

October 19, 2016
TUCKAHOE PLANNING BOARD
TUCKAHOE COMMUNITY CENTER
Regular Meeting – 7:30pm

Present: Chairperson Ann Marie Ciaramella
Commissioner Raymond Nerenberg
Commissioner Melba Caliano
Commissioner David Barra
Commissioner Clare Gorman

Also in Attendance:

Gary Gjertsen	Village Attorney
Bill Williams	Building Inspector
Frank Fish	Village Consultant
Jim Pinto	Village Consultant
Michael Bogin	Environmental Attorney
John Guzewich	Environmental Consultant

Pledge of Allegiance

Chairwoman Ciaramella announced the evening's agenda as follows:

Item #1	109 Marbledale Rd.	Return
Item #2	10 Fisher Ave.	Adjourned
Item #3	68 Marbledale Rd.	Adjourned

Item #1 109 Marbledale Rd. Return

Linda Shaw, attorney for the applicant, stated that this applicant has been before the board for nine hearings. There has been much detail given on this application,

the impact of project and the mitigation process. She has provided a written report in response to all the public's concerns that were presented at the last public hearing. The Planning Board, the Village consultants and two agencies from NYS have heavily analyzed this project. She stated that her client has expended resources that went beyond a typical Brownfield investigation. Additional studies and analysis at the site will continue to happen for the remainder of this project. This property may be the most scrutinized environmental and remediation project. She added that her client is willing to continue to work with the Planning Board's consultants whom have provided oversight of this project. The impact will be positive, as this landfill will be remediated.

Commissioner Caliano offered a motion to reopen the public hearing due to the fact that there are ongoing DEC tests and the Planning Board does not know the results and whether the tests results will compel further investigation is also unknown.

Commissioner Caliano added that she and the Board members received letters today that she would like admitted as part of the record. If the public hearing is not reopened, these letters will not be part of the record as the public hearing was closed on Sept. 15, 2016. The public hearing must be opened to include these two letters, including the two emails the Planning Board received from the Fountains at Riverview and two of their residents.

Motion to reopen the public hearing was not seconded, motion failed.

Commissioner Caliano added that Public comment closed 9/15/16, so recent emails from Mike Flores and David Goldsmith, Exec. Director at Fountains at Riverview and their resident Jean Brunie sent to David Burke, Village Administrator, be stricken from the record. Note: Ms. Brunie has a guardian, so she effectively did not write her letter. Commissioner Caliano stated that because public comment closed, none of the other letters received tonight, before this meeting began, should be permitted into the record and moved to strike those letters as well, which was approximately 50 letters handed to the Board.

7:48 Chairwoman Ciaramella motioned for the board to enter Executive session, Commissioner Gorman seconded and carried unanimously.

7:58 Executive session ended

Commissioner Caliano offered the following resolution to rescind the CND in the form of a motion:

My position at this time on this application is that we have a Cinderella situation – we have a size 9-foot fitting into size 5 shoe – that cannot be done.

I remind my colleagues that our PB's first & primary obligation to village residents is Public Safety Health & Welfare, as set out in our village Zoning code.

There is NOTHING that takes precedence over PSH & W.

PSH & W is our primary priority. It is my position that the PB was rushed into a CND vote in Sept 2015. It was rushed even before an environmental consultant was hired and attended the November 2015 PB meetings (mtgs). I was absent from the Sept. 2015 PB mtg but would've sought the caveat I mentioned in the July 2015 and in previous PB public mtgs – CND ok as long as ability to do EIS is preserved. My caveat was never included in final Sept 2015 CND vote language, despite being acknowledged in previous PB mtgs by village PB consultant. Review those videos... We didn't use plain common sense to wait for testing or an environmental consultant before we rushed to vote in Sept 2015.

It is my position that we have gotten off on the Wrong Foot –and that we should heed the admonition of Rev. Ed Stowe that, "if you don't start out right, you can't end up right." A CND is intended for use when a lead agency has enough information already generated to enable it to say 'we have enough info and any additional info will not change the results materially, so we can say at this point in time, no additional tests will be helpful or enlighten us more than we are enlightened now, therefore, it is appropriate to vote a CND, knowing there will not be any significant change to what we know now'. And that the info we have now can be satisfactorily mitigated.

I'm telling my PB colleagues we all know that we didn't learn until 2016 that that was never the case here. We didn't have half the amount of information in Sept 2015, that has been generated since Sept 2015's CND vote. We didn't learn until the April 2016 DEC community mtg that the north and south bordering sites were "P" sites, to eventually be remediated by DEC as Superfund sites. In Sept 2015 we barely knew the names of all the contaminants since found, we didn't know the extent of the contaminants found and by how much they exceeded acceptable DEC levels; we didn't know in Sept 2015 that over 50 additional borings would be done to further assess contamination. We knew very little in Sept 2015, so little that voting a CND was too early; it was "not ripe.

But, and I remind my colleagues that DEC has method to change that kind of mistake - 6 NYCRR 617.7 (f) – when a lead agency goes forward too fast they can pull back, you can rescind, because all the newer information generated SINCE Sept 2015, had it been available earlier for CND vote, would have prompted a POSITIVE Declaration at that time, and not the inappropriate CND we have been functioning under. The POS Dec would have been appropriate when we first learned that DEC forced the tests to be re-done, soon after the CND was voted. A POS Dec would have been appropriate when DEC in about January 2016 began to publicly list

contaminants, now up to 21 different ones, discovered by DEC at the site. The POS Dec would've been appropriate when in April 2016 DEC first announced the immediately north & south adjacent potential hazardous waste sites that DEC would assume as Superfund sites. The existence or possibility of migration of any contamination from the north & south sites has not yet been determined by DEC.

Furthermore, the DEC remarks at April 2016 public mtg regarding the north & south off-site boundaries as potential "P" sites, amounts to NEW INFORMATION and in any other legal proceeding, NEW INFO would be the reason to appeal or rescind a previous determination, here, the CND vote. Even now, that basis still exists. It is still proper to rescind the CND vote on the basis that there is NEW INFO that was not known at the time of the CND and so, compels rescission of the CND.

Now, the CND deficiencies are obvious – 6 NYCRR 617.7 et seq...

1. Regulation requires that there be no need for addtl studies – that's not the case here – the studies are still ongoing. DEC is still testing, even the adjacent newly designated "P" sites, north & south mentioned at April 14, 2016 DEC public mtg. The DEC Database has added new contaminants to their list since the Sept 2015 vote = now up to "21".

2. CND conditions must be explicitly set out – here the language we've crafted is vague, ambiguous, there is no way to determine with certainty what is required. Thus, CND's own conditional language fails.

3. Public comment – PB must consider whether the nature of Public comment points to rescission – here, I submit, it does. As more contaminants are identified, more tests are required to determine the geographical extent of contaminants and the level of toxicity – Indeterminate status at this point that compels an EIS.

We all know the village has a disproportionate amount of cancers and related diseases, we are concerned about the existence of cancer-causing dioxin levels, we also know we live in a seismic zone, an earthquake zone – in the last few years, our village sustained an earthquake that caused a 1 ½ foot crack in one of my apartment walls – of course earthquake activity will cause a crack in the supposedly stable capping and possibly disrupt the mechanicals that we hope will protect surrounding residents from further air and soil contamination.

Here we have a CND that essentially functions as an end-run around the true need for an EIS. A CND views a project through a narrow lens; that's what we've got here – a detailed view of a very narrow issue – contamination. However, an EIS is a 360 degree view of project. There have been so many incongruities during the review of this project...

