

1 STATE OF NEW YORK : COUNTY OF ROCKLAND

2 TOWN OF STONY POINT : PLANNING BOARD

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IN THE MATTER

4 OF

EAGLE BAY

5 - - - - - X

Town of Stony Point

6 RHO Building

7 5 Clubhouse Lane

Stony Point, New York

September 27, 2018

8 7:00 p.m.

9 BEFORE:

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THOMAS GUBITOSA, CHAIRMAN

11 MICHAEL FERGUSON, BOARD MEMBER

ERIC JASLOW, BOARD MEMBER

12 PAUL JOACHIM, BOARD MEMBER

EUGENE KRAESE, BOARD MEMBER

13 JERRY ROGERS, BOARD MEMBER

14

15 APPEARANCES:

16 STEPHEN M. HONAN, ESQ., Special Counsel

MAX STACH, Town Planner

17 JOHN O'ROURKE, P.L.S., Town Engineer

WILLIAM SHEEHAN, Building Inspector

18 MARY PAGANO, Clerk to the Planning Board

AMY MELE, ESQ., Attorney for Applicant

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21 ROCKLAND & ORANGE REPORTING

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22 New City, New York 10956

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3 CHAIRMAN GUBITOSA: Can we please stand  
4 for the Pledge?

5 (Whereupon, the Pledge of Allegiance was  
6 recited.)

7 CHAIRMAN GUBITOSA: Thank you. Mary,  
8 could you take the roll?

9 THE CLERK: Mr. Jaslow?

10 BOARD MEMBER JASLOW: Here.

11 THE CLERK: Mr. Joachim?

12 BOARD MEMBER JOACHIM: Here.

13 THE CLERK: Mr. Ferguson?

14 BOARD MEMBER FERGUSON: Here.

15 THE CLERK: Mr. Rogers?

16 BOARD MEMBER ROGERS: Here.

17 THE CLERK: Mr. Kraese?

18 BOARD MEMBER KRAESE: Here.

19 THE CLERK: Chairman Gubitosa?

20 CHAIRMAN GUBITOSA: Here. All right, if  
21 you have a cell phone, just put it on silent.

22 All right, first application is the  
23 Eagle Bay. Tonight, we're going to just have  
24 a quick review with the draft scope.

25 Mr. Zigler, any comment?

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2 MR. ZIGLER: Hand it off to Amy.

3 MS. MELE: Good evening, everybody. My  
4 name is Amy Mele, 4 Laurel Road, New City,  
5 New York, here for the applicant tonight.  
6 I've reviewed the draft scope that was  
7 submitted by Mr. Stach earlier in the week.  
8 And as drafted currently, we do not have any  
9 issues with it. We agree to address all the  
10 issues that are raised in the scope, and  
11 we're in agreement with the alternatives that  
12 are presently listed in the scope.

13 I just had a brief conversation with Max  
14 before the meeting who told me that at the  
15 last workshop meeting, which unfortunately, I  
16 was unable to attend, there was some  
17 discussion about whether or not there should  
18 be a 175 unit alternative as well. And for  
19 the following reasons, I think that is  
20 unnecessary and, in fact, unreasonable.

21 The SEQRA regs require that the draft  
22 DIS describe and evaluate of range of  
23 reasonable alternatives to the action that  
24 are feasible considering the objectives and  
25 capabilities of the project sponsor. In this

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2 case, obviously the statute provides that we  
3 have a no build alternative, and so that's  
4 there. Although the statute doesn't provide  
5 that we have a maximum build out alternative,  
6 we're fine with that because we think it's a  
7 good measurement so that you have sort of the  
8 minimum and the maximum within the scope, and  
9 that you can measure the alternatives in  
10 between.

11 The 200 unit proposal, which I  
12 understand is primarily the proposal that was  
13 previously submitted by the prior applicant,  
14 we think that that that's a fair comparison  
15 point. And our current proposal, obviously  
16 which is our preferred proposal.

17 I don't think it's reasonable under  
18 these circumstances to require a review of  
19 175 units for the following reasons. Number  
20 one, from a feasibility perspective, it's  
21 simply not feasible. I just want to be  
22 honest. I don't want anybody in this room  
23 thinking that my client is willing to  
24 build 175 units.

25 It's just, they've done the math on

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2 what's going to work. 175 is not -- we'd be  
3 reviewing an alternative that would never --  
4 it would never, in my opinion, be built.  
5 It's not anything that would yield any  
6 reasonable profit.

