

COURTYARD AT UPPER NYACK
FINAL ENVIRONMENTAL IMPACT STATEMENT

HIGHLAND AVENUE (ROUTE 9W)
VILLAGE OF UPPER NYACK
ROCKLAND COUNTY, NEW YORK

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Available for review at:
www.timmillerassociates.com/publicreview/courtyard/default.html

Revised through December 21, 2006
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**Courtyard At Upper Nyack
Village of Upper Nyack, New York
Final Environmental Impact Statement**

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INTRODUCTION

This document is a Final Environmental Impact Statement (FEIS) prepared in accordance with the New York State Environmental Quality Review Act (SEQRA) and its implementing regulations, 6 NYCRR Part 617. The FEIS provides responses to public comments received by the lead agency on the Draft Environmental Impact Statement (DEIS). The lead agency for this action pursuant to SEQRA is the Village of Upper Nyack Planning Board, to which a Site Plan application has been made. SEQRA prescribes that the lead agency is responsible for the adequacy and accuracy of the FEIS.

The Final Environmental Impact Statement consists of this volume, including appendices, accompanying maps, and referenced technical data, and the Draft Environmental Impact Statement, which is hereby incorporated by reference into this FEIS. Detailed site development plans are provided in the rear of this document.

Summary of the Project Proposal

The project sponsor and property owner, "Courtyard at Upper Nyack LLC" (the Project Sponsor), filed an application for approval of an office project on an 11.19-acre site located on NYS Route 9W in the Village of Upper Nyack, Rockland County, New York. The property is identified as Section 60.13, Block 02, Lot 81 on the municipal tax map. The site is located predominantly in the "OB" (Office-Business) zoning district, with a small bordering portion in the R-2 zone. The property sits on the east side of NYS Route 9W ("Highland Avenue"). On the west side of Route 9W opposite the project site are two properties devoted to religious and educational uses (Temple Beth Torah and the Alliance Theological Seminary). Residential uses abut the property on three sides, to the north, south and east.

The DEIS reviewed a site plan to develop ten buildings containing a total of 65,882 square feet (SF) of usable (rentable) general office and medical office space. Also included in the proposal was ancillary parking, new access to NYS Route 9W, earthwork, grading, retaining structures, drainage piping and stormwater facilities, utilities, sidewalks, sitting areas, landscaping and other on-site amenities. The project would be connected to Village of Upper Nyack services, including the United Water New York water system and the Orangetown District sewer system that provide services to the village.

Pursuant to the comments received during the DEIS public comment period, the Project Sponsor submitted a revised 9-building commercial plan (formerly "Alternative 1A," with 60,759 usable square feet) that is now the proposed commercial alternative development presented in this FEIS. Unlike the 10 building DEIS plan, this nine building plan was designed to not require any discretionary relief from the Planning Board relating to buffer width along the OB zoning district boundary. The proposed nine building plan provides a 75-foot wide perimeter buffer along the property boundary line where it abuts residential districts.

Based on comments made by the Village and the public during the review of the office application, the Project Sponsor filed a petition to the Village Board to permit residential use in the OB zone. The intention of this was to permit a mitigation plan for the subject site that would eliminate the office use and permit single family residential use.

Recently, after Planning Board review and recommendation and public hearing, the Village Board amended the Village Zoning Code to permit residential uses in certain OB Zone districts, including the subject property.

On June 8, 2006, by a unanimous vote, the Village Board of Trustees passed a resolution adopting a zoning text change adding Residential Uses by Special Permit in the OB District. This amendment allows for residential developments upon the larger parcels of commercially zoned land that abut established residential neighborhoods in locations where there may be environmental, traffic, noise, and other potential environmental impacts as a result of the future commercial development on these parcels. In these instances, it may be considered appropriate for the Village to allow the development of residential uses that would be more consistent with the character of established adjacent residential neighborhoods.

Subsequent to the DEIS public hearings, further discussions with the Village, and the enactment of the recent amendment to the Village Zoning Code, the Project Sponsor prepared a residential subdivision plan for the project site pursuant to the amended code which is responsive to comments received on the DEIS. This plan is the preferred alternative for the proposed development.

The residential alternative is being presented as a comprehensive mitigation concept for the project site prepared in response to comments made on the DEIS plan from the public and municipal officials.

These revisions to the project were included on the agenda for the regular Planning Board meeting on July 19, 2006. An Existing Conditions Plan and the Conceptual Subdivision Plan were presented to the Planning Board at that meeting, as specified in the newly modified Article IV, Section 15:03 (c), 18, a, 1 of the zoning code citing "preliminary review" discussions with the Planning Board.

This residential subdivision alternative has a number of advantages over the office concept and is viewed by the Project Sponsor and by many in the community to be more compatible with local residential neighborhoods.

The amended zoning code provides guidance to the Planning Board in determining residential lot sizes by limiting newly created lot sizes according to the minimum and maximum lot sizes of adjacent residential districts. Applying the minimum lot sizes of the adjacent residential districts would yield more than 30 lots in the opinion of the Project Sponsor. The Project Sponsor has submitted two residential plans: one showing 22 lots, another showing 20 lots. The 22 lot alternative is discussed herein and was initially chosen by the Project Sponsor as a reasonable lot count for preliminary consideration and accepted by the Board for the FEIS review. The Board and the Project Sponsor anticipate the final development will be reduced by one or more lots from the 22 lot development analysed. Any residential development less than 22 lots would have commensurately fewer impacts than those discussed herein. The two-lane internal road that would serve the development would be approximately 1250 feet long and have two access points onto NYS Route 9W. The project would connect to the local water and sewer systems as described above for the commercial alternative.

SEQRA Review

The Project Sponsor prepared the Draft Environmental Impact Statement (DEIS) in response to a Positive Declaration issued by the Village of Upper Nyack Planning Board on September 17, 2003. The DEIS scope was established by a scoping outline developed by the Planning Board of Upper Nyack, acting as lead agency, in cooperation with all other involved agencies. The Planning Board held public scoping sessions on September 17, 2003 and October 15, 2003.

The accepted scope, outlining the information to be covered in the DEIS, was adopted on November 19, 2003.

After a recent building moratorium (in effect from 2003 to 2004), the Village Board adopted a revised Zoning Code, and the subject parcel was designated OB for Office-Business use. Thereafter, the lead agency reviewed the DEIS for adequacy with respect to its scope and content for the purpose of public review, and issued a Notice of Completion of the DEIS and a Notice of SEQRA Hearing on September 22, 2004. The lead agency held a public hearing on the DEIS and the application on November 8, 2004 that was continued on January 11 and February 1 of 2005. The DEIS public hearing was closed on February 1, 2005. The Site Plan approval hearing remains open.

In accordance with SEQRA, this FEIS provides written responses to substantive and relevant comments on the DEIS received by the lead agency during the public review period, including oral comments made at the public hearings. This FEIS provides responses to the comments addressing the planned development, as applicable to both the preferred residential and the 9-building commercial project plans. Appendix A includes complete copies of additional correspondence conducted for the FEIS. Complete copies of all written comments received on the DEIS are included in Appendix B. Transcripts of the public hearings are provided in Appendix C.

During the course of the DEIS public comment period, the following letters on the DEIS were received from various agencies and interested parties:

Courtyard at Upper Nyack DEIS Comment Letters		
Letter #	Author	Date
1	Upper Nyack Village Board of Trustees	11/8/04
2	Rob DeGrigorio, Lawler Matusky & Skelly Engineers, LLP	11/8/04
3	Ronald Delo, Town of Orangetown, Dept. of Env. Management and Engineering	11/5/04
4	Scott Sheely, NYS DEC	11/3/04
5	Douglas Schuetz, County of Rockland, Dept. of Planning	11/9/04
6	Joseph Menschik	11/8/04
7	Ron Wish	11/8/04
8	Lise Petricone	11/6/04
9	Elizabeth Egloff	11/8/04
10	James Youmans	11/8/04
11	Alan Freidberg	11/4/04
12	Douglas Schuetz, Rockland County Department of Planning	12/23/04
13	Mark Hussey, Evelyn Leong	12/17/04
14	Charles Christian	12/16/04
15	Liza Altman	12/15/04
16	Walter & Florence Katzenstein	12/15/04
17	Hank Beresin & Jen Bell	11/6/04
18	Dorothy & Edward Cuchsey	12/7/04
19	Burton Saunders	11/11/04
20	Karen Tarapata, Village of Upper Nyack	1/25/05
21	Board of Trustees, Village of Upper Nyack	1/25/05
22	Robert Geneslaw, Robert Geneslaw Co.	2/1/05
23	John Sarna	1/10/05
24	Joseph Menschik	1/11/05
25	Glenna Marra	1/31/05
26	Gisele and Matt Shelley	2/1/05
27	Patrice Stambovsky	1/27/05
28	Jim Shaughnessy	1/12/05
29	Laurel Robertson	1/21/05
30	Mary and Steve Beck	1/14/05
31	Lawrence Campbell	1/12/05
32	Dennis Lynch	1/5/05
33	Shirley Thormann, Town of Clarkstown Planning Board	1/28/05

The FEIS is arranged in sections, with comment summaries and responses arranged by subject area similar to the DEIS. A comment summary, in some cases, may incorporate more than one individual comment on the same subject, followed by a response to that comment. The sources of each comment are referenced. The format of the comments and responses is as follows:

Comment # (Source): Comment summary text.

Response #: Response text.

Substantive and relevant comments taken from the letters and hearing transcript are marked with references to the FEIS comment/response numbers in the margins of Appendix B and C, respectively.

This FEIS addresses the comments associated with the commercial plan and incorporates the residential mitigation plan into each section with a discussion of the potential implications of implementing that plan with a comparison to the base office plan. The Project Sponsor believes the residential alternative is a preferable development. A summary of the residential alternative is provided below. Descriptions of specific potential impacts are provided in the introductions of Chapters 1 through 12 of this FEIS.

The responses provided will address the comments appropriately as they apply to either or both of the development plans for the property, i.e. the residential alternative or the nine building commercial plan. A brief overview of each of the proposed developments is provided below.

Mitigation Plan - Preferred Alternative: Residential Subdivision Plan

In response to Village Zoning Code amendments made in 2006, the Project Sponsor has presented a plan for residential use of the property that will allow the property to be developed in a manner that is compatible with the surrounding communities and will mitigate many of the environmental impacts related to a commercial plan for the site. A figure is provided on the following page that presents one potential lot layout and grading for the proposed subdivision. A full size copy of this subdivision plan is provided in the rear of the document. It is referred to herein as "the residential plan," however the Project Sponsor acknowledges that the final plan may be modified slightly from this concept.

The residential plan would require a special use approval and subdivision approval from the Planning Board. There would be an increase in population associated with a single family residential development and demands on community services would be higher than for a commercial development, particularly schools.

The residential plan shows two access points from Route 9W along the western boundary of the site. The proposed internal roads would be constructed to Village standards and be offered for dedication to the Village upon completion. Traffic generated by the residential option would be much lower than for the commercial development. A single family residential development would generate about 25 peak hour trips compared to the commercial development that would generate more than 150 trips during the peak hour. This is one of the greatest differences between the two options.

The lots will be oriented along a single internal roadway that will allow for the preservation of the existing site wetland and 100 foot adjacent buffer area. The on-site wetland would not receive direct drainage from the proposed on-site impervious surfaces. Runoff from impervious surfaces would be collected and conveyed by the proposed drainage system to the stormwater management basins.

The portion of the project site within the R-2 zone on the eastern side of the site (that ranges in width from 15 feet to over 70 feet) will remain undeveloped except for grading associated with portions of stormwater basins, thus providing additional buffer in this area beyond what is required by zoning.

The residential plan reduces the amount of proposed impervious surface to 2.73 acres as compared to 3.7 acres with the commercial plan. Likewise, the amount of disturbance with the residential plan is 6.90 acres, as compared to 7.75 acres in the commercial plan. The amount of disturbance to steep slopes (slopes over 15 percent) with the residential plan would also be

reduced. Similarly, the residential plan reduces the amount of excess earth material to be transported off-site to only 73 percent of the volume projected in the commercial plan. The residential plan would result in approximately 1,404 cubic yards of excess material, as compared to approximately 5,200 cubic yards of excess material with the commercial plan.

During the review of the DEIS, the Town of Orangetown indicated concern about the capacity of the sewage system that would serve the proposed development. The Project Sponsor met with the Town of Orangetown officials to identify the nature of the concern and to discuss possible remedies as there is currently a capacity problem with the municipal system to which this site development would connect.

One potential remedy that was identified was to eliminate illegal connections to the sewer system which contribute to the capacity problem. The Project Sponsor has proposed to conduct and/or fund a smoke test on the sewer line to identify illegal connections to the sewer system, with the expectation that elimination of any such connections would sufficiently offset the sewer effluent generated by the proposed development. The project engineer estimates that the elimination of illegal roof drain connections from one or two average size homes would exceed the estimated peak daily flow from the proposed development.

This would improve the capacity of the sewer system, and help to eliminate overflow problems that result from the conveyance of stormflows that the sewer system is not designed to handle. The Project Sponsor proposes that this investigation be conducted in conjunction with the Village and the Orangetown Sewer District prior to final site plan or subdivision approval and would pay for the corrective measures needed to offset the volume of wastewater that the proposed development would add to the sewer system. This investigation would also assist the Orangetown Sewer District which is planning to replace and redesign the sewer pump station that serves the Village, including the project site. Based on discussion with the Village's drainage consultant (telephone conversation with LMS June 29, 2005), the small volumes of added runoff from rediverted illegal storm drains would not adversely impact the existing stormwater drainage system in the Village.

In all other respects, the potential adverse impacts associated with the residential plan would be less than or equal to those described in the DEIS for the commercial plan, and all proposed mitigation measures described in the DEIS would be implemented as applicable for the residential plan.

Revised Nine-Building Commercial Plan

In response to comments raised during the DEIS review, the Project Sponsor revised the proposed 10-building commercial development plan in order to reduce the potential adverse impacts. A full size copy of the revised plan is provided in the rear of the document and a reduced copy is provided in this Section.

The revised commercial plan proposes nine buildings with a total of 60,759 square feet of usable space (versus 65,882 square feet with the 10-building plan). Unlike the 10-building plan, the nine building plan is designed to not require discretionary relief from the Planning Board relating to buffer width. The nine building plan proposes a 75-foot perimeter buffer from the OB zoning district boundary.

The portion of the project site within the R-2 zone on the eastern side of the site (which ranges in width from 15 feet to over 70 feet) will also remain undisturbed, thus providing additional buffer area beyond what is required by zoning.

Like the ten building plan, the nine building plan is oriented around two central landscaped courtyard areas. The nine building plan is proposed with access from Route 9W in the southwest portion of the site, with a secondary emergency access to Route 9W in the northwest portion of the site.

The nine building plan, with 60,759 sf of office space, would have 348 parking spaces (versus 441 spaces with the 10 building DEIS plan). With the proposed number of parking spaces available, the nine building plan can comply with the Village's parking requirements while supporting a medical office occupancy rate of up to 15 percent of the available square footage (8,841 sf). The remaining office space would be non-medical.

The Project Sponsor has suggested that the ratio of allowable professional office use versus medical office use at the development would be stipulated as a condition of approval by the Village, based on the final number of approved parking spaces, following the conclusion of the site plan review process. It is also expected that as a condition of approval, the Village will maintain the right to inspect the approved development to ensure that it conforms with all applicable approval conditions. The Village has the authority to enforce conformance with approval conditions through the issuance of certificates of occupancy for the proposed buildings. The Project Sponsor is willing to submit annually to the Village a schedule of the medical uses vs. professional uses (by square feet) at the proposed development to demonstrate ongoing conformance with the parking requirements.

