

**VILLAGE OF WOODBURY COMPREHENSIVE PLAN UPDATE AND
ASSOCIATED ZONING AMENDMENTS
FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT (FGEIS)**

Village of Woodbury
Orange County, New York

Lead Agency and Contact Person:

Hon. Michael Queenan, Mayor
Village of Woodbury Village Board
P.O. Box 546
Central Valley, NY 10917

Telephone No.: (845) 928-7558

FGEIS Preparers and Contact Persons:

Stuart Turner, FAICP, PP
Turner Miller Group
2 Executive Blvd., Suite 108
Suffern, NY 10901

Telephone No.: (845) 368-1472
Fax: (845) 368-1572

Lead Agency Acceptance Date of DGEIS: April 30, 2009

Closing Date of DGEIS Public Comment Period: March 22, 2010

Date FGEIS Submitted: January 25, 2011, Revised 4/26/11

TABLE OF CONTENTS

- I. DESCRIPTION OF THE PROPOSED ACTION
- II. FINAL RECOMMENDATIONS AND RELATED IMPACT ANALYSIS
- III. COMMENTS AND RESPONSES

APPENDICIES

APPENDIX A – PUBLIC HEARING TRANSCRIPT

APPENDIX B – RECEIVED WRITTEN COMMENTS

APPENDIX C – BUILDOUT ANALYSIS FOR PROPOSED WORK FORCE HOUSING
PROVISION

APPENDIX D – INTRODUCTORY LOCAL LAW #1 OF 2011: PROPOSED ZONING

I. DESCRIPTION OF THE PROPOSED ACTION

A. Background

This Final Generic Environmental Impact Statement (FGEIS) accompanies the Village of Woodbury Comprehensive Plan and related Code amendments for the purpose of compliance with the State Environmental Quality Review Act (SEQRA). SEQRA establishes a process for consideration of environmental factors early in the decision-making process of actions that are undertaken, approved or funded by state, regional or local agencies. This systematic approach allows adverse impacts to be identified and avoided or mitigated where practicable. The Woodbury Village Board (“Village Board”) has assumed Lead Agency status for the purpose of reviewing the Village’s Comprehensive Plan and related zoning amendments under the SEQRA procedures¹. The *action* that requires SEQRA review is adoption of the Comprehensive Plan and related zoning amendments by the Village Board, which is a Type I Action, pursuant to 6NYCRR §617.

A generic EIS, according to New York State Department of Environmental Conservation (NYS DEC) SEQRA handbook, is a “type of EIS that is more general than a site-specific EIS, and typically is used to consider broad-based actions or related groups of actions that agencies are likely to approve, fund, or directly undertake... A Generic EIS differs from a site or project specific EIS by being more general or conceptual in nature....”

An important aspect of this SEQRA environmental review process is that it incorporates public review and commentary into the decision-making process. This Final GEIS is intended to respond to all comments received during the designated comment period regarding the content of the DGEIS, the proposed Comprehensive Plan and proposed Zoning text amendments. A series of revisions to the zoning text amendments are also contained herein based on comments received and additional consideration by the Village Board and its consultants.

B. History of the Proposed Action

A comprehensive plan was considered by the Town of Woodbury with its own and different legal counsel and special land use consultants before the formation of the Village of Woodbury. Subsequent to the Town of Woodbury’s initiation of the comprehensive plan process and following completion of its Draft Plan, the Village of Woodbury was incorporated on August 28, 2006. The Village of Woodbury (hereafter referred to as “the Village”) encompasses all of the land formerly comprising the Town of Woodbury except for that portion of the Village of Harriman located in the Town of Woodbury. By operation of law, the Village assumed the zoning and planning functions on June 1, 2007 and the associated authority to prepare and adopt a comprehensive plan under §7-722 of the New York Village Law which is essentially the same as the Town’s authority. The Village retained its own and separate counsel and land use consultants, thus this plan has been independently prepared by the Village Board which now has jurisdiction over zoning and planning matters.

In July 2007, the Village Board appointed a Comprehensive Plan Advisory Committee to review the Town’s document and to provide advice and recommendations to determining which concepts and recommendations were appropriate for the Village. This Committee recommended

¹ 6NYCRR §617, State Environmental Quality Review

a Final Draft Comprehensive Plan to the Village Board on December 9, 2008. A Positive Declaration was issued for the Comprehensive Plan on November 12, 2008 and a DGEIS was prepared. In order to efficiently and economically proceed, the scope for the GEIS was the underlying Comprehensive Plan Scope. The Village Board deemed the DGEIS adequate for public review on April 30, 2009 and a Notice of Completion was filed with the NYS DEC Environmental Notice Bulletin on May 1, 2009. Revisions to the Village's Zoning Code were then prepared consistent with the recommendations in the Village's Draft Comprehensive Plan.

A public hearing on the Draft Comprehensive Plan, DGEIS and proposed Local Laws to amend the Village Code on February 23, 2010 and continued on March 9, 2010. The comment period was held open for additional written comments until March 22, 2010. Both public and written comments from this time period have been responded to in this document.

C. Vision and Themes of the Comprehensive Plan

The vision, describing the ideal future for the Village, set forth in the Comprehensive Plan is as follows:

Utilizing the best principles of smart growth as it pertains to Woodbury, we envision the Village of Woodbury, in the Year 2020, as a community of attractive residential neighborhoods, vibrant hamlet centers, successful mixed-use commercial and office districts, and protected undeveloped lands. These places are suitably connected by accessible regional highways and local streets, adequately served by public transportation, and linked by a network of sidewalks and trails. As the "Gateway to Orange County," Woodbury offers convenient access to all that the region—including the New York metropolitan area, surrounding counties and upstate New York—has to offer. It is recognized for the excellence of its schools, the quality of its public safety and community services, the abundance of its historic resources and recreational opportunities, the productivity of its local businesses, an energetic "Main Street," inspiring views of the Hudson Highlands, Schunnemunk State Park, and Harriman State Park, and the beauty and health of its natural environment. The exceptional quality of life contributes to the economic growth and prosperity of the Village and the region, assuring that Woodbury can continue to meet the increasingly diverse needs and expectations of its residents in a fiscally sustainable manner.

The Comprehensive Plan was developed with the intent of achieving a balance between hamlet, suburban, and rural perspectives and a balance between new growth and protecting the existing quality of life. The Comprehensive Plan identifies five major themes for strengthening the Village and working towards its vision. Each action recommended in the plan is intended to implement one or more of these themes. The themes are as follows:

- > Maintain and Strengthen the Village Character
- > Create Gathering Places for Village Residents and Visitors
- > Care for a Changing, Diverse Population
- > Promote Economic Development
- > Foster Stewardship of Natural Resource

II. FINAL RECOMMENDATIONS

A. Introduction

In response to public, agency and consultant comments on the DGEIS, the Village Board has performed an extensive review of its draft Comprehensive Plan Update and the associated zoning amendments. During this review, the Village has attempted to balance all comments and considerations. The Board has revised the Draft Zoning in an attempt to address the concerns, including but not limited to comments from the Village Planning Board, Village consultant recommendations, and other comments raised by the public and interested agencies during the 30-day public review period. These revisions are intended to clarify and improve the document and to reduce the potential for significant adverse environmental impacts as a result of the adoption of the Plan and implementation of the Plan recommendations through the Zoning text amendments. The Village Board views these revisions as still consistent with the overall goals and objectives set forth in the Plan.

B. Changes to the Proposed Action

Local Law #3 of 2010 permitting Places of worship in all zones was passed in 2010 by the Village Board. The Law also set bulk and parking regulations. It was important for the Village to pass this legislation as soon as possible to not restrict the development of places of worship. Separate SEQR was completed for the adoption of this law.