7 And there are some references in the  
8 SEQRA regs also, too, whether or not, you  
9 know, profitability comes into play and  
10 reasonable alternatives. And it does. You  
11 know, somebody, you know, says well, I think  
12 we should build a skyscraper instead of a,  
13 you know, two-story building, that, you know,  
14 that comes into play.

15 Also, we're reviewing 200 units already.  
16 I mean, so what's the difference, really.  
17 You've got a difference of, you know, 35, 25  
18 units. So maybe it would be, like, a couple  
19 of, few units per building. I don't think  
20 the difference between analyzing 175 and 200  
21 is going to be so great.

22 Third, I know that the 175 number came  
23 as a suggestion by Scenic Hudson, that we  
24 have a lot of respect for, who I think we're  
25 trying to set up some meetings with to talk

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2 to them, see if we can address their  
3 concerns. But it was really just an  
4 arbitrary number that Scenic Hudson came up  
5 with.

6 So again, the draft scope as it is right  
7 now, we are fine with. But we do object to  
8 having to put in one other alternative to  
9 study, which we simply don't think is  
10 reasonable or is going to add anything to the  
11 situation.

12 CHAIRMAN GUBITOSA: Thank you, Ms. Mele.

13 MS. MELE: Sure.

14 CHAIRMAN GUBITOSA: Yeah, Max. Max is  
15 going to give a quick update.

16 MR. STACH: So as we discussed last time  
17 we were here, a draft scope was submitted and  
18 circulated to all interested agencies. We  
19 had a number of comments come back, written  
20 comments and extensive public record from the  
21 testimony at the public hearing. We had  
22 asked for the applicant to take a first stab  
23 at compiling those comments, and responding  
24 to those comments, and amending the scope,  
25 the draft scope as necessary to address the

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2 comments. That document was received  
3 approximately two, two to three weeks ago.

4 Since that time, my office has been  
5 combing through those comments line by line,  
6 trying to make sure that the essence of each  
7 comments was appropriately paraphrased, and  
8 no meaning was lost in the paraphrasing of  
9 those comments. Several additional comments  
10 were added based on that review. Same thing  
11 with the public hearing transcript, there  
12 were several comments that we received at the  
13 public hearing that weren't necessarily  
14 reflected in that first draft. Those were  
15 added.

16 Additionally, we felt that many of those  
17 comments require changes to the scope. So  
18 we've also redlined a copy of the scope as  
19 originally submitted. And those are the two  
20 documents that you have before you tonight,  
21 which you received earlier this week.

22 So the two documents show where we've  
23 added, based on the applicant's first draft,  
24 where we suggest adding additional comments,  
25 additional responses. And then we have the

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2 scope, and that's redlined as well. And  
3 that's redlined in response to where we  
4 believe that scope needs to be added to or  
5 expanded in order to appropriately include  
6 the comments received.

7 As noted by Ms. Mele, we did think that  
8 the most critical comments that we received  
9 were the request by multiple parties to  
10 include alternatives. We do suggest adding  
11 the 200 unit alternative. We also thought  
12 that the alternative that would include  
13 structured parking underneath buildings was  
14 also something that was very important to be  
15 considered.

16 And in several of the other chapters,  
17 there are sort of smaller alternatives.  
18 Things like alternative bulkheads, like  
19 living shorelines that were requested by DEC  
20 that don't necessarily need to be fully  
21 developed as an alternative and every impact  
22 assessed for those, but within that subject  
23 area. For example, when it comes to surface  
24 water and storm management, we need to look  
25 at those for flooding. We need to look at

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2 those living shorelines, different bulkheads,  
3 different coastal treatments in those  
4 sections in order to address the DEC, DOS  
5 comments.

6 So if you have any questions, I'm happy  
7 to answer them tonight based on what I've  
8 provided you. Otherwise, we feel that this  
9 is suitable as revised to release as a final  
10 scope so that the applicant can begin  
11 preparing the DEIS. Remember, the scope is  
12 just an outline of what you want to see  
13 assessed in the DEIS. The answers to these  
14 questions will be in the DEIS.

15 Once that document is received, myself,  
16 John, Bill, if you have a special traffic  
17 consultant, any other special consultants  
18 that you may hire, we'll go through that DEIS  
19 and assess it for completion whether or not  
20 it answers all these questions. Once that's  
21 done, it will be released to the public and  
22 agencies, and we'll have another round of  
23 public comment and questions.