The nine building plan reduces the amount of proposed impervious surface to 3.5 acres as compared to 5.3 acres with the 10 building DEIS plan. Likewise, the amount of disturbance with the nine building plan is 7.75 acres, as compared to 9.5 acres in the DEIS plan. The amount of disturbance to steep slopes (>15 percent) with the revised plan would be 1.5 acres, as compared to the 2.2 acres of disturbance associated with the DEIS plan.

In response to a request by the Village's planning consultants, the project engineer regraded the project to significantly reduce the amount of excess earth material to be removed from the site. The revised nine building plan would result in approximately 5,200 cubic yards of excess material, as compared to approximately 31,625 cubic yards of excess material with the ten building plan. The revised nine building plan reduces the amount of excess earth material to be transported off-site by nearly 84 percent of the volume projected in the DEIS plan.

The Project Sponsor is proposing on-site and off-site measures to mitigate the loss of 0.49 acres on-site wetlands as a result of the proposed development. On-site, the Project Sponsor proposes to expand the 0.15 acres of undisturbed wetlands by an additional 0.23 acres, which would provide 0.38 acres of on-site wetlands. The expanded on-site wetlands would be situated north of the proposed access road and west of the existing wetlands. A primary source of water to these on-site wetland areas will be outflow from the existing pipe that conveys the drainage underneath Route 9W from lands further west. The expanded wetlands will be graded and planted to retain and utilize the outflow from this pipe. An overflow structure will also be installed, from which excess water will be conveyed directly to the Village's existing stormwater system to the east of the site. As described in the DEIS, the primary sources of hydrology to the existing wetlands are the stream and overland sheet flow from Route 9W. Groundwater does not appear to be a major source of hydrology to the wetland. The expanded on-site wetland

would not receive drainage from the proposed on-site impervious surfaces, which would be collected and conveyed by the proposed drainage to the stormwater basins.

In addition, the Project Sponsor is proposing to create 0.54 acres of new wetland off-site on the Nyack College property (a.k.a.: Christian Missionary Alliance) immediately opposite the project site on the west side of Route 9W. This wetland area will expand an existing drainage collection area, which is the location of the existing pipe that flows under Route 9W into the project site. No changes are proposed to this existing pipe. The created wetland will collect runoff from the hillside to the west, portions of the two adjacent religious properties and from part of Route 9W. The proposed off-site wetland will temporarily hold this runoff, and the wetland vegetation will help to improve water quality through nutrient uptake and filtering.

Details of the proposed grading and plantings for both the on-site and off-site wetland areas are provided in Appendix D. Combined, these two measures will compensate for the 0.49 acres of wetland impact by creating 0.77 acres of new wetland, which is a replacement ratio of 1.57 to 1. A permit for the wetland mitigation will be required from the Army Corp of Engineers (ACOE). The ACOE has been requested to indicate general concurrence with the specific plan proposed but has declined comment until project alternatives with lesser wetlands impacts have been eliminated from consideration to ensure that impacts to wetlands have been avoided to the maximum extent possible.

As discussed above for the residential plan, the Project Sponsor will propose to conduct and/or fund a smoke test on the sewer line to identify illegal connections to the sewer system, with the expectation that elimination of any such connections would sufficiently offset the sewer effluent generated by the proposed development. The Project Sponsor will propose that this investigation be conducted in conjunction with the Village and the Orangetown Sewer District prior to final site plan approval and would pay for the corrective measures needed to offset the volumes of wastewater that the proposed development would add to the sewer system.

In all other respects, the potential adverse impacts associated with the revised nine building plan would be less than or equal to those described in the 10 building plan, and all proposed mitigation measures described in the DEIS would be implemented for the nine building plan, in addition to those new measures described above.

The following new maps relating to the nine building plan are provided at the end of this section: Site Grading Plan, Disturbed Area Map, Proposed Slope Disturbance, Cut and Fill Map, Erosion Control Plan, and Wetland Disturbance Map.

SEQRA Comparison of Alternative Plans

A quantitative comparison of various impacts for the two alternative plans is presented below. This table compares estimated impacts for the two plans that might be developed on the Project Sponsor's property (Clarkstown Tax Lot: 60.13-2-81) under the existing provisions of the zoning code. If the residential alternative is not approved, the Project Sponsor will pursue implementation of the commercial plan.

Comparison of Commercial and Residential Alternatives		
Village of Upper Nyack		
Section 60.13, Block 02, Lot 81		
	<i>Commercial 9-Building Plan</i>	<i>Residential Subdivision Plan</i>
Land Use	Office-Business	Residential-Single Family
Intensity of Use	60,759 sf ¹	22 Homes
Grading Disturbance (acres)	7.75	6.90
Undisturbed Area (acres)	3.44	4.29
Landscaped / Re-vegetated Area (acres)	4.10	5.36
Impervious Surfaces (acres)	3.70	2.73
Peak traffic (trips per hour)	AM: 146 PM: 148	AM: 25 PM: 27
Water Demand (gpd)	+/- 6,546	+/- 8,000
Resident Population	0	80
School Age Children	0	19
Village Tax Revenues	\$9,208	\$29,249
School District Tax Revenues	\$80,370	\$231,526
Total Tax Revenues ²	\$128,778	\$385,685
<p>Notes: Acreages listed above are approximated. Taxes are estimated based on 2006 rates and actual taxes may be different.</p> <p style="padding-left: 20px;">gpd = gallons per day</p> <p style="padding-left: 20px;">sf = square feet</p> <p style="padding-left: 20px;">Peak traffic trips conservatively assume a 50-50 split of medical office vs. nonmedical office space. The peak hour trip volumes would be reduced with lower percentages of medical office space.</p> <p style="padding-left: 20px;">¹ Usable (rentable) office space in 9 Office Buildings</p> <p style="padding-left: 20px;">² Includes all taxing districts (i.e. county, town, open space, ambulance, fire, light, solid waste, school, library, village)</p> <p>Source: Tim Miller Associates, Inc. 2006.</p>		

In the residential plan, the homes would be two story structures over basements, with footprints of approximately 2,000 SF or larger. The homes would be two-story structures over basements, with usable floor areas of 3,000 square feet or more. Homes would be priced to sell at prevailing market price. Many of the homes would have views of the Hudson River and would be desirable residential homes.

Similar to a commercial development, the residential development would be served by municipal sewer and commercial water, gas, electric and other local and village utilities that can be readily extended onto the project site.

A comparison of the two project plans on a category by category basis is provided below.

- Impacts on Land: A single family residential development on 22 lots would require grading to approximately 6.9 acres of the site for the development of roads, building lots, stormwater facilities and utilities, compared to approximately 7.75 acres with the commercial development. This alternative also creates a drainage parcel in the eastern portion of the site between Lots 5 and 7 where stormwater management facilities can be located. In addition to the 22 building lots and the 50 foot road right-of-way area, this alternative would retain an undeveloped conservation parcel along most of the Route 9W road frontage where the federally-regulated wetland is located.
- Impacts on Water Resources: With a single family residential development, there would be little or no disturbance to the on-site federally regulated wetland. The existing on-site watercourse which intermittently conveys storm flows would be modified in sections where flows would be redirected through the site into the existing stormwater management system. The stormwater management system, including the stormwater basins, would be substantially reduced in scope and volume as the extent of impervious surfaces would be less. As with a commercial development plan, the stormwater system would provide attenuation benefits to the existing downgradient storm sewer system.
- Impacts on Air: A single family residential development would have construction-related emissions impacts somewhat similar to commercial development. Residential however, would generate significantly less traffic than a commercial development and therefore produce less vehicle-related emissions in the long term.
- Impacts on Plants and Animals: A single family residential development would involve slightly fewer impacts to plants and animal resources, as compared to a commercial development as less grading disturbance would be needed. Opportunities for landscaping and soft surfaces would be greater for the residential option by at least an additional 40,000 SF.
- Impacts on Aesthetic Resources: With a single family residential development, the site would change in appearance from a wooded site to a developed site with homes, yards, landscaping, and an internal road with street trees much like the surrounding area. Two access points would be developed on Route 9W, and several of the proposed lots would also have frontage onto Route 9W, however access to these lots would be from the internal road.

Approximately 400 feet of the Route 9W road frontage (40 percent) in the central portion of the site could remain undeveloped as part of a conservation parcel. The existing vegetation preserved in this portion of the site would visually buffer much of the project site, particularly during the growing seasons.

Residential lots adjacent to Route 9W would be largely screened by the preservation of some existing vegetation and the provision of landscape buffer vegetation near Route 9W. These homes would also partially screen other homes on the project site to the east from Route 9W. As with a commercial development, perimeter landscaping and fencing could be provided to reduce visual impacts from the surrounding properties.

The residential alternative would have similar impacts on night sky light pollution and on long range views from the river to those of other residential areas within this portion of the

Village. The commercial development would have a greater visual impact due to the larger scale of the buildings and the increased need for higher intensity parking lot and security lighting throughout much of the site.

- Impacts on Population Growth and Community Character: A 22-unit residential development would be projected to increase the resident population of the Village by approximately 80 persons, including 19 school age children. The increased population would require community services and facilities that an office project would not, including those associated with school age children.

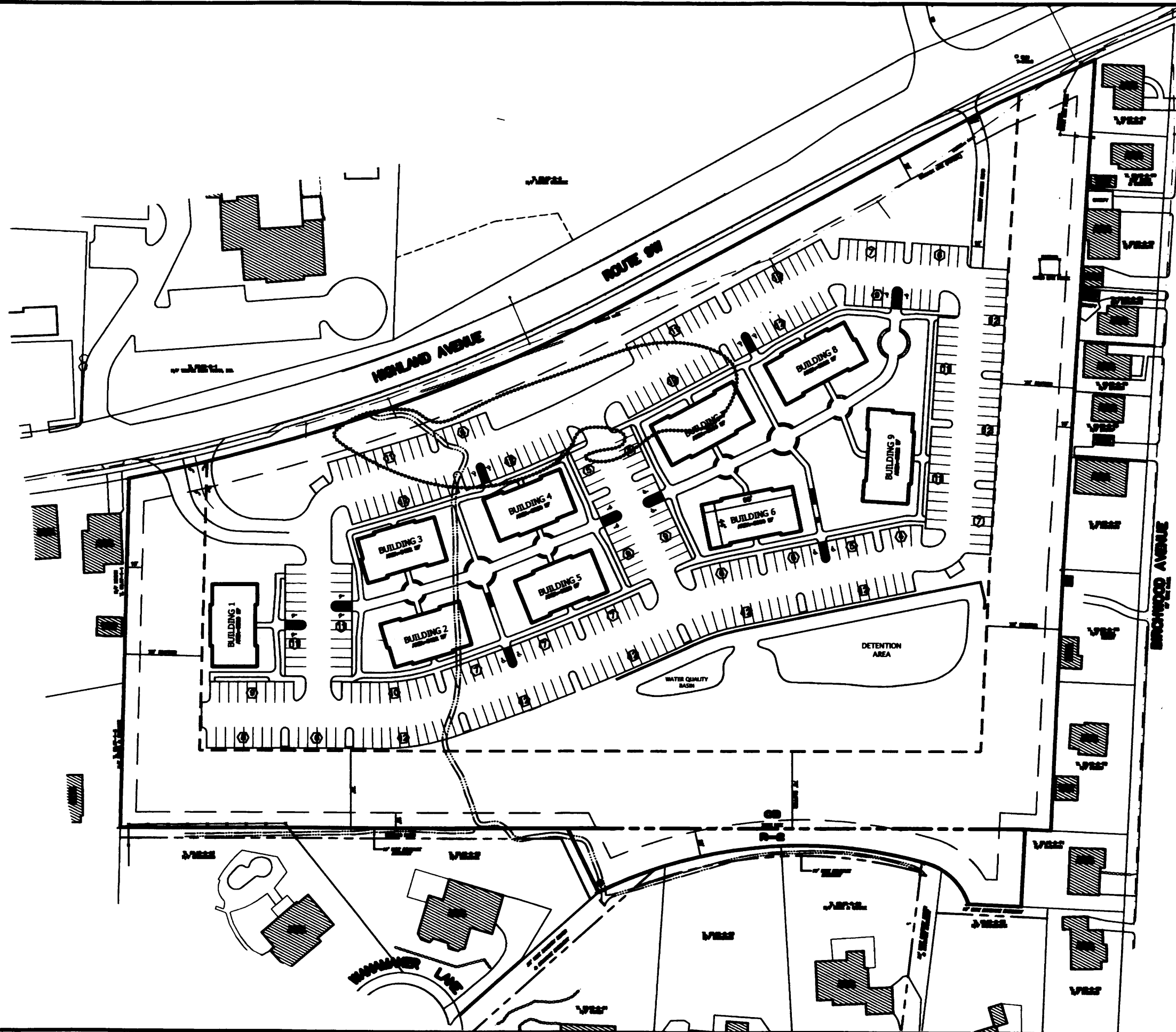
A 22-unit residential development would generate approximately \$29,249 in annual tax revenues to the Village and \$231,526 to the School District, compared to \$9,208 and \$80,370 with a commercial development.

Increased costs to the Village for the residential development would be approximately \$33,280. This is a conservative analysis wherein all projected costs are distributed over the residential tax base. The cost to the school district to educate the anticipated 19 students would be approximately \$325,565. This represents about half of one percent of the total school budget.

- Impacts on Community Services: With the population increase associated with a single family residential development, demands on community services would be higher than for a commercial development, particularly schools. This is offset by the much lower traffic generation of the residential option.

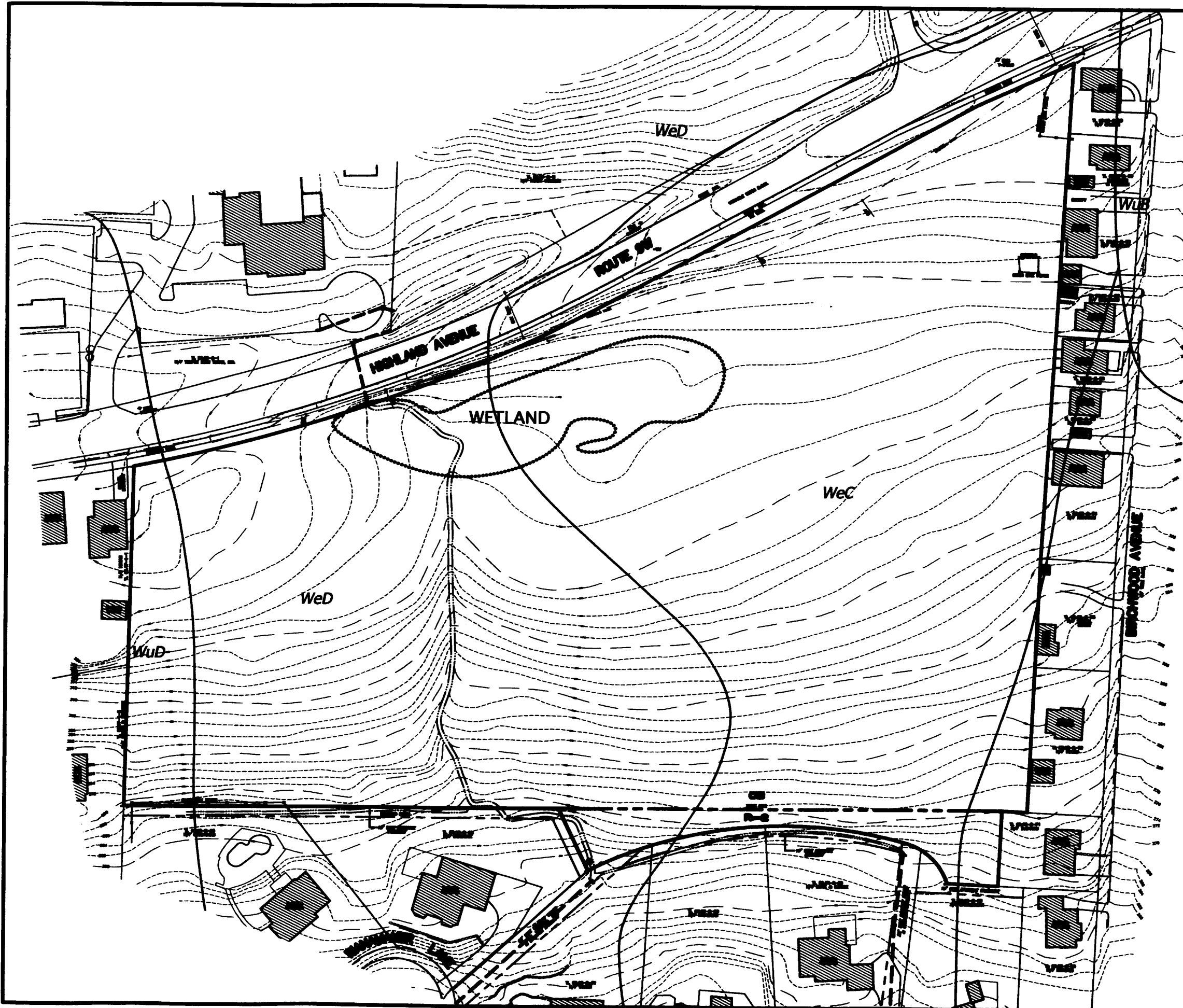
The demand for water and sewer services would increase to an estimated 8,000 gallons per day for a residential development. Demand for other services, such as sanitation, parks, recreation, police, fire and ambulance for a 22 lot residential development would not be expected to increase substantially in relation to the current level of demand in the Village for these services.