Local Law #4 of 2010 was adopted with the intent of expanding opportunities for economic development within the Village. However, most uses which were subject to new or clarified definitions in Section 310-2 were not considered new uses because uses such as a dance studio, convenient store and landscaping business were already permitted in the Village. This law also amended language in Section 310-32 of the zoning code to remove an onerous requirement to build a super market in all commercial plazas. This was a recommendation of the Comprehensive Plan and the removal of this requirement is not anticipated to have any negative impacts since it reduces the potential for large, traffic generating commercial uses.

Based on the comments received, the Village proposes the following changes and clarifications. These revisions are summarized below:

Watershed and Steep Slope Regulations

Watershed and steep slopes protection remain goals of the Comprehensive Plan. Successful protection of steep slopes and surface and ground water are essential environmental objectives and as such do not have negative impacts on the environment. However, specific regulations as put forth originally, require further analysis and discussion and therefore the watershed protection overlay regulations and steep slope regulations as drafted and proposed will be withdrawn from consideration at this time due to their restrictive impact potential on development in the vast majority of the Village. The discussion of the concept of watershed and steep slopes protection remain in the Comprehensive plan because the data on existing conditions remains relevant and public should be aware the concept was considered.

Transit Oriented Development: Transit Village Zone

Originally the Village prepared only a definition and a revision to the LIO use and bulk table which permitted Transit Oriented Development in this zone. The build out of such a development was contemplated in the Comprehensive Plan and DGEIS however the Village was waiting for final recommendations of (Regional Plan Association) RPA and the Transit Oriented Design Steering Committee to be released so it could draft zoning which was consistent. Recently, RPA provided final draft recommendations many of which have now been incorporated. The Village has now completed zoning regulations for the area in the immediate vicinity of the Harriman Train Station and has incorporated them as Section 310-31.3 of the Zoning Code. This draft zoning sets design and density requirements for an area newly identified on the Village's proposed zoning map as Transit Village Zone and creates a process by which the Village will review such an application. The draft zoning is consistent with the RPA and generally consistent with, and no more intense than, the Village Comprehensive Plan recommendations for this area other than is described below. The Comprehensive Plan considered all of the uses proposed to be permitted including office, retail, residential, hotel with a conference center, and entertainment and recreation.

The zoning differs from what was originally contemplated in that the DGEIS considered warehouse use, a slightly lower number of residences and a lower residential density. The removal of the ability to construct warehouses in this area will likely reduce impacts to traffic in that truck traffic will be reduced. No negative fiscal impacts are anticipated based on the removal of the ability to construct warehouses in the area being rezoned to Transit Village since other permitted uses will have greater ratable value. A slightly higher number of residences will increase the potential population of the Transit Village. As a mitigation the zoning limits the number of units with more than two bedrooms to 50% of the total residences in order to limit both overall and school aged population on the site. The Draft Transit Village zoning proposes density as high as 25 units per acre in the mixed use core area (within 1/2 mile of the train station) with density decreasing as distance from the train station increases. This is higher than the six to eight units per acre contemplated in the DGEIS. While the density is higher, the total number of units is only slightly higher than originally anticipated. Therefore it is anticipated that units will be concentrated which will allow for additional open space on the site. To protect against over development of the site and to mitigate any potential impacts to surrounding land uses and village character the zoning requires 40% of the total site be preserved as open space. Thresholds will not exceed those established in a previous SEQR Findings for ICC Site A. The A site specific SEQR analysis which will be performed once an application for development for this area is submitted will need to confirm this. Once this section was finalized, minor changes were made to the Work Force Housing Section of the Draft Zoning (§301-31.2) to ensure the sections are consistent.

Other Minor Changes

Multiple minor text changes have been made in response to comments from the Planning Board. These changes primarily include minor language changes which expand definitions and ensure consistency in the zoning.

A copy of the proposed zoning can be found in the form of Introductory Local Law #1 of 2011 in Appendix D of this document. This Local Law supersedes the previously proposed Local Laws which were part of the package of documents which were subjects of the SEQR public hearing held in 2010.

III. COMMENTS AND RESPONSES

A. Introduction

This section of the FGEIS addresses the substantive comments received at the Public Hearing which was held at Woodbury Town Hall at 7:30 PM on February 23, 2010 and continued on March 9, 2010 and all written comments received during the public review period held open until March 22, 2010. Copies of all comments received, including transcripts from the public hearing can be found in Appendix A of this document.

B. February 23, 2010, Public Hearing Comments

1. Attorney James Sweeney, on behalf of Doctor Noah Weg: Mr. Weg's father, Sidney Weg began to assemble property in the area of Schunnemunk Road back in World War II, in 1943 he began to assemble the property and it was fully assembled in 1947. Shadow Lake; you know it in that context. Originally the property was zoned at one acre. In 1990 part of the property went to 3 acres, the ridge line. We are now looking at a map change that assigns a three acre designation to the balance of the Weg property. You are looking at the Weg property pretty much exclusively. The New York State Legislature has set some guidelines for you when you get into the re-zoning process. Its section 263 of the Town Law and one of the chief clauses in that section is that your duty when you are re-zoning or initial zoning ... is to preserve the character of the community.

Response: The Village has decided to no longer change the zoning on this and other properties in the area of Schunnemunk Road.

2. Noah Weg: Even though we are doing nothing [with the property], we took a significant economic hit when the 1 acre zoning was changed to 2 and 3 acre zoning. The property owners who maintained the property as the Village and Town wanted it to be are getting punished by the up zoning. I am not a real estate expert, but I don't believe there is any commercial value whatsoever to 3 acre residential zoning on Schunnemunk Road; that's luxury zoning and this is not an area of luxury housing.

Response: The Village has decided to no longer change the zoning on this and other properties in the area of Schunnemunk Road.

3. Noah Weg: I glanced at the Saratoga Associates Plan that's online, and there is nowhere in there where they mentioned that they evaluated the recommended zoning of 3 acres, the ultra low density in comparison to the already developed portions of the Schunnemunk areas.

Response: The Comprehensive Plan recommends preservation of wetlands and steep slopes and the rural residential character of the outer portions of the Village which influenced zoning map and text changes in a number of instances. However, as stated above, zoning map changes are no longer proposed in the area of Schunnemunk Road.

4. James Skoufis: One of the biggest problems I think that we face here in Woodbury, demographically and otherwise, is there is more or less a brain drain from about 20 to 30 year

olds here in town. We have got students who graduate from Monroe- Woodbury High School. They go off to college and the vast majority never come back. I think the transit village moves to fix that situation by quite a bit. And I think there are two causes to that; the first is that there is really no place for these people to live by and large, and the second is that there are very few fun things to do in Woodbury. There are very few rentals here in Woodbury and I hope there are such opportunities to rent in the transit village. I think that is very important in addition to the workforce housing and the affordable housing

Response: The Transit Oriented Development will permit non residential uses including retail, personal services and other commercial developments including indoor recreation facilities, restaurants and bars. Multi-family units will permitted to be either rental or owner occupied and the provision of at least 20% of the total residential units as affordable housing units will be required by zoning.

5. James Skoufis: We consider 2 or \$300,000 homes to be affordable housing and I hope that more of an effort is made at truly affordable housing for people who are in there mid-20's to buy a home in this transit village.

Response: The affordable housing will be required to be affordable to families or individuals earning up to 130% of the Orange County median income. Affordability will be coordinated with the Orange County Office of Community Development. Multiple unit types will also improve affordability with small homes, townhomes and rental apartments all permitted in this proposed overlay zone.

