

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, April 18, 2012, at 8:00 p.m. in the Council Room of City Hall.

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Approval of the election of the Chiefs of the Rye Fire Department.
5. Draft unapproved minutes of the regular meeting of the City Council held April 4, 2012.
6. Mayor's Management Report
  - Update on the City of Rye 2011 Result of Operations
  - Legal Update
7. Presentation on a Zoning Amendment Petition for 120 Old Post Road to include zoning for Hotels.
8. Discussion of proposal to amend Chapter 187, "Trees" of the City Code regarding the legislation of trees.
9. Discussion of proposed Memorandum of Understanding between the City of Rye and Lester's of Rye, LLC for the right of first refusal for the purchase of the property located at 1037 Boston Post Road.
10. Consideration to set a Public Hearing for May 9, 2012 to discuss potential capital projects to be included in a November, 2012 Bond Referendum.
11. Residents may be heard on matters for Council consideration that do not appear on the agenda.
12. One appointment to the Board of Assessment Review for a five-year term expiring on September 30, 2017, by the Mayor with Council approval.
13. Miscellaneous communications and reports.
14. Old Business.
15. New Business.

16. Adjournment.

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, May 9, 2012 at the **Square House** at 8:00 p.m. A joint meeting of the City Council of the City of Rye and the Rye City School District Board of Education will be held on Saturday, April 21, 2012 at 9:00 a.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

\* Office Hours of the Mayor by appointment by emailing [dfrench@ryeny.gov](mailto:dfrench@ryeny.gov).



# CITY COUNCIL AGENDA

NO. 4

DEPT.: Fire Department

DATE: April 18, 2012

CONTACT: Chief George Hogben

**AGENDA ITEM:** Approval of the election of the Chiefs of the Rye Fire Department.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** Approve the election of Michael Taylor as Chief of the Department, Peter Cotter as 1<sup>st</sup> Assistant Chief, and Michael Billington as 2<sup>nd</sup> Assistant Chief.

**IMPACT:**  Environmental  Fiscal  Neighborhood x Other:

**BACKGROUND:** At the April 2012 Rye Fire Department Annual Meeting the following Chiefs were elected: Michael Taylor was elected Chief, Peter Cotter 1<sup>st</sup> Assistant Chief, and Michael Billington 2<sup>nd</sup> Assistant Chief, subject to the approval of the City Council in accordance with Article 13, Section 2 of the Rye City Charter.



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Clerk

DATE: April 18, 2012

CONTACT: Dawn F. Nodarse

**AGENDA ITEM** Draft unapproved minutes of the Regular Meeting of the City Council held April 4, 2012, as attached.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Approve the minutes of the Regular Meeting of the City Council held April 4, 2012, as attached.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on April 4, 2012 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
LAURA BRETT  
RICHARD FILIPPI  
PETER JOVANOVIH (left the meeting at 10:55 p.m.)  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The Council convened at 7:32 p.m. Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried to immediately adjourn into executive session to discuss real estate matters related to the sale of 1037 Boston Post Road. Councilman Sack arrived at 8:00 p.m. Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried to adjourn the executive session at 8:30 p.m. The regular session began at 8:35 p.m.

1. Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor French asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. General Announcements

- The League of Women's Voters will host a discussion on unfunded state mandates on April 26<sup>th</sup> at 7:30 p.m. at the Rye Middle School.
- The Sustainability Committee received the EPA's 2012 Environmental Quality Award for their work on the reusable bag campaign.

4. Draft unapproved minutes of the regular meeting of the City Council held March 28, 2012

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried to adopt the minutes of the regular meeting of the City Council held on March 28, 2012, as amended.

5. Mayor's Management Report  
• Legal Update

Corporation Counsel Wilson reported on the following item:

- *Shew v. City of Rye* – This suit claimed defamation and breach of contract. The City won in the lower court and an appeal was filed with the Appellate Division, Second Department. A settlement has been negotiated. Mayor French will provide a letter of recommendation for Mr. Shew based on his experiences with him when the Mayor was Chairman of the Recreation Commission. A Stipulation of Discontinuance with Prejudice will be filed withdrawing the appeal. Ms. Wilson has been asked to sign on behalf of the City.