- Impacts on Transportation: A single family residential development would generate about 25 peak hour trips compared to a commercial development that would generate more than 150 trips during peak hour periods. This is one of the greatest differences between the two options. The residential alternative would retain higher levels of service at all local roads and intersections throughout the day and eliminate the A.M. queuing of southbound traffic on Route 9W that would occur with the commercial development. With the residential alternative, queuing of departing vehicles would occur within the site in the morning. Delays in exiting the site may be relatively long during this time interval. The traffic light at Route 9W and Christian Herald Road to the north will provide gaps in the southbound traffic that will ease delays for traffic exiting from the site.
- Impacts on Energy: The total building area in a residential development that would need to be heated and cooled would be similar to the square footage of the office alternative.
- Impacts on Noise: A residential development would generate various residential-related noises similar to the noises generated in other nearby residential neighborhoods. Traffic noise, however, would be lower throughout the Village.
- Construction Impacts: A residential development would involve generally similar short term impacts associated with construction, as compared to a commercial development.



SITE DEVELOPMENT PLAN
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN.= 100 FT.

ATZL, SCATASSA & ZIGLER P.C.
 SURVEYORS PLANNERS
 NEW CITY NEW YORK

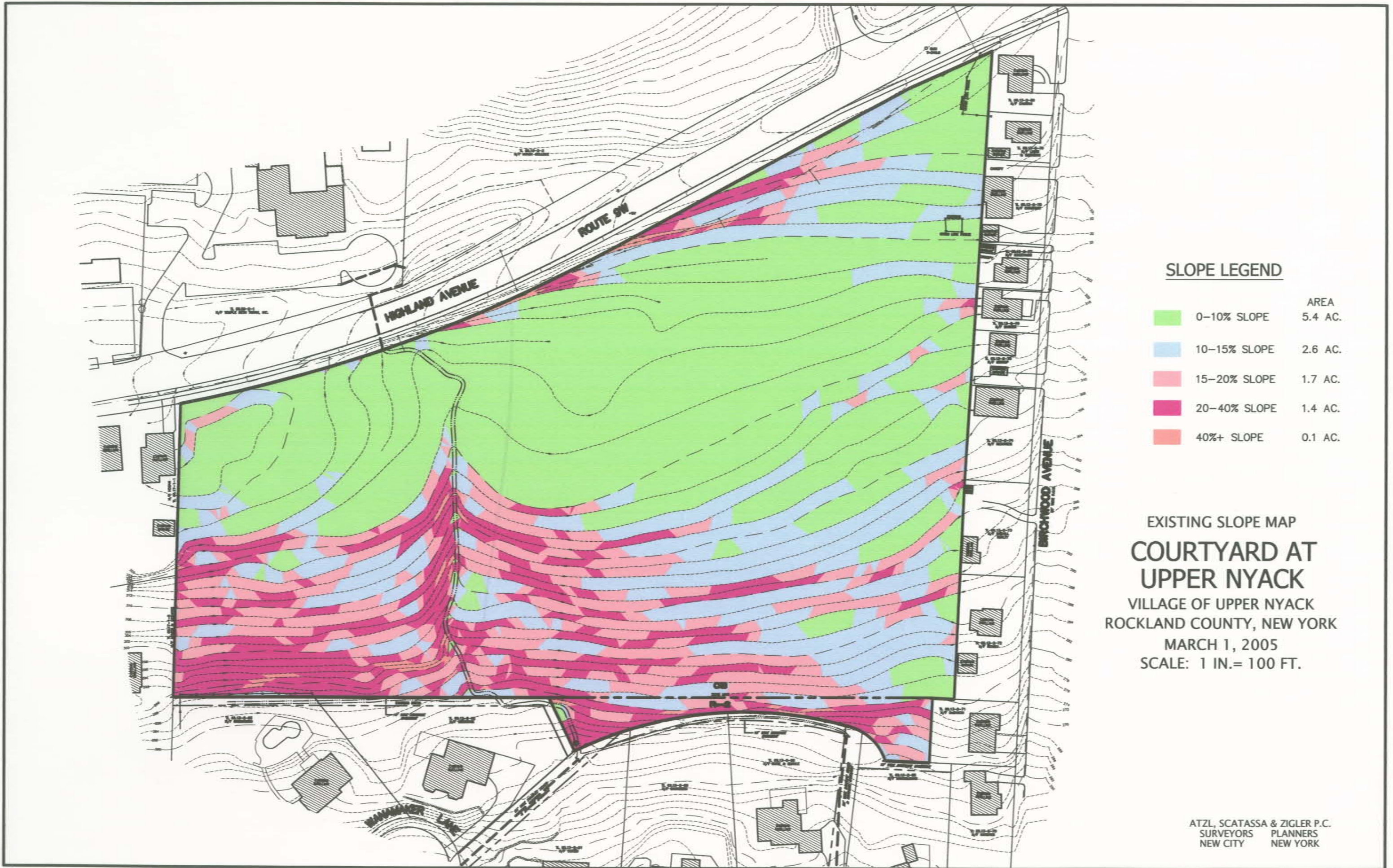


SOIL LEGEND

- WeC—WETHERSFIELD
- WeD—WETHERSFIELD
- WuB—WETHERSFIELD
- WuC—WETHERSFIELD
- WuD—WETHERSFIELD

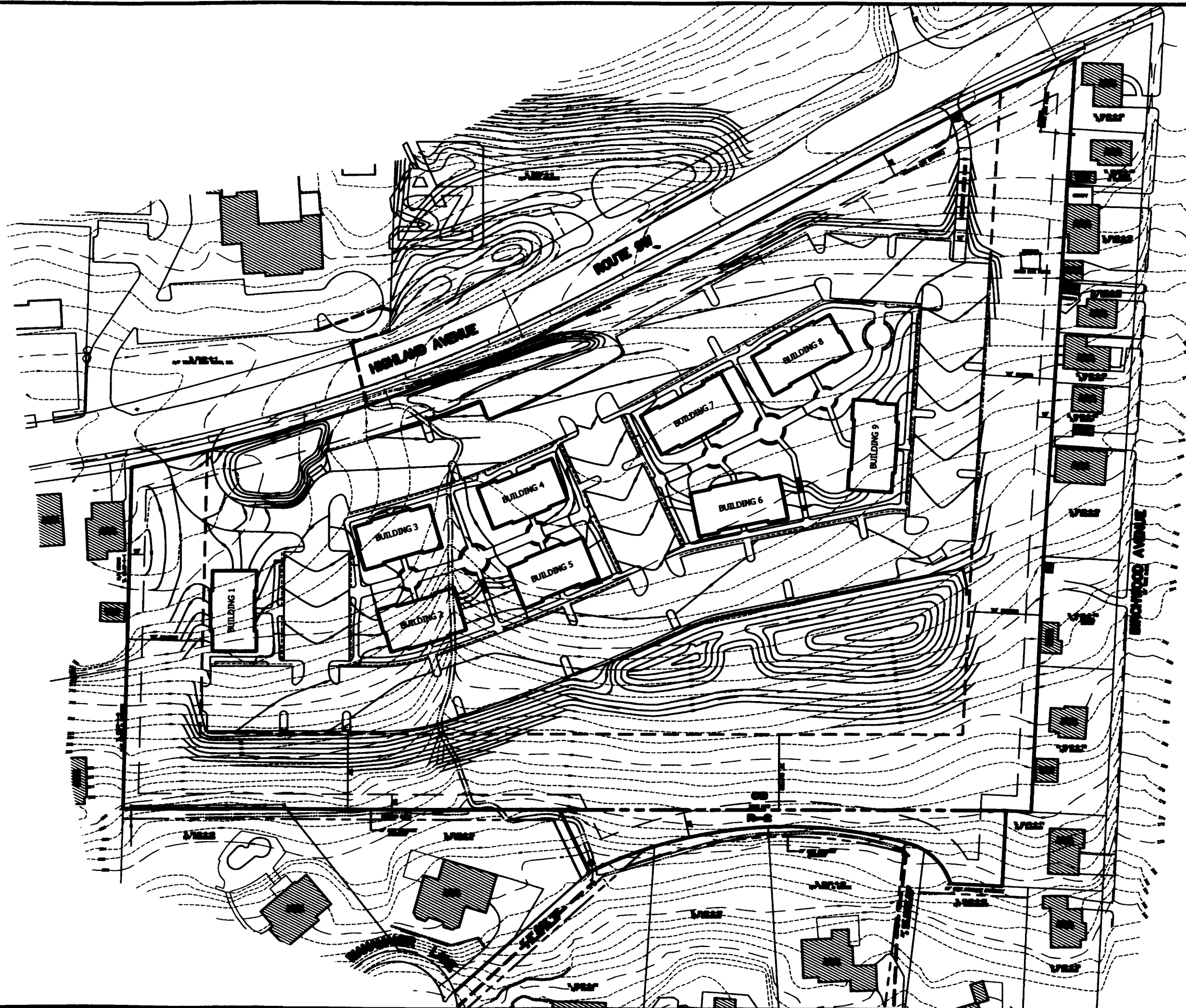
EXISTING CONDITIONS MAP
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005.
 SCALE: 1 IN.= 100 FT.

ATZL, SCATASSA & ZIGLER P.C.
 SURVEYORS PLANNERS
 NEW CITY NEW YORK



EXISTING SLOPE MAP
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN. = 100 FT.

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 SURVEYORS PLANNERS
 NEW CITY NEW YORK



SITE GRADING PLAN
**COURTYARD AT
UPPER NYACK**
VILLAGE OF UPPER NYACK
ROCKLAND COUNTY, NEW YORK
MARCH 1, 2005
SCALE: 1 IN.= 100 FT.

ATZL, SCATASSA & ZIGLER P.C.
SURVEYORS PLANNERS
NEW CITY NEW YORK



LEGEND

DISTURBED AREA 76 AC.

DISTURBED AREA MAP
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN.= 100 FT.

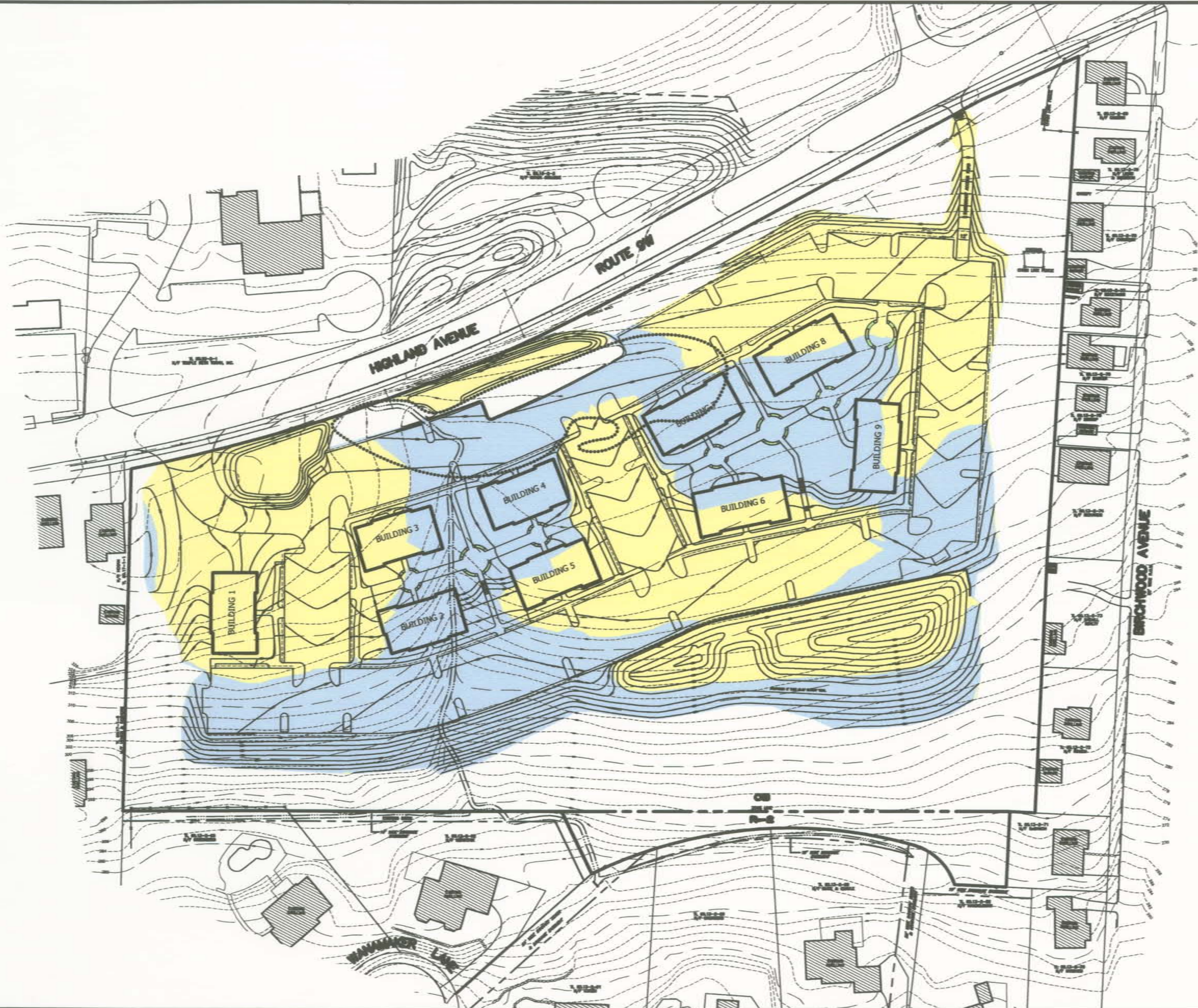
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 SURVEYORS PLANNERS
 NEW CITY NEW YORK



SLOPE LEGEND

SLOPE RANGE	AREA
0-10% SLOPE	4.4 AC.
10-15% SLOPE	1.6 AC.
15-20% SLOPE	0.9 AC.
20-40% SLOPE	0.6 AC.
40%+ SLOPE	0.0 AC.