6. James Skoufis: The indoor recreational facility that's proposed in the Comprehensive Plan... I think that also would go along way to attracting and retaining the young professionals that who otherwise enjoy to live out here, but there is really, to put it simply, nothing to do.

Response: Comment noted.

7. James Skoufis: There would be very little impact as far as traffic goes on Route 32. Being on the far south end of town, you have got the Thruway there, 17 there, the Quickway there. There are really all the outlets you need to spread to all throughout the state and to the city without having people travel on 32 and I think that is important.

Response: Comment noted.

10. James Skoufis: I think redeveloping Nepera should be a very high priority. As far as tax revenue goes, that's a huge black hole. Right now its just a vacant lot and has been that way for a long time, which is unfortunate.

Response: The Nepera site is within the area which could be incorporated into the TOD.

11. James Skoufis: I think as we revitalize a lot of these things and redevelop a lot of these sites, we have to make sure that we preserve what makes Woodbury, Woodbury. And in order to preserve what makes Woodbury, Woodbury, first you have to identify what makes Woodbury

Woodbury. So I think updating that [historic and cultural] inventory is also a very positive thing in this plan.

Response: Comment noted.

12. James Skoufis: I do have two concerns. The first going back to the transit village. Its in Harriman...Harriman has got to be on board for this to come to fruition. So what is being done? What has been done? What's going to be done in working with Harriman to see this become a reality?

Response: Representatives from the Village of Woodbury are part of an inter-municipal Transit Oriented Development steering committee along with representatives from the Village of Harriman and the Town of Monroe along with Regional Plan Association (RPA). The communities are working together to implement the TOD concept consistent with local objectives.

13. James Skoufis: Probably my biggest concern is the increased or proposed increased density along the Hamlet areas of Route 32. Places like Corporate Drive where we have those two professional buildings and other places where you might want to redevelop or increase development, no problem. But as far as preserving the character of the Town, I have a fear that a huge infusion of new development in the hamlet areas might take away from that [small town feel] a little bit. So I just caution you going forward on that. You increase the density of the hamlet areas and that's going to increase the traffic quite a great deal I think.

Response: It was the desire of the Village to encourage development in areas with existing water and sewer infrastructure. Also, it is anticipated that those that live in the Hamlet areas or those that may live there in the future, would walk whenever possible when using shops and services located in these Hamlet areas thereby reducing traffic volumes.

14. June O'Neil: We are hoping that the transit village goes forward. Multi-family housing and senior housing, as proposed at the site has less of an impact on schools then single family homes.

Response: Comment noted. Generally the Village agrees that multi-family housing, geared towards empty nesters and young professionals may have less impacts on the school district than the same number of single family homes. However, any development proposal for a Transit Oriented Development will be reviewed by the Village and impacts on community services and other environmental impacts will be studied in greater depth when details of the project are known.

C. Written comments

1. **February 19, 2010 Memorandum from the Village of Woodbury Planning Board:**

1.a . The definition of Bed and Breakfast is not consistent with the use table. Five bedrooms are permitted in the definition while a maximum of four bedrooms is permitted in the use table. The Planning Board is ok with the five bedroom limit.

Response: R-3A, R-2A, R-1A and R-0.25A use and bulk tables will be revised to permit Bed and Breakfast enterprises to offer up to 5 guest rooms consistent with the definition.

1. b. We believe the restriction that Dance and Martial Arts Studios should not be available to the general public for parties should be removed from both definitions. This issue can be dealt with during site plan review.

Response: The last sentence of both definitions of Dance and Martial Arts Studios stating “Such establishments shall not be open to the general public for parties or other large gatherings” shall be removed from both definitions in Section 310-2 of the zoning code.

1.c. The definition of Golf Course should replace a “series” of eighteen holes with a “minimum” of eighteen holes. This should be made consistent in the Golf Course Law in Section 310-39.3.

Response: This will be revised as recommended in this comment in both 310-2 of the zoning code as well as 310-39.3 to ensure the definition is consistent throughout the document.

1.d. The definition of Landscaping Business should not require businesses to grow all plants, trees or shrubs on the premises. This change should also be reflected in Section 310-34 and therefore item B of this section should be removed. Also the word ‘sale’ should be inserted after ‘wholesale’.

Response: The definition of Landscaping Business shall be revised in Section 310-2 of the zoning code to read as follows: “An establishment that conducts the retail sale and/ or wholesale sale of plants, trees or shrubs, as well as accessory items (but not including power equipment or other machinery) directly related to their care or maintenance, subject to the requirements of Section 310-34.”

1.e. The Lot Area definition should not include the discussion of slopes (2.c) because this is contained in the Steep Slopes Section of the code. Further, only subsection “b” should be referenced in subsection “d”.

Response: This section will be revised as recommended in this comment.

1.f. The definition of Outdoor Recreation should include the potential for snow tubing.

Response: The definition for Outdoor Recreation in Section 310-2 of the zoning code will be expanded to include snow tubing. It is not anticipated that any negative impacts would result

from this inclusion and any minor issues will be dealt with during the site plan approval process at the Planning Board.

1.g. The definition of Transit Oriented Development should include a movie theater as a potential use.

Response: The definition for Transit Oriented Development in Section 310-2 of the zoning code will be expanded to include a movie theater. It is not anticipated that any negative impacts would result from this inclusion since theaters generally operate during off-peak hours, generally later than retail or personal service uses, and any minor issues will be dealt with during the site plan approval process at the Planning Board.

1.h. Section 310-13.B.(2), under Ridge Preservation, should be revised to read as follows, "...a structure should be constructed of natural looking materials and should be a natural color."

Response: This revision will be incorporated into the draft zoning text as recommended.

1.i. The final sentence in Section 310-13.B.(5) should be revised as follows, "Any healthy tree with an eight inch (8") or greater caliper at breast height shall not be removed unless such removal is essential to the location or safety of the structure as determined by the Code Enforcement Officer."

Response: The recommended zoning text will be revised as per this comment.

1.j. There should be no fee imposed for a tree removal permit as required under the steep slopes regulations.

Response: The main purpose of the requirement to obtain a permit is to ensure the potential tree removal will not cause substantial erosion or other hazardous conditions in areas of steep slopes. As such, a fee is not anticipated to be required.

1.k.. Section 310-13.1.C; This seems to apply to cluster subdivisions for the purposes of determining yield. Area deductions are currently in these sections and providing this information twice may be confusing. This should be reviewed and potentially removed.

Response: The Village has determined that the steep slope and watershed overlay provisions require additional study and therefore will not be adopted at this time.

1.l. Section 310-13.1.D. (2); the tree size regulated should be greater than eight inches, not six and an exemption should be included for any tree which is dead, diseased, damaged or dangerous as determined by the Code Enforcement Officer.

Response: See response to item 1.k above.

1.m. Section 310-13.1.E (2) should read, "The terracing of building sites shall be avoided to the greatest extent practicable."

Response: See response to item 1.k above.

1.n. Item E. (4) of this section should read as follows, “No endangered species of flora or fauna are to be adversely impacted and that any replanting shall be maintained in a healthy and vibrant condition by the applicant for two years and shall consist of indigenous vegetation that replicates the original vegetation on the site.”

Response: See response to item 1.k above.

1.o. Section 310-16.B.(6); The Village Board should discuss and further review the proposed height restrictions for wind turbines. The proposed 35 foot limit may not be practical from a functioning point of view although this limit may be favorable on residential properties from a neighborhood perspective. If turbines taller than 35 feet are permitted on residential properties, Section B.(5) should extend the requirement for Planning Board review to applications for wind turbines over 35 feet on residential properties.