Councilwoman Keith made a motion, seconded by Councilman Filippi to adopt the following Resolution:

**RESOLVED**, that Corporation Counsel Kristen Wilson is authorized to execute a Stipulation of Discontinuance with Prejudice in connection with the matter *Shew v. City of Rye*.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote

6. Presentation by the Government Policy & Research Committee on Prevailing Wage Standards

Andrew Curtin, representing the Government Policy & Research Committee, said that a Prevailing Wage Statute has been adopted by 38 states and the federal government and dates back to the 1930's. It mandates the payment of prevailing wage, which essentially means union wages in a particular location, in connection with Public Works or Public Construction Projects and requires the contractor to provide a certified payroll detailing hours and wages paid to laborers, workmen and mechanics. Classifications determine the wages and supplementary payments that municipalities are required to pay to workers and the workers must be properly classified in the documents provided by the contractor. Wages are determined by the trade in the location where the work is to be performed. Public Works projects are defined as projects that are intended to serve the public interest such as public buildings, roads, bridges, water or sewer

works. The Department of Labor determines the rate by looking at collective bargaining agreements within an area and rates are available on the Department's website. An Independent Impact Assessment was conducted in 2008 for the New York State Economic Development Counsel that assessed the cost of construction in New York State by comparing the market wage with the prevailing wage. Key findings indicate that prevailing wage rates are higher than market rates in the "downstate area" of New York which translate to higher construction costs by about 76%. City Manager Pickup said that the threshold for construction costs that require prevailing wage is currently \$50,000 for downstate projects. He also said that he has not been able to find any proof that the requirement to pay prevailing wage produces a better project. Mayor French said that the Mayors in New York State urged mandate relief in connection with the tax cap legislation and one of the points raised was to raise the threshold of a project that would require prevailing wage.

7. Public Hearing to amend Local Law Chapter 90 "Fences and Walls" to further define the "Front Division Line" on corner lots

Corporation Counsel Wilson summarized the proposed law as a change to a definition in Chapter 90 that effects three or four properties and allows for taller fences on corner properties that essentially have two front yards.

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried, to open the public hearing.

Leo Napier, Esq. of the firm Friedman Harfenist Kraut & Perlstein spoke on behalf of Neil and Elizabeth Townsend, the proponents of the proposed legislation, and said that the request is due to the unique layout of a few corner properties along the Boston Post Road that front on a side street and have a side yard along the Boston Post Road.

Additionally, an email from Timothy Chittenden was provided to the Council at their places on the dais that suggested the new law should be extended to apply to all residents in Rye who have corner lots and wish to put up a six foot fence and not just to a limited section along the Boston Post Road.

Councilman Sack said he believed the proposed legislation to be an example of spot zoning.

Councilman Jovanovich made a motion seconded by Councilman Filippi and unanimously carried, to close the public hearing.

Councilwoman Keith made a motion seconded by Councilman Jovanovich, to adopt the following local law:

**CITY OF RYE  
LOCAL LAW NO. 3 OF 2012**

**A Local Law to amend Chapter 90 “Fences and Walls” to the City Code of the City of Rye  
to further define “Front Division Line”**

**Be it enacted by the Rye City Council as follows:**

**Section 1. Chapter 90 Fences and Walls**

**§ 90-2. Definitions.**

When used in this chapter, the following words shall have the meaning stated here. Words used in this chapter which are not defined here shall have the meaning defined by Chapter 197. Words not defined by this chapter or by Chapter 197 shall have the meaning established by common usage.

**DIVISION LINE, FRONT**

In the case of a lot abutting upon only one street, the property boundary line separating the lot from the street; in the case of a lot abutting more than one street, other than a corner lot, any such property boundary for the area which has been previously designated by the lot owner, pursuant to Chapter 197, as being the front yard or which has been irrevocably designated by the lot owner, pursuant to this chapter, as being the front division line. Each lot may have only one front division line unless it is a corner lot, as defined by Chapter 197 (§ 197-1), which would have two front division lines. For the purposes of Chapter 90 only and notwithstanding the foregoing, in the case of a corner lot on Boston Post Road between the northern end of Old Post Road and Osborn Road where an existing residence does not front on Boston Post Road, such property shall be deemed to have only one front division line, that being the property boundary line separating the lot from the street upon which the residence faces.