24 CHAIRMAN GUBITOSA: All right. So Max,  
25 so Max, Max, basically all the comments that

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2 we had at the public hearings, all the  
3 emails, all the letters from the DEC and the  
4 County, Scenic Hudson, every question got put  
5 in here. And then any question, or maybe  
6 comments that people made that weren't so  
7 clear, you kind of added more things that may  
8 be going in a little more depth of what the  
9 issue was, maybe it was with the flood and  
10 the traffic, do that.

11 So basically, this is just the  
12 questions. This is what we're going to give  
13 to the applicant to say hey, this is  
14 everything that came before the public for,  
15 you know, we got from the public, the DEC,  
16 the County. This is all the concerns. These  
17 are the questions. Put it in there. Now,  
18 get back to him, and now it's up to them to  
19 go and answer them, and this is what we're  
20 going to review it later means.

21 MR. STACH: That is correct. This is,  
22 this is the list of questions that the DEIS  
23 must address.

24 CHAIRMAN GUBITOSA: Right. And in the  
25 DEIS, that's where all the questions --

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2 MR. STACH: Those are where the  
3 applicant's answers are going to be.

4 CHAIRMAN GUBITOSA: That's where he's  
5 got to address, he's got to address all the  
6 concerns that's in the scope.

7 MR. STACH: That's correct. He must  
8 provide the analysis -- the analyses, sorry,  
9 that are required by the scope, and the  
10 answers to all the questions, provide the  
11 details that are necessary to answer all of  
12 this Board's questions, and all the agencies'  
13 questions. Once that's done, again, there  
14 will be another round of agency and public  
15 comment. And then this Planning Board will  
16 have to prepare a response to those  
17 questions. And that document will be your  
18 document to prepare. The applicant will  
19 probably do the first draft of it, maybe a  
20 second draft of it, but that has to reflect  
21 your answers, so. As sort of the process,  
22 we're still at the very beginning of this  
23 process.

24 CHAIRMAN GUBITOSA: Right.

25 MR. STACH: This is just a list of

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2 questions that the DEIS has to answer.

3 CHAIRMAN GUBITOSA: All right.

4 BOARD MEMBER ROGERS: Just on a point,  
5 Max, with the applicant, as and when they do  
6 go through each comment, would the  
7 analysis -- in other words, I guess what I'm  
8 getting at, we don't want -- at least I  
9 wouldn't want to see all this coming back in  
10 one fell swoop, where we have to go through  
11 every single thing as they complete, let's  
12 say, the analysis of the sewer. Would we be  
13 able to get that in advance?

14 MR. STACH: Typically, no.

15 MR. SHEEHAN: No, it's going to --

16 MR. STACH: Typically, you will get a  
17 DEIS prepared by the applicant, and you will  
18 have 45 days to review that DEIS and say  
19 whether or not it meets the requirements of  
20 the scope and is adequate for public  
21 dissemination. So, and that's a good point,  
22 in the meantime, as the applicant is  
23 preparing this document, it makes sense for  
24 you guys to get a traffic engineer retained.  
25 You're going to need a traffic engineer. And

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2 go through this scope and understand if there  
3 are any other specialties that are not  
4 currently met by John, myself, Bill, and the  
5 other town staff here.

6 BOARD MEMBER ROGERS: Thanks.

7 BOARD MEMBER KRAESE: So my question  
8 would be after we get this final response  
9 from the applicant and it's looked over by  
10 you, John, and the Building Inspector, then  
11 we will also look it over and probably would  
12 want to make some comments or be satisfied  
13 with the answers, even though we're not the  
14 professionals that you gentlemen are. But  
15 we're the ones that have to make a decision,  
16 so, but we have to be satisfied.

17 MR. STACH: So there's two stages to  
18 that review. The first is a completeness  
19 review.

20 BOARD MEMBER KRAESE: Right.

21 MR. STACH: That's where you look if  
22 they provided the analyses. Not the  
23 conclusions of the analyses, but whether or  
24 not, for example, the traffic study that they  
25 submit meets the requirements of the scope

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2 and is in conformance with the standards, the  
3 best standards that apply for doing traffic  
4 studies. Once that's done, you accept it as  
5 complete. Then it goes through a process of  
6 going up to the County again, going to DOS,  
7 DEC. The public will have an opportunity to  
8 review it, as well as your own consultant,  
9 your own traffic consultant will have an  
10 opportunity to review it substantively.

11 And that's when you actually make a  
12 distinction between whether or not the  
13 applicant has provided the level of service  
14 for a certain intersection as calculated  
15 correctly; two, whether or not that's a  
16 significant impact, and whether or not it  
17 deserves a mitigation. That's a substantive  
18 comment that the engineer may have.