We have seen efforts made to make the CND substitute for an EIS, with the inclusion of traffic study (now 2 years old) and purported economic benefit to village via taxes and job creation. In July 2016 the mayor told us NO tax benefits and we realize that jobs created will almost certainly be part-time jobs that cannot support even a single individual let alone a small family.

It is my position that a CND is not equivalent to an EIS – this project has been incorrectly tracked as CND from beginning, w significant effort to avoid doing an EIS. Why? If this project does not require and demand an EIS, then what project does?

An EIS addresses more than contaminated soil & waste. An EIS takes a 360 degree, comprehensive look at the overall project and the environment, including – the effect on property values; the need/reason for the project; the economic benefit to community – here, we’ve heard there will be no tax benefits as noted by mayor in the July 2016 village board mtg - the effect on community character; shadows/sunlight/lost views; traffic; historic or cultural significance of site, and any other category the community believes warrants examination in a scoping hearing.

The real question is the need for this project? There were feasibility studies promised but that were never delivered to the PB or to the ZBA. A CND is not an EIS because they address different goals. An EIS addresses contamination PLUS all categories + mentioned above. An EIS gives a more thorough look at the value and benefits of project to village

There has been a Consistent Pattern of no EIS’s in our village – none was done for Quarry Pl and Underground Storage Tanks (USTs) were found there after PB approval. No EIS was done for the Crestwood Apts – which also found USTs and was remediated by DEC, though that was expected based on its’ previous use as gas station... Why does this village avoid doing EISs? The Effects of not having EISs for those projects amounts to avoidance of an overall, comprehensive examination of those development projects, an examination that village residents are entitled to have. An EIS might have reduced the bulk and scale of Quarry Place and the Crestwood Apts., problems that so many residents have called out as mistakes.

Again, I question whether the DEC has “strict standards”. Why do I say that? Because it was primarily due to the public outcry, that further tests have been done. Without that public outcry from groups of residents and neighbors who have consistently pushed to make this review process more complete and have submitted information from their own independent consultants, paid for by the group, there would be no challenge the paucity of information Provided by the Applicant (App).

This not only suggests there are NO strict DEC standards (stds), but that stds change based on a community’s level of participation. Can it be true that louder communities get better results from DEC? What does that say about any supposed “stds”?

Bear in mind that this App is an experienced commercial developer (he developed Bed Bath on Central Ave) and is represented by an attorney who is a registered lobbyist for the building development industry. This App is entitled to the best defense he can afford to pay for. His attorney is entitled to defend him to the best of her ability. But look at the context. This attorney is not only defending her client as she should, she also represents on a professional basis, the development industry. She has a professional bias. We should view her in that context. Unsurprisingly, the App has a huge self-interest in getting the project done. We should take that into account as we try to protect the PSH & W and need for an EIS. Not the least is the fact that this hotel is nearly 40% larger than typical Springhill hotels.

And let’s not forget the Dept. of Health (DOH) – since 9/11, what they consider safe has been constantly questioned. A seal of approval from them must be carefully evaluated – look at what they base their conclusions on. Do we even know what DOH used to evaluate this project? Further, State agencies often require only that minimum standards (stds) be met. If the

minimum std is met, that's enough, because probabilities are built into their stds. Read some of the DOH regulations, you will usually read that the minimum std must be met. There is no need for any higher std, the minimum stds will be just fine.

Analogously, the DEC, DER – 10 regulations (regs) even note they set forth minimum stds, not high stds. I quote, "Purpose & background"... guidance provides scope of activities needed to satisfy minimum requirements for the life-cycle of the site-specific remedial program..." and "... contains the minimal technical activities DEC will accept...for projects..." These are not strict stds, people. Without the constant comments and supplemental independent information from the public, only minimum stds would have been met. No state agency would've required this App to do more.

We have a Question of Transparency – whether there was sufficient Notice to the PB of any village mtgs at which any project consultant would appear – there was no Notice to the PB of the August 2016 village community mtg at which Bill Canavan & Mike Musso appeared; no Notice to PB to attend July 2016 village board mtg where Musso was present and significant information was exchanged with the public attendees – we don't even know if there other mtgs.

Attorney Shaw said @ the October 2016 PB work session at which App was permitted to submit a Memo AFTER Public comment period closed – Shaw said, after all these tests, she said, there are almost no results that indicate the extent of contamination that local residents have testified to, that the site is essentially typical waste that does not rise to the level that residents have described. Apart from insulting the village resident's personal experiences and their memories about decades of dumping at the site, there are ongoing DEC investigations that have revealed far more contaminants than Shaw and her client are willing to acknowledge; check the DEC Database.

Still, even now, App's attorney claims the waste on-site is unremarkable... these are Troublesome questions about the true level of contamination, especially as App's current testing is done within the same radii as their previous tests...is that an intentional effort to duplicate the earlier unremarkable results? Remember, the App himself said at the April 2016 DEC Community mtg that "he had to fight to get the site into the BCP." Were his first test results so unremarkable back then, this making him ineligible for the BCP?

At what point did the App's test results suddenly become valid enough for acceptance into the BCP? And then suddenly corroborate village residents decades-long memories of what was dumped into the site? Even at this point I am not sure what we know about the level of contamination with all the incongruous and contradictory information from the App and DEC themselves, let alone from the citizen's group experts...

Even now, at the October 6, 2016 PB work session, we heard the App's consultant describing areas of new tests and coming up with supposedly unremarkable test results – were the tests done within the same radii as the first sets and so, the indicated results similar to those first few sets, when the results were considered unremarkable and ineligible for the BCP? Was the public permitted to offer opposing views at that mtg? No; public comment was closed as of Sept. 15, 2016... I question the fairness of that.

I ask you to recall at the Sept. 15, 2016 PB mtg, that Bob D'Ambrosio spoke of "column" dumping = vertical isolation of types of waste, suggesting that testing w/i a certain radius will duplicate anything w/i the radius, and that testing beyond the radius is necessary to rule out other types of contaminants. With that kind of "column" deposition the weight of the soil would not distribute contaminants across a wide swath; thus testing in same place over and over will yield same results as the first tests. Recall Bob reminded us, that "No trees have rooted there in decades and even a mushroom won't grow there." That was his way of telling us that that is Nature's way of telling us there is unacceptable contamination.

I ask you to recall that this project is a mere 100 feet from residents' homes. Yet, due to the BCP characterization as a "commercial" project, the site is only required to be cleaned to "commercial" level of 'clean', which is a lesser std of 'clean'. Yet residents' homes and businesses are located w/i 100 feet of this toxic site. Don't our residents deserve a higher std of 'clean'? Don't we have the obligation under our village Zoning ordinance to 'protect our public safety, health & welfare' as thoroughly as possible? Our residents have been living with and suffering from these toxins for decades, with a resulting high rate of cancers and respiratory diseases. Why shld we accept DEC's characterization that "commercial" clean is 'clean' enough for our immediately adjacent residents and businesses? "Commercial" clean is not enough for the 365/24/7 human activities that happen less than 100 feet of the toxic site.

All we have my colleagues, is the state of remediative technology as it stands today – 10 years from now, it will seem primitive. We should demand the absolute best technology and testing available today, not the mere minimum that DEC accepts. We should demand the highest std of "clean" possible. Our residents deserve no less for the price so many have paid for the toxic dump that has been allowed to lie untreated for so many decades.

There's a question of liability for later problems. If this project is actually completed, the App will receive a waiver of limited liability from DEC, protecting App from a variety of lawsuits. Who will our residents go to if they suffer from this project? They won't be able to sue the App for much. Again, residents will be left holding the bag.

