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I. INTRODUCTION

The 27.6 acre Bennett College site is located in the Village of Millbrook, Dutchess County, New York. The property is an assemblage of three parcels consisting of 31 individual tax lots. The site is located along Route 343 at its intersection with Route 44/82 approximately ¼ mile south of the Village's downtown area. Bennett Common Road, Exmoore Lane and Carroll Boulevard also serve the former Bennett College site. A Site Location Map is attached as **Exhibit A**.

The site is improved with twelve buildings comprising approximately 200,000 square feet of floor space. The site is also improved with a network of roads and asphalt trails. See Site Survey **Exhibit B**.

The site is within the boundaries of the Village of Millbrook, which provides water and sewer service to properties within its boundaries, and has been paying taxes and fees for decades.

The Bennett College site was first developed in 1883 as a hotel known as "Halcyon Hall". In the early 1900's, the property became the Bennett School for Girls. In the 1970's the school made an effort to become an accredited four-year college, renamed Bennett College. In its heyday, the school population consisted of 300 students and 100 plus administrators, teachers and staff (See, **Exhibit C** "Report of Middle States Association of Colleges and Secondary Schools for Bennett College"). During those years the school was an integral part of the Millbrook community until it filed for bankruptcy and closed in the late 1970's. For the past thirty years the property has been abandoned and fallen into a state of severe disrepair.

A. Existing Zoning

The site is currently zoned BCD, Bennett Campus Development, a recently adopted zoning district that permits single family homes on 2-acre lots. In recognition of the site's potential, the Zoning Ordinance also allows, by special permit, a Conservation Density Development (CDD), with incentive zoning provisions that allow four dwelling units per acre for cluster development that offers traditional neighborhood design characteristics. These characteristics include; pedestrian friendly, low volume and narrow road designs; a mixture of housing types; a discernible center with a village square or green; and an overall plan that encourages walkability throughout the development.

B. Proposed Development

1. The Plan

A set of 23 sheets collectively labeled "Preliminary CDD Plan" are attached as **Exhibit D** (submitted under separate cover). The individual drawings are:

- C-1 Cover Sheet
- C-2 Construction Notes

- C-11 Site Demolition Plan (Sheet 1)
- C-12 Site Demolition Plan (Sheet 2)

- C-100 Preliminary Plat Plan
- C-101 Site Plan (Sheet 1)
- C-102 Site Plan (Sheet 2)

- C-201 Grading Plan (Sheet 1)
- C-202 Grading Plan (Sheet 2)

- C-211 Road Profiles (Sheet 1)
- C-212 Road Profiles (Sheet 2)

- C-221 Typical Sections

- C-301 Utility Plan (Sheet 1)
- C-302 Utility Plan (Sheet 2)

- C-401 Erosion Control Plan (Sheet 1)
- C-402 Erosion Control Plan (Sheet 2)

- C-501 Details (Sheet 1)
- C-502 Details (Sheet 2)
- C-503 Details (Sheet 3)
- C-504 Details (Sheet 4)

- LP-1 Landscape Plan West Parcel
- LP-2 Landscape Plan East Parcel
- LP-3 Bennett Commons Landscape Plan

Working within the CDD concept, and within the confines of the site's natural features, including its topography and irregular shape, the Applicant devised a plan that met the Village's neighborhood design criteria for the zone, while also taking into account market conditions. In addition to promoting innovation in design, the CDD zone also encourages development with lesser impacts by calling for a mixture of housing types, provision of open space, etc., rather than just a single family subdivision.

2. The Concept

The recent rezoning of this site encouraged certain design concepts intended to preserve as much of the site's integrity as possible while developing a "Village-like" community. These concepts include "cluster" development and "traditional neighborhood design," or "TND."

a. Cluster Development

According to state statutes, the purpose of cluster development is to "enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands." Clustering also accomplishes other purposes, such as preserving on-site resources like viewsheds, and archeological sites and other significant natural features. Clustering also reduces the number of access points to adjacent roads, allowing a wide variety of layouts and design schemes for subdivisions in the community.

The basic concept behind cluster zoning is simple: instead of allowing development to take place on a lot by lot basis, a tract is considered in its entirety and development is concentrated on a portion of the tract, leaving the rest of the tract undeveloped. The grouping that actually takes place will largely depend on the physical attributes of the tract itself and its relationship to the surrounding area.

b. Traditional Neighborhood Design (TND)

TND or neo-traditional development is essentially one answer to the question: how should a community grow? TND growth takes the form of pedestrian-friendly neighborhoods with open spaces, diverse housing types, and clearly defined edges that are linked by an interconnected street system.

Because the TND concept is a response to a perceived decline in quality of life and sense of community, its primary goal is social - to design a place that will foster a community.

TND's are typically characterized by a comprehensive planning system that includes a variety of housing types in a defined area. A TND is served by a network of paths, streets and lanes suitable for pedestrians as well as vehicles. This provides residents the option of walking, biking or driving to places within their neighborhood. They are designed for the human, not the automobile.

Public and private spaces each have importance, creating a balanced community that serves a wide range of home and business owners. The inclusion of civic space in the form of plazas, greens, parks or squares, enhances community identity and value.

c. The Present Plan

The present plan's incorporation of these design concepts is illuminated throughout this Executive Summary and its exhibits, and in all the public proceedings had herein. The proposed plan is notable for various features including providing small clustered lots of 4,600 to 10,000 s.f., small sub-neighborhoods within a larger community, an offering of a variety of housing types in multi-family buildings, and the placement of homes close to the sidewalk, with small front yards. Some homes have patios and/or porches that promote pedestrian interaction with residents along an extensive sidewalk and trail system, encouraging pedestrian activity and movement within the development. Narrow, tree-lined streets with street lamps and signage are inspired by local styles. Central meeting areas are accessible to pedestrians without use of automobiles, and several open space areas are scattered throughout the site for passive and active recreation. In addition, the development proposes improvements to the existing sidewalk network, providing a clear pedestrian connection to the Village center. This will encourage further pedestrian activity by offering residents a viable alternative to driving to the Village from the proposed development.

3. The Units

The proposed development includes 82 duplex units and 9 single-family homes. The residential units will be situated on 91 residential lots, with the remaining land being divided into 11 buffer, open space or right-of-way parcels. (See attached Lot Distribution Table attached as **Exhibit E**). The density of the proposed community is not only 27.7% below the maximum allowed under the current zoning, but also below that of other multi-family residential communities in the Village of Millbrook as demonstrated in **Exhibit F**. The aerial photograph identifies four multifamily communities within the boundaries of the Village of Millbrook whose density ranges from 2.2 to 10.1 units per acre compared with the density of the proposed development with 3.3 units per gross acre. The proposed development is in keeping with the density of the Village and its transition areas and fully complies with the requirements for the zoning district.

The duplex units will feature 2 and 3 bedroom designs, with 2.5 baths and 2 car garages. The duplex units will range from 1,675 square feet to 2,990 square feet of living space. Approximately fifty percent of the duplex units will feature master bedroom suites on the ground floor, a design that is particularly attractive to empty-nester households. The single-family homes will offer 4 bedrooms with 3.5 baths and 2 car garages. They will be approximately 3,000 square feet. Two existing single-family homes on the site, Hillside House and Hale House, will be relocated and renovated. The units will have front and side facing garage doors at grade and, where necessary, garage under configurations based on topography. The site plan avoids facing all four garage doors and front door entrances on one side thus creating the image of a single-family home as opposed to a multifamily structure.

The residences will be limited to 2 ½ stories in height. The site's building coverage will be approximately 13% of the total site area. The development consists of 51 buildings and approximately 220,000 square feet of living space.

The units will be designed to the greatest extent practicable to conserve energy. All homes will be well insulated and sealed to conserve energy and reduce drafts. Energy Star appliances will be installed in all units, in addition to CLS Fluorescent lights, automated blinds for daylight control, and tankless water heaters. Additionally, individual climate control zones and open floor plans with cross ventilation and ceiling fans will be used to reduce energy use and the need for air conditioning. Finally, water saving devices will be installed in all fixtures and will provide a reduction in water use of approximately 20%.

4. The Architecture

The design of units will provide a variety of housing types that include locally contextual architectural features and offer unit elevations with front and side entry garages and entrances.

Attached as **Exhibit G** are Architectural Renderings depicting the proposed elevations and floor plans including perspective views of the units. Additionally, two renderings are included to demonstrate the diversity of architecture and compliance with the CDD zoning. These renderings show four of the seven duplex models on typical lots. They portray the community's varying architecture, narrow tree-lined streets and cluster style land design. Homes are depicted on one side of a street, to demonstrate the variation between unit designs and color schemes and a scalable reference in spacing between homes.

All homes will be on individual lots owned in fee simple as required by the BCD (CDD) Zone. There will be a community amenity package for residents located where Halcyon Hall is now. This amenity package will include a clubhouse,

outdoor pool, dining terrace and other open space for passive recreation. These amenity facilities will be for residents of the new community. The “Meadow Terrace Park,” located in the meadow along the western portion of the site, will be open to both residents and the general public as required by the zoning ordinance.

5. The Roadways

The new neighborhood will be accessed via six new private roads to be owned and maintained by a Home Owners Association (HOA) and named in recognition of various architectural and cultural features associated with the site’s history or preserved buildings. Accordingly, the names which are proposed are: Chapel Road, Aldrich Circle, Meadow Way, Hillside Avenue, Hale Avenue and Kettering Circle. See, **Exhibit H**, Road Name Plan. All roads will be located within a dedicated 40’ right of way established for roads, sidewalks, street landscaping and underground utilities. Paved roadways will be 24’ wide, and there will be 4’ sidewalks on one side of the road along Chapel Road, Bennett Common Way and Hale Road. Parking will be prohibited on one side of the Road to allow unimpeded access for emergency vehicles. The new road configuration will provide positive impacts to emergency access. In particular, the design of the new Chapel Road will provide a connection from Bennett Common Way to Route 44, providing a valuable second access point.