**Section 2.** This local law will take effect immediately upon filing in the Office of the Secretary of State.

**ROLL CALL:**

**AYES:** Mayor French, Councilmembers Brett, Filippi, Jovanovich, Keith,  
and Parker  
**NAYS:** Councilman Sack  
**ABSENT:** None

The local law was adopted by a 6-1 vote

8. Consideration to set a Public Hearing for April 18, 2012 to amend Chapter 187, “Trees” of the City Code regarding the legislation of trees

City Planner Christian Miller summarized a new draft of the proposed Tree law that he prepared as a result of discussions held at the March 14<sup>th</sup> meeting. Included in the draft law:

- Removal of all trees over 8” DBH will require a permit.
- The permitting process will be administered with existing resources.
- City properties will be subject to the same tree removal permit process as privately owned properties.
- There is a new list of prohibited trees in the City.
- There are new provisions regarding the City and utility providers regarding maintaining trees.
- The fines for violating the ordinance have been increased from \$250 to \$500.
- The purposes section of the law was expanded.

The use of a discretionary review board was not included. Instead, the Board of Architectural review is designated to become involved in the review of tree removal when there is a proposal to remove four or more trees at one time. This change will impact the processing and time of the applications and there is concern about the ability of staff to administer the new process. Mr. Miller suggested that the Council consider amending the requirement for review of an application for removal of four or more trees to take property size into consideration. The idea of mandated mitigation was not included in the new draft due to the challenges to the staff to administer it. The criteria standards for determining when a tree can be removed were not changed from the existing law.

There was a discussion about the issue of mitigation. A suggestion was made about the value of including a requirement due to the value of trees in flood mitigation. It was noted that although trees impact flood mitigation, the storm water retention requirements for properties may mitigate more flooding than trees. Mr. Miller said that he would rather wait to impose this regulation, which can be revisited by the Council at a later date. He said that the enforcement section of the law that deals with replacement trees was modified to specify the size of trees and to include contributions to a tree fund.

Members of the Council offered suggested changes to the draft law that included:

- Add dead trees as a basis for removal of a tree in addition to diseased or dying.
- Add a provision for removal of a tree if it could cause danger.
- Add a provision allowing for removal of a tree in an emergency event not related to a storm.
- Change the provision about the number of trees that can be removed from a property and base it on lot size.
- Include invasive insect infestation in a tree as a basis for removal.
- Review what other municipalities are doing regarding mitigation.
- If a change is made regarding lot size, go back to the three trees or more requirement for BAR review.

Carolyn Cunningham, a representative of the EAGR Group, urged the Council not to take the mitigation requirements out of the law; bring the number of trees that would require approval

by the Board of Architectural Review before a removal permit is granted back to three; and, apply the requirement for City properties to follow the law to all properties except for right-of-ways.

Pat McCarthy said that he objects to the requirement that a permit be obtained for removal of any tree greater than 8" in diameter because is it a breach of private property rights and urged the Council to not even consider holding a public hearing.

Sis D'Angelo asked the Council to stop people from disposing of chipped trees in Blind Brook.

A revised draft will be prepared and sent back to the Council for review before a public hearing will be set.

9. Discussion of proposed changes to amend local law Chapter 180, "Taxicabs", Section 14, Payment of Fares, of the Code of the City of Rye to increase taxi fares

City Manager Pickup said that a letter was received from a taxi company requesting a fare increase. There has not been an increase in taxi fares since 2002. A proposal for increases of \$3.00 based on the three zones in the City is before the Council for discussion. It was suggested that although there should be an increase, the amount of the increase is the question. There has also been a request to limit the number of taxi companies that can operate in the City to six. The City Clerk explained that there are six stalls at the train station designated for taxi use and the current six companies rotate use of these stalls during the year as a result of a lottery held in December each year. She also explained that she has met with representatives of the six taxi companies and they indicated they are not opposed to giving a \$1.00 discount off any increased rates to seniors who utilize a voucher system that currently subsidizes taxi fares by \$4.00. Some members of the Council raised concerns about the amount of the increase, especially to the Milton Point zone that recently lost access to a bus route.