19 And there may be some differences  
20 between what the applicant thinks and the  
21 Town thinks. Ultimately, it's up for you  
22 guys, then, to prepare your responses in an  
23 FEIS, that's the final EIS. And that's where  
24 you guys say what your, what the answers are  
25 to the questions that came up on that

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2 complete document.

3 BOARD MEMBER KRAESE: The applicant's  
4 going to do a traffic study.

5 MR. STACH: Yes.

6 BOARD MEMBER KRAESE: And we're going to  
7 do a traffic study.

8 MR. STACH: No. The applicant's going  
9 to do a traffic study and you're going to  
10 review it. You're going to have your traffic  
11 engineer do a peer review on that. Two  
12 levels again. One, that it was done  
13 correctly. And second, based on that traffic  
14 study, whether they agree with the  
15 conclusions and proposed mitigations.

16 BOARD MEMBER KRAESE: Whether our  
17 traffic consultant agrees with the traffic  
18 study, and then he comes back to us to see if  
19 we agree.

20 MR. STACH: You can have comments on  
21 that traffic study as well, absolutely.

22 BOARD MEMBER KRAESE: Okay.

23 CHAIRMAN GUBITOSA: And Max, this is  
24 like Amy was saying, this is also taking into  
25 consideration the alternative, the 200 units.

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2 MR. STACH: That is correct. So in  
3 terms of alternatives, there are certain  
4 global alternatives that they have to write,  
5 an assessment of every chapter. So if  
6 there's a wetlands chapter, there's a storm  
7 water chapter, there's a flooding chapter.  
8 Every one of those sections has to include  
9 each alternative, or global alternative.  
10 Those alternatives are the maximum density  
11 permitted by zoning; the current proposal for  
12 268 units; a 200 unit proposal; a proposal  
13 that includes more significant use of  
14 underground parking to reduce of amount of  
15 surface parking; and the no build, what  
16 happens if you don't build it at all. Those  
17 are the five global alternatives that need to  
18 be assessed.

19 CHAIRMAN GUBITOSA: All right. John,  
20 any comment? Bill, any comment?

21 MR. SHEEHAN: No.

22 CHAIRMAN GUBITOSA: Steve?

23 MR. HONAN: No.

24 CHAIRMAN GUBITOSA: No. And like you  
25 said before, this is, like you had said to

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2 me, this is just the first step. This is the  
3 first step. And then once we go through the  
4 scope and once they come back with a plan,  
5 then that's a whole new process. Or is it,  
6 it's still the same?

7 MR. STACH: No. This is a process that  
8 includes the plan.

9 CHAIRMAN GUBITOSA: Right. This will be  
10 the plan. But they're going to have to, when  
11 they come back with the plan, then there's  
12 going to be public hearings when we do that.

13 MR. STACH: That is correct.

14 CHAIRMAN GUBITOSA: Right, so there's  
15 going to be more comments then.

16 MR. STACH: The hearing on the DEIS will  
17 be at the same time as the hearing on the  
18 plan that they want to pursue.

19 CHAIRMAN GUBITOSA: Right.

20 MR. STACH: If the plan changes as a  
21 result of this environmental review process,  
22 they may have to come back and do another  
23 hearing later on. But what their proposed  
24 plan is at this time, if it survives the  
25 process of the DEIS preparation, because they

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2 may propose some minor changes to their plan  
3 as they're going through and they're  
4 discovering maybe there's an impact here or  
5 an impact there, but if they change this or  
6 change that, the impact goes away. It's  
7 allowed that there's a sort of evolution of  
8 the project when the DEIS is prepared. They  
9 will say when they deliver that that this is  
10 the preferred alternative. Right now, that's  
11 268 units. If they change it before it comes  
12 back to us in a minimal way, that's not  
13 uncommon.

14 CHAIRMAN GUBITOSA: All right. What I  
15 just wanted to make sure was, like, later on  
16 down the line when we get to the DEIS, the  
17 public has chances to make comments.

18 MR. STACH: Yeah, that's the most  
19 important public comment that we're going to  
20 receive is, that's the input on the plan  
21 itself and the environmental impacts it will  
22 have. This is just input so far. This is  
23 just input on what should be studied.

