F-1** provides additional information regarding the removal of arsenic contaminated soils.

Comment NCDH22:
With regards to the aboveground and underground fuel oil storage tanks located in the County of Nassau, please be advised that a representative of this Department must witness the removal of all aboveground and underground storage tanks at the site. Also, in accordance with Article XI of the Nassau County Public Health Ordinance the property owner is required to notify the Department, in writing, seven days prior to the removal or abandoning of any of the fuel oil storage tanks at the site. Please forward all Article XI field notification correspondence to Ms. Robin Putnam of this Department or call her at 516-571-3314 for additional information regarding Article XI requirements.

Response:
If any tanks area located with the jurisdiction of Nassau County, the NCDH will be notified seven (7) days in advance of any tank removals as required by Article XI.

Comment NCDH23:
The bottom of the cesspool associated with the Dougal family residence should be sampled for VOCs, SVOCs and metals. The analytical results should be compared against the values listed in the NYSDEC TAGM 4046 and any exceedences of the listed values would require further remediation of the contents of the cesspool via excavation and proper disposal.

Response:
A work plan for a Supplemental Limited Phase II Environmental Site Assessment (ESA) has been prepared (see **Appendix F-1**) in order to provide further delineation of the presence of arsenic in the area of the former agricultural field; the removal of any above ground and/or underground fuel oil storage tanks; the sampling of the on-site sanitary system associated with the Dougal Family residence; the proposed remedial activities for any arsenic contaminated soils and the removal of any petroleum contaminated soils in the southwestern portion of the subject property. The work plan outlines the methods, procedures and protocols proposed for conducting soil sampling at the subject property. The bottom sediments of the on-site sanitary system cesspool(s) will be sampled using a stainless steel hand auger. The soil sample(s) will be analyzed based on USEPA Test Method 8260 for the presence of volatile organic compounds, USEPA Test Method 8270 for the presence of semi-volatile organic compounds and 8 RCRA metals. As required, the laboratory results will be compared to the guidance values set forth in NYSDEC TAGM 4046. If any of the concentrations exceed the NYSDEC guidance values, those structures would be remediated under the auspices of the NCDH personnel.

Comment NCDH24:
Please be advised that all soils at the site that exceed the TAGM values of 7.5 mg/Kg for Arsenic must be excavated and removed by an industrial waste transporter registered with the NYSDEC and transferred to an approved hazardous waste disposal facility. The extent (boundaries) of the Arsenic contamination around sample locations TP-2 should be determined and the contaminated soil should be processed as aforementioned.

Response:
As described in comment response TOB2 above, any soils exhibiting concentrations of 4.0 mg/kg, as required by the SCDHS, will be included in the Soil Management Plan (SMP) which includes scraping the upper twelve (12) inches of soil from the impacted areas and burying the contaminated soil beneath the proposed pond which is located within the boundaries of Suffolk County. This practice is approved by the SCDHS.

Comment NCDH25:
We concur with the Site Investigation Report (06/2006) preparer's recommendation to excavate and properly dispose of soils that exhibit any petroleum like odors in the southwestern portion of the site.

Response:
Any petroleum impacted soil located on the subject property will be removed and properly disposed of at an approved facility.

2.7 ALTERNATIVES

2.7.1 Ecological Evaluation of Cluster Plans

Comment TOB 10:
The alternative cluster development A and B should be updated to discuss the benefits of those alternatives with respect to increased preservation of woodland and the attendant enhancement of aquifer protection (as recommended under the SGPA Plan and the Town of Oyster Bay's APO Legislation).

Response:
The following statement should be added after the 1st sentence of the fifth paragraph on page 5-8:

"Cluster Development A results in the same yields as the current project, but its clustering provides for the retention of an additional 2.49 acres of contiguous forest habitat concentrated in the rear of the property, where the woodland vegetation is less fragmented and of higher quality than other areas on the site. Retention of larger areas of continuous forested land has ecological benefits in terms of reduction in fragmentation of wildlife habitat and reduction of areas to be maintained as fertilizer dependent vegetation (lawn)."