Frank Kabadebo of Purchase Street Taxi said he can understand that \$3.00 sounds like a large increase but fares have not been increased in ten years. He added that the average taxi driver in Nassau, Rockland and Putnam counties earns \$29,000 per year. He said there are only 35 drivers in the City of Rye and the Council must decide what amount of increase they believe is fair. He added that many communities have a \$5 minimum and some have meters with a minimum, plus additional charges which add up to more than \$5. He said the request was made to limit the number of companies to six because it corresponds to the number of stalls at the train station.

The item will be brought back for further discussion in May.

10. Discussion of parking permit procedures in the City lots located at the Rye Arts Center and Highland Hall

City Manager Pickup said that the purpose of this discussion was to inform the Council about issues that both lots share because the City tries to accommodate the parking needs of

residents in apartment buildings nearby. An issue has arisen in connection with the Rye Arts Center parking lot because the option for residents of Blind Brook Lodge to park at the Methodist Church will end in June. An increase in requests for All Day/All Night parking permits for the winter months is anticipated. Information has been provided about the current permit fees and the number of permits sold in these lots so the Council can look at making adjustments with the changing needs. The Highland/Cedar lot is impacted by commuter needs and the Rye Art Center lot is impacted by their programming needs. As the allotted number of All Day/All Night permits are sold, residents become upset that there are no other parking alternatives that the City can offer them. Mr. Pickup has met with the Board of Blind Brook Lodge and they will be working on proposals to expand parking on their property, but that is not expected to happen by the upcoming winter parking season. Councilwoman Parker suggested using the lot behind the tennis courts at Rye Rec for the residents of Blind Brook Lodge but Mr. Pickup said that this has been suggested as a possibility for the winter months but did not receive a positive reaction from the Blind Brook Lodge Board. He said the major parking problem in the Arts Center lot is when there are residents parking there and both the Arts Center and Recreation Department have programs going on. Staff is working on proposals which will be brought back to the Council.

11. Discussion of the position of City Engineer and Public Works Superintendent and the upgrade of an existing staff position to Assistant Civil Engineer

City Manager Pickup said additional information has been provided to the Council regarding this agenda item. An issue that must be addressed is the impact on specific programs the Engineer is responsible for such as maintenance of the eight pump stations; mandated stormwater management permitting requirements; and maintenance of all City buildings and the liability issues for the City if they are not maintained by a Professional Engineer. The City does hire consultants to work with the City to manage major projects, but routine projects are designed and managed by the City Engineer. The Engineer also works with the Planning Commission in connection with drainage issues. The discussion of the position of City Engineer was begun with the work of the Recession Task Force in 2009-10. Potential positions were identified for reduction and the position of Engineer was one identified. A decision was made to retain a staff position and a consultant position to see if it could meet the City's needs. It is becoming apparent that due to the complexity of the environment and as regulatory requirements imposed on the City increase, a full-time on-staff Engineer is required.

In discussing the proposal the members of the Councilmembers said that:

- Sometimes it is important to invest in infrastructure; authorizing the position could save money in the long term.
- The Council cut too deep when the Engineer position was eliminated and now must reevaluate that decision and fill an essential position.
- Sometimes it is good to use consultants, but the City is an operating system and an Engineer is necessary.
- It is important to have someone to supervise the Department of Public Works.

There was also a discussion of where the money to pay for the position was coming from. City Manager Pickup said that there was only \$50,000 appropriated in the Operating General Fund Budget for the consultant position. \$25,000 of that appropriation will be applied to this position. Additionally, there is a request to transfer \$70,000 from the Contingent Account and an additional \$35,000 will be taken from a Building and Vehicle project that was under spent as determined by the City's auditors.

The discussion of the position of Assistant Civil Engineer was deferred.