In conformance with zoning and consistent with the comments of Village Planner David Clouser, all cul-de-sacs conform to Village specifications by providing the required turning radius, back-up distances of 100 feet or less and/or emergency access roads. All cul-de-sac’s are at least 100 feet from the property line. A “half cul-de-sac” now part of the public road known as Bennett Commons is proposed to be abandoned to the developer by the Village, thus normalizing the roadway, relieving the Village of maintenance obligations on the odd piece, and becoming part of adjacent proposed lots.

6. Public Access and Open Space

Public access to the site will be improved and made safe, unlike present conditions on the site, by several new public access improvements, including:

- a. A new sidewalk and trail system which will be open to the Public. As displayed in **Exhibit I**, a Sidewalk and Trail System will meander throughout the property with sidewalks along Bennett Common Road, Chapel Road and Hale Road as well as a trail through Open Space #3 past the pond and dam behind the former location of the Kettering Science Building.

- b. The applicant will connect a sidewalk along the proposed Chapel Road with the existing sidewalk on Route 44, to provide pedestrian access to and from the Village Center. The applicant will work closely with New York State Department of Transportation, Dutchess County Department of Planning and the Village of Millbrook to design and install a sidewalk connection and improve the existing sidewalk at the applicant's expense. The new and improved sections of sidewalks will provide a valuable pedestrian connection to the Village assisting in mitigating the impact on Village Center parking while promoting and increasing pedestrian activity and expenditures in Village shops, as required by the CDD zone.
- c. Open space will be provided in accordance with the CDD Zone calling for a View Shed (see the View Shed Analysis Simulations within the Visual Analysis exhibit, **Exhibit J**) inclusive of the proposed Meadow Terrace Park, allowing public access to the stone arches and newly planted gardens. The existing pond, waterfall, and stream behind the former science building will be preserved and protected with a 100-foot buffer as required with a split-rail fence along the buffer line to provide clear demarcation of the buffer. Further, any lots within the boundaries of the buffer will have a permanent green space on that buffer land. The stream and evergreens located along Route 44 will also be protected as open space. Many of the mature trees on the site will be preserved, such as the Beech tree along Bennett Common Road. Lands along the adjacent golf course will remain open space and provide active recreation to residents of the Village who are members of the Millbrook Golf and Tennis Club. The lands within the view shed will be protected and designated as open space, a portion of which will be open to the public. In all, open space on the property will total approximately 9 acres.

The proposed development provides an adaptive reuse of an obsolete and derelict property. The development provides narrow roads, sidewalks and trails, preservation of important natural features, open space, passive recreation areas and improved scenic vistas. The design characteristics of the development will create a transition between the small lot land use patterns of the Village and the large estate lots, active and passive recreation properties and farmland in the surrounding town.

All of the private amenities, both natural and man-made, will be maintained by a Homeowner's Association ("HOA"). HOA maintenance, covenants and restrictions will be memorialized in an Offering Plan approved by the New York

State Attorney General's Office, and reflected, as appropriate, in individual deeds.

As has been referenced at various points throughout this Executive Summary, a Homeowner's Association (HOA) is contemplated which will enforce By-Laws and conditions of approval relative to the public and private amenities required by the terms of such approvals, the BCD zone, and the commitments of the developer. Where required, such commitments and conditions will be memorialized in a recorded Declaration of Covenants and Restrictions which will run with the land and encumber both the HOA-owned property and privately owned lots within the development, to ensure notice and compliance. These obligations will be monitored and enforced by the HOA in accordance with its By-Laws, and will include:

1. Maintenance of the private road system;
2. Maintenance of the sidewalk and trail system;
3. Maintenance and protection of the designated public and private open space;
4. Maintenance and protection of the required and proposed viewsheds; and
5. Maintenance and operation of the utilities and related infrastructure.

II. THE LAND USE: PAST AND PRESENT

Below, a history of the site's land use and development history and the Village's recently adopted planning and zoning goals for the site is set forth.

A. Land Use History and Analysis

In order to understand the land use issues pertinent to the proposed development, an understanding of the context of the site and the history of its zoning will be useful.

1. Site Location and Surrounding Uses

The site is located on the southern edge of the Village and acts as a transition from the built-up village core to the rural and open space character in much of the surrounding area.

Between the subject site and more dense portions of the Village of Millbrook there are two small undeveloped parcels and several single-family homes on mid-sized lots, leading to a new development of several townhomes in a country style building. At this point, the land use pattern transitions to the Village core with small commercial establishments, small lots, single-family homes, multifamily structures, village and cultural facilities and Tribute Garden. Main Street is approximately ¼ mile north of the Bennett College site.

To the south of the site, there are two properties owned by the Cardinal Hayes Foundation that are used for educational and administrative purposes, several single-family homes on mid sized lots, and a new townhouse development of 8 units. Across Route 343, existing land uses include numerous single-family homes and small undeveloped parcels.

To the east of the site is the Millbrook Golf and Tennis Club. The Club is a privately-owned club with a private membership. The Club provides a nine-hole golf course, pool, tennis courts, locker rooms, golf carts, and a dining room and food concession.

To the west, the site fronts on Route 44 and the Thorndale Farm, a farm totaling more than 700 acres.

2. The Site's Place Within the Fabric of the Village

The Property has a unique history of which the Village is appropriately proud. It was the former home of Bennett School for Girls, a young ladies' finishing school founded in 1910. In the 1970's the school tried to convert to a modern college but, unfortunately, succumbed to bankruptcy in 1977. Local developers tried for

many years to develop the property during the 1980's and 1990's, but none of those plans came to fruition. The Village, for its part, modified the zone and worked with potential developers over the years in an attempt to rehabilitate the site. Despite all of its scenic, cultural, and community value, the Property in its long vacant state has devolved into serious disrepair and the efforts of the Village to revitalize the site through appropriate zoning measures are applauded and advanced by the Applicant.

3. Unlocking the Site; The 2005 Rezoning Process

a. The Negative Declaration

In 2005 the most important step in unlocking this important site was taken with the adoption of new zoning for the site. That rezoning represents the culmination of a long and determined effort to reclaim this property as an impressive gateway to the community. The environmental record associated with the adoption of the new zoning (discussed in greater detail below) was complete and unchallenged, in accordance with the State Environmental Quality Review Act ("SEQRA"). The process resulted in the issuance of a Negative Declaration (**Exhibit K**), and the adoption of Local Law No.1 for the Year 2005, "establishing the Bennett Campus District in the Village of Millbrook."

The Negative Declaration was adopted upon Village Board Findings which were, in turn, based upon the dedicated work of the "RMI Zoning Advisory Committee" (the "Committee"), Co-Chaired by Planning Board Chair Roberts.

The Committee produced a "Report of Findings and Recommendations" (the "RMI Findings"), dated June 16, 2005 and transmitted to the Village Board on June 17, 2005 (**Exhibit L**). The RMI Findings relied upon and attached for incorporation into the record various Appendices, as follows:

- Appendix A Fiscal Impact Analysis
- Appendix B Traffic Impact Analysis
- Appendix C Land Planning Summary
- Appendix D Water Supply Analysis
- Appendix E FDIC Report
- Appendix F Build-Out Features Maps
- Appendix G Density Build-out Analyses
- Appendix H "Guidelines" May/June 2004
- Appendix I Architectural Analysis
- Appendix J Halcyon Village Offering Plan (excerpts)

The SEQRA review process in the record supporting the Negative Declaration adopted in connection with the rezoning identifies key planning and environmental goals furthered by the rezoning. These are discussed below.

i. General Goals of Rezoning Evidenced in the Negative Declaration

The Negative Declaration adopted during the rezoning process laid out nine points integral to the new zoning concept which ensured, in the eyes of the Village Board, that there would be no significant or insufficiently mitigated impacts associated with that action. Exhibit K, p. 2. Those nine points are set forth at §5(b)(i)-(ix), as follows:

“In establishing the special use permit, various goals and standards are

- To protect the natural beauty of Millbrook.
- To maintain the campus appearance of the Bennett Complex.
- To maintain a small town atmosphere.
- To foster the availability of safe and affordable housing that meets the needs of younger and older residents.
- To provide pedestrian access to the Village.
- To protect environmentally sensitive lands.
- To ensure that development does not unduly tax residents.
- To strengthen the Downtown area as a commercial center.
- To preserve our historical structures as much as possible.”

ii. Proposed Plan's Compliance with General Goals in Negative Declaration

As discussed below, in each of our applications and in the proposed plan of development, these principles are amply supported and advanced by the instant application.

- Impacts Associated with the Change in Proposed Uses. The Negative Declaration also finds that the “cumulative impact to the neighborhood from a comparative full build out will be reduced” if done in accordance with the new zoning regulations (Exhibit K, p. 5), and that “the multiple commercial uses previously allowable would have generated significantly more traffic and disturbed the community character of the immediate area far more than the as-of-right and CDD scenarios as presented by the new zoning.” (Exhibit K, p. 6). Given that the proposed development is in compliance with the new zoning adopted on the basis of the Negative Declaration, it is submitted that the plan furthers these findings.
- Impacts to Water and Wetlands: The Negative Declaration also notes that “should an applicant determine to apply for a Special Use Permit to develop a CDD ...there would be a mandatory 100 foot buffer protecting the stream/pond system.” Exhibit K, p. 7. This buffer is maintained in the proposed CDD.
- Impacts to Infrastructure: The Negative Declaration determined that the new zoning decreased permitted density on the site to a level “appropriate in order that existing roads not be overburdened.” Exhibit K, p. 7. The proposed development not only complies with the density limitations established by the rezoning, but is actually substantially less than the maximum density presently permitted as is discussed below.

As to water and sewer infrastructure, it was noted that a project developed under the new zoning could have positive impacts in that it could “improve the Village’s existing sewer and water infrastructure.” Exhibit K, p. 7. The site was determined to be “capable of handling a 4-unit per acre development from a traffic

and stormwater impact standpoint, but the Village sewer and water infrastructure is capable of servicing such a development...” Indeed, the applicant has already tested for water well capacity on-site, and results indicate that the site can provide approximately two to three times the production necessary to serve the needs of the proposed development, with the excess being available to the Village system. See, Exhibit N.