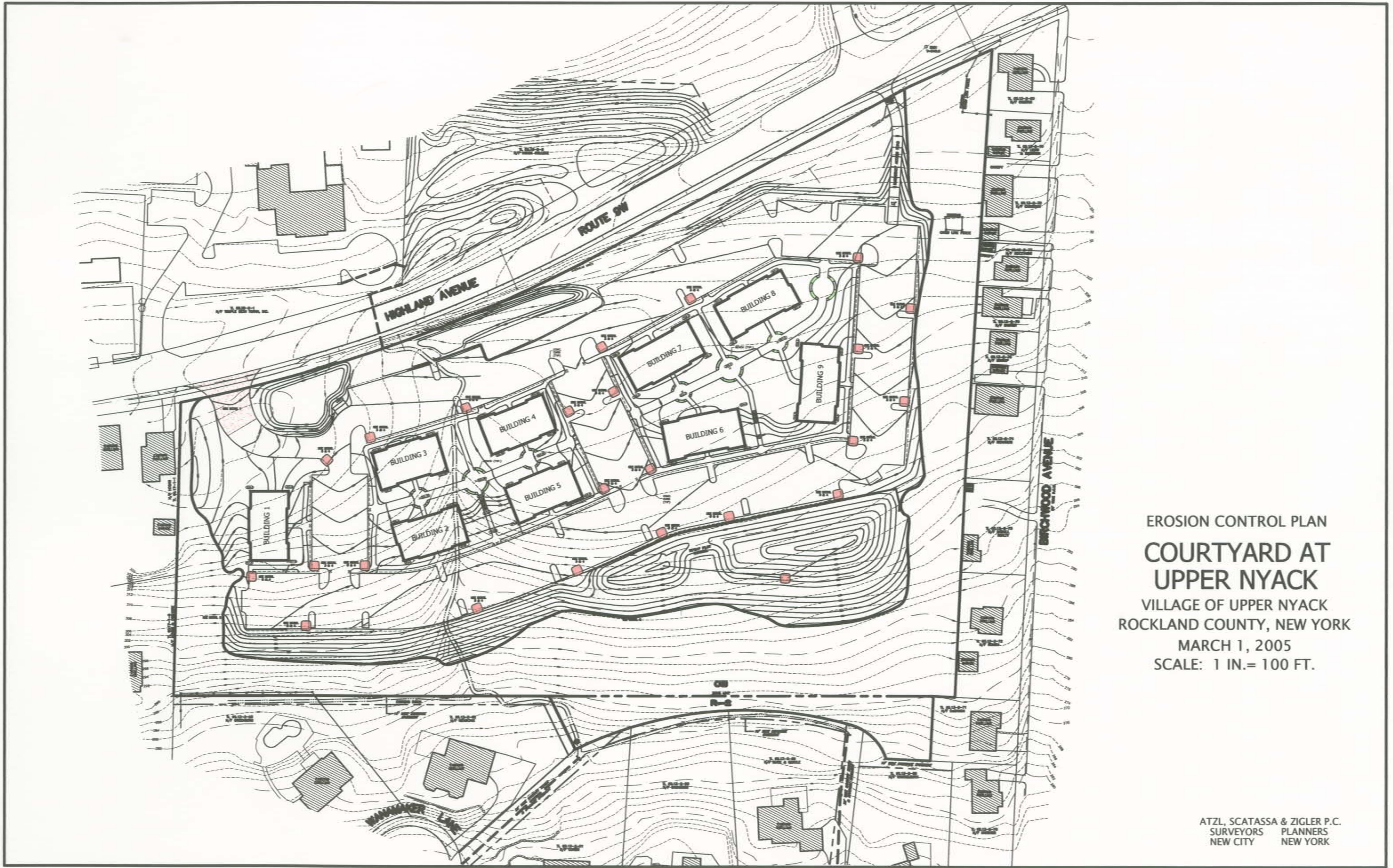
PROPOSED SLOPE DISTURBANCE
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN. = 100 FT.



CUT & FILL LEGEND

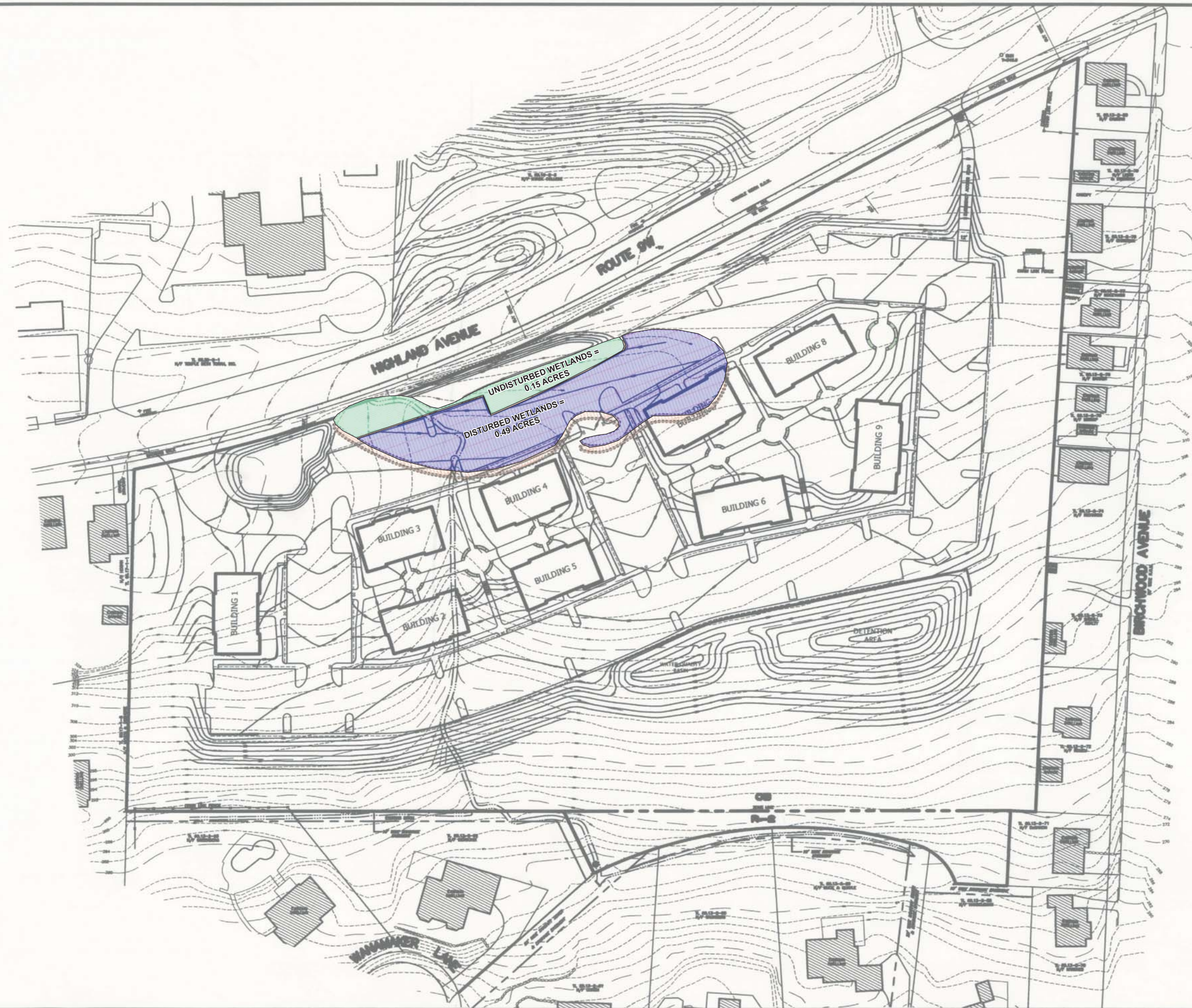
	AREA	VOLUME (UNADJUSTED)
FILL	3.4 AC.	17,099 CU. YARD
CUT	4.3 AC	22,278 CU. YARD
		NET: 5,179 CU. YARD CUT
	AREA	VOLUME (ADJUSTED) X 115%
FILL	3.4 AC.	19,663 CU. YARD
CUT	4.3 AC	25,620 CU. YARD
		NET: 5,957 CU. YARD CUT

CUT & FILL AREA MAP
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN.= 100 FT.



EROSION CONTROL PLAN
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN.= 100 FT.

ATZL, SCATASSA & ZIGLER P.C.
 SURVEYORS PLANNERS
 NEW CITY NEW YORK



WETLAND DISTURBANCE MAP
**COURTYARD AT
 UPPER NYACK**
 VILLAGE OF UPPER NYACK
 ROCKLAND COUNTY, NEW YORK
 MARCH 1, 2005
 SCALE: 1 IN. = 100 FT.

ATZL, SCATASSA & ZIGLER P.C.
 SURVEYORS PLANNERS
 NEW CITY NEW YORK

1.0 PROJECT DESCRIPTION COMMENTS AND RESPONSES

Subsequent to the DEIS public hearing the Project Sponsor entered into discussions with the Village that resulted in an amendment to the Village Zoning Code that allows residential use in the OB zoning district, by special permit. The Project Sponsor believes that a residential use represents a mitigation plan that addresses many of the potential impacts that were of concern in connection with the office project application.

The Project Sponsor prepared a residential subdivision plan for the project site that responds to the revised zoning code. (Refer to the Introduction section for the chronology of the project plans for this site.) This residential plan is the Project Sponsor's preferred alternative for the proposed development. The residential alternative is a mitigation concept for the project site prepared in response to comments made on the DEIS commercial site plan. The Project Sponsor believes this residential alternative, which is described below, would allow for the site to be developed in a more environmentally sensitive manner.

A comparison of potential impacts of the residential plan versus the nine-building commercial plan as related to each comment is presented below.

Objectives of the Project Sponsor

The preferred alternative addresses the major comments raised in the DEIS public hearing and written comment period. Specifically, the mitigation plan accomplishes a number of objectives:

- Increases the Village's inventory of residential housing and preserves the predominately residential atmosphere of the neighborhood within which the parcel is located;
- Preserves the existing wetlands on the subject site;
- Reduces stormwater runoff from the project site and potential impacts on the village drainage system;
- Preserves a greater amount of forested open spaces on the project site;
- Reduces slope impacts on the project site;
- Reduces traffic levels on Route 9W compared to the proposed commercial use; and,
- Creates a financially viable project that is compatible with the character of the community.

1.1 Single-Family Residential Subdivision Alternative

The residential alternative would establish a single family residential subdivision use of the site as a Special Permit use under the recent amendment to the OB District zoning regulations.

Figure 1-1 illustrates a potential configuration of the site for single family residential use. Under the 2006 OB District zoning amendment, the site could support many more than the 22 proposed lots since the Planning Board was granted flexibility for lot sizes and setbacks. The newly created lots may not be larger nor smaller than the lot sizes of adjacent residential zoned districts; setbacks and required buffers may vary by lot as the Planning Board may require.

This alternative would have access to/from Route 9W at the northwestern and southwestern sides of the property. The proposed internal road would be constructed to Village standards and offered for dedication to the Village upon completion.

Project Description Comments and Responses

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In addition to the 22 building lots and the 50-foot road right-of-way areas, this alternative would retain an undeveloped and forested conservation area along most of the Route 9W road frontage where the federally-regulated wetland is located. This area will be permanently identified by being bounded by structures such as boulders consisting of native stone placed on 50' centers. The limits of the wetlands will also be identified on all sales site plans as well as in affected lot descriptions.

This alternative directs stormwater drainage to the eastern portion of the site along Lots 5 and 7 where two comparatively low volume stormwater management facilities would be located. The residential plan reduces the area of proposed impervious surface to 2.73 acres in comparison to 3.7 acres of impervious coverage associated with the 9-building commercial plan and reduces the volume of excess fill to be removed from the site to 1,404 cubic feet.

The proposed lots would support single family homes with footprints of approximately 2,000 square feet or larger. The homes would be two story structures over basements, with anticipated usable floor areas of 2,500 to 3,500 square feet. The homes would be priced to sell at prevailing market prices. Most of the homes would have views of the Hudson River and are expected to be desirable in the local residential real estate market.

The homes would be served by community sewer as well as commercial water, gas, electric and other utilities that can be readily extended onto the project site.

In most respects, the potential adverse impacts associated with the residential plan would be less than or equal to those described below and in the DEIS for the commercial plans.

1.2 Nine-Building Commercial Alternative Plan

The commercial plan proposes nine buildings with a total of 60,759 square feet of usable space and a 75-foot perimeter buffer along the OB zoning district boundary. Additionally, the portion of the project site within the R-2 zone on the eastern side of the site (which ranges in width from 15 feet to over 70 feet) will remain undisturbed.

The commercial plan is oriented around two central landscaped courtyard areas (Figure 1-2). The commercial plan is proposed with provision for access to/from Route 9W in the southwest portion of the site, with a secondary emergency access to Route 9W in the northwest portion of the site.

The commercial plan has 348 parking spaces. With this proposed number of parking spaces, the commercial development can comply with the Village's parking requirements only by supporting a mix of 85 percent, or greater, of professional office space (51,918 s.f.) and 15 percent, or less, of medical office space (8,841 s.f.).

The Project Sponsor has suggested that the ratio of allowable professional office use versus medical office use at the development would be stipulated as a condition of approval of the commercial plan by the Village, based on the final number of approved parking spaces, following the conclusion of the site plan review process. It is also expected that, as a condition of approval, the Village will maintain the right to inspect the approved development to ensure that it conforms with all applicable approval conditions. The Village has the authority to enforce conformance with approval conditions through the issuance of certificates of occupancy for the proposed buildings. The Project Sponsor is willing to submit annually to the Village a schedule of

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the medical uses vs. professional uses (by square feet) at the proposed development to demonstrate ongoing conformance with the parking requirements.

The commercial plan creates an area of proposed impervious surface of 3.7 acres within a total area of disturbance of 7.75 acres. The amount of disturbance to steep slopes (>15 percent) with the commercial plan would be 1.5 acres.

In response to a request by the Village's planning consultants, the project engineer regraded the project to significantly reduce the amount of excess earth material to be removed from the site. The commercial plan would result in approximately 5,200 cubic yards of excess material. The nine-building commercial plan reduces the amount of excess earth material to be transported off-site by nearly 73 percent of the volume projected in the DEIS plan for a ten-building commercial plan.

The Project Sponsor is proposing on-site and off-site measures to mitigate the loss of 0.49 acres of on-site wetlands as a result of the proposed commercial development. On-site, the Project Sponsor proposes to expand the 0.15 acres of undisturbed wetlands by an additional 0.23 acres, which would provide 0.38 acres of on-site wetlands. The expanded on-site wetlands would be situated north of the proposed access road and west of the existing wetlands. A primary source of water to these on-site wetland areas will be outflow from the existing pipe that conveys the drainage underneath Route 9W from lands further west. The expanded wetlands will be graded and planted to retain and utilize the outflow from this pipe. An overflow structure will also be installed, from which excess water will be conveyed directly to the Village's existing stormwater system to the east of the site. As described in the DEIS, the primary sources of hydrology to the existing wetlands are the stream and overland sheet flow from Route 9W. Groundwater does not appear to be a major source of hydrology to the wetland. The expanded on-site wetland would not receive drainage from the proposed on-site impervious surfaces, which would be collected and conveyed by the proposed drainage system to the stormwater basins.