Response: The height restriction is intended to balance the need for these emerging energy sources with the scale of development in the Village. If in subsequent discussions it is determined by the Village Board that further study is needed or that the height limit is overly restrictive a final determination will be postponed or revised language prepared.

1.p. Section 310-22.I.(12) should include, “to the greatest extent practicable” at the end.

Response: This section will be revised as recommended.

1.q. Section 310-28; The height of retaining walls which require Planning Board approval should be decreased from eight feet to six feet (it is now 4 feet and this still represents a reduction in board review).

Response: This section will be revised as recommended.

1.r. Section 310-29.B.(2)(b) should be consistent with the recommended language in item 7 above.

Response: The final sentence of Section 310-29.B(2)(b)[1] will read as follows: “Building facades shall be a natural looking material and a natural color. No metal siding, exposed concrete block or reflective or tinted glass shall be visible from any side of the building.”

1.s. The district or properties to which the watershed overlay district applies should be reviewed. This may be too restrictive as it would seem to apply to the vast majority of the Village and if left unchanged would make most existing development nonconforming. We are particularly concerned with the restriction of septic tanks in this area. The uses proposed to be prohibited should be reviewed. If possible, this area should be tightened to apply only to buffer areas around streams and other water resources as delineated in Section C.(1) of the law.

Response: These regulations and the implications of certain uses near water resources requires more study at this time and therefore the watershed protection overlay regulations will not be adopted at this time.

1.t. 310-31.2.I (2), the exception in the first sentence should be extended to trees which are dead, diseased, damaged or dangerous.

Response: The watershed regulations will not be adopted at this time therefore this comment is not applicable.

1.u. A primary recommendation of the Comprehensive Plan is to expand opportunities for affordable housing in the Village. Further, the County Planning Department participated in a three-county study to help define the need for affordable housing in the region. That study identified a 2006 need in Woodbury for approximately 800-1100 residential units depending on how it is calculated. This is addressed in the DGEIS. We are concerned that the draft Work Force Housing section, as proposed, may not provide for this need. This should be further discussed with the Village Attorney as to our requirements and the repercussions of our actions.

Response: The County study is a needs analysis and is not legally binding. In fact, the County has since provided “Targets” for the provision of affordable housing in a 2010 amendment to its 2003 Comprehensive Plan. In this amendment the County identifies an affordable housing target of 218 owner occupied units and 84 rental units by 2020.

It is the Village’s intention to expand opportunities for affordable housing. The Village has prepared a buildout analysis which has determined that approximately 839 units could be built under the proposed Work Force Housing law². This total exceeds the affordable housing targets provided by the County through 2020. (See Appendix C)

1.v. Section 310-31.3.D.(7) should state that these categories, or types of households to which workforce housing should be made available, are in a prioritized order. Also, it is recommended that item (b) include all schools serving Woodbury residents not only the two public school districts.

Response: This section has been revised to signify that the list is in prioritized order and employees of the Town and Village shall include employees of certified public and private schools or School Districts which serve residents of Woodbury.

1.w. The term “sundry products” should be clarified in Section 310-32.B. “Retail sale of miscellaneous small items” may provide the intended guidance.

Response: Text has been revised accordingly.

² Taking into consideration only parcels which currently meet minimum lot area requirements in each respective zone. If groups of smaller parcels were assembled additional units could be constructed. Both of these scenarios are examined in the Work Force Housing Build-out Analysis.

1.x. Section 310-38. G. (2) should be modified to remove the requirement for a 10 foot separation between tower antennas. We suggest the following language be added, “If new antenna panels are proposed below existing antenna array(s) with no additional height added to the monopole, no further height requirement shall apply.

Response: This sentence shall be revised to no longer require a ten foot separation between antennas.

1.y. Off-Street Parking. We agree with the Village Attorney’s recommendation that parking for Houses of Worship should include the following language after the requirement, “unless it places a substantial burden on the religious exercise of a person, religious assembly or institution, and in such case the Planning Board shall have discretion to determine the appropriate amount of parking under the circumstances” in order to be consistent with the requirements of RLUIPA.

Response: This recommendation was adopted into the zoning code with Local Law Number 3 of 2010.

1.z. Section 310-41, in this section 2009 should be replaced with 2010.

Response: This will be revised.

1.aa. Section 310-43.2.B.(3), the term Board of Appeals should be changed to Zoning Board of Appeals.

Response: This will be revised

1.bb. The removal of the ability to reduce lot size in the R-1A zone to 30,000 square feet with public water and sewer are available should not apply to Conservation Cluster Developments. These types of developments should be able to have lot size reduced especially for purposes of calculating density. It is unclear if this is the intention of the draft code.

Response: Minimum lot sizes in a conservation cluster overlay district development are determined based on Section 310-31.1.D(4) of the code. Minimum lot size required in the underlying zoning would not apply.

1.cc. Grandfathering of projects with significant investment in review and having reached a certain degree of approval (say completion of SEQRA or Preliminary approval) should be considered for exemption from the new provisions of this law.

Response: Applications which have been submitted under the existing zoning (as of December 1, 2010) and have completed the SEQRA process as denoted by the adoption of the negative declaration by the Planning Board shall be permitted to continue in their approval process under the existing zoning law.

2. GML §239-l and n Response Letter from Fred Budde, of Orange County Department of Planning, February 16, 2010 in reference to the Draft Comprehensive Plan

2a. A review of the Village of Woodbury Comprehensive Plan indicates that it is consistent with the concepts and principles promoting sustainable development, environmental protection and neo-traditional, mixed use development within the Orange County Comprehensive Development Plan. The goals and objectives for the protection of natural resources, enhancement of community character and the provision for senior housing opportunities towards the orderly future growth of the Village of Woodbury are commendable.

Response: Comment noted.

2b. The primary regulatory strategies mentioned throughout the Draft Plan to fulfill goals and objectives through the use of clustering through conservation subdivision, the creation of an official map and the establishment of special site and architectural design criteria to minimize and avoid environmental impacts, as well as enhance the character of existing and future development. We recommend that such architectural and design provisions be made mandatory rather than voluntary on the part of developers.

Response: The Village believes the proposed modifications to section 310-29 (Design criteria in the LC and CR zoning districts) and Section 310-13 (Ridge Preservation) will codify a number of regulations which are currently only recommendations for development proposals. These new regulations include architectural articulation of strip plazas, requirements for using natural materials and pitched roofs, and requirements for maintaining the character of the area for both new construction and renovations.

2c. A comparison of the goals and objectives of the Draft Woodbury Comprehensive Plan with the recommendations of the SEOC Traffic and Land Use Study, Illustrating Smart Growth for the SEOC and the Harriman Transit Supportive Development Case Study clearly shows that they are all similar in promoting smart growth and sustainable development.

Response: Comment noted.

3. GML §239-l and n Response Letter from Fred Budde, of Orange County Department of Planning, February 16, 2010 in reference to Local Law 1 of 2010

3a. All of these amendments to the Village of Woodbury Code are consistent with the principles promoted in the OC Comprehensive Plan for environmental protection and the creation of quality communities.

Response: Comment noted

3b. It would be helpful if a map of the proposed Watershed Protection Overlay District were included in the code so that citizens of the Village of Woodbury could easily determine whether or not they reside in the district and whether the restrictions to protect the water supply and environment apply to them.

Response: See response to comment 1.t above.

3c. Many of the uses listed in the Prohibited Uses section of the Watershed Protection Overlay Zones are prohibited by the underlying zoning.