- *Impacts on Historic Resources:* The Negative Declaration noted that the most significant impact of development on historic resources would be the loss of Halcyon Hall, but it correctly noted that this loss was likely inevitable (and imminent) with or without development. Exhibit K, p. 8.
- *Impacts to Community Services:* Under this heading, avoiding a new condominium development was determined to be a positive impact. The present proposal complies with the zoning in this respect, in that fee simple ownership of units is proposed.

b. The BCD Zoning District

i. The Goals of the BCD District

After concluding the SEQRA process and adopting a Negative Declaration with detailed findings and recommendations, the Village Board rezoned the Bennett College Campus property from RMI to BCD, and in so doing, facilitated a Planned Unit Development (“PUD”) of the long dormant site. The instant application is in keeping with the intent and regulatory scheme established by the new zone.

Within the PUD construct, Conservation Density Development (“CDD”) is encouraged in order to provide increased open space and flexibility of overall design. CDD plans are subject to special permit approval by the Planning Board. As a special permit, certain standards are set forth which must be met in order to ensure that the intent of the ordinance is met. The following is a more detailed description and history of the site and its zoning, as well as a description of Blumenthal Brickman’s CDD Plan, highlighting the plan’s conformance with the CDD standards set forth in the Local Law.

The adoption of the BCD district for the Bennett College Campus signaled the Village's intent to encourage an integrated development plan for the entire campus, incorporating uses and design consistent with the region and the Village's Master Plan. In particular, the PUD was adopted to accomplish the following objectives:

- Encourage innovation and land use variety and design;
- Enhance efficiency in the use of land, natural resources, energy, community services and utilities;
- Encourage open space preservation and protection of natural resources, historic sites and structures;
- Facilitate the provision of housing and improved residential environments; and
- Enhance the ability of the Village to promote business and employment opportunities.

The new zone allows a CDD with a maximum density of four dwelling units per acre on sites exceeding 20 acres, such as the Bennett College campus site. The calculation of the maximum number of units is determined by multiplying the gross acreage by 4 units per acre. Under that standard, the Property would yield a maximum potential density of as many as 126 units.¹ It is also noted that under the former RMI zoning standards, the Property could have supported as many as 250 residential units as well as commercial and retail space.² Much less density and intensity of use is proposed in the instant application.

ii. The Legal Framework Created by the Rezoning

It is a well settled principle in New York law that, in order to be enforceable, zoning must be a part of a well considered plan. Typically, this "well considered plan" is embodied in a municipality's Comprehensive Plan, sometimes also called a Master Plan. By incorporating the findings set forth above directly into the zoning

¹ 24 residential units were approved by the Planning Board for the Carroll Hall site. The calculation of density under the former zoning therefore includes this approved unit count for Carroll Hall. This calculation is confirmed in the RMI Findings.

² See, Exhibit L, referenced above, pp. 14-15.

amendment itself, the Village Board made it unmistakably clear that the new zoning for the Bennett campus site was consistent with the Village's Master Plan. It is useful to examine the legal framework in which the proper interpretation of the zoning ordinance is applied.

- Interpretation against Municipality

It is a fundamental rule of statutory interpretation in New York State that zoning ordinances must be construed and interpreted against the municipality and in favor of the land owner. The reasoning behind this is that, at common law, a property owner may do whatever he or she wishes with his or her property. Inasmuch as zoning is in derogation of those common law rights, any zoning regulations must be construed and interpreted against the municipality.

- Special Permit Uses

In addition, it is important to note a special permit use, such as the Conservation Density Development, is a permitted use. Typically, special permit uses are those which are deemed to require some additional scrutiny by the approving agency. However, they remain as permitted uses in the zone.

It is well settled in the state of New York that "the inclusion of the permitted use is tantamount to a legislative finding that the permitted use is in harmony with the general zoning and will not adversely affect the neighborhood. *North Shore Steak House, Inc v. Board of Appeals of the Incorporated Village of Thomaston*, 30 N.Y.2d 238 (1972). "Unlike a variance, a special permit or special exception allows an owner to use the subject property in a manner expressly permitted by law." *Framike Realty Corp. v. Hinck*, 220 A.D.2d 501 (2d Dept. 1995). "Consequently, designation as a special permit use results in a strong presumption in favor of the use." *Inland Western Coram Plaza, LLC v. Town of Brookhaven*, 14 Misc.3d 1225 (Supreme Court, 2007).

The burden of proof on an applicant for a special use permit is much lighter than that required for a hardship variance. *North Shore Steak House, Inc v. Board of Appeals of the Incorporated Village of Thomaston*, 30 N.Y.2d 238 (1972). It merely requires the applicant to show that the use is contemplated by the ordinance subject only to "conditions" attached to minimize its impact on the surrounding area. *Id.* As stated above, "the classification of a special permit is tantamount to a legislative finding that, if the

special permit conditions are met, the use will not adversely affect the neighborhood and the surrounding areas.” *Metro Enviro Transfer, LLC v. Village of Croton-On-Hudson*, 7 A.D.3d 625 (2d Dept. 2004).

It should be noted that it is “impermissible to deny a special use permit solely on the basis of generalized objections and concerns of the neighboring or adjoining community expressed by members thereof, which, in effect, amount to community pressure.” *Framike Realty Corp. v. Hinck*, 220 A.D.2d 501 (2d Dept. 1995).

Along these same lines, case law is clear that, if the special use is subject to the satisfaction of certain criteria, once those criteria are deemed satisfied, the special use is essentially permitted as of right and the applicant is entitled to the issuance of the special permit. In the instant case, the Conservation Density Development has been established by the local legislative body as a special permit use in the BCD. Therefore, the appropriate review is administrative, i.e., are the special permit criteria satisfied, as opposed to legislative, i.e., should the property be rezoned. This is not a rezoning matter. The special use exists. If the special permit criteria are satisfied, the special permit must be approved.

iii. The Present Proposal; SEQRA Action on the Proposed CDD

As noted, the zoning legislation which created the subject district was adopted on the basis of the referenced supporting record. As the proposed CDD development plan submitted by the applicant is, in turn, compliant with that zoning, it is respectfully submitted that the proposal likewise merits a Negative Declaration.

The Applicant has provided the Board with sufficient environmental studies to reflect the absence or mitigation of substantial adverse impacts, reflecting the Project’s containment within the environmental envelope anticipated and created by the Village’s Findings during the rezoning process. These studies are summarized below and attached hereto as exhibits. It is against the backdrop of the recently conducted, detailed, hard look taken by the Village Board in adopting the present zoning, that this application is appropriately reviewed. This submission brings together in one volume the Full EAF, the supporting reports and presentations before this Board, and all other materials, data, and information exchanged with the Planning Board and its consultants, and forms the bedrock of the Negative Declaration sought in this matter.

Below, each of the items of potential impact identified in the Negative Declaration and appropriate for study in a project of this scope, is discussed with reference to the Applicant's submissions on that point.

4. Specific Site Factors to be Considered

As noted above, the appropriate inquiry in this matter is whether the special permit criteria for the Conservation Density Development have been satisfied. In addressing this issue, the approving agency must take into account the particular circumstances of any particular property and any particular development proposal. In this particular application, the factors controlling satisfaction of these conditions are driven by very significant and determinative factors. The following represents a list, while not exhaustive, of fundamental factors that need to be addressed:

- a. The site is 27.6 acres and is irregularly shaped. The site was originally developed as a hotel, and later converted to a college. During its peak usage, the site supported approximately 299 students, 100 faculty and grounds crew, cooks, administrators, staff and security. The original campus also included lands accommodating a gymnasium, the dormitories, the O'Dea House, the Cardinal Hayes properties, and several single family homes.

In the 1970's, the college failed and went into bankruptcy. Through a series of transactions a condominium offering plan was submitted whereby the college would be effectively subdivided into different areas for development. Bennett Commons would be developed as a condominium of 39 units. There would be an additional 24 units in the Carroll Hall building and there could be an additional 9 units on the site in Halcyon Hall. Not all of this occurred. Instead, a group of limited partners acquired the site based upon a default on the underlying debt. The site has actually been in foreclosure twice;

- b. The Village Board provides for the preservation of the fields located along the southwestern boundary of the site, as part of a preserved viewshed with public access;
- c. The Village Board desires and requires that the existing stonewall at the western face of Halcyon Hall be preserved in honor of the cultural history of the site. This provides both a development constraint as well as a fiscal constraint of approximately \$500,000 on the project;

- d. There is approximately 200,000 s.f. of existing development, housed in 12 buildings on the site. Based upon discussion with the State Historic Preservation Office (SHPO), as well as the applicant's structural engineering analysis, these buildings must be demolished or, with respect to Chapel, Hale, and Hillside, relocated from the site. This adds an additional development cost in excess of \$2 million dollars to the project;
- e. The adjacent golf course has been utilizing lands owned by the current owner for years. An agreement has been entered into with the golf course to allow for their continued use. An open space buffer has been provided along the eastern boundary of the site, placing yet another development constraint on the property;
- f. The Bennett College zoning establishes bulk and area requirements which govern the layout of the site. The proposed plan meets all zoning requirements; and
- g. The law infers that an Applicant is entitled to a reasonable return in proposing development of a site. Consequently, the Village Board has struggled to unlock this site for approximately 30 years because the development must be able to absorb the upfront demolition and preservation costs.

All these factors will be considered when reviewing compliance with appropriate zoning standards.

5. Compliance with BCD Zoning Standards

As part of the rezoning of the Bennett College property to the Bennett Campus District (BCD) the Village Board made findings that a Planned Unit Development (PUD) permitted the Village to go beyond traditional municipal zoning techniques and provide flexibility in the regulation of land use in order to accomplish certain goals. A Planned Unit Development is a zoning and planning which permits large sites to be developed in accordance with an internal, site specific "master plan." The benefit of the PUD concept is to encourage appropriate development on larger tracts of land within a municipality, when the more typical restrictions of the zoning ordinance do not allow either the developer or the municipality sufficient flexibility to appropriately plan the development.

In keeping with this important planning goal, the Village Board adopted certain general goals for the PUD development of the Bennett College site. Following is a summary list of the goals set forth in the Zoning Ordinance together with a demonstration of how these goals are satisfied by the proposed project.