I ask you to rescind CND and issue the appropriate POS Dec that compels the EIS necessary to fully understand the entirety of this project.

Your other options include 1) asking the village board to declare a moratorium on building at this time or, 2) perhaps under municipal law to use eminent domain to condemn the property for the village. As we have all learned, there is no tax benefit to developing this site as a hotel, so if the thought is to simply get remediation done, under either option 1) or 2), DEC is now aware of the site and will under any circumstances, continue to remediate the site, with the decades-long hope of residents to clean up the filthy site finally achieved.

You have witnessed over the many months, a growing, UNIFIED response from our community, many residents, many school district families and organizations, even residents of the town. There are now well over 1K petition signatures from Tuckahoe alone, a village w approx 3000 households, less than 50% of whom are homeowners – that means when you have over 1K petition signatures and your homeowners total approximately 1500 households, 1K signatures is 2/3 of your voting/home ownership population. Plus, we have a rotating group of residents who have appeared at all kinds of town and village public mtgs and have offered comment

almost exclusively in opposition to the project. There is genuine community opposition. There is no viable community need or desire for this project.

I ask my colleagues to Please vote to rescind what I believe to be the now plainly inappropriate CND, that you issue a POS Dec and compel a fully scoped EIS so that we can, under our still applicable municipal home rule, protect our village's PSH & W, its property values, and its' overall economic future as a Quaint VILLAGE.

Commissioner Barra seconded the motion. Upon roll call, the motion to rescind the Conditional Negative Declaration was defeated.

Commissioner Gorman offered the following resolution for Bilwin Development Affiliates LLC in the form of a motion:

See Attached

Commissioner Nerenberg seconded the motion.

Discussion:

Commissioner Caliano stated that her vote is against this Proposed Resolution, and incorporates and includes all previous comments regarding rescission as and for the basis of her opposition to the Proposed Resolution with specific points as noted below -

That the proposed restaurant was barely reviewed by the Planning Board
Pg. 3 1st paragraph The resolution reads that the Chair of the Village of Tuckahoe Planning Board, on July 23, 2015, executed an approved CND....Commissioner Caliano noted that this is an error – the CND was “ratified” in Sept 2015, not in July 2015.

Pg. 3 2nd paragraph The resolution reads that the Board did not receive any substantive comments on the CND during that period...Commissioner Caliano noted that this is inaccurate as the Board received many substantive comments during that period.

Pg. 4 3rd paragraph The resolution reads “constitute new information and changed circumstances warranting amendment of the previously issued CND to a non-conditioned negative declaration.” Commissioner Caliano noted that the NY6 and NYCRR does not give that option. According to 6 NYCRR 617.7 et seq, the lead agency must rescind the CND when there is new information.

Pg. 5 Paragraph A Regarding the traffic study, Commissioner Caliano noted that the traffic study is now two years old; old enough to be considered invalid.

Pg. 6 First sentence... The condition stated is a contingency, which may not happen. Commissioner Caliano noted that she cannot vote for something that may not happen.

Pg. 10 Paragraph C The resolution states of a future contingency and a future review, Commissioner Caliano takes exception to a future contingency.

Pg. 10 2nd paragraph The resolution states “The Planning Board is satisfied with the look of the proposed buildings...” Commissioner Caliano stated that she is not satisfied, takes exception and completely disagrees.

Pg. 10 ...”Thus, based upon the plans submitted we find that there will be a satisfactory and harmonious relation between the site and contiguous land and buildings and adjacent neighborhoods.” Commissioner Caliano takes exception to the contingency stated.

Pg. 11 1st paragraph The resolution reads “Attached hereto and incorporated herein as Exhibit A to this resolution is a memo from HDR...”

Commissioner Caliano Ex. A – “conditions” no different from the original language in the original CND = vague, ambiguous, premised on unknown contingencies and unknown future test results which frankly reduces to the original CND language “per DEC stds” and therefore opposes as it fails to meet the conditional language requirements for a CND. There is no certainty, example – only refers to “weekly mts” but no specifics, then refers to “periodic community mtgs” and gives no specifics.

Pg. 11 2nd paragraph The resolution reads, “If at any time in the future the hotel is no longer being run as a Marriot Springhill Suite, the new operator must seek an amended site plan...” The following paragraph states “ The operator of the proposed restaurant has not been identified..” Commissioner Caliano noted that she takes exception as it is an incomplete condition and should not be included in this resolution.

Pg. 14 Paragraph 15 Commissioner Caliano noted that there is a reference to compaction...She stated that there was no discussion regarding compaction between the Planning Board members. There have only been comments from the public concerning compaction. It is uncertain if compaction is going to occur. Commissioner Caliano noted that there is a statement that no piles shall be driven at the site. Commissioner Caliano takes exception as that is an incredible absolute.

Pg. 14 The resolution reads, ‘Potential impacts shall also be assessed, addressed and mitigated... Commissioner Caliano noted that that is similar to the ambiguous and vague language found in the original CND.

Chairwoman Ciaramella offered the following statement;

For two years, this project has been under review and studied to determine whether it should be approved. Studies have been done by the Department of Environmental Conservation, the Department of Health, the applicant; consultants retained by the Village....namely:

Michael Musso HDR Environmental Consultant
John Guzewich HDR Environmental Consultant
Jim Pinto Engineer Consultant
Frank Fish Planning Consultant
Michael Bogin Environmental Attorney

These studies exceeded those required by a Full Environmental Assessment. The DEC and DOH studies include observing and assessing the applicant's testing, as well as their own testing for hazardous materials and clean up required.

One of the signs displayed by community residents with reference to this project reads...

Our Air, Our Lives Demand Testing Before Digging

No digging has taken place to date. Testing has been done by multiple sources for two years and it is beyond that required by a Full Environmental Impact Study. We have listened to your voices.

I have lived in this Village and Town for over 60 years.

It has been the home of my family and friends. I have been on this Board for over 20 years and have focused on what is best for our residents.

Never have I allowed political issues or personal political gain to influence my vote for or against a submission. Given the exhaustive effort put into the study of this project and their results, I vote yes for this motion.

Upon roll call, motion passed with a vote of 3 – 2.

Item #2 10 Fisher Ave.

Adjourned

Item #3 68 Marbledale Rd.

Adjourned

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.

PLANNING BOARD
VILLAGE OF TUCKAHOE, NEW YORK

In the Matter of the Application of

BILWIN DEVELOPMENT AFFILIATES LLC

Premises: 109 Marbledale Road
Tuckahoe, New York,

Applicant.

PLANNING BOARD RESOLUTION

The Applicant, BILWIN DEVELOPMENT AFFILIATES LLC, (hereinafter “Applicant”) is the record owner of the premises commonly known as 109 Marbledale Road, Tuckahoe, New York and known on the tax map of the Village of Tuckahoe as Section 35, Block 1, Lot 1A (the “Premises”). Applicant proposes to construct a 153-room Marriot Springhill Suites Hotel and a restaurant on the Premises (the “Project”).