Response: See response to comment 1.t above.

3d. While it is commendable that paragraph F of the [Watershed protection] regulations aims to protect water resources by limiting the application of fertilizers, pesticides and / herbicides, for all practical purposes this will be difficult to enforce. Further, the Orange County Department of Health does not have the regulatory authority purported in this paragraph nor have they agreed to review reports submitted by citizens...As such, all references to the OC Department of Health should be omitted.

Response: See response to comment 1.t above.

3e. To eliminate ambiguity in the Workforce housing regulations, it would be helpful if a section was added to the zoning describing the design characteristics of traditional neighborhood design and if it were defined in Section 310-2,B.

Response: In order to clarify any questions concerning the stated purpose of the Work Force Housing overlay in Section 310-31.2 A of the zoning, a definition for Traditional Neighborhood Design has been added to Section 310-2 of the proposed zoning which reads as follows, “A development that exhibits several of the following characteristics: pedestrian orientation, mixed land uses, public open spaces, a variety of housing prices and types and street connectivity within walking distance to shops, services and transit.”

3f. While it is commendable that shared parking is mentioned as an option for mixed use development, more detailed regulations with a formula for calculating parking reductions are warranted to ensure that such reductions are calculated in a similar manner for different projects.

Response: Should a development request a reduction in the amount of parking provided on site, the applicant will be required to determine the amount of the reduction and the reasons and rationale therefore. Each request will be viewed individually based on the specific set of circumstances including but not limited to surrounding uses, hours of operation, available alternative means of transportation or onsite parking availability.

4. GML §239-1 and n Response Letter from Fred Budde, of Orange County Department of Planning, February 16, 2010 in reference to Local Law 2 of 2010

4a. Overall the proposed zoning amendments do not present any significant inter-municipal or county-wide zoning or planning considerations to bring to your attention, and are consistent with the new Village of Woodbury Comprehensive Plan as well as the principles promoted in the OC Comprehensive Plan for creating quality communities.

Response: Comment noted.

5. Letter from Nickitas Panayotou, P.E., of TRC Engineers, Inc., March 4, 2010

5.a. The Village of Woodbury has progressed their plan on a separate and parallel course and the Comprehensive Plan and Zoning that you have developed has captured the essential elements of the County Plan and thus I applaud the Village for their foresight and vision.

Response: Comment noted.

5.b. It appears to be that both [Woodbury and Harriman] Villages are in need of a realistic plan for the [ICC Site A] property, which I believe the proposed plan and zoning accomplishes. If the plan and zoning are approved it is my opinion that the project that could be developed will have the following benefits when compared to the development that can be provided under the present zoning:

- The plan and zoning allow for a mix of varying density residential uses, retail shops, hotel, office and industrial uses that will allow residents to do some of the shopping at nearby shops and utilize the available train service rather than relying totally on the automobile.
- Under the current zoning, an industrial use would be located immediately adjacent to the Village of Harriman's residential area...this type of use was not seen as a benefit by the Village of Harriman or nearby residents.
- There has been quite a bit of discussion about the level of density of the residential component of the Plan, especially with respect to impact on school population. It is our view that the level of density proposed is appropriate and required in order to make any future project attractive to a potential developer. It is our experience that impact on the school system can be minimized by the design of the residential component so that it is most attractive to the senior and recently-married (both working) population.

Response: These are all goals of the Village with respect to the Transit Oriented Development area. Further, housing within the TOD will be mainly geared towards and is generally more appealing to young professionals and empty nesters which will minimize the impacts on the school district.

6. Letter from Robert Scherreik, SIOR, CCIM, MCR, of McBride Real Estate, March 19, 2010

6a. The currently proposed definition of the term "Transit Oriented Development" in Section 310-2(B) and in the "Schedule of District Regulations – LIO District" does not appear to achieve the stated intent of the Village of Woodbury Recommended Comprehensive Plan ("Comprehensive Plan"). Introductory Local Law No. 1 of 2010 defines "Transit Oriented Development" as "A development within one half mile of a train station. Unfortunately, a one half mile radius from the Harriman train station includes only a portion of the properties identified in the Comprehensive Plan as the Interchange Commerce Center and the former Nepera plant site. I would suggest that the words of the definition be changed from ". . . one half mile. . ." to a distance sufficient to comprehend the entirety of both properties, perhaps ". . . one mile. . ."

Response: This definition has been revised and the area proposed for Transit Village Development has been designated on the proposed zoning map. Based on the it is the intent of the Village that the mixed use core of the development (as defined in Section 310-31.3) be within one half mile of the station consistent with the recommendations of the Village's comprehensive plan and the Regional Plan Association (PRA) TOD Case Study and report.

7. Letter from Mary Ferraro, received March 1, 2010

7a. Page 3.3 of the Comprehensive Plan needs correcting. Some of the streams in Woodbury are listed and one, the Woodbury Stream, is correctly identified as a trout spawning stream. However, tributaries 4 (mineral springs stream) 4-1 and 6 are also trout spawning streams. This is all NYS DEC documented.

Response: The section the commenter refers to does not discuss streams. Natural resources including streams are discussed in Section 7 of the Comprehensive Plan and page 31 of the Village's Inventory and Analysis report found in Appendix B of the Comprehensive Plan package and prepared in 2005. At the time of the preparation of this document the information was believed to be correct. However, the status of environmental resources is dynamic which is why the Village would require coordination with the NYS DEC in the event any development were proposed near such resources.

8. Letter from Michael J. Sandor, P.E., of MJS Engineering and Land Surveying, PC, February 24, 2010

8a. Please be advised that this office represents In Chin Song, who is the record owner for Section 218, Block 1, Lots 14 and 42, situated at 272 Route 32, in the Village of Woodbury. We have read the proposed zoning for the proposed R-2A Zoning District and we are in agreement with the Special Permitted and Site Plan Section which would include a health spa use for this property. Ms. Song's desire is to construct such a facility on this existing lot.

Response: Comment Noted.

9. Letter from Fredrick Wells, Tim Miller Associates, March 19, 2010

9.a. While the Comprehensive Plan broadly considers the perceived desires of the local community, the plan should properly examine the factors that are needed to balance the needs of the broader region. Specifically, the Comprehensive Plan speaks of revitalizing hamlets in Sections 5 and 6, yet inadequately addresses the need for medium- to high-density residential zones to provide homes for the people who will come down into and frequent the businesses and services in the hamlets. Also, the Comp Plan superficially addresses affordable housing, yet contains no specific actions or strategies, such as rezoning to provide the opportunity to develop affordable housing.

Response: While the Comprehensive Plan discusses broad recommendations for affordable housing, the proposed draft zoning offers specific modifications to the Village's zoning which will permit work force housing in the R-0.25A, LC, HB and TV zoning districts.

This will provide appropriate opportunities for higher density housing, including work force and affordable housing in and around the Hamlet Centers and in close proximity to the Harriman Train Station. This will both provide economic support for local business and aim to reduce auto dependency for those who may work or live in these areas.

9.b. The Comp Plan makes no provisions to advance affordable housing opportunities in the various low density zones that cover 99 percent of the Village. The existing zoning districts make almost no provision for multi-family dwelling units to be developed and provision for two-family dwellings is very limited. Of ten zoning districts in the Village, the three that include provisions for two-family dwellings (R-0.25A, LC and HB districts) make up only 1% of the Village's land area. Multi-family dwelling units are allowed only by special permit in the HB zone, which makes up only 0.3% of the Village's land area. As pointed out in our comments of February 14, 2006 to the Town of Woodbury, the need for affordable housing in Orange County is well documented.