- a. Innovation in land use variety and design, layout and type of new structures, and integration with existing structures.

The proposed project provides for both single-family and duplex development. It also anticipates dedicated open space, both as required by the ordinance and in addition thereto. The residential units vary in size and design, and are deliberately intended to avoid a “cookie cutter” approach to the development. The architecture is sensitive to both the regional and local Millbrook architecture, although even in this respect it does not conform to any one style uniformly.

Moreover, Hillside House, Hale House and the Chapel buildings are being preserved and moved in their entirety to other locations on the site where they can be utilized as a functional part of the development, thus preserving some important connections to the campus’ history.

- b. Enhance efficiency in use of land, natural resources, energy, community services, and utilities.

The proposed design utilizes a traditional neighborhood style, resulting in narrower streets, clustered development, and an emphasis on open space as an amenity. This results in less impervious surface than a conventional subdivision, and it allows for the enhancement of the site’s character.

With respect to natural features, community services and utilities, the project provides an outstanding opportunity for the municipality in general, in that it is capable of self-sufficiency with respect to water supply via on-site wells, but the applicant is, subject to appropriate approvals, willing to provide its excess water supply from its wells to the municipal system, thereby improving that system. As to the sewer needs of the project, the applicant proposes to connect to the municipal sewer system.

- c. Encourage open space preservation and protection of natural resources, historic sites and structures.

As set forth immediately above under the two prior general standards, the design of this project is in keeping with the PUD concept and the CDD concept (discussed below) advocated by the Ordinance, and provides significant open space and passive recreation areas, both for the residents of the community and for the Village as a whole.

- d. Facilitate provision of housing and improved residential environments.

This proposal provides quality residential housing to the Village of various sizes and designs, and various unit types and layouts, without seeking to develop the property at its maximum density. Even under the revised zoning adopted in connection with the BCC regulations, the potential residential density for this site is 126 units. The proposal is to develop only 91 units, or nearly 28% less than the permitted density .

- e. Enhance ability of municipality to promote business and employment opportunities.

The residents of the proposed development will utilize Village services to meet their needs. This will be especially facilitated by the project's walkability and the joint efforts of the developer and the municipality to provide pedestrian access to the Village via on and off-site pedestrian connections.

6. Compliance with General Special Permit Standards

Having established the BCD zoning district and the PUD provisions therein, the Village Board provided for additional flexibility in design for both the Village and the applicant by authorizing a Conservation Density Development (CDD) as a specific type of PUD design. This CDD concept is permissible upon issuance of a special permit by the Planning Board. In addition to the specific standards for the CDD special permit (discussed below) § 230-43(F) of the Millbrook Village Code establishes general standards for all special permit uses. The applicant submits that, as part of the rezoning process for the BCD, the Village Board found that an appropriate CDD would, by definition, satisfy these general standards, which are as follows:

- a. Location and size of the use, nature and intensity of the operations involved, size of the site in relation to the use and the location of the site with respect to streets giving access to it, are such that it will be in harmony with appropriate and orderly development in the district in which it is located.

In general, the law sets forth that the establishment of a special permit is tantamount to a finding that the use in question is an appropriate use in the district in which it is established. This general legal standard is further informed in this case by the establishment of the CDD special permit which sets forth in great detail both the

required design elements and the specific standards to be considered during the review of a CDD application. Therefore, issues such as the “location and size of the use, nature and intensity of the operations involved,” have already been considered in depth as part of the process of adopting Local Law No. 1 of 2005, and supported by the data compiled during that review.

- b. Location, nature and height of buildings, walls and fences and nature and extent of landscaping are such that the use will not hinder or discourage appropriate development use of adjacent land and buildings.

The proposed CDD plan under review in this application is a residential plan, entirely consistent with the underlying zoning regulations in the BCD district. With respect to the “appropriate development or use of adjacent land or buildings” it is noted that the development is bordered on two sides by a roadway. On its eastern border is the Millbrook Golf and Tennis Club. It is anticipated that an existing golf hole with established screening will be further screened. To its north, the property is bordered by natural features which are not proposed for development, and then by the Village itself, a fully impacted area. Therefore, concerns about the protection of neighboring development seem well in hand. It is also worth noting that the existing dilapidated and dangerous condition of the site is, in itself, a hindrance to the appropriate development of the surrounding properties.

- c. Operations in connection with the use will not be offensive, potentially dangerous, destructive of property values and basic environmental characteristics, or detrimental to the total interest to the Village and will not be more objectionable by reason of noise, fumes, vibration, electromagnetic radiation, flashing of lights, and similar nuisance conditions than would be the operations of any permitted use not requiring a special permit.

This general special permit standard typically has in mind particular types of operations such as commercial operations which often are associated with nuisances to neighboring homeowners. In this case, the proposed development is entirely residential (although it should be noted that the BCD district would allow some commercial/retail development, which the developer has eschewed in favor of a purely residential development, in the interest of better preserving the pastoral nature of the site). As a residential development of less than the maximum potential density, designed in accordance with traditional neighborhood concepts that limit

impervious surface and encourage walkability as opposed to a vehicle-driven community, these potentially offensive concerns are entirely mitigated.

In addition, it is the very removal of the severely dilapidated buildings, and the low-density development, improvement, and enhancement of the site's natural and man-made environment that will result in increased values for the broader community, in financial, social, and aesthetic terms.

- d. Parking areas will be of adequate size for the particular use, properly located and suitably screened, and exit drives will be laid out so as to achieve maximum safety.

The units all provide for sufficient off-street parking for the residents of the development and all have additional off-street parking in driveways for guests of the residents. Parking will also be available on one side of the road along private roads when necessary to accommodate visitor parking. In addition, the one aspect of the development which may attract visitors from the Village at large is the Meadow Terrace Park to be developed in accordance with the zoning, for which a small parking area is provided. Additionally a public sidewalk and trail system are provided for the community and Village residents for whom the park would be within walking distance.

- e. Use conforms to all regulations of the zoning chapter and to the landscaping requirements.

As is set forth throughout this land use section, not only does the proposed plan conform to the present zoning, but in fact, it seeks less residential density than the zone would allow and no commercial or retail use, which is also allowed by the zoning regulations. Significant landscaping features are to be incorporated included the public park and various natural screen techniques along the borders of the property, as well as significant landscaping features within the property to increase the appeal of the community to residents and visitors.

7. Compliance with Specific Special Permit Standards

As part of rezoning, the Village Board established the Conservation Density Development (CDD) as a PUD special permit use in the BCD. As part of the

definition of a CDD, the Village Board referred to various elements of Traditional Neighborhood Development (TND).

The applicant is proposing 91 units, 35 units fewer than the 126 units permitted under current zoning.

By establishing the density at 4 units per acre, the Village Board effectively found that a CDD at that density is in keeping with the character of the area.

In establishing the special permit, the Village Board listed a number of goals as set forth in the Master Plan; these goals would be met by an appropriate CDD. The goals set forth therein mirror in many respects the general goals as well as the purpose, intent, and goals set forth in establishing the BCD district. Nevertheless, those goals are set forth below with a demonstration of how they are satisfied by the present development.

- a. Protect the natural beauty of Millbrook.

The proposed development does more than “protect” Millbrook’s natural beauty. It enhances and capitalizes on it. The site at present is an eyesore and a public nuisance. Without re-development, there is no opportunity for rehabilitation or remediation of the site. As proposed, the re-development removes structures which are inconsistent with zoning-compliant and viable development at best, and dangerous at worst. It preserves and restores various buildings with great care. It preserves many old growth trees and enhances natural landscaping with a greater variety of indigenous species. It incorporates a Village aesthetic in its planning and architecture.

- b. Maintain the campus appearance of the Bennett complex.

Obviously, under the present zoning (and the former zoning for that matter), as well as the constraints of good planning and concerns of viability, it is impossible to completely replicate a college campus for any dissimilar use, whether residential or commercial. However, homage is paid to the campus history of the site and its importance in the cultural and historic life of Millbrook by maintaining Hill and Hale House and the Chapel building. Furthermore, taking advantage of the wisdom of the CDD special permit on the part of the Village Board in enacting the BCD regulations, the proposal limits the areas of disturbance on the site significantly in comparison to a more typical residential subdivision plan, clusters development along the proposed and existing internal roadways and maintains significant open space indicative of campus environments.

- c. Maintain a small town atmosphere.

In enacting the BCD regulations and repealing the former zoning, the Village Board significantly decreased the potential density on this site, both residential and commercial. This standard is reflective of the Village's intent in the rezoning. The proposed plan advances this goal even further by proposing significantly less residential density than even the new zone would allow, and proposing no commercial or retail development. The maximum density under the CDD special permit is 4 units per acre. The proposed plan provides approximately 3.3 units per acre. The proposed lots are relatively small, the homes proposed on those lots are consistent with existing architecture and design in the Village, which is, in itself, reflective of the typical American "small town." The houses propose front porches and other architectural details indicative of a village environment, and the site plan proposes narrow tree-lined streets with sidewalks.

- d. Foster availability of safe and affordable housing that meets the needs of younger and older residents.

The variety of housing types and unit design will permit various price points, all of which will be in keeping with the market in Millbrook.

- e. Provide pedestrian access to the Village; CDD seeks to promote creation of walking/bike paths between BCD and Village.

The applicant proposes a community which is not centered around the automobile. In an effort to develop a beautiful, appealing, and compliant development, the proposal is to provide sidewalks for internal pedestrian travel, off-street parking for residents and visitors, and pedestrian connections to the edge of the property line. At this time, the proposal is to make that internal sidewalk connection to the existing sidewalk on Route 44. However, it should be noted that the developer is prepared, as an alternative, to consider the improvement of other walking paths and connections to the Village downtown if such options are available through the acquisition or donation of appropriate lands between the development and the Village.

- f. Protect environmentally sensitive lands.

The regulations of the BCD zone and the standards of the CDD special permit are complied within the instant application. The stream, pond and dam behind the existing science building are protected by a 100 foot buffer as required, and the stream and fields along Routes 343 are within the protected viewshed, and thereby also preserved. The stream and existing pines along Route 44 are also protected in an open space area. The development proposal respects existing topography in terms of the areas of disturbance and development.