In addition, the Project Sponsor is proposing to create 0.54 acres of new wetland off-site on the Nyack College property (a.k.a.: Christian Missionary Alliance) immediately opposite the project site on the west side of Route 9W. This wetland area will expand an existing drainage collection area, which is the location of the existing pipe that flows under Route 9W into the project site. No changes are proposed to this existing pipe. The created wetland will collect runoff from the hillside to the west, portions of the two adjacent religious-use properties and from part of Route 9W. The proposed off-site wetland will temporarily hold this runoff, and the wetland vegetation will help to improve water quality through nutrient uptake and filtering.

Details of the proposed grading and plantings for both the on-site and off-site wetland areas are provided in Appendix D. Combined, these two measures will compensate for the 0.49 acres of wetland impact associated with the commercial plan by creating 0.77 acres of new wetland, which is a replacement ratio of 1.57 to 1.

As discussed above for the residential plan, the Project Sponsor will propose to conduct and/or fund a smoke test on the sewer line to identify illegal connections to the sewer system, with the expectation that elimination of any such connections would sufficiently offset the sewer effluent generated by the proposed development. The Project Sponsor will propose that this investigation be conducted in conjunction with the Village and the Orangetown Sewer District prior to final site plan approval.

During the review of the DEIS, the Town of Orangetown indicated concern about the capacity of the sewage lines and pump station in the Village of upper Nyack that would serve the proposed development most critically during rain events. The Project Sponsor met with the Town of Orangetown officials to identify the nature of the problem and discuss possible remedies. One potential remedy that was identified was to eliminate illegal connections to the sewer system that contribute to the capacity problem. The Project Sponsor has proposed to conduct and/or fund a smoke test on the sewer line to identify illegal connections to the sewer system, with the expectation that elimination of any such connections would sufficiently offset the sewer effluent generated by the proposed development.

The project engineer estimates that the elimination of illegal roof drain connections from one or two average size homes would exceed the estimated peak daily flow from the proposed development. This would improve the capacity of the sewer system during rain events, and help to eliminate overflow problems that result from the conveyance of stormflows that the sanitary sewer system is not designed to handle. The Project Sponsor proposes that this investigation be conducted in conjunction with the Village and the Orangetown Sewer District prior to final site plan approval. This investigation would also assist the Orangetown Sewer District which is planning to replace and redesign the sewer pump station that serves the Village, including the project site. Based on discussion with the Village's drainage consultant (telephone conversation with LMS June 29, 2005), the small volumes of added runoff from diverted illegal storm drain would not adversely impact the stormwater drainage system.

Presently the Orangetown sewer treatment system has sufficient capacity during dry weather conditions for the additional flow from either the residential or the commercial development.

An Upper Nyack pump station redesign project was put out to bid in September, 2006, (along with other work for the Orangetown Sewer District) and upgrade improvements should be completed within one year to increase the pump station capacity from its existing 1.4 million gallons per day (mgd) to an upgraded capacity of 2.3 mgd.

In all other respects, the potential adverse impacts associated with the nine building commercial plan would be less than or equal to those described in the DEIS (10 building plan), and all proposed mitigation measures described in the DEIS would be implemented for the nine building plan, in addition to those measures described above.

A comparison of impacts for the two current proposed developments (residential vs. commercial), on a category by category basis, is provided in each of the respective sections in this FEIS.

1.3 Comments and Responses on the Project Description

Comment 1-1 (Letter #1, The Village Board of Upper Nyack, 11/8/04, Public Hearing, Mayor Michael Esmay, 11/8/04): One area of concern is the buffer area. The buffer serves to protect the surrounding properties from undue noise, odors, lighting and traffic circulation. Reduction of the buffer or the removal of vegetation from the buffer will not conform with the plans, goals and objectives of the zoning revisions completed last year. The zoning code gives the Planning Board discretion in the placement of drainage structures in the buffer area, but we feel that there would be no tangible benefit to the Village to do so. This advantage is not evident in the project as presented.

Project Description Comments and Responses

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Response 1-1: Commercial Nine Building Plan - *As noted previously, the Project Sponsor has revised the project plans to provide the 75 foot buffer and no longer requests any discretionary relief relating to the buffer width from the Planning Board for this plan.*

The proposed development now provides the full 75 foot perimeter buffer from the OB district zoning boundary line. The portion of the project site within the R-2 zone on the eastern side of the site (which ranges in width from 15 feet to over 70 feet) will remain undisturbed thus providing additional buffer area beyond what is required by zoning.

Additionally, as indicated in the DEIS, the project includes landscape plantings to enhance the perimeter buffer area. The project will also have the benefit of topographic separation between the site and the adjacent properties to the east. This is illustrated in the full-size cross section profiles provided in the DEIS.

Potential impacts relating to noise, odors, lighting and traffic were addressed in the DEIS. The proposed site plan incorporates measures to minimize such potential impacts, as described in the DEIS.

Residential Subdivision Plan - *This plan would maintain a strip of undisturbed buffer on the periphery of the property and more treed lands along the Route 9W frontage. The buffer for the residential use would be narrower than the office use, as indicated on the subdivision plat. However the residential project is considerably more compatible with the existing neighborhoods and does not have the types of activities that a larger deeper buffer seeks to shelter (traffic and parking, lighting, etc.).*

Comment 1-2 (Letter #1, The Village Board of Upper Nyack, 11/8/04, Public Hearing, Mayor Michael Esmay, 11/8/04):

Lastly, the potential negative economic impact of this development on the Village as a whole needs to be analyzed and reviewed in depth. This is of great concern to the Village Board. The DEIS states on page 1.22 that the development will generate approximately \$9,000 a year in Village taxes at no cost to the Village. Given the information we have, it appears that the proposed development will potentially increase demand for services, specifically the stormwater and sanitary sewers systems of the Village, which recent weather events have shown to be overburdened. \$9,000 a year would not begin to offset the potential cost of increasing the Village storm sewer and sanitary sewer systems to accommodate a development of this density. The proposed development could potentially increase property taxes for all Village residents for the foreseeable future. The proposed development as shown presents no net economic benefit to the Village.

Response 1-2: Commercial Nine Building Plan - *The commercial plan would have a beneficial impact on taxpayers in the Village. It would not be accurate to assess the fiscal benefits based only on the Village taxes, which comprise only about six percent of the property tax bill. As described in the DEIS, the development is projected to generate \$102,881 in annual tax revenues to the School District with no associated costs. The tax levied by the School District currently represents more than 66 percent of the annual tax bill paid by Village residents. This tax revenue will directly benefit all taxpayers in the school district. By comparison, the Village tax portion of the annual taxes paid in the Village is about six percent.*

As described in the DEIS, the nine building plan would generate approximately \$9,642 in

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annual property taxes to the Village. As a commercial project, it would require little community services and the Village would have little added costs.

Any potential improvements or funding contributions to the off-site municipal infrastructure serving the project that are identified would be in addition to the revenue generated by the property taxes, and will be detailed prior to any approvals being granted to the project. Potential improvements might include the evaluation or repair of the macadam walkway and wood rail fronting the property along Route 9W.

As part of the approval process, the ability of the stormwater and sewer systems to service the proposed development will be evaluated by the Village Engineer, designated as the Stormwater Management Officer by Article VIII (Stormwater Control) of the Village Code. Any appropriate measures for the Project Sponsor will be based on consultation with the Village Engineer, the Village's drainage consultants that have conducted a study of the Village's drainage system, and the Orangetown Sewer District that is currently studying improvements to the sewer infrastructure.

Unless the Village desires to control and maintain the on-site storm water management facilities itself and take them by dedication from the Project Sponsor upon completion, the Project Sponsor and its successors will be responsible for future on-site maintenance costs associated with the proposed development and these responsibilities would be stipulated as a condition of approval by the Village. Under New York State Village Law (see law excerpt below) and Article VIII of the Village Code, the Village of Upper Nyack has the authority to take action to ensure that maintenance measures are implemented and seek reimbursement by the Project Sponsor or its successors.

Section 4-414 Assessments other than for local improvements

Whenever an owner of property is required by general, special or local law to make an improvement, perform any work or do any act on such property in the interest of public safety, health, comfort and general welfare and such owner shall fail to make the improvement or perform the work or act required and the board of trustees shall cause such improvement, work or act to be done on such property or a contract has been awarded therefore by the board, the cost of such improvement, work or act may be assessed, levied, and collected as may be provided by local law.

Residential Subdivision Plan - *As presented in the comparative table presented on page vii of the Introduction to this FEIS, the estimated tax revenues associated with the residential alternative are substantial for both the village and school taxing districts. Actual tax revenues will be contingent on property assessments and taxing rates set by the village.*

As with the commercial alternative, the Project Sponsor would consult with the Village Engineer, the Village's drainage consultants and the Orangetown Sewer District to identify measures for off-site municipal infrastructure improvements, if needed, to serve the residential project

Comment 1-3 (Letter #1, The Village Board of Upper Nyack, 11/8/04, Public Hearing, Mayor Michael Esmay, 11/8/04): The density of use on this property, while technically allowed under our zoning, does not conform with the spirit and intention of the planning we have done for the Village.

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Response 1-3: Commercial Nine Building Plan - *The project proposes 60,759 square feet of floor area, which is less than 25 percent of the +/- 243,900 square feet maximum FAR for this property permitted under the recently revised Zoning Code which created the OB zoning district. The actual, allowable, FAR would be less than 243,900 square feet when all applicable bulk regulations are applied to the property such as were applied to develop the project proposal.*

Residential Subdivision Plan - *Under the residential alternative the development of the site would still likely be less than the maximum that could occur under the Zoning Code and well less than the maximum commercial development permitted in the OB zone. The average residential lot size would be in excess of 18,500 SF.*

Comment 1-4 (Letter #7, Ron I. Wish M.D., 112 Highmount Avenue, 11/8/04): Re the proposed development at the Courtyard at Upper Nyack -- Please be sure to follow the village regulation and uphold the 75-foot buffer zone for all development around this property. This means NO building, drainage ponds or any other infringement on the land within 75 feet of the property's borders. All trees in this buffer zone should be preserved -- not selectively or clear cut. Thank you.

Response 1-4: Commercial Nine Building and Residential Subdivision Plans - See Comment 1-1.

Comment 1-5 (Letter #8, Lise Petricone, 11/6/04): I am writing to voice my opposition to proposed Courtyard at Upper Nyack, LLC. More office space is not needed, there is an office complex going up just down the road on 9W between Highmount and 6th Avenue. It will create more noise, dirt, pollution, etc. and will significantly decrease our enjoyment of our home.

Response 1-5: Commercial Nine Building Plan - *The DEIS did not address the economic viability of the project because it is assumed that with all business ventures, the Project Sponsor is assuming the financial risk. As described in the DEIS and FEIS, mitigation measures are proposed to address potential significant adverse impacts.*

Residential Subdivision Plan - *The residential alternative is viewed by the Project Sponsor as being highly compatible with the adjoining residential districts in the Village.*

Comment 1-6 (Letter #9, Elizabeth Egloff, 11/8/04, Letter #10, James Youmans, 11/8/04): We do NOT need more vacant office space in this area. There are so many vacant office buildings all over this county. The environmental impact of this development is even more concerning.

Please say "NO" to the zoning variances they are requesting. Say "NO" to the destruction of our wetlands and the increased traffic and pollution, and to overburdening of storm waste sewers!

Response 1-6: Commercial Nine Building and Residential Subdivision Plans - Comment noted. See Response 1-5.

Comment 1-7 (Letter #11, Alan J. Friedberg, 11/4/04): We do not need:

- increased office space in our community -- let them fill the vacant space that exists already in New City

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- overburdening our village's infrastructure -- storm sewers and roads
- destruction of wetlands and vegetation
- increased traffic and pollution
- overburdening our storm and waste sewers
- years of construction

I feel that this project will negatively alter the character of our community, decrease our property values and overburden the infrastructure of our town. Please say NO to this project and do NOT grant any zoning variances being requested.

Response 1-7: Commercial Nine Building Plan - *Comment noted. The plan studied in the DEIS requires a discretionary waiver from the Planning Board to permit a reduced buffer and no variances were sought. An alternative plan that was designed to not require a waiver was discussed as Alternative 1A in the DEIS and in the introduction section of this document. This alternative plan is now proposed by the Project Sponsor. See Response 1-5.*

Residential Subdivision Plan - *The residential alternative does not require variances from the Village and is viewed as much more compatible with community character than an office use. It is more likely to represent an asset to community property values. See Response 1-5.*

Comment 1-8 (Public Hearing, James Sarna, 305 Fairview Avenue, 11/8/04): I have asked the developer at the very first meeting and at subsequent meetings to provide some information to the public about who is behind the development.

Response 1-8: Commercial Nine Building and Residential Subdivision Plans - *The Project Sponsor is Courtyard at Upper Nyack, LLC. The managing member of the Project Sponsor, Wilder-Balter Partners Inc., is a development company that builds residential, senior living and commercial projects throughout the New York Metropolitan area. The company is based in Elmsford, Westchester County and is managed by William G. Balter and Robert H. Wilder, Jr. Additional information about the company is available on the web-site at "www.wbhomes.com"*

Comment 1-9 (Public Hearing, James Sarna, 305 Fairview Avenue, 11/8/04): I have pointed out that within a five-mile radius as you drive on the Thruway, as you drive all around this community, there are hundreds of thousands of square feet of office space that have not been rented despite those developers' best interest.

There is an office building that has been constructed at a great delay and with some significant disruption that is one building that is less than - what - a thousand yards, maybe, from where this 10-building development is being proposed. There has been a sign on that first lot, then on the building, that has had offices to rent for over two years.

When Nyack Hospital looked into creating its own version of what's being proposed for the Courtyard At Upper Nyack, several years ago, they did what I asked this developer if they had done, and that was they conducted a feasibility study. They determined that doctors, many of whom practice at this hospital and have rights at this hospital here in Nyack, are not interested in renting office space so close to the hospital because they, also, practice at other hospitals and because there is plenty of space where they are, whether it's in Pomona, whether it's in

Project Description Comments and Responses

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Suffern, whether it's near other hospitals. They don't need more office space here.

I asked the developer how can we be assured, first, that this project will, actually, be completed? We've seen people with good intentions start projects and, as an LLC, it's not to say that if they, actually, get it started, they won't lose money if they stop midway, but that's it - they limit their liability. That's why it's called "a limited liability company."

I help people set these up all the time. I tell people you're only at risk for your investment. If this developer puts up some of its money, maybe, borrows some more and, maybe, guarantees some of it, and they decide, you know what, we can't build all these buildings and rent all of this space, we're done, we're pulling the plug, and guess who's stuck with an eyesore, a half-completed project and all of the attended tax liability, traffic concerns, pollution concerns, hundreds of thousands of gallons of water going into our sewer systems?

I ask this developer to give us some assurance, to tell us: Who are you? What money do you have, personally, at stake here? So that we know you're not going to run out if this doesn't turn out the way you want it to turn out. Of course, there was no answer. They suggested that we go and we take a look at another development in Westchester. We don't live in Westchester for a reason. Upper Nyack is not like Westchester and we hope it never will be. That's why we live here.

I would like the Environmental Impact Statement to include a very detailed analysis of the financial viability because that underlines -- underlies the entire project.

Response 1-9: Commercial Nine Building Plan - *The Project Sponsor believes the development is financially viable and will be a successful tax revenue generating development for the Village.*

The financial aspects of the project or the financial position of the developer are beyond the scope of the Environmental Impact Statement or the purview of the Planning Board with respect to this application and the Project Sponsor has no regulatory obligation to provide such information.