The Village's residential zoning provisions are overwhelmingly oriented to single-family housing at low to very low density (1 dwelling unit per 1- to 3-acre lots), which in the New York Metropolitan region are not affordable to low to moderate-income families and households. Such low-density zoning without a complement of medium- to high-density zoning could be construed as exclusionary zoning meant to severely limit the availability of housing in the community to persons of lower income; or to exclude other groups that need other types of housing besides single-family homes. The need for a variety of forms and density of housing should be provided to have a "properly balanced and well-ordered plan" as was found to be valid by the Court of Appeals in *Berenson v. Town of New Castle*, 38 N.Y. 2d 102, 110, 378 N.Y.S. 2d 672, 341 N.E. 2d 236 (1975).

Response: Multi-family residential developments are currently permitted by special permit in the HB district in order to allow the Planning Board a review of the project to ensure its consistency with the zoning, comprehensive plan, state law and to ensure environmental impacts are mitigated or avoided to the greatest extent practicable. The proposed zoning will expand opportunities for multi-family developments with the adoption of the Work Force Housing overlay district. This new provision will permit multiple dwellings in the HB, R-25A, Limited Commercial (LC) and the newly proposed Transit Village which will require affordable housing in association with the full development of transit supported development.

The ability to provide affordable housing depends on a number of factors. The Village's proposed plan is oriented towards smart growth principles which concentrate on development in areas where there is available public mass transit, highway access, services, jobs and walkability. Thus the emphasis is on achieving the plan's objective to create appropriate diversity of housing by type, size and income range is focused in limited areas where the services can be provided in an efficient and less costly manner. Further there is no legal requirement nor proper planning principle to have certain types of multi-family dwellings within a municipality.

The Village does have preexisting clusters of multiple dwellings in Highland Mills and Central Valley.

Further, one of the objectives of the Village's existing Conservation Cluster provision is to allow appropriate diversity of housing on large sites in the lower density zones in exchange for preserving publically accessible open space, a technique to achieve multiple objectives, including housing for seniors, first time home buyers and young professionals. The later of the two groups provide an opportunity for reasonable growth with an enhanced and responsible tax base. Notwithstanding the foregoing, as noted elsewhere, the plan's provisions would permit more affordable housing than is outlined in the County's Housing Study and adopted Comprehensive Plan.

Smart growth, which is now part of a state requirement for infrastructure funding, favors higher densities which have been traditionally centered around the existing Hamlet areas in order to be close to existing public sewer and water infrastructure, major roadways, public transportation and shops and services and to preserve the rural character of the outlying areas of the Village. Further, the proposed Transit Oriented Development (TOD) Area has a requirement for affordable housing to be set aside as well as permitting multi-family and rental units and a higher densities than is currently permitted anywhere else in the Village.

9.c. The need for affordable housing in Orange County is well documented as discussed at length in our previous comments. The 2003 Orange County Comprehensive Plan, subtitled "Strategies for Quality Communities," supports the continuity of development and emphasizes the need to accommodate continued population growth within Orange County. Under its Land Use Plan, the County Comprehensive Plan designates the Village of Kiryas Joel and abutting vacant residentially zoned land immediately to the east and north of the Village) as being within a designated "Priority Growth Area". The map of "Priority Growth Areas" illustrates the "General areas of preference for future development to maximize efficiency of infrastructure and services and to minimize open space losses". Part of the area in Woodbury encompasses Highland Mills, Central Valley, Kiryas Joel, Harriman and Monroe as a cluster of "Community Centers" and "Neighborhood Centers". According to the plan, such urban areas "include villages and hamlets as well as their immediately surroundings where public infrastructure, such as centralized water, sewer, and higher capacity roads exist or could be efficiently extended to accommodate future growth." Based on the outline of the "Priority Growth Area" encompassing Woodbury's hamlets, the perpetuation of the 2-acre and 3-acre (effectively 4-acre for larger parcels) single family zoning should be seriously reconsidered.

It is recommended that tiers of high to medium-density residential development be considered providing higher densities near water and sewer districts and where these districts and their infrastructure can be logically extended. These districts should include multi-family development options.

Response: Orange County's staff provided a written review of the Comprehensive Plan and Local Laws (See comments provided in items 2, 3 and 4 above) and stated all documents reflecting the Village Plan are consistent with the principles promoted in their Comprehensive Plan for environmental protection and the creation of quality communities. Further, the Village's plan and subsequent draft zoning do recommend higher density development as well as multi-family development in areas where water and sewer infrastructure exist. However, public

water and sewer are not available in the R-2A and R-3A zoning districts which supports keeping these areas at lower density. Extending utility infrastructure into low density and environmentally sensitive areas is not economical and is not consistent with smart growth principles.

9.d. Goals and Recommendations regarding the Villages Natural Resources are outlined in Section 7, including recognition of the advantages of Conservation Subdivision Design. Many sources have similarly promoted the advantages of compact development, which are especially pertinent in a community with a scenic backdrop such as the Village of Woodbury. Some of the advantages of compact, higher-density development, as compared to conventional, detached single-family development, include shorter roads, more efficient and less costly infrastructure (water, sewer, electricity and other utilities), less land clearing and disturbance per dwelling unit and the potential for a closer-knit community, among other advantages. Land in the central western portion of Woodbury has the advantage of proximity and potential access to available sewer and water capacity right next door in Kiryas Joel. Focusing compact development by placing higher-density zoning on land that can support it, while leaving environmentally sensitive lands as open space, presents the potential for linked areas of development and corridors of open space.

Response: Comment noted. The Village's zoning includes consideration of conservation cluster subdivisions subject to Section 310-31 of the zoning code.

10. Letter from Moses Witriol dated March 22, 2010

10.a. Area limitations on Places of Worship will prevent the establishment of shuls, synagogues and community centers that are central to our religious culture

Response: Local Law #1 of 2010 has expanded the ability to construct places of worship in all zoning districts in the Village of Woodbury.

10.c. Non conforming uses restrictions appear directed toward eliminating the existing Hasidic residents, especially those residing in the vicinity of the former bungalow colony. Such provisions will either drive my family out of the Village or require we live in substandard conditions until we are inevitably forced out.

Response: It is not clear from the commenter's letter how the non-conforming use provisions are directed towards any specific group of residents. The Village has provisions for converting non conforming seasonal residences designed to protect the health and safety of occupants. The Village records include numerous instances of seasonal dwelling conversions consistent with the Village's law.

10.d. There is a greater need and likelihood for success for Work Force Housing in the vicinity of Kiryas Joel than where it is currently proposed.

Response: Workforce housing is needed throughout the County. Each community can provide appropriate affordable housing. Towards that end, the Village of Woodbury Comprehensive

Plan and implementing zoning provides for such housing in areas that also contribute to the plan's Smart Growth objectives including available utilities, services, jobs and transportation.

10.e. The comprehensive plan fails to even acknowledge the Hasidic residents of the Village or our needs by not providing for services, schools, places of worship, sidewalks, etc.

Response: The plan does not and cannot single out any particular group of residents. The Village's Comprehensive Plan is intended to address and balance the needs of all members of the community and to achieve sound planning practices. Places of worship are included in the zoning code throughout the Village. The draft zoning permits schools in all zoning districts (see use and bulk tables). The Plan, based on Smart Growth principles encouraged by the State and County, encourages higher density development in the hamlets and near the Harriman Train Station, Transit Oriented Development (TOD) area. These areas are serviced by utilities and transit. Smart Growth design principles include pedestrian amenities including sidewalks.