The Applicant has received the necessary variances from the Village of Tuckahoe’s Zoning Board and is now seeking site plan approval from this Board. The Applicant has provided all the documents, plans and materials to this Board such that this Board can make a proper review under Section 7-1 and 4-8.8 of the Zoning Code. Specifically, the following plans and drawings shall be incorporated herein and made part of this approval:

1. Warshauer Mellusi Warshauer Architects, PC Drawing # Cover sheet ,A-1 date 3/31/16
A-2,A-3,A-4,A-5,A-6,R-1 DATED 2/22/16

2. SESI CONSULTING ENGINEERS, PC Drawing # EC-1, DE-1 S-1, S-1A, S-1B, DATED 3/29/16 # G-1, G-1A, DATED 4/15/16 # G-1B, G-2, SE-1, L-1, D-1, D-2 DATED 3/29/16 # D-3 DATED 5/6/16 # D-4, D-5, D-6, D-7 DATED 3/29/16
3. SESI CONSULTING ENGINEERS, PC . Drawing # LA-1, LA-1A, LA-1B DATED 3/29/16 # LA-2 DATED 5/3/16.

The plans and submissions of the Applicant (the “Application”) were provided to the Village’s Planner, Frank Fish of BFJ Planning; the Village’s Consultant, James Pinto; the Village’s Engineer, Anthony Oliveri of Dolph Rotfeld Engineering, P.C.; the Village’s Environmental Consultant, Michael Musso from HDR Inc; the Chief of the Fire Department, Michael Grogan; the Chief of the Tuckahoe Police, John Costanzo; and the Head of the Department of Public Works, Frank DiMarco. All the consultants named as well as the named department heads have reviewed the plans, and any comments submitted have been addressed by the Applicant to the satisfaction of the parties listed.

During our review process, the Applicant has appeared before this Board eight times at various work sessions and public hearings from December 16, 2014 through present. There have been numerous changes to the plans from the initial submissions from the Applicant to present, these changes were based on comments from this Board’s consultants, the Village of Tuckahoe’s Department Heads and from this Board.

Further, the Application was referred to the Westchester County Planning Board for comments, and the Applicant has complied with all comments received from the Westchester County Planning Board.

SEQRA Compliance

The Chair of the Village of Tuckahoe Planning Board, on July 23, 2015, executed an approved conditional negative declaration (the “CND”) with regard to the New York State Environmental Quality Review Act (“SEQRA”). The CND, *inter alia*, imposed SEQRA conditions that mitigate all significant environmental impacts on the Premises by requiring the Applicant to implement and adhere to all investigation and remediation standards imposed by the New York State Department of Environmental Conservation (“DEC”) and New York State Department of Health (“DOH”) under the New York State Brownfield Cleanup Program (“BCP”). The CND stated that if the Applicant investigated the Premises and implemented a remedy in accordance with DEC and DOH standards, there should be a beneficial environmental impact.

The Board published a notice of a CND in accordance with its regular public notice and review procedures and provided a 30-day public comment period. The Board did not receive any substantive comments on the CND during that comment period.

Following the Board’s issuance of the CND and upon recommendations from this Board the Village Board authorized the hiring of the environmental consulting firm, HDR, Inc. to advise and assist the Board in evaluating the scope of the environmental investigation and remediation. Michael Musso, from HDR, has been the consultant to this Board throughout the BCP process. In addition to reviewing and commenting on the BCP submissions between the Applicant and DEC and DOH, Mr. Musso attended the November 17, 2015 Planning Board meeting, the February 2, 2016 Planning Board work session, the February 23, 2016 Planning Board meeting and the September 6, 2016 Planning Board work session and the October 2016 Planning Board Work Session. During the BCP public comment period

Mr. Musso submitted a comment letter to DEC dated April 21, 2016 seeking additions and changes to the Applicant's Remedial Action Work Plan ("RAWP").

On July 18, 2016, George Heitzman, Director of the Remedial Bureau of the DEC, issued a Decision Document approving the Applicant's RAWP. The Decision Document reflects the comments submitted by HDR.

For all of the foregoing reasons, and having consulted with its independent expert environmental consultant, HDR, the Board finds and declares that:

- the BCP Remedial Investigation;
- the BCP RAWP;
- the BCP Decision Document; and
- the BCP Environmental Easement that will be recorded against the Premises and that will be enforceable by the Village

constitute new information and changed circumstances warranting amendment of the previously issued CND to a non-conditioned negative declaration. The completion of the Remedial Investigation, the implementation of the RAWP and the recording and compliance with the Environmental Easement will satisfy the conditions of the CND. The Applicant's commitment in the Application to implement the RAWP and record and comply with the Environmental Easement, which will require adherence to a BCP Site Management Plan in perpetuity, will ensure that the Project will not result in any significant adverse environmental impacts. This Board is also imposing conditions to its approval of the Application to secure continued compliance with these commitments. Therefore, based on all of the reasons set forth in the CND as well as the foregoing, the Board hereby finds that the Project will not

result in any significant adverse environmental impacts and adopts an amended, non-conditioned, negative declaration.

Compliance with Site Plan Review per the Village of Tuckahoe's Zoning Code

Pursuant to the Village of Tuckahoe's Zoning Code this Board must review site plans pursuant to 7-1 and 4-8.8 of said Code. 7-1 of the Village Code is the more extensive section for site plan review and all of the criteria required in 4-8.8 is incorporated into 7-1. Therefore, for the purposes of site plan review we will address all the criteria of 7-1. The sections and conclusions are as follows:

(A) Safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site.

1. The effect of the proposed development on traffic conditions on existing streets.

The Village's planning consultant, BFJ Planning reviewed the site plan and the Traffic Impact study for the proposed Marriot Springhill Suites Hotel and Restaurant prepared by VHB. BFJ Planning found that the traffic impact analysis was performed with generally accepted methodologies and that it used fairly conservative assumptions regarding traffic generation for the proposed new uses. BFJ Planning agreed with the VHB report that no mitigation measures are required because traffic conditions will not change to any significant degree with the proposed development.

At request by the Planning Board, the applicant agreed to make pedestrian safety improvements at the Jackson Avenue and Marbledale Road intersection. This includes placing crosswalk striping on Jackson Avenue and rebuilding the curb on the southeast corner of the intersection. The rebuilt sidewalk will be ADA accessible and will have a tapered grade to allow cars to exit the site at that location. Since the improvements are on Village property, a condition of this approval is that the Village Board approve all proposed improvements to the intersection of Marbledale Road and Jackson Avenue. Therefore, a recommendation is made to the Tuckahoe Village Board that the Applicant's proposed improvements to

Marbledale Road and Jackson Avenue be approved. Further, in connection with the implementation of the improvements, it is recommended that parts of Marbledale Road and Jackson Avenue be repaved. The sections of Marbledale Road and Jackson Avenue that should be repaved we leave to the discretion of the Village Board.

With the improvements above being implemented, there will be safe, adequate and convenient vehicular and pedestrian traffic on the existing street.

2. *The number, locations, dimensions and construction details of vehicular and pedestrian entrances, exits, drives and walkways. Vehicular access to state, county or Village roads must also be approved by the State Department of Transportation, the County Department of Public Works or the Village Police Department and the Department of Public Works, as appropriate.*

The various involved parties including BFJ Planning, the Village DPW, the Police Department and the Fire Department have all reviewed the plans. All traffic and circulation issues identified in the site plan approval process have been resolved and there are no outstanding objections with the site plan as proposed. We, therefore, agree with our Planner and Department Heads that vehicular and pedestrian entrances, exits drives and walkways are safe and adequate.

3. *The visibility in both directions at all exit points of the site. The driver of an automobile exiting the site should have an unobstructed view of the street for that distance necessary to allow safe entrance into the traffic stream.*

The various involved parties including BFJ Planning, the Village DPW, the Police Department and the Fire Department have all reviewed the plans. All traffic and circulation issues identified in the site plan approval process have been resolved and there are no outstanding objections with the site plan as proposed. We, therefore, find that there is adequate visibility of vehicular traffic exiting all points of the site and that the driver of an automobile exiting the site will have an unobstructed view of the street for that distance necessary to allow safe entrance into the traffic stream.