The following statement should be added after the 1st sentence of the first paragraph on page 5-10:

"Cluster Development B results in similar yields as the current project, but it incorporates denser clustering without the inclusion of townhouses to provide for the retention of an additional 3.87 acres of contiguous forest habitat concentrated in the rear of the property, where the woodland vegetation is less fragmented and of higher quality than other areas on the site. Retention of larger areas of continuous forested land has ecological benefits in terms of reduction in fragmentation of wildlife habitat and reduction of areas to be maintained as fertilizer dependent vegetation (lawn)."

2.7.2 Acquisition for Open Space

Comments WD15 and WD33:
It is respectfully submitted that the proposed project is an over intensification of use for a site that is one of the best, last large remaining open spaces in the Town and that is unique in its position as a wetland property. The Town has failed to require that a hard look be given into the possibility of acquiring this property as open space. This could and should be studied as part of the "no action" analysis.

Response:
As noted in Section 2.1.1, the existing conditions on the site are not pristine. The existing horse farm, wood carving, and multiple other businesses include non-conforming uses

that have resulting in clearing of over fifty percent of the site and stockpiling of wood chips, mulch, and debris throughout much of the western and southern portions of the cleared areas on the property. With respect to evaluating purchase of the property for open space or continued use as a horse farm as part of a "No Action" alternative, to date, an offer to purchase the property has not been made by a public entity for the purpose of preserving the property for open space conservation or by a private or public entity for continued operation of the existing horse farm use. Any such use would require an agency as a "willing buyer" and the applicant as a "willing seller". As noted, no such scenario exists.

2.7.3 Lower Density Alternative /Alternate Layouts

Comments T17 and T27:
One commenter states that the proposed project could be accomplished with fewer than 80 units along the Jericho Turnpike frontage, while allowing the remainder of the property to be developed under the current residential zoning or left as open space. Another indicates that the site can be developed in accordance with the existing single family zoning.

Response:
Section 5 of the DEIS includes six alternatives to the proposed action, including two which are cluster developments that provide greater open space. Alternative 5 (Cluster Development A) clusters townhouse units and preserves approximately 5.83 acres of open space. Alternative 6 (Cluster Development B) is more densely clustered, with five buildings composed of all flats (no townhouses are proposed), and preserves approximately 7.21 acres of open space. Section 617.9(b)(5)(v) of the regulations implementing SEQRA requires that a draft environmental impact statement include a description and evaluation of a range of reasonable alternatives to the proposed action which are feasible, considering the objectives and capabilities of the project sponsor. An alternative that further reduces the proposed number of multifamily units is not reasonable or feasible for the Applicant because such an alternative would not provide a sufficient financial return relative to the purchase price/development costs of the property.

The development of the property under the existing zoning is also evaluated in Section 5.2 of the DEIS. There are benefits from the proposed change of zone to be considered and these must be weighed by the Town Board with the other relevant environmental, social and economic considerations in order to reach an informed decision on the proposed change of zone application. The project has merit in terms of economic and tax benefits to the school districts, reduction in nitrogen concentrations in recharge due to the proposed sanitary connections, and providing needed senior housing that can not be achieved under the existing single family residential zoning of the property. The DEIS contains substantial information to assist the Town Board and involved agencies in assessing potential impacts and weighing environmental, social and economic factors to reach an informed decision with respect to the proposed change of zone.

2.8 REPUTATION OF THE DEVELOPER

Comments T4, T9, T15 and BCC1:
These comments acknowledge the positive record of the Applicant as a high quality builder who is known for working with the community and who is able to bring the proposed project to completion.

Response:
Comment acknowledged. The Applicant is a family owned development company that has a significant record of quality, completed projects. Triangle Equities prides itself on working hand in hand with the community to ensure that the community's concerns are heard throughout the development process and is committed to the development of a high quality residential community on the subject property.

SECTION 3.0

REFERENCES

References:

Cheng, Alexander H.D. and Ouazar, Driss, 2004. Coastal Aquifer Management Monitoring, Modeling, and Case Studies. CRC Press.