See also Responses 1-2 and 1-5.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-10 (Public Hearing, James Sarna, 305 Fairview Avenue, 11/8/04): There are people in this Village who have decided that we pay a lot of money in taxes, we want things to stay the way they are, and, unless there is a financial assurance that the impact that this development will have, and a financial assurance that it will be feasible and that it's not going to run out of steam two years into the construction, when you have thousands of trucks going in and out and then, suddenly, it stops and we're stuck with unpaved parking lots and erosion and all the other problems that are attended to this. We need to know how this will be completed and why this developer believes and can assure us that it will be able to complete the project.

Response 1-10: Commercial Nine Building and Residential Subdivision Plans - *As a condition of approval, the Project Sponsor is expected to be required to post construction securities with the Village to assure that the approved infrastructure plan is followed,*

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as well as all erosion control measures are installed and maintained properly. See also Response 1-9.

Comment 1-11 (Public Hearing, Lawrence Alpern, 115 Birchwood Avenue, 11/8/04): So, I'll just say what I think the average citizen in this Village would say. I am afraid of the extra tax burden that I'm gonna face.

Response 1-11: Commercial Nine Building and Residential Subdivision Plans - See Response 1-2.

Comment 1-12 (Public Hearing, Jerry Greenberg, 207 Wanamaker Lane, 11/8/04): In this draft, there's a letter from Rockland County stating that the Planning Board has the discretion of reducing the square footage due to slope and the residential abutment of this project. I think we all request the Planning Board exercise this discretion.

Response 1-12: Commercial Nine Building Plan - As noted previously, the Project Sponsor has revised the proposed plan to reduce the number of buildings and the total square footage and to increase the amount of perimeter buffer. The Project Sponsor is no longer requesting discretionary relief relating to buffer width from the Planning Board or any other type of Planning Board discretion (see Response 1-1).

Residential Subdivision Plan - This comment is not applicable to the residential alternative.

Comment 1-13 (Public Hearing, Jerry Greenberg, 207 Wanamaker Lane, 11/8/04): I cannot imagine how this project would not have a negative impact on all of our property in the Village.

Response 1-13: Commercial Nine Building and Residential Subdivision Plans - Comment noted. The Planning Board is appreciative of all comments submitted by residents and will consider all substantive comments seriously as the review process moves forward.

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Comment 1-14 (Public Hearing, Deb Krikan, 204 Glenbrook Road, 11/8/04): The other thing I'd like to ask the developers is that the capacity of the building occupancy. I have not seen any numbers on that. If you have 10 two to three-story buildings that has an occupancy, I'm sure more than 400 people each building, and we one only have 451 parking lots, allotment, that does not seem equivalent to be able to serve the capacity of those buildings if you think about the worst-case scenarios.

So, engineering-wise, I don't know what the parking allotment is required for occupancy of a building. That number needs to be determined, and because I'm sure even parking for the Nyack Hospital, they park on our streets, the residential streets, because that parking lot doesn't accommodate it.

Response 1-14: Commercial Nine Building Plan - The Village Code specifies the parking requirements for the proposed office building based on square footage of usable floor area, not building occupancy. As noted in the DEIS, the proposed development provides sufficient spaces to satisfy the parking requirements of the Village of Upper Nyack Code.

Residential Subdivision Plan - This comment is not applicable to the residential alternative.

Comment 1-15 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): Page 2-8 of the DEIS states that the parking calculations are compared to the parking requirements of other municipalities. The required parking of other municipalities should have no bearing on the required amount of parking for the proposed development of this site. The applicant shall provide the appropriate number of parking spaces required by the Village of Upper Nyack Code.

Response 1-15: Commercial Nine Building Plan - The proposed project will have sufficient spaces to satisfy the parking requirements of the Village of Upper Nyack Code.

Residential Subdivision Plan - This comment is not applicable to the residential alternative.

Comment 1-16 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The County Planning Department is concerned with the proposed single ingress/egress of the site, considering there will be a maximum of 60,759 square feet of usable office space among the 9 buildings. The New York State Department of Transportation shall review the proposed single ingress/egress and emergency access onto the state highway. Additionally, the local fire and emergency personnel shall review the 9-building plan to determine the effectiveness of the proposed emergency access and the internal flow of the site to determine if there is sufficient area for emergency equipment, and if the location of emergency parking and/or access is appropriate.

Response 1-16: Commercial Nine Building Plan - The project includes a secondary emergency access onto Route 9W. This secondary access was provided at the request of local fire department personnel following a review of the site plans. Because the project requires the issuance of a NYS DOT Highway Work Permit, the NYS DOT is an involved agency for the proposed development. As such, the NYS DOT will continue to review all relevant project related information pertaining to traffic safety and operation.

Residential Subdivision Plan - *The residential alternative incorporates two ingress/egress points for the site onto Route 9W. The roadway configuration will require work permits from the NYS DOT and will be reviewed with the local fire department, however the nature of the conforming road configuration and easy access to each home from the proposed streets are anticipated to be fully compatible with firematic requirements..*

Comment 1-17 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The DEIS indicates that the proposed office building will contain both medical and other professional uses. The ratio of the different uses will determine the amount of parking required on-site. We are concerned that the original site plan layout and associated parking will not be adequate in the future if the ratio of medical to other professional uses increases from the proposed 14.5% of medical offices. Medical office uses must require more parking spaces because the length of stay for patients is usually greater than for other office uses. How will the Village monitor and enforce the office use changes and associated parking as they occur? Will a new site plan be required for each new user, including parking designations for each building? It seems reasonable that the entire 60,759 sq. ft. office space could be leased as medical offices in the future, and that adequate parking could become a problem. The DEIS should look at the worst-case scenario and plan for the entire site to be occupied by only medical offices and provide the required parking for that use.

Response 1-17: Commercial Nine Building Plan - *The ratio of allowable medical office use versus non-medical office use at the development may be stipulated as a condition of approval by the Planning Board, based on the final number of approved parking spaces.*

The Village will have the right to inspect the approved development to ensure that it conforms to all applicable approval conditions and the Village has the authority to enforce conformance if necessary.

The proposed development will also require the issuance of certificates of occupancy from the Village, which can be conditioned upon providing enough parking to meet the Village Code requirements.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-18 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The Rockland County Department of Health shall be included as an interested party for this project and should be given the opportunity to examine the monitoring wells to determine if they should remain monitoring wells, or if they will need to be decommissioned properly.

Response 1-18: Commercial Nine Building and Residential Subdivision Plans - *As indicated on Page 2-9 of the DEIS, the Rockland County Health Department is listed as an Involved Agency. As such, the department received all of the well information provided in the DEIS (see Appendix G of DEIS). The Rockland County Health Department has not expressed any interest in utilizing the existing wells as part of their groundwater study. The Project Sponsor has indicated a willingness to explore this possibility for those wells not impacted by the proposed grading, should the Rockland County Health*

Department express an interest.

Comment 1-19 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The Village of Upper Nyack Village Board shall be included as in interested party for this project.

Response 1-19: Commercial Nine Building and Residential Subdivision Plans - The Village Board is considered an Interested Party and was sent a copy of the DEIS.

Comment 1-20 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): No lighting shall shine into the New York State Route 9W right-of-way. All lighting shall be directed on site. Low evergreen shrubs shall be used along NYS Rt. 9W to block the headlights of parked cars from shining into the State Highway.

Response 1-20: Commercial Nine Building Plan - Comment noted. As demonstrated in the Lighting Plan provided in the DEIS, the proposed development would not involve off-site lighting. Also, as shown on the landscaping plan, evergreen plantings (trees and shrubs) are proposed between the development and Route 9W. Further, the parking area is topographically located approximately 10 feet or more below Route 9W. With this grade change, headlight glare from on-site vehicles is not expected to create problems for motorists on Route 9W. Given the existing grade difference between the state highway and the site, provisions will be required for entry drive lighting fixtures that do not confuse or blind motorists on Route 9W.

Residential Subdivision Plan - Parking within the residential alternative will be substantially reduced in comparison to the office project. Most vehicles are expected to park in garages or driveways.

Comment 1-21 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The Village of Upper Nyack recently (December 16, 2004) adopted amendments to the Village Zoning Ordinance. Since the proposed project is not yet being reviewed for site plan, the amendments concerning steep slopes, rock outcrops, and lands under water shall be adhered to and proper lot area reductions shall be calculated and appropriately identified on the maps.

Response 1-21: Commercial Nine Building and Residential Subdivision Plans - The project engineer has reviewed the above referenced zoning amendments and concluded that they do not affect the proposed development. The Village Planning Board has not advised the Project Sponsor that the zoning amendments affect the proposed application in any way. The site plan review process has commenced and will continue following the conclusion of the SEQRA process.

Comment 1-22 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The County GIS staff noted that some of the source data and dates were incorrectly cited within the DEIS. For example, the source data used in Figure 3.4.1 was obtained from the County Planning Department, as well as parcel data, topography, and buildings used in other figures. The correct date for Figure 3.4.1 should be April 2000. All source data and dates shall be cited accurately.

Response 1-22: Commercial Nine Building and Residential Subdivision Plans -

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Comment noted.

Comment 1-23 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): Section 1.2.4, fifth paragraph has a misplaced parenthesis.

Response 1-23: Commercial Nine Building and Residential Subdivision Plans -
Comment noted.

Comment 1-24 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The last sentence of Section 2.3.2, paragraph 6 is incomplete.

Response 1-24: Commercial Nine Building and Residential Subdivision Plans -
Comment noted.

Comment 1-25 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): In paragraph 6 of section 2.4.2, there is a second “that” which should be deleted.

Response 1-25: Commercial Nine Building and Residential Subdivision Plans -
Comment noted.

Comment 1-26 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): Table 2-3 incorrectly states in the Proposed Project column to see Table 2-3.

Response 1-26: Commercial Nine Building and Residential Subdivision Plans -
Comment noted. The correct reference is Table 2-4.

Comment 1-27 (Letter #12, Douglas Schuetz, Rockland County Department of Planning, 12/23/04): The Upper Nyack Architectural Review Board is listed twice under interested parties; this shall be corrected.

Response 1-27: Commercial Nine Building and Residential Subdivision Plans -
Comment noted.

Comment 1-28 (Letter #13, Mark Hussey and Evelyn Leong, 12/17/04): We would like to add our voices to that majority opposing the proposal to turn the woodland on the east side of 9W into an office park (“Courtyard”). Given the existing number of empty buildings in the area, the already severe drainage problems in the Village, and the fact that no good reason for this project exists other than swelling the bank accounts of people who don’t live here, we urge you to make the only decision that has any integrity: deny the application.

Response 1-28: Commercial Nine Building and Residential Subdivision Plans -
Comment noted. The Planning Board has an obligation to review any plan submitted by owners of the properties, including review of the environmental impacts through the SEQR process and must include the public in the process of the review and all comments are appreciated.

Comment 1-29 (Letter #14, Charles Christian, 12/16/04): I personally think that there will be too many parking spaces, approximately 400, seems like a lot.

Response 1-29: Commercial Nine Building Plan - The amount of proposed parking

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conforms with the Village Code requirements.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-30 (Letter #19, Burton and Lucille Saunders, 11/11/04): When this parcel was zoned for its present use no thought was given to the specifics of this site. No thought was given to the off site infrastructure. Any project that is to be approved for this site must take into effect the inadequacy of the down stream infrastructure. This means that the builder must provide the capital improvements that are going to be necessary off site, or the project must be downsized so that the current infrastructure will be sufficient. The latter does not seem possible as the present infrastructure is already overburdened.

Response 1-30: Commercial Nine Building and Residential Subdivision Plans - *Comment noted. The Board has been assured by the Project Sponsor that they will continue to work with the Village and other infrastructure service providers to ensure that the proposed development can be accommodated without significant adverse impacts.*

By complying with the NYS DEC SPDES permit that require the stormwater discharge rates from the site to be maintained or reduced for the 1 through 100 year storm events, no adverse impacts to the Village's downstream drainage are expected.

As described in the Introduction chapter of this document, the Project Sponsor is willing to fund a smoke test of the sewer system that would service the project site to identify any illegal connections and to also fund the corrective measures necessary to offset the amount of sewage that the proposed development would generate, beyond that which the system is capable of handling.

Comment 1-31 (Public Hearing, Joseph Menschik, 209 Wannamaker Lane, 1/11/05):

Drainage was addressed by Lawler, Matusky and Skelly, and the County Sewage by the Town of Orangeburg Department of Environmental Management and Engineering, which clearly said the sewage system cannot accommodate the development, wetlands management by both the County and the State, parking by the County, zoning by the County, site plan design by the County and traffic by the County. Any one of the above deficiencies is grounds for rejection of the plan.

Response 1-31: Commercial Nine Building and Residential Subdivision Plans - *The above referenced concerns (drainage, sewage, wetlands, parking, zoning, and traffic) have been addressed by the Project Sponsor as presented elsewhere in the DEIS and this FEIS document for review by the appropriated approving agencies and will be subject to further consideration during the final approval process. Mitigation measures are proposed that the Project Sponsor believes would offset the potential impacts. These are described in the Executive Summary section of the DEIS and in the Introduction Chapter of the FEIS.*

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Comment 1-32 (Public Hearing, Joseph Menschik, 209 Wannamaker Lane, 1/11/05, Letter #24, Joseph Menschik, 1/11/05): The DEIS is ambiguous and does not adequately address the following areas: Air quality, wetlands management, drainage from required buffers, dust control, traffic and transportation, esthetics from Route 9W and public safety. One and two above equate to a clear F grade. We should not permit this kind of social promotion of the project. This affects our home, our quality of life, our safety, our Village and our taxes.

Response 1-32: Commercial Nine Building Plan - Comment noted. The Planning Board has an obligation to review any plan submitted by owners of the properties, including review of the environmental impacts through the SEQR process and must include the public in the process of the review and all comments are appreciated.

Mitigation measures are proposed that the Project Sponsor believes would offset the potential impacts. These are described in the Executive Summary section of the DEIS and in the Introduction Chapter of the FEIS. The revised nine building plan proposed in the FEIS document is intended to reduce potential adverse impacts as compared to the ten building DEIS plan.

Residential Subdivision Plan - This residential alternative is being presented with the intention of mitigating impacts identified during the DEIS and site plan review proceedings. This alternative is expected to further reduce or avoid adverse environmental impacts associated with the commercial plan, especially in regard to air quality, wetlands, noise and traffic.

Comment 1-33 (Public Hearing, Joseph Menschik, 209 Wannamaker Lane, 1/11/05): [W]e're really short of parking spaces.

Response 1-33: Commercial Nine Building Plan - The proposed project fully complies with the Village's parking requirements.

Residential Subdivision Plan - This comment is not applicable to the residential alternative.

Comment 1-34 (Public Hearing, Joseph Menschik, 209 Wannamaker Lane, 1/11/05): We need strong financial guarantees and recourse against the developer and his experts for miscalculations that affect us adversely. We live here. They're in this project for financial gain. This means serious performance bonding of various types with the ability of not only the Village, but also the residents to get at the bonding in the event of the failure, as well as personal responsibility on the part of the developer and its experts. We need to up the stakes. It's currently very high for us. It should not be capped for them.

Response 1-34: Commercial Nine Building and Residential Subdivision Plans - The Project Sponsor owns land in the Village of Upper Nyack that has certain and specific development rights that are inherent with land ownership. The motivation for any action subject to SEQRA review is irrelevant. The Project Sponsor and its successors will be responsible for future on-site maintenance costs associated with the proposed development and these responsibilities would be stipulated as a condition of approval by the Village. Under New York State Village Law (see excerpt in Response 1-3), the Village of Upper Nyack has the authority to take action to ensure that maintenance measures are implemented and seek reimbursement by the Project Sponsor or its successors.