4. *The location, arrangement and adequacy of off-street parking lots, which shall, at a minimum, meet the requirements of this Zoning Ordinance.*

The site plan satisfies requirements in the Zoning Code; a total of 198 off-street spaces are provided, whereas 198 are required. The site is also situated so that parking can be shared between the hotel and restaurant uses. The location provides more than ample parking onsite, therefore, there is no parking burden that the project places on Marbledale Road and therefore, we find that there is no need for additional off-street parking lots.

5. *Interconnection of parking lots via access drives within and between adjacent lots, in order to provide maximum efficiency, minimize curb cuts, and encourage safe and convenient traffic circulation.*

The parking layout is interconnected throughout the site and allows for shared parking between the hotel and restaurant uses. ADA accessible sidewalk areas are also provided between the two uses and also from the hotel and restaurant to Marbledale Road. Therefore, the plans submitted have maximized efficiency, minimized curb cuts and encouraged safe and convenient traffic circulation.

6. *The location, arrangement and adequacy of loading areas, which shall, at a minimum, meet the requirements of this Zoning Ordinance.*

The various involved parties including BFJ Planning, the Village DPW, the Police Department and the Fire Department have all reviewed the plans. All loading issues identified in the site plan approval process have been resolved and there are no outstanding objections with the site plan as proposed. Therefore, the applicant has demonstrated that the location, arrangement and adequacy of loading areas are sufficient.

7. *Patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining street and sidewalk system.*

The various involved parties including BFJ Planning, the Village DPW, the Police Department and the Fire Department have all reviewed the plans. All pedestrian circulation issues identified in the site plan approval process have been resolved and there are no outstanding objections with the site plan as proposed. As discussed in Part 1 of this section, the applicant agreed and it is a condition of this site plan that the applicant shall make the proposed pedestrian safety improvements at the Jackson Avenue and Marbledale Road intersection, subject to the Village Board's approval.

8. The location, arrangement and adequacy of facilities for the physically handicapped, such as ramps, depressed curbs and reserved parking spaces.

Accessibility to the facilities by the physically handicapped is adequate. Six Handicap spaces for the hotel and two handicap spaces for the restaurant are provided. Sidewalks and entrances to the facilities are ADA accessible. As a condition of this approval applicant shall comply with all ADA requirements.

9. The location, arrangement and adequacy of landscaping within and bordering parking lots and loading spaces, which shall, at a minimum, meet the requirements of this Zoning Ordinance.

BFJ Planning has reviewed the landscaping plan with their landscape architects, who have determined that the plan is adequate. We concur and agree that the landscape features are satisfactory and harmonious in relationship between the site and contiguous land and buildings and adjacent neighborhoods.

10. Adequacy of fire lanes and other emergency zones.

The plans have been reviewed and approved by Chief of the Fire Department, Mike Grogan. During the review process Mr. Grogan had a number of concerns and comments on the initial submissions by the applicant. Based on those concerns and comments, by the Fire Chief, the applicant

amended its plans and has satisfactorily addressed the Chief's concerns. Further, the Village of Tuckahoe's Building Inspector has reviewed the amended plans and concurs with the Fire Chief that the fire lanes and emergency zones are adequate. We concur with the Fire Chief and Building Inspector and agree that the fire lanes and emergency zones are adequate.

(B) The protection of environmental quality and the preservation and enhancement of property values in the neighboring area.

The Decision Document concluded that developing the site with the preferred cleanup program as proposed by the Applicant would have a positive environmental affect compared to leaving the site as is. The Board's independent consultant agrees with this determination. Under ECL-XXX, an Environmental Easement must be recorded against the Property before the remediation can be deemed complete, which will require the long term operation, monitoring and maintenance of the engineering and institutional controls that the Decision Document selected as the remedy for the property. The Environmental Easement is directly enforceable by the Village..

As part of the site plan review process with this Board, a number of modifications were made to ensure the building's architecture is sensitive to properties in the surrounding area. This included modifications to the landscaping plan and changing the colors of the rear façade from blue to a neutral color.

(C) A quality of building and overall site design which will enhance and protect the character and property values of the adjacent neighborhood. The Planning Board shall evaluate the architectural features of the proposed design to determine if they are in harmony with the neighborhood, including consideration of architectural style, bulk, dimensions, materials and location on the site and, in relation to development on adjoining properties, the natural terrain and vegetation.

Architectural details including samples of materials and colors of the exterior of the hotel and restaurant buildings were presented by the Applicant to the Planning Board. The Planning Board is

satisfied with the look of the proposed buildings and how the proposed architecture of the buildings will enhance the look and feel of Marbledale Road. The applicant changed the rear facade of the hotel building to a neutral earth tone rather than blue to respect views from adjacent homes that face the rear of the site. BFJ Planning has also reviewed the landscaping plan with its landscape architects, who have determined that the plan is adequate. We concur. Thus, based upon the plans submitted we find that there will be a satisfactory and harmonious relation between the site and contiguous land and buildings and adjacent neighborhoods.

Therefore, based on the foregoing the application for site plan is approved on the following conditions:

1. Applicant shall establish an initial escrow account with the Village of Tuckahoe's Building Department in the initial amount of \$50,000. Said escrow account shall be for the Village to monitor the environmental aspects of the project during and after the remediation of the site, which may include but is not limited to reviews of plans for specific remediation elements; conducting on-site observations and documentation of remedial work; meetings / discussions with Applicant representatives; reviews of Applicant progress reports and data; and/or participating at meetings with the State agencies. The scope of the oversight shall be determined by the Village Building Inspector and environmental consultant appointed by the Village Board. Attached hereto and incorporated herein as Exhibit A to this resolution is a memo from HDR, dated September 14, 2016. The items as detailed in Exhibit A are conditions of this approval.

In no way do the items set forth in said memo or any monitoring activities by the Village or Village representatives relieve the Applicant of its sole responsibility to implement the

remedy; monitor the project; protect the health and welfare of the community; comply with all aspects of the approved RAWP, NYSDEC Decision Document, and all applicable local and NYS guidance, laws, rules and regulations; and comply with any future conditions and requirements that may be imparted by the State DEC and DOH or other authority.

Exhibit A shall not limit the Village monitoring in anyway, and if at any point the Village Building Inspector shall deem further monitoring is required, then such further monitoring is deemed a condition of this approval. The escrow shall not fall below a level of \$12,500 at any given time and shall be replenished by the applicant as needed and as determined by the Village of Tuckahoe's Building Inspector.

2. The hotel is to be operated as a Marriot Springhill Suites. If at any time in the future the hotel is no longer being run as a Marriot Springhill Suites the new operator must seek an amended site plan approval of this Board and demonstrate compliance with 7-1 and 4-8 of the Village of Tuckahoe Zoning Code.
3. Currently the operator of the proposed restaurant has not been identified. Once an operator of the restaurant is identified the operator must come to this Board, if any modifications to the plans, elevations or materials approved in this application are modified, for further site plan approval and to demonstrate compliance with 7-1 and 4-8 of the Village of Tuckahoe Zoning Code.
4. A DEC/DOH Certificate of Completion under the BCP must be obtained, and the approved RAWP must be implemented to the satisfaction of the Village in consultation with its environmental consultant, before a Certificate of Occupancy is issued for a future building on the Premises.