12. Resolution to transfer funds from the Contingency account and the Building and Vehicles Fund, to fund the position of City Engineer/Public Works Superintendent and Assistant Civil Engineer  
Roll Call.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith, to adopt the following Resolution:

**WHEREAS**, City staff has determined that the amount required for the position of City Engineer/Public Works Superintendent requires a change in the adopted 2012 budget by \$105,000, and,

**WHEREAS**, the General Fund Contingent Account has a balance of \$300,000, now therefore be it

**RESOLVED**, that the city Comptroller is authorized to transfer \$70,000 from the General Fund Contingent Account to the Engineering Department, and

**WHEREAS**, \$35,000 of the \$602,000 transferred from the General Fund to the Building and Vehicle Fund for 2009 DPW Vehicle & Equipment Projects has not been spent due to vehicles and equipment costing less than budgeted,

**RESOLVED**, that the City Comptroller is authorized to transfer \$35,000 from the Building & Vehicle Fund to the General Fund Engineering Department.

**ROLL CALL:**

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Keith,  
Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote

13. Consideration to amend local law Chapter 31, "Police Pension Fund", Section 9, Accrual and Payment of Pensions, to increase the payment amount for the sole recipient of the fund

City Manager Pickup said that based on conversations with Councilwoman Parker, additional work must be done on this item and it will be deferred to the April 18<sup>th</sup> meeting.

14. Adoption of the 2012 County property tax rates

Councilwoman Keith made a motion, seconded by Councilman Filippi, to adopt the following Resolution:

**RESOLVED**, that the tax rates for the amounts of Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District charges for the fiscal year beginning January 1, 2012, shall be as follows:

<u>Westchester County</u>	
Levy	\$22,292,710
Taxable Assessed Value	137,504,707
Taxable Rate per \$1,000 Assessed Value	162.123
<u>Blind Brook Sewer District</u>	
Levy	\$3,139,266
Taxable Assessed Value	140,639,672
Taxable Rate per \$1,000 Assessed Value	22.321
<u>Mamaroneck Valley Sewer District</u>	
Levy	\$548,756
Taxable Assessed Value	19,076,781
Taxable Rate per \$1,000 Assessed Value	28.766
<u>Refuse Disposal District No. 1</u>	
Levy	\$2,217,086
Taxable Assessed Value	140,114,853
Taxable Rate per \$1,000 Assessed Value	15.823

And be it further

**RESOLVED**, that the Council does hereby certify to the City Comptroller the above stated levies and tax rates for Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District No. 1 charges, and the City Comptroller is hereby directed to apportion and extend against each taxable property listed upon the assessment roll of the City of Rye for 2012 at the rates specified, the amount of taxes required to produce the total sums certified and to render tax notices for, and receive and collect, the several sums computed and determined, and, it is further

**RESOLVED**, that the tax warrant of Westchester County be signed by the Mayor and directed to the City Comptroller to collect the amount of said taxes with interest as provided by law and any special assessment heretofore authorized and approved.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Keith,  
Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote

15. Authorization for the City Manager to enter into an agreement with FPM Group, Ltd. to perform hydrology and environmental engineering services regarding the impact on flood storage analysis at the Project Home Run site  
Roll Call.

City Manager Pickup said this relates to the ongoing administrative proceedings relating to Harrison's Project Home Run development proposal. The City would like the engineering firm FPM Group, Ltd. to look at potential mitigation analysis that could be suggested to Harrison in order to assist with flood storage, flood retention and other mitigation options for the Beaver Swamp Brook area. The City is not anticipating engaging the services of Laura Tessier at this time because the issues are more hydrology related and Ms. Tessier is a wetlands specialist.

Councilwoman Keith made a motion, seconded by Councilman Filippi, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to enter into an agreement with FPM Group, Ltd. to perform hydrology and environmental engineering services regarding the impact on flood storage analysis at the Project Home Run site and mitigation.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Keith  
and Parker  
NAYS: Councilman Sack  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 5-1 vote

16. Residents may be heard on matters for Council consideration that do not appear on the agenda

*Ray Tartaglione, 600 Anderson Hill Road, Purchase*, spoke against the settlement of the *Shew v. City of Rye* lawsuit and read a prepared statement about the powers and duties of the Board of Ethics meeting. He said that when the Board delivers its advice to the Council, the Council needs to make a determination based on the Board's advice. He said that scenario was not followed in connection with the recent charges brought before the Board of Ethics regarding the Mayor's property at 13 Richard Place. Mr. Tartaglione asked what would be done to rectify this. Mayor French said he has made statements to the public regarding the matter and would not comment further.