- g. Ensure that development does not unduly tax residents.

Our fiscal analysis was conducted by the preeminent planning firm Saccardi & Schiff, and endorsed by Roger Akeley, Commissioner of County Planning. Criticisms leveled at the fiscal analysis have been based upon faulty premises regarding the type of development proposed, and rely upon untenable comparisons between this project and others. The fiscal analysis thus far presented projects positive net tax revenue for the Village and minimal demands on public services. Moreover, it reflects a low number of potential school children.

- h. Strengthen the downtown area as a commercial center.

Because no retail or commercial is proposed on this site (despite the fact that the zoning allows it), the development will rely on the Village downtown area for its commercial and retail needs. Although the proposed development is a low density development, its proximity to the downtown and the lack of a commercial aspect on the site can only benefit local businesses.

- i. To preserve historical structures as much as possible.

As noted herein, Hill House, Hale House, the Chapel, two small structures that were part of the former Greek Theater, and a portion of the foundation of Halcyon Hall will all be preserved. Demolition includes primarily buildings which are in a significant state of disrepair and which would, without development of the site, invariably continue to deteriorate, and continue to provide a dangerous atmosphere of attractive nuisance to the area's youth. In short, the development of the site is the best way to preserve its legacy.

III. SUMMARY OF PRESENT RECORD

A. Sewer

1. Existing Conditions

As noted above, the Bennett College site is within the Village of Millbrook water and sewer districts.

The Village of Millbrook sewer system service approximately 650 village residents and a number of out-of-district customers in the Town of Washington. The Village sewer plant operates under a State Pollutant Discharge Elimination System (SPDES) permit allowing the plant to treat wastewater and discharge up to 250,000 gpd of effluent to the Wappingers Creek. Under normal operating conditions, the plant receives approximately 150,000 gpd of flow on average, leaving an excess capacity of approximately 100,000 gpd.

2. Proposed Development

Attached as **Exhibit M** is a Wastewater Report prepared by Delaware Engineering for the project. Connection of the Bennett College project to the Village's collection system is proposed. The proposed development could generate approximately 28,000 gpd of wastewater to be treated by the Village WWTP. Under normal operating conditions, the WWTP has adequate capacity to accommodate the demand from the project.

In order to connect the Bennett College project to the Village's collection system, the following is proposed:

- a. Relocate and update the existing pump station located near Carroll Boulevard and Route 44 to the other side of Chapel Road West;
- b. Replace the main under RT 343 that services out of district customers in the Town of Washington from the project property line to the pump station;
- c. Replace the sewer main under Carrol Blvd that services Bennett Commons;
- d. Remove all existing sanitary sewer collection lines located on the Bennett College site and install a new sanitary collection system.

3. Mitigation

The Applicant will participate in any program agreed to between the DEC and the Village to address its existing I&I improvement needs. This would be in addition to benefit assessments, thus resulting in benefits for the entire Village and district.

B. Water

1. Existing Conditions

As previously mentioned the site is within the Village of Millbrook water service area boundaries and has been a tax paying entity for decades. Like the sewer system, the site's water distribution network served approximately 350 to 500 occupants at the property's peak usage. The property has been abandoned for more than thirty years and has continued its obligation to pay water taxes and assessments.

The Village of Millbrook Water District provides potable water to approximately 2,100 village residents and out of district customers in the Town of Washington.

2. Proposed Development

Attached hereto as **Exhibit N** is a Water Supply Report prepared by Delaware Engineering for this project. Installation of new water sources and a private water system with an emergency interconnection to the Village's water system is proposed. The permitting and operation of a private water system will require establishment of a transportation corporation.

Water usage for this development was estimated using the flow rates from the DEC Design Standards for Wastewater Treatment Works (1988). The estimated average daily hydraulic loading was determined by multiplying the number of development units (e.g. bedrooms) by the DEC unit flow rate standard and subtracting a savings factor used for water-saving devices that will be provided in each unit. The total estimated usage for the proposed development is approximately 28,000 GPD.

The Applicant advanced three wells on the project site to evaluate and secure sources of potable water for the project. While all the wells offered good yields and initial water quality, one well was abandoned due to proximity to neighboring properties.

Two wells are proposed to supply a private on-site water system. Well #2 was drilled to a total depth of 500' and yielded 45 GPM during a 72 hour pump test. And Well # 3 was drilled to a depth of 500' and yielded 45 GPM during a 72 hour pump test.

Both wells 2 & 3 produced in excess of 45 GPM each during the 72 hour sequential pump test. Additionally, there was no observed impact to other wells in the immediate neighborhood which were also monitored during the pump test.

Detailed information regarding the aforementioned pump test is provided in Attachment H to the Water Supply Report.

At the end of the 72 hr. pump test water quality samples were collected from each well and submitted to an independent, certified laboratory for analysis. No contaminants were reported in either of the water samples other than a naturally occurring inorganic constituent (manganese) and another naturally occurring constituent, radium. Neither of these constituents is unusual for this area of Dutchess County and both can be effectively removed with conventional water treatment processes.

3. Mitigation

The proposed water system is designed to meet all applicable regulatory standards with respect to protection of water sources, treatment, storage, system pressures and distribution. Mitigation measures are not required; however, the provision of an emergency interconnection to the Village's water system that has been requested by the fire department and Dutchess County DOH is a benefit to the Village's water system.

C. **Traffic**

1. Existing Conditions

The development site has frontage along two State roadways (US Route 44 and NYS Route 343), two Village roadways (Bennett Common Way and Exmoore Lane) and one private roadway (Carroll Boulevard).

A professional Traffic Impact Study (TIS), dated August 7, 2006, was completed by TRC Engineers, Inc. of Hawthorne, NY, and reviewed by the Village's independent traffic consultants. A subsequent Updated Traffic Impact Study, dated March 30, 2007, has since been prepared and is attached hereto as **Exhibit O**. This Updated TIS was prepared to specifically address comments received from the Village's Traffic Consultant, as well as from the Village Planning Board and Residents. The TIS examined a total of 5 intersections for the Peak AM and Peak PM roadway hours. It considered existing conditions, future conditions without the proposed development (i.e., no-build) and future conditions with the proposed development. The TIS determined that the existing intersections currently operate at an Overall Level of Service (LOS) of A or B. It should also be noted that the roadway network within and around the former campus was designed to accommodate an active population of as many as 500 students, employees and visitors when the site was in operation.

2. Proposed Development

The proposed development will include the installation of 3,638 LF of roads with one access point off a state roadway (US Route 44) and two access points off an existing Village roadway (Bennett Common Way). The roadways will be limited to twenty-four feet in width. Some streets will provide sidewalks while other areas will be serviced by trails. The newly installed sections of road will be privately owned and maintained by the HOA. Visitor parking areas will be provided around the site and adequate parking will be provided in the amenity and "Meadow Terrace" area for users of those facilities. Attached as Exhibit O is a Traffic Impact Study reflecting this data.

3. Mitigation

The TIS determined that no off-site improvements are necessary due to the minimal increase in traffic volumes from the proposed development. This conclusion was supported by the New York State Department of Transportation (NYSDOT) in a letter dated March 30, 2007. Additionally, the Village Traffic consultant concurs, stating, in their Memorandum dated September 28, 2006 (also appended to Exhibit O), that congestion will not be a problem on the area roadway network with the proposed development constructed.

D. **Community Facilities Impacts**

1. Existing Conditions

The Village of Millbrook and the Town of Washington provide police, fire and EMT service; road maintenance and snow plowing; sanitary sewer, water and fire suppression; schools and recreational facilities; and administrative village and town services. The proposed development will have a fiscal impact on the budget of each of these services and, based on the Applicants data, will provide the Village, Town and County with a positive fiscal impact. Attached hereto as **Exhibit P** is a Fiscal Impacts Study prepared by Saccardi & Schiff for this project.

2. Proposed Development

- i. *Local Government Revenues Impacts:* Based on the total market value of the proposed development of \$54,109,000, once fully developed the proposed development will generate \$499,142 annually in surplus local government revenues and more than \$784,000 in one time local and county government contributions (including revenues, direct fees and in-kind contributions) (see page 7 in attached Exhibit P). In addition, the project will provide substantial roadway and sidewalk improvements beyond the

project's boundary. It is important to note that our studies take into account low, medium, and high market conditions (see page 9 in attached Exhibit P).

- ii. Population Impacts:* Based on methodologies from the Urban Land Institute, the Dutchess County Economic Development Study and 2000 US Census Bureau Public Use Microdata Sample, the Applicant believes the Village population would increase by approximately 245 people as a result of the proposed development. Given these projections, the proposed development, serviced by the existing fire, police and EMT departments, and based on existing and planned staffing, equipment and facilities, would not require any additional staffing or equipment investment.
- iii. School Children Impacts:* Based on the three statistical methodologies mentioned above, the Applicant arrived at school age children multipliers for the proposed development. Taking into account the existing conditions within the school district, the design and type of units planned and historic data regarding the type of households occupying multifamily homes in the Millbrook area, the Applicant believes that approximately 30 school age children might be added to the Millbrook school system, and result in a net positive cash flow to the school district. Note that upon our inquiry, it appears the Bennett Commons Condominium and others like it in the area have a total of fewer than five children in each such community. Three statistical methodologies estimate the potential impact to the local school district at 35 school age children or less, 30 of whom will be enrolled to attend Millbrook Central Schools.

It should be noted that historically, multifamily communities in the Millbrook/Washington area have generated few school age children based on the fact that families that move to the area desire a detached single-family home in a rural setting, not a clustered townhouse. Empty nesters, seniors, young childless professionals or families with pre-schoolers tend to occupy these types of small lot, clustered communities. Typically, families with small children that are school aged seek to move to single family homes. Finally, the design of the floor plans with master bedroom suites on the first floor in 50% of the homes and 25% of the homes having only two-bedrooms, targets buyers with childless households and intended to minimize the impact to the local schools

- iv. Recreational Facilities Impacts:* With this plan the recreational facilities will experience a minimal impact. The type of projected buyer and amenities offered onsite, that will include a clubhouse

with kitchen, meeting rooms, bathrooms, locker rooms; a swimming pool, dining terrace and trails, should meet the recreational needs of the residents of the new community.