10.f. Steep slopes restrictions will eliminate a significant percentage of property from an ability to build, even if such slopes are not built upon and make property worthless without any provisions for compensation. Likewise, the ridge preservation area and view corridors will eliminate value from private property without compensating owners for a benefit they are providing to the public.

Response: Ridge preservation does not preclude development rather it is intended to mitigate visual impacts by encouraging development to blend into the natural landscape, be constructed of natural looking materials and limiting the amount of tree removal. A large, intrusive development, constructed out of the character of the area could negatively impact property values of existing homes which were constructed consistent with the Ridge Preservation regulations.

The Comprehensive plan objective of protecting steep slopes is intended to prevent environmental damage and contamination of water courses. However, it has been determined that the language of the zoning provisions of the steep slope law needs refinement and additional study and its inclusion in the Village's zoning will be postponed.

11. Letter from Martin Harfenes, of Woodbury Development, LLC, dated March 19, 2010

11.a. Owner of roughly 130 acres that surround the Harriman Train Station. Commenter is in favor of this area being developed as a Transit Village because of its ability to reduce traffic congestion, bring additional tax revenue to the Village and provide a location for higher density housing and recreation and entertainment uses.

Response: Comment noted.

12. Letter from Daniel A. Ruzow of Whiteman, Osterman & Hanna, LLP, dated March 22, 2010

12.a. While attached as an Appendix M to the comprehensive plan, it is unclear whether the FGEIS to be completed by Woodbury will include the Lead Agency's responses to these substantive comments previously submitted on the prior draft of the Comprehensive Plan and DGEIS. The Village should commit to respond to all of these comments in the FGEIS as most, if not all, remain relevant.

Response: This FGEIS is intended to respond to the comments on the Village's proposed plan and zoning amendments. The comments referred to related to a plan prepared by the Town.

12.b. SEQRA requires that the Lead Agency review the potential impacts from the entire "action." Here, the action proposed is both a recommended comprehensive plan and amendments to the zoning law, yet it appears that the DGEIS was prepared before the proposed local laws were even completed in a cognizable draft. Section 7 of the DGEIS, "Proposed Zoning," is incomprehensible and appears to be an incomplete statement of proposed zoning law amendments. Page 3.1 actually acknowledges that the zoning amendment proposals require "fleshing out" but were included in order to assess impact. How can you assess impact when the provisions of the local laws are not fleshed out?

Response: As we note herein, several originally proposed amendments do in fact require more analysis and have been postponed. Others reflect refinements of the zoning recommendations of Section 7 of the DGEIS. The substance of the recommendations is not changed by the detailed language provided in the draft zoning.

12.c. Deficiencies in the DGEIS are as follows:

(i) The DGEIS contains no list of underlying studies considered;

Response: The studies considered for the Comprehensive Plan and zoning are an Inventory and Analysis study included as Appendix B of the Comprehensive Plan, a Community Survey, TOD case study prepared by Regional Plan Association.

(ii) The DGEIS contains no meaningful evaluation of potential significant adverse impacts (rather it merely contains broad conclusions that there will be only positive impacts);

Response: The plan recognizes an existing pattern of development and does not create potential for significant expansion of either commercial or residential space. It is the Lead Agency's opinion that any expansion does not rise to the level of significant adverse impact.

(iii) The DGEIS contains no analysis of short/long/cumulative impacts. There is no analysis of the potential cumulative impacts of the entire zoning amendment, including the multiple layers of potential regulation placed on lands and landowners along the area bordering Kiryas Joel, affecting impacts on local property values and character. These multiple layers include the ridgeline protection zone, steep slope law, watershed protection law and open space and natural protection plan;

Response: The regulations proposed in the Comprehensive Plan and Zoning do not specifically regulate lands along the area bordering any specific location or zone. Rather regulations are meant to preserve specific sensitive environmental resources regardless of location. Some land located North of Schunnemunk Road bordering the Town of Blooming Grove was proposed to be rezoned from R-2A to R-3A. The Village no longer plans to rezone this land. Further, the Watershed regulations and steep slopes preservation law are no longer proposed to be adopted at this time due to the need for further study of the impacts related to these laws.

(iv) The DGEIS contains no analysis of growth inducing impacts;

Response: See Section 5C of the DGEIS. The plan itself, other than the proposed Transit Village, will not induce growth. Since the details of what will be constructed within the Transit Village are unknown at this time and any development will have to be constructed within the parameters of the available water and sewer service, potential development of the site will be subject to its own SEQR review.

(v) The DGEIS contains no meaningful discussion or analysis of mitigation measures or a range of reasonable alternatives to the action that are feasible. As noted above, the contrived high density alternative included in the DGEIS is clearly unrealistic. The Village put forth a single alternative as an all or nothing scenario, without any consideration whatsoever for existing environmental controls. The DGEIS fails to consider an obvious alternative that would provide limited higher density zoning in the vicinity of Kiryas Joel that could be accommodated in light of existing environmental controls;

Response: The only legitimate alternatives to the areas outside of the Route 32 corridor were lower density or higher density. The Village decided to evaluate an alternative that increased density from about .5 dwelling units per acre to 2 units per acre (an increase of four times).

(vi) As a generic EIS, the DGEIS fails to set forth the specific conditions and criteria under which future actions will be undertaken (other than a verbatim recitation of SEQRA requirements for Type I and unlisted actions);

Response: Future development proposals that comply with the Comprehensive Plan and implementing zoning will be subject to the provisions of SEQRA and will undergo individual project reviews as part of the site plan approval process. The SEQRA Findings Statement will set forth specific thresholds within which future site –specific proposals may require limited or no SEQR review.

(vii) The DGEIS prematurely contains broad statements of no significant impacts of zoning amendments even though acknowledging that specifics of the amendments or maps of areas where zoning amendments would be applied are not yet completed;

Response: The Village understands that the zoning amendments, including proposed zoning map changes, carry out the objectives and recommendations of the Comprehensive Plan impacts of which, were discussed and analyzed in the DGEIS.

(viii) The DGEIS fails to take a "hard look" at potential environmental impacts associated with the overly restrictive regulation of previously unregulated areas.

Response: See response to item 12.c (iii) above.

12.d. The DGEIS and zoning amendments completely disregard the existing patterns of population concentration, distribution of growth, existing community or neighborhood character with respect to its existing Hasidic residents and in neighboring Kiryas Joel. The DGEIS also disregards the rights and expectations of existing property owners when it promotes multiple layers of restrictions to land uses, especially on currently vacant large parcels bordering Kiryas Joel.

Response: it is the Village's opinion that the Plan and zoning reflect the existing pattern of development and reinforces the concept of Hamlet development. The belief that the Village of Woodbury must adopt a Comprehensive Plan or zoning to benefit any specific Village is unsupported

by New York State Law or proper planning principles. New York State has not required a “Mount Laurel” or similar doctrine requiring a municipality to accept a fair share of the region’s need for certain types of housing. Thus, the Village understands New York State Law under *Berenson v. Town of New Castle*, 38 N.Y.S.2d 102(1975) has been interpreted to not require a municipality to create new areas or find new land for such affordable housing. The Village’s existing population concentration is around the hamlet areas and the character of the Village is upheld by promoting development in and around the Hamlets while maintaining an appropriate character of the outer portions of the Village.

12.e. The affordable housing section of the DGEIS is a mere one page guesstimate of housing units that could be built with little regard and no real analysis or support for need. It completely disregards the need and inevitable demand for such housing options in the area bordering Kiryas Joel, due in large part to the existing services and other amenities already offered to the Hasidic community there and shared by residents of both villages. While a realistic demand for such housing exists in this area, it is not recognized at all in the Comprehensive Plan or the DGEIS. By comparison, there is no legitimate study or established need for such housing in the targeted locations identified in the Comprehensive Plan and DGEIS.