*Jim Amico, 350 Midland Avenue*, asked for an update on the installation of a stop sign at Midland Avenue and Palisade Road. City Manager Pickup said that field work and mark outs have been done in the area and that representatives of the County will come out and review them. Based on indications they have given, the City will then be in a position to go forward with the test. An application for a permit is still pending before the County Department of Public Works. Councilwoman Parker said Mr. Amico had advised her that the solar speeding indicator on Midland Avenue is not working properly. City Manager Pickup said that the Engineering Department is looking into it.

17. Miscellaneous Communications and Reports

City Manager Pickup reported that the Engineer on the Bowman Avenue Resizing Project will be on site starting the survey work and will start soil sampling on April 10<sup>th</sup> and rock boring on April 11<sup>th</sup>. He hopes to have the data back for Council discussion in May.

Councilwoman Parker said that Bob Clyatt has provided a list of eight spots along Purchase Street to be used for the upcoming sculpture exhibit. She and Sally Wright went to all but one of the locations and spoke with the owners/managers about the event. She said the response was very positive.

Councilwoman Keith said the Capstone meeting with the Wagner Graduate School on a Complete Streets module will be held on April 13<sup>th</sup>. Their recommendations will be brought back to the Council by the Shared Roadways Committee. She thanked Police Commissioner Connors for putting up a "No Texting While Driving" sign downtown. She also said there are "Apps" for phones that will not allow texting while driving. She said that April 23<sup>rd</sup> is "No Idling Day" in Rye. Many of the schools are preparing awareness activities.

Councilwoman Parker said the YMCA would be holding a "Walk or Ride Your Bike to the Y" day on Sunday, May 20<sup>th</sup> and said the Chamber of Commerce may do a "Walk or Ride Your Bike to Work" day on May 21<sup>st</sup>. She asked if signs could be put up downtown indicating where bike racks are located.

18. Old Business

Councilwoman Keith asked if the "No Idling" sign that the Sustainability Committee requested for the parking lot near the Library could be put up prior to "No Idling Day". She asked what the next steps on the Forest Avenue "Sharrows" project were. City Manager Pickup

said that a contractor will be hired and the work will be done after paving work is done on the road in July. She also asked for an update on the Black Bass Grill. Corporation Counsel Wilson said that the asbestos has been removed and the report must be filed and reviewed by Building Inspector Maureen Eckman before the demolition can take place. The application for a variance on the property was granted by the Zoning Board of Appeals with conditions and there is an application pending before the Planning Commission.

Councilwoman Parker said the Playland Advisory Committee will meet on April 12<sup>th</sup> to have a pre-season meeting. She said she has read that the County Executive will probably make an announcement about the RFP for Playland by the end of the summer.

19. New Business

Councilwoman Keith asked what additional work the City can look at in order to become more financially sustainable and save money. City Manager Pickup said the City is starting to look at fixed assets to determine if there are assets that are no longer needed and if so, what should be done with them. Mayor French said the Finance Committee is working on two presentations.

20. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the regular meeting at 11:20 p.m. and to immediately adjourn into executive session to discuss a personnel matter related to the Production Coordinator. Councilwoman Keith made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the executive session at 11:51 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: April 18, 2012

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Mayor's Management Report

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Manager provide a report on requested topics.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Mayor has requested an update from the City Manager on the following:

- Update on the City of Rye 2011 Result of Operations
- Legal Update



# CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager

DATE: April 18, 2012

CONTACT: Scott Pickup, City Manager

**AGENDA ITEM:** Presentation on a Zoning Amendment Petition for 120 Old Post Road to include zoning for Hotels.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the petition to amend the City of Rye Zoning Ordinance be forwarded to the Planning Commission and the Westchester County Planning Department for their recommendations and comments.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The petition, Old Post Road Associates, LLC, seeks an amendment to Chapter 197, *Zoning, Section 86, Tables of Regulations: Table B Business Districts-Use Regulations* to add a new subsection to "B-4 Office Building Districts" to allow for a hotel. The proposal involves alterations to the existing Building and the construction of an addition in the rear of the Building, to create a three-story hotel with approximately 150 guest rooms and 169 off-street parking spaces.