E. Fiscal Impacts

1. Existing Conditions

The present condition, disuse, and disrepair of the property renders it a fiscal burden to the Village, and without viable development the property cannot support fiscally beneficial conclusions for the Village.

2. Proposed Development

The proposed residential development in close proximity to the Village's financial center would bring tax and retail economic benefit to the Village. The concomitant services necessitated by the development are outweighed by its benefits.

3. Mitigation, Analysis

As noted above, attached hereto as Exhibit P is a Fiscal Impacts Report and supplemental data, prepared by Saccardi & Schiff for this project. Also attached, as **Exhibit Q**, is a Target Market Report, prepared by SJS Holdings, LLC supporting the pricing set forth by the Applicant.

Impact to Village, Town and County services will be minimal and will be offset by estimated annual contributions of approximately \$150,000 to the Village, \$22,000 to the Town, and \$142,000 to the County.

It is anticipated that financial contributions will be made to Village sewer improvements by the Applicant, associated with the service to be generated by the proposed development. In addition, the Applicant will pay for the relocation of the sewer line servicing out of district customers to the south of Route 343 and the pump station within the development site boundaries.

The introduction of additional homes into the water and sewer districts will lower the proportionate share of existing customers on future budgets and assessments. It should be noted that this benefit for residents outside the proposed development will be realized despite the fact that project residents will *not* utilize the Village water system.

Mitigation of issues affecting the Village water system by the applicant will benefit the entire Village and its residents by providing a surplus of water equal to two to

three times that used by the proposed development with 100% of the cost to be borne by the Applicant; estimated at \$250,000.

Impacts to the Village and Town recreation staff and facilities will be minimal and a one time Recreation Fee of approximately \$73,000 will be made to the Village to be used at their discretion.

The projected 30 students in the Millbrook school system would require approximately \$267,000 in local property taxes for the net cost of education (excluding administrative costs, capital cost, etc.). The development will generate approximately \$460,000 to the local school district, resulting in a surplus of approximately \$193,000 over the projected costs.

The County and Village, by way of the County Mortgage Tax, will realize further economic benefit of as much as \$341,000 and \$114,000 respectively during the sell out of the community.

F. Cultural Resources

1. Existing Conditions (History)

Attached hereto as **Exhibit R** is a Cultural Resources Overview prepared by Historical Perspectives, Inc. (HPI). Included as part of the Overview are various documents pertaining to the historic nature of the Bennett College campus and the current conditions of the extant buildings. These documents include the National Register Nomination Form for Halcyon Hall, the Bennett College Structural Review, dated April 18, 2006, and the Bennett College Structural Review, dated September 25, 2006. Also attached is correspondence both to and from the New York State Office of Parks, Recreation and Historic Preservation/State Historic Preservation Office (SHPO) on the project review.

In 1893, Henry James Davidson Jr. commissioned James Ware to design Halcyon Hall in a pastoral setting on eighteen acres. Originally a hotel, Halcyon Hall had two hundred rooms and a guest cottage.

In 1907 May Bennett opened the Bennett School for girls at Halcyon Hall. Over the years the school grew and Halcyon Hall underwent an expansion, including the 1926 addition of classrooms, a dining hall, and a library known as Gage Hall. Several single-family structures occupied the site as faculty housing. Hillside House and Hale House are both circa 1900 and each included separate barn/garage buildings. The two-story freestanding Tudor Revival style chapel was added to the campus in 1936. In the 1950s a dormitory and two hundred and fifty seat auditorium, Alumnae Hall, was added; in 1956 the Aldrich Library expanded the original building even further.

Other structures were added over the years including the Harkaway Theater in 1911, Carroll Hall in 1962, the Mellon Music Building, the Mellon Arts Building and the Mellon Dance Facility were all built in and around 1965. In 1974 the Kettering Science Center was constructed as the school attempted to convert to a four-year accredited institution.

This revitalization effort as the four-year Bennett College failed and the school permanently closed in 1977. For many years the school was an integral part of the Millbrook community. For the past thirty years, however, the property has been vacant.

2. Proposed Development

During its more than one hundred year operational history, the campus evolved into more than 200,000 square feet of structures interconnected by a system of paved roads, parking areas and walking paths. The extensive campus-wide disturbance is well documented. HPI received SHPO's verbal confirmation on

August 15, 2006, that an archeological investigation is not warranted due to a lack of subsurface integrity.

According to correspondence with SHPO, Halcyon Hall and the Tudor-Revival style Chapel were determined to be eligible for listing on the National Register of Historic Places in 1992. However, SHPO has reviewed the extensive reports on Halcyon Hall's structural integrity and confirmed that Halcyon Hall and its additions have deteriorated beyond repair and may be demolished. SHPO is also in concurrence on the proposed re-location of the Chapel, as well as two detached, frame residences also on the former campus, Hillside House and Hale House.

Based on a structural integrity report completed by the Weintraub Organization dated April 18, 2006, the superstructures of the Main Courtyard Complex (MCC) are currently exhibiting extensive structural deterioration, and in some areas, complete structural failure and collapse.

Although structural reports were not completed on all the structures, many of the buildings on the site are in various states of disrepair and collapse including the old barn behind Hillside House, the Mellon Theater and Dance Building, and portions of the Science Building.

3. Mitigation

Mitigative actions, to be designed in coordination with the local and state environmental review agencies, will likely include the following:

- a. Historic artifacts from Halcyon Hall (i.e., signage, architectural details, light fixtures, etc.) will be donated to the Bennett Foundation or Dutchess Historical Society to record the history of the Hotel and College.
- b. Photographs have been taken of the buildings in their present condition and historic photos are being collected to create a photographic record of the site history. A copy of these photos has been provided to the Millbrook Public Library Bennett Room.
- c. Three Bennett College structures, Hillside House, Hale House and the National Register-recognized Chapel, will be saved. All three structures will be relocated on the property for continued use. Currently, the Chapel sits on an interior property line and any future use of the building at this location would be non-conforming and restrict any view of the structure. Moving the Chapel so that it can actively serve as the community center near the Halcyon Hall Turret and Pavilion and the Meadow Terrace provides an

opportunity to preserve a Bennett College building. The new location will provide a prime vantage for many to view the architectural style and details. The proposal provides an adaptive reuse of this structure as the meetinghouse for community residents.

Similarly, the relocation of the Hale and Hillside Houses to an enclave of single-family homes will allow each residence the frontage and lawn appropriate for its size and former context. The relocation lots will provide sufficient acreage for detached garages, also appropriate to the original age and context of the homes.

- d. Two small outdoor structures from the old Greek theater will be saved and adaptively reused as onsite landscaping features, or follies, preserving their history as part of the campus landscape.
- e. A portion of the stone foundation and arches of Halcyon Hall, the Turret and Pavilion, respectively, will be saved and restored. Parts of the structures will be accessible to the public as part of "Meadow Terrace".
- f. Materials from the demolition of Halcyon Hall such as stone and architectural ornaments will be incorporated into the new Turret and Pavilion.

Appropriately designed mitigation dictates positive actions that benefit the entire community and, simultaneously, honor the historic legacy of the Bennett College site. Mitigation celebrates the site's history by preserving signature elements of Halcyon Hall's south elevation, re-using architectural elements on site, rehabilitation and reuse of three campus structures, donating Bennett College-related artifacts to appropriate, local historic preservation groups, and creating a photographic record of the site's past. Considering the state of deterioration of the campus the Applicant's program to preserve what remains of the site's history will have a positive impact on the community over the existing conditions.

G. Natural Resources

1. Existing Conditions

A complete Natural Resources Report was performed in May of 2006 and subsequent Army Corp of Engineers (ACOE) Jurisdictional Determination for wetlands was undertaken in September of 2006. A copy of the report is attached as **Exhibit S**. Please note the following:

- a. There are three distinct broad cover types identified on the site, Nontidal Hardwood Swamp, Mesophytic Forest and the developed areas, the latter that dominates the site.
- b. No threatened or endangered species were observed on the site. No Bog Turtle habitat was observed. The property is considered to present low potential as Indiana Bat habitat.
- c. There are no DEC regulated wetlands on the property.
- d. The ACOE wetlands will not be impacted by the proposed development.

On July 2, 2008, we received a letter from the Army Corps approving the Jurisdictional Determination, a copy of which is attached as part of Exhibit S.

Also, in March of 2007, Brent Feldweg of Red Cedar Arborists and Landscapers, an ISA Certified Arborist, prepared a Tree Condition Survey for trees on the site exposed to potential impact from development. The site worked utilized the Survey prepared by Chazen Engineering that depicts trees greater than 8" in diameter and in areas of disturbance. A copy of the Tree Condition Survey is attached as **Exhibit T**.

The tree survey identified 294 trees in areas to be disturbed of which approximately 165 trees were found to have defects. This evaluation was based on defects found in the crown, the large limbs, the main trunks and the root flare, detected by a visual analysis (by an ISA Certified Arborist and Professional Forester) in winter conditions. Insect and disease problems that were observed or that are common to the tree's species were also taken into account. Finally overall tree vigor, uniqueness of species and crown balance were considered. In addition to the removal of trees with defects an additional 100 trees will be removed from the area of disturbance due to construction. The landscape plan attached as part of **Exhibit U** calls for the planting of 624 trees inclusive of 361 evergreens, 110 flowering trees and 153 street trees. The new trees will be of a greater variety, healthy and offer a new generation of trees creating a tree lined streetscape as well as evergreen buffers to adjacent properties.

Among the trees not included in the survey that will remain are buffer trees along the property lines with neighboring parcels, along Route 343, and along Route 44. Other trees not included in the survey and not in an area of disturbance are in the woods behind the Kettering Science Building and the pines along the stream on Route 44. Of the trees which will remain are numerous mature deciduous and evergreen trees. Of particular importance are the 36 inch beech and other large mature trees bordering the golf course and over two (2) acres of

undisturbed woodland which contains an enormous quantity of mature deciduous and evergreen trees.