Response: A more thorough build out analysis was completed based on development which could potentially occur based on the Village’s proposed Work Force Housing provision and the proposed Transit Village (see Appendix C of this document). The locations proposed for higher density development are based on the availability of existing utilities, services and public transportation. A realistic assessment of the ability to further tax residents for more municipally paid improvements must also be considered. The numbers exceed the “affordable housing targets” for Woodbury in a study prepared by Orange County and incorporated into its 2003 Comprehensive Plan by a 2010 plan amendment.

12.f. The establishment of the ridgeline preservation area as a critical environmental area (CEA) was a fiction from an environmental impact perspective when established in early '90s and remains so today.

Response: The Village believes the ridge lines are important environmental assets which warrant preservation as a scenic and environmental resource. However, the preservation area does not preclude appropriate development it regulates the extent to which development is visible from scenic corridors. Further, language is proposed (see proposed zoning §310-13.B(6)) to remove the requirement for single family homes of less than 20 feet in height to prepare a visual assessment currently required by this chapter.

12.g. The Watershed Overlay District was not discussed in the Comprehensive Plan and appears first in the DGEIS without any discussion of how it was devised or any study describing the need for its use. It relies on a Watershed Map that is neither attached to the local law nor made public in any presentable format and for which no information on how it was prepared or why it was prepared is provided. Here, it is being utilized to further restrict uses in zones that are already overly restricted.

Response: See response to item 1.k. above.

12.h. The Open Space and Natural Resources Protection Plan is not analyzed in the DGEIS but recommended for adoption by the Comprehensive Plan. With over 40% of the Village already protected as open space (Harriman State Park and West Point), the expressed need for additional open space protection at the expense of affordable housing and other legitimate uses of private

property appears disingenuous and out of balance...If the Village intends to implement the Open Space Plan in any way, a supplemental DGEIS will be needed to evaluate the potential impacts from its use.

Response: The Open Space and Natural Resources Plan is reflected in and provides part of the basis for the recommendations of the Comprehensive Plan. It also discusses the techniques for achieving its objectives.

12.i. SEQRA requires more than careful consideration of the environmental impacts of a proposed project it "requires consideration of such alternatives to various aspects of the project as might result in amelioration of environmental problems caused thereby." *Rye Town/King Civic Ass'n*, 82 A.D.2d at 481. More specifically, SEQRA requires that the DGEIS contain a "description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor." 6 NYCRR 61.9(b)(5)(v). Here, the DGEIS contains a limited analysis of a mere two alternatives: (i) a no further action alternative that relies on existing federal, state and local regulation; and (ii) an apocalyptic scenario of a higher density alternative.

Response: The second alternative is not apocalyptic, but rather sets forth a pattern of suburban scaled development at a higher density than is proposed in the plan. The plan reflects what the Lead Agency believes is an environmentally responsible plan consistent with smart growth principles. A plan at four times the density, as laid out in the alternative scenario, is likely to have significant impacts.

12.j. As a result of recent efforts by Orange County, sewer capacity will be more readily available to Woodbury. The Comprehensive Plan and DGEIS contain no analysis of the ability of the Village to accommodate growth as a result of the removal of these development constraints that are identified as current and future impediments to higher density development. Indeed, these documents actually recommend that such services not be extended to areas of the Village not currently served. There is also no discussion of potential reduction of pressure on groundwater supply as a result of the Kiryas Joel pipeline or of the viability of expanding Woodbury's water supply via the pipeline. The confirmed availability of additional sewer and water would now make the County's Priority Growth Areas more feasible for development. The total disregard for these issues is an obvious shortcoming in the Comprehensive Plan and DGEIS. Instead of providing necessary services (which it is obligated to do), the Village is expressing a preference for not providing for the basic needs of its residents.

Response: The Comprehensive Plan's proposed pattern of development and accompanying proposed zoning including the recommended location of higher density residential development intended to provide diversity and affordability is based on various planning factors. These include access to transportation, community facilities, walkability, economics of providing services and utilities in an efficient manner. The cost of services including extending and maintaining utilities is a factor. Improvements to the capacity of sewer treatment may permit additional growth to occur, however much of any new sewer capacity will be utilized to service unserved properties within the existing sewer district. Recent development has been approved and/ or constructed utilizing septic systems with the understanding that they would be connected to the public sewer system once capacity becomes available.

This comment also once again raises the issue of consistency with the County's Priority Growth Area. The County Planning Department has commented favorably on the proposed Village Plan and associated zoning amendments.

Regional plans are guides intended to promote a sound land use pattern that serves the entire community and provide guides for infrastructure decisions. There are several higher density centers within the County's Priority Growth Area as well as open spaces that are proposed to be preserved or developed at lower density within the Village of Woodbury some of these open spaces fall within the Priority Growth Area.

12.k. The DGEIS identifies a number of zoning amendments it describes as new provisions that will contribute to the implementation of the recommended Comprehensive Plan. Among these new provisions, is one for the creation of a special use permit and expanded minimum lot area requirements for places of worship. However, there is not a single reference to a need or other basis for such restriction in either the Comprehensive Plan or the DGEIS. No other reference or rationale is provided in the local law itself. The DGEIS suggests a 5-acre minimum lot area in the R-2A and R-3A zoning districts, while the introductory local laws appear to set a 2 and 3-acre minimum respectively, with a 2-acre minimum in the R-1A and 1-acre minimum in the R-0.25A zone. Such suggestions and newly created restrictions are examples of exclusionary zoning and a violation of the free exercise of religion.

Response: The minimum lot size proposed reflects reductions from earlier drafts in order to satisfy expressed concerns. The minimum acreage is intended to provide sufficient space for a place of worship and various ancillary uses such as parking, landscaping and potentially a rectory, social hall or classrooms. This requirement will also permit structures to fit into the pattern and scale of the surrounding area.

12.l. Exclusionary zoning means land use control regulations which singly or in concert tend to exclude persons of low or moderate income from the zoning municipality. Exclusionary zoning occurs where the municipality has limited the permissible uses within a community to exclude certain groups. It is a form of socio-economic discrimination that the court of appeals abhors. *See Asian Americans for Equality v. Koch*, 72N.Y.2d 121 (1988). It includes the impact of laws taken in concert with other zoning regulations of the community. There is clear evidence of a pattern of exclusion by Woodbury, including the current action and the previous draft language used in the Comprehensive Plan. The mere change of language does not change the reality of the purpose and historical pattern. Here, the proposed zoning law and Comprehensive Plan are being used to effectuate religious discrimination, effectively excluding a protected religious class, Hasidic Jews. This is exemplified by the use of density controls and purported environmental controls in the area directly adjoining Kiryas Joel.

Response: This comment is the opinion of the author who is a paid advocate for a client. There is no evidence that the Village's plan or zoning amendments are exclusionary. Furthermore, there is no evidence that exercise of the Village's zoning powers effectuate socio-economic or racial discrimination. Courts have expressly held that even imposing a five-acre minimum lot size to preserve the rural character of a municipality and restrict growth is Constitutional. The language of the plan and its fundamental planning principles suggest that a broad range of uses and residential neighborhoods and housing types can exist within the Village consistent with the principles of smart growth.

Language referred to from a previous draft plan was never language of the Village of Woodbury. The referenced language was included in a different plan which was prepared by the Town of Woodbury by a different team of consultants with whom the Village of Woodbury has no ties.