Please see attached submission from the petitioner.

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

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FRANK S. McCULLOUGH (1905-1998)  
EVANS V. BREWSTER (1920-2005)

FRANK S. McCULLOUGH, JR.  
CHARLES A. GOLDBERGER  
JAMES STAUDT  
LINDA B. WHITEHEAD  
SETH M. MANDELBAUM

JOANNA C. FELDMAN  
DEBORAH A. GOLDBERGER  
EDMUND C. GRAINGER, III  
PATRICIA W. GURAHIAN  
ALICE D. KORNFELD  
RUTH F.-L. POST

April 4, 2012

**BY HAND DELIVERY**

Honorable Mayor French and Members of the City Council  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: Old Post Road Associates, LLC  
Petition for Amendment to the City of Rye Zoning Ordinance  
120 Old Post Road, Rye, New York

Dear Mayor French & Members of the City Council:

This firm represents Old Post Road Associates, LLC (hereinafter referred to as "Petitioner") in connection with its petition for text amendments to the City of Rye Zoning Ordinance (the "Petition"). Petitioner is the owner of the property located at 120 Old Post Road, Rye, New York, at the intersection of Old Post Road and Playland Access Drive, in the B-4 Office Building Zoning District (the "Property"). The approximately 7.0 acre Property is improved by a three (3) story, approximately 75,000 square foot office building (the "Building"), which is currently nearly entirely vacant.

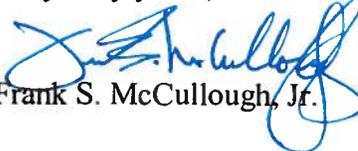
As is detailed in the Land Use & Fiscal Analysis, prepared by VHB Engineering, Surveying and Landscape Architecture, P.C., dated March 16, 2012 (the "Analysis"), attached to the enclosed Petition as Exhibit A, present and anticipated market conditions make reoccupancy of the Building with an office use highly challenging and unlikely. Therefore, Petitioner respectfully requests amendments to the Zoning Ordinance that will facilitate the adaptive reuse of the Building as a hotel that will be compatible with and supportive of the existing surrounding uses. See conceptual plans and renderings, prepared by Tecton Architects, attached to the Petition as Exhibit B. The proposed reuse (the "Proposal") will increase tax revenues for the City (including both real estate and hotel occupancy taxes as detailed below), and will create no significant environmental impact on the Property or its surrounding areas.

Specifically, the Proposal involves alterations to the existing Building and the construction of an addition in the rear of the Building, to create an attractive, three (3) story hotel with approximately one-hundred fifty (150) guest rooms and one-hundred sixty-nine (169) off-street parking spaces (as compared to 240 existing parking spaces). As is described more fully in the Analysis, the Proposal is expected to generate approximately \$400,000 in property tax revenue for the City (an increase of over \$132,000 from the existing office use of the Building),<sup>1</sup> along with approximately \$183,960 in new revenue generated by the City's hotel occupancy tax.

In addition, the Proposal will create no significant environmental impact to the Property or the immediate surrounding areas. As is described in the Traffic Access and Impact Evaluation Study, prepared by Frederick P. Clark Associates, Inc., and attached as Attachment 2 to the Full Environmental Assessment Form (Exhibit C to the Petition), "conversion of the multi-tenant office building to a hotel, resulting in a decrease in total site traffic, will have an overall benefit to traffic operations and capacity along the Study Area roadways and intersections." Moreover, as illustrated by the conceptual plans and renderings attached to the enclosed Petition as Exhibit B, the Proposal will reduce impervious surface on the Property by approximately 5% (over 15,000 square feet), and creates an opportunity to enhance the existing vegetation throughout the site with extensive additional landscaping and state of the art rain gardens to provide stormwater quality treatment that does not currently exist on the Property. Finally, it is respectfully submitted that the proposed hotel will be compatible with and supportive of the office and assisted living uses that surround the Property, while providing an appropriate transition to nearby residential communities. See letters of support from surrounding property owners, including The Miriam Osborn Memorial Home and others, collectively attached to the enclosed Petition as Exhibit D.