24 CHAIRMAN GUBITOSA: I got you. Does the  
25 Board have any other questions? If

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2 everyone's okay with the, you know, what we  
3 went through with the draft and Max's  
4 additions, maybe I can ask for a motion to,  
5 what, to approve the draft so that -- to  
6 accept the draft so that we can have --

7 BOARD MEMBER JOACHIM: I make a motion  
8 to accept the draft.

9 CHAIRMAN GUBITOSA: With Max's  
10 additions.

11 BOARD MEMBER JOACHIM: With Max's  
12 additions.

13 BOARD MEMBER ROGERS: I'll second that.

14 CHAIRMAN GUBITOSA: Second. Any  
15 discussion? All right. Mary, just poll the  
16 Board.

17 THE CLERK: Mr. Jaslow?

18 BOARD MEMBER JASLOW: Yes.

19 THE CLERK: Mr. Joachim?

20 BOARD MEMBER JOACHIM: Yes.

21 THE CLERK: Mr. Ferguson?

22 BOARD MEMBER FERGUSON: Yes.

23 THE CLERK: Mr. Rogers?

24 BOARD MEMBER ROGERS: Yes.

25 THE CLERK: Mr. Kraese?

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2 BOARD MEMBER KRAESE: Yes.

3 THE CLERK: Chairman Gubitosa?

4 CHAIRMAN GUBITOSA: Yes. All right. So  
5 I guess you have a lot of work to get done.6 MR. SHEEHAN: Can I ask, do you have any  
7 idea when we're going to see the DEIS? Only  
8 because we have to line up some people on our  
9 end.

10 MR. ZIGLER: January.

11 MR. SHEEHAN: January?

12 MR. ZIGLER: Yeah.

13 MR. SHEEHAN: Okay.

14 MR. ZIGLER: We only have one more  
15 meeting, so.16 MR. SHEEHAN: No, that's why maybe at  
17 the next meeting we need to talk about the  
18 traffic consultants and things like that.19 MS. MELE: Given that we had a draft  
20 scope previously, you know, we've been  
21 able --22 MR. SHEEHAN: I know you've been working  
23 on it.24 MS. MELE: -- to do some studies done.  
25 So we're a little bit ahead of the game than

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2 we would be had we --

3 MR. SHEEHAN: Yeah, that's why I'm  
4 asking because I figured you were.

5 MS. MELE: Yeah.

6 MR. SHEEHAN: And I want to make sure we  
7 get our people in line before --

8 CHAIRMAN GUBITOSA: Should we do -- you  
9 think we should do the traffic consulting  
10 tonight or wait until --

11 MR. SHEEHAN: I think we have time  
12 because -- yeah, we also -- do you know who  
13 you're using?

14 MR. ZIGLER: Maser, Phil Greer.

15 MR. SHEEHAN: We don't want to call the  
16 same people.

17 MR. ZIGLER: It would make it easier.

18 CHAIRMAN GUBITOSA: All right, good.  
19 All right, thank you, guys.

20 MR. SHEEHAN: The only, the only one  
21 thing we have to talk about the traffic  
22 consultant is, is it going to go through your  
23 office or?

24 MR. STACH: It's up to the Town Board.  
25 I would --

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2 MR. SHEEHAN: Well, because if it's  
3 somebody we used already, we don't need the  
4 Town Board. But if it's going to be somebody  
5 new, we need the Town Board.

6 MR. STACH: You've never used our  
7 associated traffic engineers, so.

8 MR. SHEEHAN: Well, if it's through your  
9 office, we don't have to.

10 MR. STACH: Okay.

11 MR. SHEEHAN: But we'll talk about it.

12 MR. STACH: Okay.

13 THE CLERK: So will they be back in  
14 October?

15 MR. SHEEHAN: They probably won't be  
16 back, no.

17 THE CLERK: Will you be back in October?

18 MR. ZIGLER: No, January.

19 THE CLERK: Oh, so you're not coming  
20 back until January.

21 MR. SHEEHAN: No, but we're going to  
22 have to have a meeting in October to discuss  
23 the traffic.

24 BOARD MEMBER KRAESE: I just want to say  
25 one thing. I just, when we first had these

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2 comments last time at the public hearing, and  
3 we had all these people come and make their  
4 statements and had their questions, which  
5 resulted into a packet this big that they're  
6 going to have to answer, this shows you that  
7 the process can work. And it's a good thing.  
8 Without some of these questions that you  
9 asked as residents of this town, excuse me,  
10 we may not have picked it up. So thank you  
11 all who participated in that. It makes it  
12 easy that we get out front in the beginning  
13 rather than chase it at the back end. Thank  
14 you.

15 CHAIRMAN GUBITOSA: Thank you, Gene.

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THE FOREGOING IS CERTIFIED to be a true  
and correct transcription of the original  
stenographic minutes to the best of my ability.

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Jennifer L. Johnson