5. A Sewer and Storm Water Drainage Plan, dated September 14, 2016, has been submitted by the Applicant and has been determined to be acceptable to the Village's engineering consultant Dolph Rotfeld Engineering PC. Applicant must strictly comply with the Sewer and Storm Water Drainage Plan and post a performance bond in the amount to be set by the Tuckahoe Building Department based upon recommendations from Dolph Rotfeld Engineering P.C. and review by the Village Counsel to ensure compliance with same.
6. At all times during remediation and construction the Applicant shall secure the premises and employ a security detail to be onsite when remediation or construction is not taking place.
7. In addition to the escrow account referred to in Condition 1 above, the applicant shall continue to maintain an escrow, pursuant to 10-5.2 of the Zoning Code to compensate the various other professionals to monitor strict compliance with this resolution. The amount of said escrow shall be determined by the Village of Tuckahoe's Building Inspector.
8. During all phases of remediation and construction all vehicles being utilized in connection with the project, including all contractors and employees of the applicant, must be parked on site and there shall be no offsite parking being utilized.
9. The Applicant shall obtain the necessary approvals and permits from the Village Board and other governmental agencies having jurisdiction as it concerns the offsite and public improvements to be constructed and installed in accordance with the approved plans.
10. Construction specifications for offsite improvements and public improvements are to be coordinated with the Head of the Department of Public Works in accordance with the approved plans.
11. The Applicant shall obtain from the Sign and Awning Review Board approval for all signs to be located on the site and proposed buildings.

12. The Applicant shall be required to procure and obtain all necessary and applicable approvals and permits, if any, from the County of Westchester as it concerns the project.
13. The General Contractor and subcontractors involved in any facet of remedial work, to be selected by the Applicant, must document prior experience on NYS BCP projects and other direct experience with projects involving NYSDEC. Qualifications shall be provided to the Village Building Inspector for his approval. Documentation of all appropriate licensing, bonding and insurance certificates shall also be filed with the Village Building Inspector and shall be to the Village Building Inspector's Satisfaction.
14. Applicant shall comply with all aspects of the Tuckahoe Village Code, specifically Section 15-43, and New York State Uniform Fire Prevention and Building Code with respect to implementation of the plans referenced above.
15. A final foundation or geotechnical plan describing the means and methods for foundation support, compaction and all other work elements related to site development shall be submitted to NYSDEC and the Village Building Inspector for review. The Village Building Inspector shall coordinate reviews by the Village's environment consultant and other technical consultants as necessary. Such plan must include, at a minimum, assessments for potential noise and vibrations from all foundation work, and protection of off-site properties, and include the implementation of dust/VOC suppression and community air monitoring. No piles shall be driven at the site. An evaluation of how the potential impacts from pile installation will be assessed, addressed and mitigated, including but not limited to, the potential additional subsurface investigation, and a discussion of how the release of potential contaminants will be monitored and controlled shall be included in the plan. For portions of this site that require compaction (i.e., parking lot or landscape areas), the proposed options

for the means and methods must be fully described and assessed. The potential impacts shall also be assessed, addressed and mitigated (including but not limited to, the potential additional subsurface investigation, and a discussion of how the release of potential contaminants will be monitored and controlled). A final foundation work plan shall be filed with the Village Building Inspector before commencement of any foundation work. This final submittal shall include and address NYSDEC and Village comments relating to the above assessments, mitigation approaches, and site monitoring.

Lastly, that every representation made to this Board by the applicant is a condition of this approval and any deviation of the as built project and the plans referenced above must strictly comply with procedures listed in Section 7-1 of the Village of Tuckahoe's Zoning Code.

Dated: October 19, 2016

Planning Board Chairperson

Exhibit A - Environmental Items for Planning Board Resolution

Marbledale Road BCP Site

109 Marbledale Road

9-14-2016 (HDR)

The following conditions relate to the remediation, site development, and monitoring processes which will include the preparation of documents, data, and drawings; completion of tasks; and meetings as outlined below:

- Preparation of and Updates to a Detailed Project Timeline;
- Preparation of Work Scopes and Design Documents, including:
 - Pre-Construction Site Characterization;
 - Monitoring Well Installation;
 - Soil Vapor Extraction (SVE) System Pilot Testing;
 - Soil Vapor Extraction (SVE) Design and Monitoring Plan;
 - Foundation / Geotechnical Analysis and Design;
 - Community Air Monitoring Plan (CAMP), and Data Dissemination;
 - Mobilization, Site Security, and Site Preparation;
 - Dust / VOC / Odor Suppression;
 - Excavation and Grading Plan;
 - Capping System Design and Construction;
 - Sub-Slab Depressurization System (SSDS) Design and Monitoring Plan;
 - Groundwater Monitoring Plan
- Meetings (including Team Meetings and Community Meetings)
- Technical Memoranda and Progress Reports

A description of each item is included below. All documents, data, drawings, technical memoranda, progress reports and other information will be submitted to the NYSDEC, Village Building Department, the Village's environmental consultant, and other Village technical consultants as necessary. Final documents and information will be made available to the public by the Village via a project repository established at Village Hall, and via a link to the Village website. The Village Building Inspector and Village Clerk, in consultation with and with support from the Village's environmental consultant, will be the principal involved parties for the Village's management of the project's environmental information. The Village Building Inspector will coordinate with the appropriate Village consultants for technical reviews of work scopes, design documents, technical memoranda, progress reports, and other applicant submittals; reviews of NYSDEC or NYSDOH information and directives; and information received from other involved agencies. The NYSDEC project manager is Kevin Carpenter, P.E. The NYSDOH project manager is Renata Ockerby.

- A detailed **project timeline** outlining all aspects of remediation, site development, and monitoring shall be submitted to the NYSDEC and the Village Building Inspector as a condition of approval. All elements of the approved remedy as described in the final Remedial Action Work Plan (RAWP) shall be included, with subtasks and additional detail to provide a full inventory of the work that is planned and that has been completed. All additional testing work that will be required prior to commencement of construction activities, including but not limited to foundation and geotechnical assessment, will be identified on the timeline. It is understood that the execution of certain remediation elements and site development work may overlap, and this shall be considered in the project timeline. As work sequencing may need to be modified based on site conditions / findings, weather conditions, and other circumstances, the applicant

shall submit an updated project timeline on a weekly basis (or, acknowledge weekly that the current timeline is still accurate). Items to be included on the project timeline include, but are not limited to:

- Mobilization, site preparation (silt fencing and haybale installation; construction of stockpile areas), security (fencing and signage; other means), demobilization;
 - Schedule for submittal of work scopes, design documents, drawings, technical memoranda/data summaries, and other materials;
 - Review and approval time for submittals and permits, including NYSDEC, Village Building Inspector, and Village consultant document reviews [see below];
 - Baseline Community Air Monitoring;
 - Geotechnical and foundation assessment and design work, including noise, vibration, and off-site property analysis;
 - Community Air Monitoring and Dust/VOC/Odor Suppression measures (continuous, during remediation and all excavation, grading, foundation, and subsurface work);
 - Excavation and grading;
 - Capping system design and installation, by area, including temporary dust / VOC suppression (gravel, foams) that may be installed before the final capping system is in-place;
 - Soil vapor extraction (SVE) installation and start-up;
 - Sub-slab depressurization systems (SSDS) installation and start-up;
 - Submittal of Final Engineering Report (FER) and Site Management Plan (SMP);
 - Execution of environmental easement and any necessary deed restrictions.
- **Work scopes and design documents** will need to be submitted for review and approval by NYSDEC, the Village Building Inspector, and the appropriate Village technical consultants prior to initiating work at the site to confirm compliance with the RAWP and to better plan for the work activities in the field, implementation of community air monitoring, and the employment of dust and VOC suppression.