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The Village could require financial surety from the project sponsor under conditions of the Village Stormwater Control Code to ensure that the proposed construction, including the stormwater management system is constructed according to the approved plans and operates as designed. The Village has not yet made a determination about whether performance bonding will be required. Whether, and to what extent performance bonding funds could be used to repair any off-site damage attributed to the project is also a determination that the Village has not yet made.

The Project Sponsor will also carry an insurance policy against which claims could be made for any damages resulting from the drainage system.

Comment 1-35 (Public Hearing, Joseph Menschik, 209 Wannamaker Lane, 1/11/05): The DEIS has made certain assumptions, which require compliance from some of the interested parties, such as the Army Corp. of Engineers, the Village of Nyack and other State agencies. In the event those assumptions are not addressed positively by these other interested agencies, does that doom the project because it would be -- for instance, traffic remediation would be conditional on Nyack changing traffic patterns. The wetland remediation would be conditional upon the Army Corp. of Engineers approving an alternate wetlands site to be constructed by the applicant.

I'd like to know if the failure of these agencies to adequately address this kills the project because, to date, they haven't addressed these issues, although the material has been sent to them and I was interested in their response.

Response 1-35: Commercial Nine Building and Residential Subdivision Plans - As noted in the DEIS, the proposed development requires approval from a number of involved agencies, including the US Army Corps of Engineers and the New York State Department of Transportation. Final site plan approval from the Planning Board will also likely be conditioned upon receipt of all other necessary approvals for the project from the involved agencies. If the Project Sponsor cannot comply with any lawful conditions of the approval, including outside agency approvals, the site plan cannot be implemented.

Often projects requiring multiple approvals from different agencies first receive preliminary approval from the municipality. This preliminary approval is typically for a set period of time, during which the Project Sponsor must secure the additional permits in order to receive the final approval from the municipality. No project can be implemented solely on the receipt of preliminary approval. If the other approvals are not secured during the time period in which the preliminary approval is granted, the Project Sponsor would need to request an extension from the municipality. The request for an extension could provide the municipality with an opportunity to consider any new information relating to the previously approved mitigation program.

Comment 1-36 (Letter #21, Board of Trustees, Village of Upper Nyack, 1/25/05): On page 2-6 of the DEIS for this proposed development, the applicant states, "The applicant believes that the market for professional office space in the vicinity is strong and will continue to grow. This belief is based on the applicant's marketing experience with this type of land use and is consistent with local information."

Besides the quote from the Rockland County website that follows this assertion, which refers only to growth in non-factory job sectors, the applicant offers no supporting documentation for

their assertion that there is a need for this type of development.

Because of the massive scale of this proposed development and the potential negative economic impact if it fails as a medical office complex, you should demand documentation for their assertion. With the newly completed medical office building on 9W in Nyack and the even larger medical office building recently built on West Nyack Road, there may be no demand for an additional development of this type. According to *Rockland Economic Focus*, the newsletter of the Rockland Economic Development Corporation (REDC), the county's office vacancy rate was 19.9 percent in 2003. Where does it stand today? The applicant should be asked to show that there is a demonstrated need for the type of office space being proposed within at least a five mile radius. An analysis of commercial real estate vacancies in the county would be appropriate.

Similar development has been proposed in Orangetown at the site of the former Rockland Psychiatric Center (RPC). This is opposed by the Pearl River Chamber of Commerce (as stated on their website, www.pearl-river.net) for the following reasons:

"While we acknowledge that office space at RPC would be a clean ratable, we must insist that there is not an urgent need for additional professional-sized office space in Orangetown.

- A review of current MLS office space listings for units under 10,000 sq feet yields more than one dozen units totaling 67,000 sq feet. Commercial Real Estate professionals we've consulted indicated that 80% to 90% of all such office space IS NOT listed through MLS, so truly were looking at only the tip of the iceberg in terms of available space in Orangetown. Given these figures, the inventory of vacant professional-sized offices available could be estimated to be at least 60 properties and well more than 300,000 square feet!
- The town is filled with plazas and office buildings eager to rent to long-term professional businesses. Renovation of our current structures is the greatest form of recycling. Creating new office space at RPC will exacerbate current vacancy problems and impact the entire surrounding area."

Similar arguments can be made against the proposed development known as Courtyard. Empty offices or an abandoned office complex would have a very real negative impact on the growth and character of the community of Upper Nyack.

Response 1-36: Commercial Nine Building Plan - *An evaluation of the land use options at the project site was presumably conducted by the Village and subject to a SEQRA review as part of the adoption of the Village's Comprehensive Plan. Pursuant to the Comprehensive Plan, which specifically recommends the site for office use, the Village Board changed the zoning of the project site to "Office-Business (OB)" and established maximum densities for such use. The proposed development fully complies with the OB zoning requirements and does not require any approvals from the Village Board.*

The burden upon this Project Sponsor is to demonstrate that the site plan fully complies with zoning and that the potential impacts are evaluated and mitigated in accordance with SEQRA regulations.

In response to the above comment the Project Sponsor consulted with a local real estate firm, Rockland Realty Corporation, to further evaluate the viability of the proposed development. Based on review of the local real estate market conditions by the Rockland

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Realty Corporation, the Project Sponsor continues to believe in the financial viability of the proposed office development (see Appendix A letter). Specifically, it was noted by Rockland Realty Corporation that the proposed Courtyard site plan would be attractive to a wide variety of users “as many tenants have become sensitive to their work surroundings and this development would provide a safe location with wonderful exterior common areas.” This site also stands out from a marketing perspective because of its location, proximity to major roads, and views of the Hudson River. It was also noted that professional and medical office space in the immediate area is very desirable yet very limited. Finally, the report noted that office vacancy rates are declining in the County, and that the phasing of the job “will allow the product to be absorbed into the market”.

The Project Sponsor has also noted that the “Courtyard at Yorktown” project, which is the model for the proposed development, has consistently had occupancy rates at or approaching 100 percent, despite the prevailing 12-15 percent vacancy rate in Westchester County and Southern Connecticut. The Project Sponsor believes that vacancy rates are at best, only a guide and do not reflect a specific project’s success or failure.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-37 (Letter #22, Robert Geneslaw, Robert Geneslaw Co., 2/1/05): Page 1-2 indicates that all utilities, including sanitary sewer, are available in State Route 9W, while on page 1-22, first paragraph and Section 3.10, page 3.10-5 indicates that sanitary sewer service is available only in Wanamaker Lane. Please clarify.

Response 1-37: Commercial Nine Building and Residential Subdivision Plans - Comment noted. The project would be served by the sanitary sewer lines on Wanamaker Lane.

Comment 1-38 (Letter #22, Robert Geneslaw, Robert Geneslaw Co., 2/1/05): Page 1-10 of the DEIS at the top of the page states that the light posts will be 16 feet tall. The lighting map in the appendix of the document illustrates 14-foot posts. Please clarify.

Response 1-38: Commercial Nine Building and Residential Subdivision Plans - The Project Sponsor is anticipating 14-foot tall light posts with a two-foot head, thus the total height of the fixture will be 16 feet above ground level. This detail of the proposed development will be finalized as part of the site plan review process.

Comment 1-39 (Letter #22, Robert Geneslaw, Robert Geneslaw Co., 2/1/05): Description of Proposed Action, 2.4.2 Operation of Proposed Uses, page 2-6. The proposed plan indicates that the 441 parking spaces that are proposed are based on a mix of professional office and medical office use. What review mechanism can be proposed to insure that the permitted square footage of medical office will not be exceeded? What will happen if the market for one is greater than the market for the other?

Response 1-39: Commercial Nine Building Plan - See Response 1-17.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

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Comment 1-40 (Letter #22, Robert Geneslaw, Robert Geneslaw Co., 2/1/05): Section 2.5, Compliance with Village Comprehensive Plan and Zoning Regulations. Page 2-8, Table 2-5 and discussion regarding parking in other municipalities. This discussion has no relevance. The applicant is required to provide parking in accordance with Upper Nyack Zoning. Municipalities vary in terms of parking requirements based on needs and opportunities of individual municipalities. For example, the Village of Nyack has public parking in its main business district, which may offset the need for on site parking. In addition, the focus of Nyack is retention of street parking requirements. As a result, Nyack business district at times experiences parking problems. The Village of Upper Nyack has no public parking within its primary business district on 9W, with no foreseeable opportunity to provide such parking.

Response 1-40: Commercial Nine Building Plan - *Comment noted. The proposed plan complies with the parking requirements of the Village Code.*

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-41 (Letter #24, Joseph Menschik, 1/11/05): This DEIS is the equivalent of a failing final paper on many levels and the Village should not be a proponent of "Social Promotion" based on comments by L.M.S., the County Planning Dept and Orangetown Dept of

Environmental Mgt. & Eng. The DEIS clearly shows an adverse impact in the following areas with some having no chance of remediation which is fatal:

- | | |
|---------------------|----------------|
| A. Drainage | LMS & County |
| B. Sewage | Orangetown |
| C. Wetlands Mgt | County & State |
| D. Parking | County |
| E. Zoning | County |
| F. Site Plan Design | County |
| G. Traffic | County |

Any one of the above deficiencies is ground for rejection of the plan. "A", "B", & "F" are irreversible as presented.

Response 1-41: Commercial Nine Building Plan - *Comment noted. The Planning Board has an obligation to review any plan submitted by owners of the properties including review of the environmental impacts through the SEQR process and must include the public in the process of the review and all comments are appreciated.*

Mitigation measures are proposed that the Project Sponsor believes would offset the potential impacts. These are described in the Executive Summary section of the DEIS and in the Introduction Chapter of the FEIS. The revised nine building plan proposed in the FEIS document is intended to reduce potential adverse impacts as compared to the ten building DEIS plan.

Residential Subdivision Plan - *See response 1-32.*

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Comment 1-42 (Letter #24, Joseph Menschik, 1/11/05): We still have not heard from the following interest parties and I urge the village to affirmatively solicit their comments:

- A. Clarkstown
- B. Nyack
- C. Army Corp. of Engineers
- D. Rockland Dept. of Health
- E. NYS Dept. of Transportation

Response 1-42: Commercial Nine Building and Residential Subdivision Plans -
Comment noted. Involved agencies are under no legal obligation to provide written comments on a Draft EIS. The project, however, cannot be implemented without the necessary approvals from the involved agencies. See Response 1-35.

Comment 1-43 (Letter #24, Joseph Menschik, 1/11/05): I am listed as an interested party for a large group of residents. I would like to receive copies of reports from these agencies and the Village Consultants who have not yet sent in their reports (Traffic and Planning).

Response 1-43: Commercial Nine Building and Residential Subdivision Plans -
Correspondence received from the involved agencies is included in the FEIS document. The FEIS document is distributed to all involved agencies and interested parties.

Comment 1-44 (Letter #24, Joseph Menschik, 1/11/05): In this plan we need accountability and a stripping away of the corporate shield for any actual inadequacies of the plans similar to requirements under the Federal Sarbanes/Oxley law that requires personal certification by CEOs and CFOs on financial reports making them personally liable. There is currently a starting trend for this type of legislation and the topic is on a short list of emerging issues being kept under constant review by an insurance industry think tank. I furnished the Mayor with this list as it has a few other issues that could be of concern to the Village too, besides this project.

We need strong financial guarantees and recourse against the developer and his experts for miscalculation that affect us adversely. We live here. They are in this project for financial gain. This means serious performance bonding of various types with the ability of not only the Village but also its residents to get at the bonding in the event of a failure as well as personal responsibility on the part of the developer and its experts. We need to up the stakes. It is very high for us; it should not be capped for them.

Response 1-44: Commercial Nine Building and Residential Subdivision Plans -
The purpose of the site plan review process, which continues after the conclusion of the SEQRA process, is to resolve any inadequacies with the site plan and ensure compliance with all relevant regulations. Construction bonds are likely to be required by the Village to ensure that the project is constructed in compliance with the approved plans.

The Project Sponsor and its successors will be responsible for future on-site maintenance costs associated with the proposed development and these responsibilities would be stipulated as a condition of approval by the Village. Under New York State Village Law (see excerpt in Response 1-3), the Village of Upper Nyack has the authority to take action to ensure that maintenance measures are implemented and seek reimbursement by the Project Sponsor or its successors.

See also Response 1-34.

Comment 1-45 (Letter #25, Glenna Marra, 1/31/05): Ultimately, I question the need for another medical complex on 9W. In the last year there was a large medical building constructed just south of the proposed site. As well, there was a medical complex built on West Nyack Road. I also question whether this land should continue to be zoned for commercial property.

Response 1-45: Commercial Nine Building Plan - *See Response 1-36. The Village Board zoned this property OB to conform with the recommendations of the Comprehensive Plan but since this comment was made, the Village amended its zoning code to permit residential uses in the OB zone. See below.*

Residential Subdivision Plan - *The residential mitigation plan is being proposed in response to comments made by Village officials and the public relative to potential impacts associated with the office project.*

Comment 1-46 (Letter #26, Gisele and Matt Shelley, 2/1/05): There are already so many developments occurring, many of them large in scale throughout Upper Nyack, that it would be a real shame to have the very reason we moved here -- the "country" feel with a small town community -- to be overrun with developments that take away the character that we have known to be Upper Nyack.

Response 1-46: Commercial Nine Building Plan - *Under state and local law, the Project Sponsor has the right to develop and use the property in a manner that is consistent with applicable land use regulations. The Planning Board has the obligation to review any plans submitted by owners of the properties including review of the environmental impacts through the SEQR process and must include the public in the process of the review and all comments are appreciated. The buffer zone of this property is intended to help minimize the visual impacts of the development. A landscaping plan for the perimeter and internally is also proposed to help improve the aesthetic value of the project. In addition, the project is designed with architectural features and courtyard green spaces to further enhance the visual appeal of the development.*

The Project Sponsor also believes that the proposed office development, at the scale proposed is appropriate use of the site because it is consistent with local zoning and the Village Comprehensive Plan, and that the project would not create a significant change in the community character of the Route 9W corridor.

Residential Subdivision Plan - *This comment is not applicable to the residential alternative.*

Comment 1-47 (Letter #28, Jim Shaughnessy, 1/12/05): Due to the weather last evening I didn't make the meeting and I just wanted to add my voice concerning the proposed real estate development. It seems to be quite a big project and with traffic being bad already, is it in the best interest of the community to have this complex here? Also part of the reason that I bought my home here in Upper Nyack is the mix of developed and undeveloped areas. That is the charm of this area, please guard it carefully.

Response 1-47: Commercial Nine Building and Residential Subdivision Plans - *See Response 1-46.*

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Comment 1-48 (Letter #29, Laurel Robertson, 1/21/05): I wonder as well that there is the necessity for such a huge complex in this area. An as yet incomplete Medical Office lies less than one-quarter mile south of this site, while a just completed and largely un-tenanted project is on West Nyack Road in West Nyack approximately four and one half miles away.

Response 1-48: Commercial Nine Building and Residential Subdivision Plans - See Response 1-36.

Comment 1-49 (Letter #31, Lawrence Campbell, 1/12/05): I have not been able to attend any of the village meetings discussing this project, but wanted to let you and the Planning Board understand I vehemently oppose the development this project. Yes, the added tax revenue would be great as we all face increasing tax rates in the county. However, this is not what Upper Nyack is all about. We are a small, beautiful riverfront community. The commercial development, even along Route 9W, should reflect that with smaller development sites such as at the corner of Midland and Highmount Avenues. This is not a small project and will have ramifications for years to come if approved. Many of which, we as a village, are not even aware of at this time. My immediate concerns are the increase in traffic that is sure to come and potential drainage issues.

Response 1-49: Commercial Nine Building and Residential Subdivision Plans - Comment noted. The Planning Board has an obligation to review any plan submitted by owners of the properties including review of the environmental impacts through the SEQRA process and must include the public in the process of the review and all comments are appreciated.