2. Proposed Development

The proposed development is in a cluster and TND concept, minimizing by design and in accordance with the intent of the zoning impact on natural resources.

3. Mitigation

Mitigation will include:

- i. A 100' buffer along the wetlands behind the science building.
- ii. No development will occur along the stream near Route 44 with a minimum 60' buffer.
- iii. The proposed planting of 153 street trees, 110 flowering trees and 361 evergreens on the overall site and individual lots. See, Exhibit U. The result is extraordinary in scope and beauty, totaling 624 newly planted trees.
- iv. A Storm Water Pollution Prevention Plan (SWPPP) to control stormwater runoff and erosion during and after construction has been submitted. (See, **Exhibit V**)

H. Phase I & II Assessments and Other On-Site Environmental Issues

1. Existing Conditions

a. Areas of Inquiry

The subject property underwent a thorough environmental review that included a Phase I Environmental Site Assessment and a Phase II Environmental Site Assessment. These Reports are referenced herein as **Exhibit W** and submitted in electronic format only, due to their voluminous nature.

The Phase I and II Environmental Site Assessments revealed several Areas of Concern (AOC's):

- i. The property was the subject of an onsite petroleum spill with a NYSDEC Closure Reported dated July 17, 2008 and is attached as part of Exhibit W.
- ii. Eleven UST's and four AST's were discovered and investigated for possible leaks. No evidence of potential gross contamination was associated with any of the AST's or UST's except one UST located by the boiler room building associated with the Main Courtyard Complex (MCC). The property owner in cooperation with the DEC is addressing the issue.
- iii. Hydraulic oil was noted on the floors of the elevator mechanical rooms in both Alumni Hall and the Science Building.
- iv. Three pad-mounted transformers were discovered onsite.
- v. No 6-oil staining was noted under boiler # 2 in the MCC.
- vi. Numerous containers containing potentially hazardous substances and/or petroleum products were discovered in the Mellon Design Building.
- vii. Suspect ACM lead based paint materials were noted in the MCC and two residential dwellings.

b. Phase II Investigation

The Phase II investigation was initiated to evaluate the potential impact of subsurface soils in AOC's. The investigation yielded the following data:

- i. The location of a UST near the MCC boiler room yielded soils with PAH's that exceeded the TAGM and STARS criteria.
 - ii. PAH level that exceed the TAGM and STARS criteria were also identified at the location of the transformers.
 - iii. TPH levels were also found at the site of the UST near the MCC Boiler Room, although there are no established criteria for TPH levels.
 - iv. Metals concentrations were detected across the site including levels of arsenic, barium, cadmium, chromium, lead and selenium with levels that exceed TAGM criteria. Based on the low to moderate levels, the majority of which are within the TAGM Eastern Background Levels, these metals exceedences appear to be within the limits of the background levels identified by the DEC.
 - v. No VOC's were detected in soil samples on the site.
 - vi. No PCB concentrations were detected on site.
 - vii. No PAH's were detected in the ground water samples. Low levels of barium, chromium and lead were detected in the ground water from well MWB-14. No levels were in excess of TOGS criteria.
 - viii. An erroneously high TPH concentration was reported in the ground water sample collected from the monitoring well down gradient of the UST at the MCC boiler room. Documentation is presented in **Exhibit X** identifying the false positive result, and presenting the actual value. The true value is reasonable when evaluating the field and soil data in conjunction with the ground water result. The UST in proximity to this sampling location has subsequently been removed.
- c. Asbestos Survey

The Survey of Asbestos Containing Materials reveled the presence of asbestos containing materials as follows:

- i. Halcyon Hall and its attached structures contain building materials containing asbestos in concentrations greater than 1% including floor tile, linoleum flooring, pipe insulation, boiler gaskets, transit roof tiles and tile mastic.
- ii. Hillside House contains building materials containing asbestos in concentrations greater than 1% including pipe wrap and roof coating.
- iii. The Mellon Theater and Dance Building contains building materials containing asbestos in concentrations greater than 1% including roofing materials, floor tiles and mastic.
- iv. The Mellon Design and Music Building contains building materials containing asbestos in concentrations greater than 1% including floor tiles and mastic.
- v. Science Building contains building materials containing asbestos in concentrations greater than 1% including roofing materials, floor tiles, and the lining of laboratory hoods.
- vi. The Chapel contains building materials containing asbestos in concentrations greater than 1% including vinyl flooring, tile, mastic, pipe wrap, and roofing materials.
- vii. Carroll Hall contains building materials containing asbestos in concentrations greater than 1% including floor tile and mastic.

Upon information and belief, environmental remediation of asbestos containing materials and other environmental issues were addressed during the period of time the property was owned by the Resolution Trust Corporation (RTC). The balance of the onsite issues are considered minor with little gross contamination by onsite UST and AST's and considering most of the remaining asbestos onsite is in a non-friable state there is little threat to the environment.

2. Mitigation

Mitigation of onsite environmental issues has been or will be addressed as follows:

- i. The Owner of the property has removed two UST's. The first, a 30,000 gallon tank located near the power plant building in the MCC, was registered upon discovery, and removed by a tank

removal company licensed in New York State. We are currently waiting for the tank to be delisted. The second, a 275 gallon tank, was the subject of a spill report. This tank has been removed and DEC has issued a closure report. See the UST Removal Reports in **Exhibit Y**.

- ii. CHGE has removed the three transformers.
- iii. All other existing UST's and AST's will be removed during demolition by qualified personnel using approved techniques and under required regulatory supervision
- iv. All asbestos containing materials will be removed during demolition by qualified personnel using approved techniques and under required regulatory supervision.
- v. All previous spill reports have either been resolved and closed.
- vi. The numerous containers containing possible hazardous or petroleum substances have been removed and disposed of by qualified personnel using approved techniques.
- vii. A Demolition and Remediation Report is attached as **Exhibit Z**.
 - a. The report outlines a four to six month demolition and remediation site schedule.
 - b. Waste stream from the property will be +/- 8,000 ton of construction debris. All material will be trucked away using 105-yard trailers; approximately 10 trailers will leave the site daily for 37 days.
 - c. All scrap metal will be recycled.
 - d. Stone from Halycon Hall will be reused in the construction of Meadow Terrace Park, The View Shed Area and the Amenity Area.
 - e. Approximately 15,000 yards of concrete, cement block and brick will be crushed and sized for reuse as hard fill on site.
 - f. Abandoned utilities above and below ground will be properly removed by the respective owner.

- g. Lead containing C&D will be manifested and handled per appropriate regulations and disposed of in a registered landfill.

Each building will be demolished per governing code in respect to air quality, disposal and impact on adjacent properties. Potable water via tanker truck for spray down will be used for dust control. Demolition and construction will be completed in compliance with the Village Building code and all activities and inspections will be coordinated with the Code Enforcement Officer.

Mitigation will remediate and protect the environment from contamination from environmental issues on the site that may threaten the quality of the environment. Mitigation will provide a positive impact by removing possible future contaminants of the environment and removing derelict and dangerous structures.

I. Noise

1. Existing Conditions

With respect to noise impacts, the “existing conditions” analysis is applicable only as a baseline for discussing impacts associated with the proposed development.

2. Proposed Development

The construction of the project will result in construction related noise, which can be appropriately managed and is in keeping with noise impacts of any viable project on the site.

3. Mitigation

A noise assessment was conducted that included the evaluation of potential short term (construction) and long term (operational) noise impacts. Attached hereto as **Exhibit AA** is a copy of the Noise Assessment Report. The assessment included an ambient noise monitoring program to establish existing noise levels, and the calculation of noise levels anticipated due to construction and operation of the project. Noise levels were evaluated against the Village of Millbrook noise ordinance and the New York State Department of Environmental Conservation (NYSDEC) noise policy. Noise monitoring was conducted at residential locations in the vicinity of the intersections evaluated in the traffic noise analysis. Two additional residential locations that could be impacted during construction were also included.

Construction noise levels will vary based on the construction phase and equipment in use, and will be typical of that which occurs during the construction

of any residential development. Construction noise will be audible at the most proximate residences to the site, though mainly when the maximum required equipment are in operation, or when equipment are operating at the edges of the site. Some construction phases will generate noise levels that are below existing levels, especially at some of the more distant residences evaluated. There will also be times when no equipment is in operation, and sound levels from the site will be at ambient levels.

Operational noise levels were determined by evaluating increases in noise associated with increased traffic volumes. The analysis found that the greatest calculated increase at any intersection would be only 0.3 dBA, which is considered to be an imperceptible increase, and is well below the NYSDEC criterion for impact of six dBA.

The Village of Millbrook noise ordinance is designed to minimize potential construction noise impacts by limiting construction to the hours of 7:00 a.m. and 8:00 p.m., and is therefore considered to be a practical mitigation measure. The project will adhere to these hours. No additional mitigation measures were found to be required for either project construction or operation.

J. Air Quality

1. Existing Conditions

With respect to air quality impacts, the “existing conditions” analysis is applicable only as a baseline for discussing the impacts associated with the proposed development.

2. Proposed Development

An Air Quality Impact Study was conducted to assess the potential impact of the proposed Bennett College Development Project in Millbrook, Dutchess County, New York. Attached hereto as **Exhibit BB** is a copy of that study. The analysis consisted of a New York State Department of Transportation (NYSDOT) screening level air quality analysis for the intersections directly affected by the proposed Bennett College Re-Development Project.

Construction related air quality impacts were also examined as part of the air quality analysis. Emissions of inhalable particulate matter during the construction phase will be mitigated through various measures such as the wetting of demolition debris and exposed soil, covered trucks for soils and other dry materials, and controlled storage of spoils on the construction site. Emissions from construction vehicles are considered to be “temporary” and “self-correcting once the project is completed” by the NYSDOT and there are no current plans for construction diversions and/or detours of roadways. Therefore, emissions

due to construction activities and from private and construction vehicles will be minimal during the construction period.

3. Mitigation

Results of the screening level analysis showed that a refined air quality modeling analysis was not required; and thus, it is highly unlikely that the Project will violate the carbon monoxide National Ambient Air Quality Standards. Emissions due to construction activities and from private and construction vehicles will be minimal during the construction period.