Appropriate safety protocols for on-site workers and off-site receptors will be developed and incorporated into the on-site Health & Safety Plan (HASP) and into each work scope and design document where appropriate and necessary. The protocols will identify circumstances at the site that have the potential to put workers and the community in harms way (e.g., accidental spill of materials; vehicle accident), and will include a communication plan that may be enacted depending on the circumstance. The communication plan will include contact information for key personnel in the Village of Tuckahoe and the Town of Eastchester, including Police and Fire Departments and emergency services.

The first work scope for pre-construction site characterization, monitoring well installation (overburden and bedrock wells), and soil vapor extraction (SVE) pilot testing has been submitted and is under review by NYSDEC and the Village's environmental consultant. Additional scopes and design documents that are anticipated during remediation and site development include, but are not limited, to the below-listed categories. The order of submittals is dependent on the project timeline.

- **Soil Vapor Extraction (SVE) design**, including treatment of collected soil vapor. It is understood that Westchester County will need to review and approve the SVE work prior to installation and start-up. The SVE system will be installed, operated and maintained / monitored in accordance with the approved pilot test and design documents and specifications, and in accordance with Village and Westchester County permits. Operation, Maintenance and Monitoring (OM&M), including vapor control and treatment, of the SVE system will continue at the site in accordance with NYSDEC's direction.
 - Aesthetic considerations. The SVE placement will be based on design data. One to two small buildings (1-story) to house the SVE equipment and controls may be situated on-site at a location deemed acceptable to the Village and the Site Plan. Mechanical

equipment may also be housed within mechanical rooms of the proposed buildings. Dimensions and colors / textures of the SVE building and any exterior features such as vent piping will be submitted to the Village Building Inspector for review. The number and size of the SVE treatment buildings shall be limited to two; if an additional structure is deemed to be necessary based on design, documentation will be submitted for review.

- Foundation / geotechnical analysis - investigations for purposes of designing micropiles, dynamic compaction, and other methods proposed at the site.
- Community Air Monitoring Plan (CAMP) and Data Dissemination – details on proposed monitoring equipment (dust monitors; VOC equipment including PID; weather and wind direction), number and location of monitors both on-site and off-site, and data logging. The applicant will maintain all appropriate air monitoring stations and work with the NYSDEC, Village Building Inspector, and the Village environmental consultant for purposes of logging and disseminating data in as timely a manner as possible. The plan for this item will describe protocols for adjustment to the program that may be needed during site work. A clear chain-of-command protocol including daily updates to the NYSDEC and Village will be established to report on the following: any issues encountered with the operations of CAMP monitoring equipment or data logging equipment; exceedences in CAMP criteria identified, with documentation of work stoppage and resolution prior to continuing site work; other information.

CAMP data (including dust and VOC data) generated from each day of excavation, grading, capping system construction, foundation work and other site development activities with possible dust generation will be made available to the public via a dedicated web portal or other tool acceptable to the NYSDEC and Village. Such tool will be developed, tested and refined by the applicant prior to the start of excavation, grading, or site development work and maintained for a duration of time deemed acceptable to the NYSDEC and the Village. The content of this data dissemination tool and timelines for providing daily data to the public will be scoped with NYSDEC, the Village Building Inspector, and the Village environmental consultant.

As part of this work element, Baseline Community Air Monitoring will be conducted by the applicant prior to the start of any excavation or grading work. The purpose of the baseline monitoring will be (a) to obtain “ambient” data at the site, the site perimeters, and at nearby off-site locations in the community, (b) to confirm “action levels” for dusts and VOCs for the CAMP to be implemented during site work, and (c) to evaluate the operations of equipment, monitors, data logging, and other items prior to any excavation / grading or development work at the site. Data obtained from baseline monitoring efforts will be reviewed by NYSDEC and the Village to evaluate its use in the site-specific CAMP.

- Mobilization, site security, and site preparation. A detailed site security plan addressing potential security concerns during work hours and after hours shall be developed. Details for installation, inspection, and maintenance of fencing, signage, and site access controls; soil erosion and sediment control measures; soil and material stockpiles (locations, liner systems); truck access and staging areas, temporary stone accessways for vehicles, and truck washes; Contractor trailer, trash receptacles, and other facilities; and other items as deemed necessary by the NYSDEC or the Village Building Inspector. Contingency planning for severe weather events (covering and securing of work areas, berming) shall be defined. The project SWPPP and Stormwater Containment Plan will be referenced in this scope and updated as necessary based on specific remediation and site development plans and timelines. Silt fencing and haybales shall

be installed and maintained around all active work zones. Collection and management of stormwater / wash waters and sediments generated during the remedial process shall be detailed, as shall protection of local storm sewer grates, catchbasins, and roadways at and adjacent to the site.

- Dust Suppression / VOC / odor suppression – details on planned methods and means (water sprays, misting systems, moistening of areas designated for excavation / grading; foams; tarps and covers; etc.) shall be developed, based on the environmental data that exists and that is generated via supplemental site and design work. Dust and VOC suppression methods shall be robust and durable to insure they are weather resistant and effective between site work (e.g., over weekends / off hours). Site data for soil gas, soil, and groundwater will be reviewed, and a summary table of on-site contaminants of concern in each of these media (with maximum detected concentrations) will be provided, and the associated dust / odor/ VOC suppression method(s) shall be listed for each contaminant for each phase of remedial and site development work (excavation of impacted soils and source materials; managing “open” excavation areas awaiting confirmatory sampling; site grading; truck loading activities; utility trenching; etc.). Wastes that could be encountered during site work such as ash, dioxin or dioxin-like compounds, radionuclides, and pharmaceuticals (as per file information and/or public testimony) shall also be listed on the table, with the appropriate dust/VOC or other control measures noted. The scope for this item may need to be adjusted during future soil disturbance / excavation, grading or other work. Specification sheets for proposed materials such as foam, tarps or other covers, along with material safety data sheets (MSDS) shall be included in the work scope.
- Excavation and Grading Plan - including work sequencing and phasing so that dust and VOC suppression can be managed appropriately; locations and management of temporary soil and material stockpiles; truck loading and staging areas; truck routes; truck and street cleaning. Topographic plans and cut / fill locations and quantities will be updated from the RAWP estimates, as required. Data from the RI and Pre-Construction characterization sampling shall be depicted to confirm the soils to be re-used at the site, and soils that exceed Commercial Use SCOs and that are thus required to be disposed of off-site.

The final depth and dimensions, and total volume of soil and debris removed during excavation shall be recorded. It is noted that based on post-excavation confirmatory sampling, additional soil removal may be required within and around an area tagged for remediation if bottom and/or sidewall samples collected after the initial excavation work do not meet the Commercial Use SCOs for one or more parameter.

Direct loading of trucks for materials that will be disposed of off-site is the preferred method as per the RAWP to minimize the need for on-site staging. In the event that on-site staging of soils is required, the applicant will keep a record of stockpile numbers and origin of excavated soil that is placed in each stockpile for purposes of sampling the stockpiles to support off-site disposal or on-site reuse decisions. It is anticipated that remedial work could occur simultaneously with site development work (thus, staging of building materials, clean fill soils, and contaminated soils must be appropriately managed).