Comment 1-50 (Letter #32, Dennis Lynch, 1/5/05): Please be advised this office represents the Nyack Joint Fire District and is an Interested Agency in the above-captioned project. In that regard, would you please kindly forward the undersigned any and all past or future submissions by your company concerning the above Project, including, but not limited to all SEQRA material.

Response 1-50: Commercial Nine Building and Residential Subdivision Plans - Comment noted. The Fire District is considered an interested agency and is on the distribution list as per SEQRA requirements. As such, the Fire District will continue to receive copies of all distributed SEQRA documents in accordance with the regulations. In addition, the Fire District has been provided with copies of preliminary development plans for their respective review, and will also be provided with revised plans during the site plan review process. Future project-related material to be distributed to the Fire District will be sent to the attention of the commentor as requested.

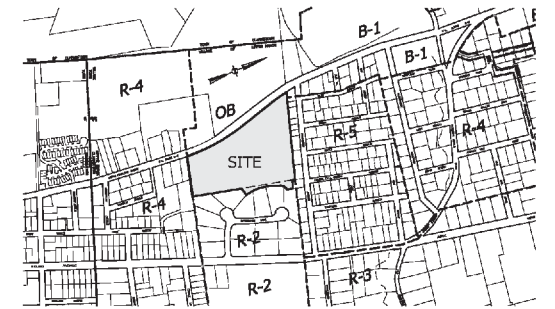
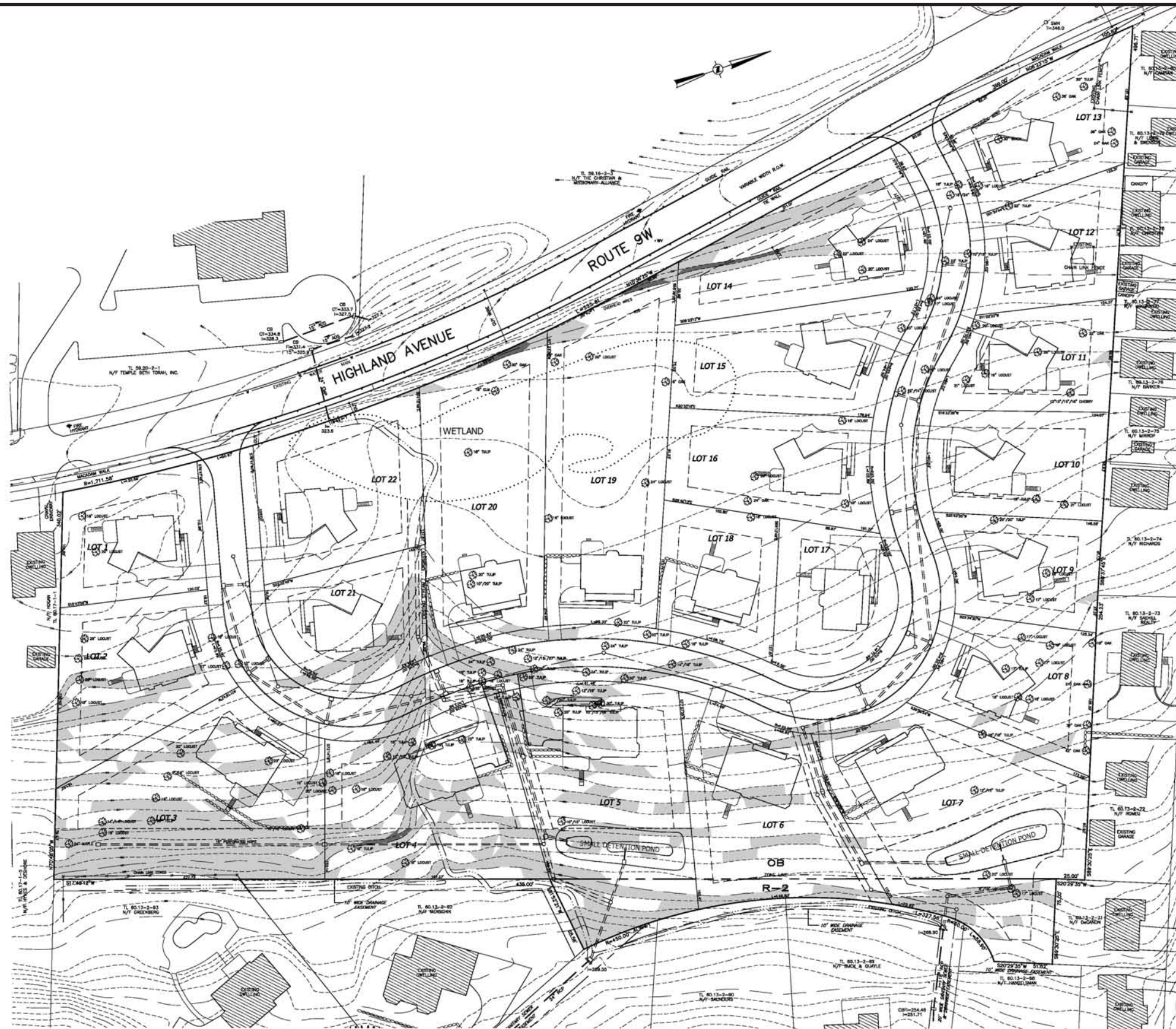
Project Description Comments and Responses

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Comment 1-51 (Letter #33, Shirley Thorman, Town of Clarkstown, 1/28/05): The proposed plan requires discretionary waivers by the Upper Nyack Planning board. Although waivers may often be necessary for a reasonable development layout, this may not be the case in this instance. A more reasonable layout of property is obtained by not infringing on buffers, as shown in the Alternate layout Figure 4-2, and nine building full scale plan located in the appendix, labeled "Site Development Plan, 75 foot Buffer." Although the granting of waivers does not directly impact Clarkstown, the granting of this waiver has an impact on the suburban/rural setting enjoyed by Clarkstown residents in this area.

Response 1-51: Commercial Nine Building Plan - See Response 1-7. The Project Sponsor is now proposing the nine building plan that adheres to the 75 foot buffer and does not require waivers from the Planning Board.

Residential Subdivision Plan - See Response 1-7.



VICINITY MAP
SCALE: 1" = 500 FEET

NOTES

1. AREA OF PARCEL: 11.19 ACRES
2. CLARKSTOWN TAX LOT: 60.13-2-81 VILLAGE OF UPPER NYACK
3. RECORD OWNER: COURT-YARD OF UPPER NYACK LLC, 570 TEXTER RD. SIXTH FLOOR, ELMSFORD N.Y. 10523
APPLICANT: COURT-YARD OF UPPER NYACK LLC, 570 TEXTER RD. SIXTH FLOOR, ELMSFORD N.Y. 10523
4. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
5. NEW SANITARY SEWER CONNECTION SHALL BE AT NO COST TO THE VILLAGE.
6. ALL EROSION CONTROL DEVICES SHALL BE INSTALLED AND MAINTAINED PER THE NEW YORK STATE GUIDELINES FOR URBAN EROSION AND SEDIMENT CONTROL AND AS REQUIRED TO PREVENT SILT LADEN WATER FROM EXITING THE SITE.
7. TREES SHOWN ARE DEEMED SIGNIFICANT PER VILLAGE OF UPPER NYACK CODE.

BULK REQUIREMENTS:

PROPOSED ZONING		10,000 SQ. FT.
MINIMUM LOT AREA		10,000 SQ. FT.
MINIMUM FRONT YARD		30 FT.
MINIMUM SIDE YARD		10 FT.
MINIMUM REAR YARD		20 FT.
MINIMUM TOTAL SIDE YARD		30 FT.
MAXIMUM COVERAGE		40%
MAXIMUM BUILDING HEIGHT		35 FT.
MAXIMUM BUILDING COVERAGE		20%

SLOPE LEGEND

- DENOTES SLOPE 20% TO 50%
- DENOTES SLOPE 50%+

LOT NUMBER	GROSS LOT AREA	WETLAND	50% OF 20%-50% SLOPE	1/2 OF 20%-50% SLOPE	100% OF 50%+ SLOPE	NET LOT AREA
LOT 1	13,194	0	0	0	0	13,194
LOT 2	17,797	0	3,860	1,930	0	15,867
LOT 3	30,388	0	16,250	8,125	0	22,463
LOT 4	24,353	0	9,020	4,010	313	22,040
LOT 5	29,800	0	10,900	5,450	66	24,284
LOT 6	21,976	0	3,850	1,925	12	20,091
LOT 7	34,766	0	3,850	1,925	116	32,895
LOT 8	15,020	0	0	0	0	15,020
LOT 9	12,307	0	0	0	0	12,307
LOT 10	14,347	0	0	0	0	14,347
LOT 11	2,808	0	0	0	0	2,808
LOT 12	2,397	0	0	0	0	2,397
LOT 13	18,180	0	0	0	0	18,180
LOT 14	20,168	0	3,676	1,838	275	18,053
LOT 15	17,898	1,450	0	0	0	16,448
LOT 16	15,443	500	0	0	0	15,243
LOT 17	2,632	0	0	0	0	2,632
LOT 18	12,125	0	0	0	0	12,125
LOT 19	30,357	4,300	0	0	277	25,780
LOT 20	28,180	4,300	0	0	315	21,365
LOT 21	13,150	0	0	0	0	13,150
LOT 22	18,864	3,000	0	0	0	15,864

PROVIDED	LOT 1	LOT 2	LOT 3	LOT 4	LOT 5	LOT 6	LOT 7	LOT 8	LOT 9	LOT 10	LOT 11
MINIMUM LOT AREA	13,194 SQ. FT.	13,097 SQ. FT.	22,463 SQ. FT.	22,040 SQ. FT.	24,284 SQ. FT.	20,091 SQ. FT.	32,895 SQ. FT.	12,410 SQ. FT.	14,307 SQ. FT.	14,347 SQ. FT.	12,608 SQ. FT.
MINIMUM LOT FRONTAGE	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.
MINIMUM FRONT YARD	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.
MINIMUM SIDE YARD	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.
MINIMUM REAR YARD	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.
MAXIMUM COVERAGE	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%
MAXIMUM BUILDING HEIGHT	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.
MAXIMUM BUILDING COVERAGE	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%

PROVIDED	LOT 12	LOT 13	LOT 14	LOT 15	LOT 16	LOT 17	LOT 18	LOT 19	LOT 20	LOT 21	LOT 22
MINIMUM LOT AREA	12,307 SQ. FT.	15,015 SQ. FT.	18,093 SQ. FT.	17,998 SQ. FT.	15,443 SQ. FT.	12,632 SQ. FT.	12,125 SQ. FT.	30,357 SQ. FT.	28,865 SQ. FT.	13,015 SQ. FT.	15,864 SQ. FT.
MINIMUM LOT FRONTAGE	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.	50 FT.
MINIMUM FRONT YARD	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.
MINIMUM SIDE YARD	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.	30 FT.
MINIMUM REAR YARD	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.
MAXIMUM COVERAGE	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%
MAXIMUM BUILDING HEIGHT	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.
MAXIMUM BUILDING COVERAGE	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%

Tim Miller Associates, Inc., 10 North Street, Cold Spring, New York 10516 (845) 265-4400 Fax (845) 265-4418

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 150 Orange Avenue, Walden, New York 12580
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 Email: ASZSurvey@aol.com

Figure 1-1: Conceptual Layout Plan
 Courtyard at Upper Nyack
 Village of Upper Nyack, Rockland County, New York
 Source: Atzl, Scatassa & Zigler P.C, 8/07/06
 Scale: 1" = 120'.

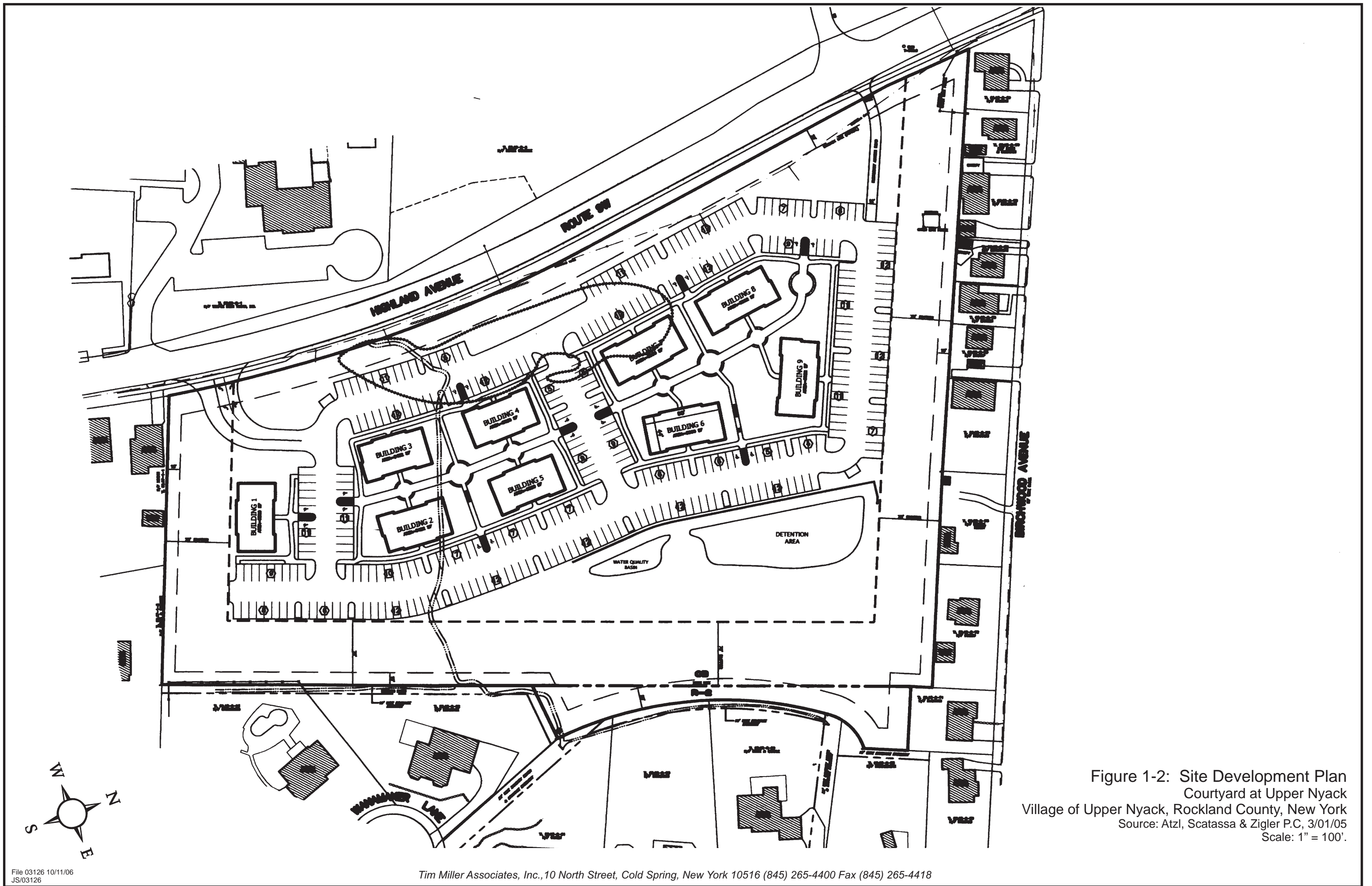


Figure 1-2: Site Development Plan
 Courtyard at Upper Nyack
 Village of Upper Nyack, Rockland County, New York
 Source: Atzl, Scatassa & Zigler P.C, 3/01/05
 Scale: 1" = 100'