K. Visual Analysis

1. Existing Conditions

The site is a sloping, irregularly-shaped, partially wooded site that includes the abandoned Halcyon Hall and related structures of the former Bennett College. All viewpoints analyzed show visibility to at least some of these existing buildings.

On-site visuals are dominated by the abandoned College buildings. These buildings range from two to five stories and are in various states of repair, though all have been boarded-up. It must be emphasized that notwithstanding rhetoric and discussion, both accurate and inaccurate, as to this project's visual impacts, such impacts must be judged against the site's highly compromised condition at this time. This is by no means a pristine site, and even the elimination of the decrepit buildings and infrastructure is not viable without development. In the instant case, development is itself the mitigation measure.

Project visual impacts consultant, The Environmental Simulation Center, Ltd., created verifiable digital photomontages (also known as photosimulations) of the proposed development. Photosimulations were performed for four viewpoints:

- a. Facing west toward the property from the Millbrook Golf and Tennis Club snack shack.
- b. Facing north on Route 343 looking toward Halcyon Hall.
- c. Facing east on Route 82 west of the light at the intersection of Routes 44, 82 and 343.
- d. Facing east on Route 44 toward Carroll Boulevard.

Existing conditions photographs were taken on March 28, 2007, in the early afternoon. This means that the photographs were taken on a clear day in leaf-off,

no snow, conditions to show the reasonable worse-case visibility of the action. As such, the images are an appropriate baseline for the SEQRA review of visual impacts.

Trees partially screen the existing buildings from most long-range views. Except from Viewpoint 2, the dilapidated condition of most of the existing buildings is not immediately apparent from off-site viewpoints, as typically only the tops of the buildings are visible. Viewpoint 2 clearly shows the condition of Halcyon Hall, which dominates the viewpoint.

2. Proposed Development

The proposed development calls for the removal of existing buildings, grading of the site, removal of many existing trees and the planting of many new trees. The plan calls for 91 units of housing, related facilities and streets. Most of the new buildings are about 30 feet tall and are two or two and ½ stories.

While the action does not dramatically change the volume of development on the site, it does change what is known as the “grain” of the development. The existing development of the site is a coarse grain (fewer larger, taller buildings) while the proposed development is a finer grain (more buildings that are smaller and shorter). This change in grain, with a few exceptions, is more in keeping with development in and around the Village of Millbrook.

3. Mitigation

The visual impacts and mitigation vary according to the viewpoint and each is discussed below. In summary, from longer distance views the proposed development has a small impact on the visual resources of the area, as much of the proposed development replaces buildings on an already developed site. Both on-site and off-site vegetation provide substantial screening from longer distances, though the proposed development does remove many of the existing trees on the site. This tree removal is most apparent in close-up views immediately adjacent to the site, especially Viewpoint 4, where the proposed development will be clearly visible from Route 82.

- i. Viewpoint 1 (view from the Millbrook Golf and Tennis Club):* This photograph was taken with a normal lens (50mm) to replicate the human perspective from this viewpoint. The visual impact of the proposed action from this viewpoint is small, largely due to screening from existing vegetation. Some of the new buildings to the right (north side) of the photograph will be partially visible through the existing trees on the Golf and Tennis Club. Halcyon Hall at the left of the photograph will be removed and replaced with buildings that will also be visible. A few of the larger trees that are

visible in existing conditions will be removed, though others stay due to a deliberate effort to preserve some of the site's larger trees.

- ii. *Viewpoint 2 (view facing north on Route 343 looking toward Halcyon Hall):* This photograph was taken with a wide-angle lens (35mm) to show all of Halcyon Hall visible from this viewpoint. The action dramatically changes the view from this viewpoint, which is currently dominated by the dilapidated, though distinctive, Halcyon Hall. The action removes most of Halcyon Hall visible from this viewpoint but does salvage a portion of the fieldstone foundation, which will be reused as a part of the facilities of the community. This reuse of the portion of the building acknowledges the site's history.
- iii. *Viewpoint 3 (Facing east on Route 82 west of the light at the intersection of Routes 44, 82 and 343):* This photograph was taken with a normal lens (50mm) to replicate the human perspective from this viewpoint. The visual impact of the proposed development from this viewpoint is marginal. Halcyon Hall (to the right of the photograph) is removed and replaced with development that is slightly more visible due to the removal of several intervening trees. To the left of the photograph, the red brick science building was removed and replaced with lower, less visible development. During leaf-off season, portions of the development will be visible through the trees, and these portions can be seen on careful inspection of the photosimulation.
- iv. *Viewpoint 4 (Facing east on Route 82 toward Carroll Boulevard):* This photograph was taken with a wide-angle lens (35mm) to show more of the development than would be visible with a normal lens. Many of the trees that screen the current development on the site are removed in this viewpoint. This tree removal means that much more of the site is clearly visible. This newly visible site provides only partially screened views to many of the proposed buildings on the west side of the site. The landscape plan shows the planting of many new trees on the site, but at time of occupancy they will not provide as much screening as the existing trees. The visual impact of the proposed development is largest from this viewpoint as the development will significantly alter the view from this location, transforming it from a semi-rural character to village densities. The grain of the development as well as well-articulated buildings and muted colors will mitigate some of the visual impacts from this viewpoint, but until the planted vegetation matures, much of the west side of the site will be visible from this viewpoint.

Nevertheless, the character of the proposed development is in keeping with other nearby development that is similarly visible.

L. Fire Protection

1. Existing Conditions

Currently the property is served by an existing water main of an undetermined diameter, there are several hydrants that are used by the water department for flushing the system. Because of the current configuration of the Village's water distribution system there is an inability to reach fire flows and to sustain the required 20 psi during high volume flow, this prevents the current facilities from being certified as a fire rated facility. In the past some of the buildings within the BCC were equipped with sprinklers that were connected to a 10,000 gallon storage tank located on the adjacent Millbrook Country Club property. The volume in the 10,000 gallon tank would only provide enough capacity for approximately 15 to 20 minutes of flow, which would be insufficient to provide fire suppression.

2. Proposed Development

The development of 91 units will require provision of appropriate primary and emergency access roads, delivery of appropriate water supply for domestic use and fire protection, emergency vehicle mobility within the site, and emergency call and response systems.

3. Mitigation

The proposed development will improve emergency vehicle access in the area by providing a connection between Bennett Common Way and Route 44 via Carroll Boulevard via a new road named Chapel Road.

The applicant is proposing to restrict parking to one side of the road on all community roads to allow unimpeded emergency vehicle access. All new roads have been designed to specifications that allow proper emergency vehicle movement, and hydrants have been provided at appropriate intervals.

Static pressure will be adjustable. The range will likely be 40 to 60 PSI and will ensure a minimum pressure of 35 PSI on the second floor of all proposed residences. The system will be designed with a 60,000 gallon storage tank which will provide the Millbrook Fire Co. with the "1000 GPM for 60 minutes" that they requested. The pump house will be equipped with a small jockey pump to maintain line pressure during low use. There will be two service pumps for

normal use and a high volume pump which will be able to deliver greater than 500 GPM to any hydrant at greater than 20 PSI.

All homes will be built to Village and State Building Code standards including fire rated walls between duplex units and between garages and living space.

All homes will be part of the 911 system with well marked house numbers posted on each unit.

The applicant has met with representatives of the fire department and will continue to work with the department to address all concerns.

IV. ALTERNATIVES

A. Prior As of Right Development; RMI Zoning

While no longer applicable to the site, it is worth noting that a major underpinning of the Negative Declaration at the adoption of the new zoning was the significant *limitation* of density which the new BCD zoning represented in comparison with the RMI zoning. Under the previous zoning development of the former Bennett Collage Campus would have allowed 384 multi-family units or 400,000 square feet of commercial space, or some combination of both. It is worth noting that the site's development has been appropriately and significantly curtailed by operation of law.

B. Maximum Build-Out Under the Standard BCD Regulations

Under the zoning of the BCD zone with 2-acre lots the proposed development would allow approximately 10 - 12 homes on a 27.6 acre site. The development of 10 - 12 homes could not support the cost of demolition, environmental remediation, infrastructure improvements, one-time payments to the Village of Millbrook, or the cost of design and approvals, thus this alternative would be economically infeasible.

C. Maximum CDD Zone Development Under the BCD Regulations

The CDD zone allows for the development of 126 units including 24 units in the existing Carroll Hall building and 102 units at a density of 4 units to the acre on 25.5 acres (less 2.0 acres for Carroll Hall). The impact of 126 units, 30% larger than the proposed development, would be significantly greater. Please see attached as **Exhibit CC** this Alternative Layout Plan.

D. No-Build

The no-build scenario would leave dangerous and obsolete buildings that are both hazardous and an eyesore to the gateway of the Village. The no-build scenario would neither address nor remediate any of the existing environmental issues onsite, nor would this alternative provide any one-time payments to the Village for sewer plant modifications, the recreation department, and water collection system. The no-build scenario would not preserve any of the old historic structures or artifacts, as their continued deterioration would eventually leave nothing to be saved. The no-build alternative poses significant financial and environmental impacts to the Village and its residents.

V. CONCLUSION

The Applicant has submitted an Environmental Assessment Form (EAF Part 1, Part 2, and a Part 3 Narrative Report (Parts 2 and 3 were submitted for advisory purposes), which address each of the environmental issues to the extent required by the New York State Environmental Quality Review Act (SEQRA). As indicated herein, all significant adverse impacts have been mitigated. In some cases, mitigation extends far beyond what might typically be required in response to impacts.

The proposed development has been carefully designed, responding to the objectives of the Village's Zoning and the particular issues related to the site's natural and man-made features. The results are all positive; impacts are either beneficial or mitigated.

The plan has evolved since the applicant's initial submission as input has been received from the Village Board, Village Planning Board, Village consultants, neighboring property owners, local civic groups and local residents. Input has been taken into consideration during numerous meetings held between various Boards. This is a clear example of a collaborative process where SEQRA is working as intended.

With no adverse impacts the project should receive a Negative Declaration followed by special permit, preliminary site plan, and subdivision approvals.