The scope shall specify the maximum size (height and volume) of the stockpiles. The NYSDEC case manager and NYSDEC DER-10 and other guidance shall be consulted to establish a maximum soil stockpile size that will allow the applicant to appropriately collect stockpile samples for purposes of characterizing the stockpile(s) for off-site disposal or on-site reuse decisions.

The size of “open” and active excavation areas, including areas to be graded, shall be minimized to the extent practicable, and the size of work zones based on site data that documents the success of dust/VOC suppression and the CAMP.

- Capping system construction – details and specifications of capping system materials, topographic maps, sub-base and demarcation layers, and installation procedures. The depths and permeability of the capping system at all locations of the site will be described (buildings, parking areas, landscaped areas). Chemical quality of all soils (and any other approved fill material) imported to the site must be documented. The sequence of cap installation in relation to other remediation elements shall be confirmed to inform the NYSDEC and Village Building Inspector if the capping system will be installed onto clean / approved fill (gravel or fill soil), and if gravel or other dust and VOC suppression materials will need to be maintained over areas before the final cap is installed.
- Sub-Slab Depressurization Systems (SSDS) design. Design of such systems will be based on existing and new site data, and the results of the SVE design and operations. It is understood that Westchester County will need to review and approve the SSDS designs prior to installation and operation. The use of vapor barriers beneath proposed buildings shall be documented, with product cut sheets (material and installation procedures) provided. The SSDS systems will be installed, operated and maintained / monitored in accordance with the approved design documents and specifications, and in accordance with Village and Westchester County permits. Filters at all venting location (building roofs) will be installed at the commencement of operation, and will be maintained until such time that the NYSDEC approves that filters are no longer necessary based on monitoring data and a formal request by the applicant. OM&M will continue at the site in accordance with NYSDEC’s direction and approved Site Management Plan.
 - Aesthetic considerations. The SSDS systems’ placement will be based at the hotel and restaurant buildings, as per the RAWP. Equipment (fans) and controls will be situated within the on-site buildings (e.g., mechanical rooms). Locations, diameters, and heights of SSDS vent piping will be installed at the building roofs at locations deemed acceptable to the Village Building Inspector and in accordance with the green roof design of the Site Plan. Vent piping with filters shall be installed to the minimum height necessary above the roofs (e.g., behind parapet walls) and with removable enclosures with slats to allow venting, based on NYSDEC and Westchester County requirements and allowances. Dimensions and colors / textures of the outdoor portions of the SSDS will be submitted to the Village for review.
- Groundwater Monitoring and Data Analysis Reports. Following each phase of groundwater testing at the site, a detailed discussion of the monitoring results (chemical data; groundwater flow gradients in overburden and bedrock wells; other observations) shall be included in the reports. Based on NYSDEC review and direction, detailed descriptions of how on-site groundwater contamination will (a) be monitored into the future and (b) controlled if necessary to prevent the off-site migration of contaminants shall also be included in the reports.

A kick-off meeting with the NYSDEC and Village representatives will be held prior to the start of excavation, grading, and site development work. The above-described scope items will be discussed in detail. The number of air monitors and positions (on-site and off-site); determination of wind patterns; ‘action levels’ to evaluate dust/VOC suppression techniques and to require temporary work

stoppages until corrective actions are made; identification of off-site receptor areas and property lines will be discussed and detailed before work commences. Procedures for dust / VOC / odor suppression, and reporting particulate and VOC levels to the NYSDEC and NYSDOH and the Village will also be discussed. Nearby (off-site) structures or areas that could require temporary engineering controls (e.g., sealing of vents or windows) as a contingency or added level of protection will be identified.

The purpose of each work scope and design document shall be clearly defined, with reference to the approved RAWP and Decision Document. Text, tables, figures, sketch plans, drawings, attachments such as specification sheets and vendor information, and other information shall be included, as necessary. Means for applying the CAMP and dust suppression techniques for any item requiring drilling / sampling, compaction, excavation, grading, or importing clean fill soils shall be described in detail. The NYSDEC and the Village will be provided ample time to review and comment on these submittals. It is understood that Village permits will need to be obtained for different phases of work.

Following the implementation or completion of work described in the work scopes and design documents, **technical memoranda** will be submitted to NYSDEC and the Village Building Inspector that detail the findings of the work. Technical memoranda developed shall be submitted within 2 weeks of completion of the work element.

- **Weekly Progress Reports** shall be submitted to the NYSDEC and the Village Building Inspector, describing the work completed during the Progress Report interval; problems encountered and corrective actions employed; new findings based on site observations; results of worker Health & Safety monitoring, Community Air Monitoring and dust / VOC / odor suppression effectiveness; quantities of materials (debris, impacted soil) removed from the site, with transportation and disposal documentation; documentation of clean fill soil imported to the site, including the source(s) and chemical quality of the material; site photographs from the Progress Report interval; site meetings and project discussions with NYSDEC and the Village; Community outreach efforts; modifications to work sequencing and schedule/timeline and rationale for such changes. Such reports for a given week shall be submitted on the following Monday by COB, unless extension is granted by the Village Building Inspector.
- **Final Engineering Report (FER).** The FER will include all documentation and copies of the Progress Reports, in addition to the information required by NYSDEC DER-10 and other guidance and site-specific needs that the NYSDEC may require. This document will be submitted for NYSDEC review and approval (with copies of draft and final versions submitted to the Village Building Inspector). The FER will be submitted at the completion of all NYSDEC-approved remediation, prior to NYSDEC recognition of remediation completion.
- **Site Management Plan (SMP).** The SMP will be developed in accordance with the RAWP, NYSDEC DER-10 and other guidance, and site-specific needs that NYSDEC or the Village may require. Procedures for inspecting, certifying, and reporting periodically that each element of the remedy is operating, monitored, and maintained in accordance with NYSDEC requirements are to be included in the SMP. This document will be based on site information / design data and observations made during the course of remediation. The SMP will be submitted for NYSDEC review and approval (with copies of draft and final versions submitted to the Village Building Inspector). It is anticipated that the SMP will be developed during remediation, and include final survey / environmental easement, design and operation, maintenance, and monitoring (OM&M) specifications.

The FER and SMP documents will include descriptions and documentation (including figures, data tables, photos, material disposal receipts; clean fill importation; specifications) of all aspects of the remediation process, air monitoring, and site management. Documentation will also include field measurements and GPS- recorded locations of site features such as sample points, monitoring wells, SVE points, and geotechnical borings. Surveys and As-Built Drawings will also be developed for the FER and SMP documents, in accordance with NYSDEC guidance. For the SMP, forms and checklists related to inspection, inspection frequency, groundwater monitoring, operation and maintenance (capping system, SVE, and SSDS systems) will be included for each element of the remedy. Long-term site management considerations (e.g., future excavation, landscaping, utility repair or installation) that may disturb the capping system will be included in the SMP, with protocols for NYSDEC and Village notifications, excavation plan, and implementation of community air monitoring.

- The applicant shall hold **periodic community meetings** for purposes of updating the community on work progress, site findings, air monitoring and dust suppression, plans for upcoming work, and task schedules. A schedule with planned meeting frequency shall be submitted to the Village for review and approval. It is anticipated that space for such meetings will be made available by the Village.
- Access to the site by NYSDEC, the Village Building Inspector / Village representatives, and the Village Consultants shall be granted during remediation and site development for purposes of observing site conditions; reviewing excavation, dust suppression, and air monitoring activities; or other reasons. Representatives accessing the site will adhere to the generic Health & Safety Plan (HASP) at all times, and be escorted by the development / remediation professionals.