Based on the foregoing, we have enclosed the Petition with the attached exhibits, together with the required \$1,000.00 application fee, for the Council's consideration. We respectfully request that this matter be placed on the April 18, 2012 City Council agenda for consideration of referral of the Petition to the Planning Commission and the Westchester County Planning Department for their recommendations and comments. We look forward to discussing this important project with you at the April 18<sup>th</sup> meeting.

Very truly yours,

  
Frank S. McCullough, Jr.

FSM:smm

cc: Old Post Associates, LLC  
John Saccardi--VHB  
Scott Pickup – City Manager  
Christian Miller, AICP – City Planner

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<sup>1</sup> As is explained in the Analysis, the increase in property tax revenue is a conservative estimate, as the assessed value of the Property is currently being challenged in a tax certiorari proceeding, which could result in a reduction of the assessed value by up to 25%.

# Adaptive Reuse-120 Old Post Road City of Rye, New York

Zoning Petition

April 2012



CITY OF RYE CITY COUNCIL  
COUNTY OF WESTCHESTER: STATE OF NEW YORK

-----X  
Matter of the Petition of:

OLD POST ROAD ASSOCIATES, LLC,  
Petitioner.

**PETITION FOR  
AMENDMENT  
TO CITY OF RYE  
ZONING  
ORDINANCE**

PROPERTY LOCATION:  
120 Old Post Road, Rye, NY  
Sheet 146.13, Block 1, Lot 7  
-----X

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL OF THE CITY OF RYE:

PETITIONER, OLD POST ROAD ASSOCIATES, LLC (hereinafter referred to as “Petitioner”), with an address at 120 Old Post Road, Rye, NY 10580, hereby petitions the City Council of the City of Rye for amendment to the City of Rye Zoning Ordinance as follows:

**INTRODUCTION**

1. Old Post Road Associates, LLC is a Limited Liability Company duly formed and existing under and by virtue of the laws of the State of New York.
2. Petitioner is the owner of the property located at 120 Old Post Road, Rye, New York (the “Property”). The approximately 7.0 acre Property is located at the intersection of Old Post Road and Playland Access Drive in the B-4 (Office Building) Zoning District.
3. The Property is currently improved with a three (3) story, approximately 75,000 square foot office building, together with related parking lots including 240 parking spaces, landscaping and infrastructure.
4. For the reasons set forth in detail in the Land Use and Fiscal Analysis, dated March 13, 2012, prepared by VHB Engineering, Surveying and Landscape Architecture, P.C. (the “Analysis”), attached hereto as Exhibit A, Petitioner is requesting text changes to the City of Rye Zoning Ordinance (the “Zoning Text Amendments”) in order to enhance opportunities for the adaptive reuse of office buildings with diminishing occupancy rates in the B-4 Zoning District.
5. A copy of the proposed Zoning Text Amendments is attached hereto. No change to the existing zoning classification of the Property, or any other properties, is requested.

## PROPOSED TEXT AMENDMENTS

6. The occupancy rates of office buildings in the city of Rye have declined significantly in recent years, particularly in the Theodore Fremd/Playland Parkway/Old Post Road office building area. This dilemma is not faced by Rye alone, but in fact is a problem that exists in many major metropolitan areas around the country. Throughout Westchester County, there is approximately 6 million square feet of vacant office space. Additionally, there has been no new significant office development in Westchester County in over 20 years, and many of the existing buildings have received little or no new capital investment.

7. In order to address this problem, many municipalities have expanded permitted uses in commercial office zones to include uses that are compatible with, and supportive of, the existing uses in the office zone. This strategy has helped spur economic development and lay the groundwork for the sustainable growth of office zones in nearby municipalities. For example, in Greenburgh, North Castle and Harrison, uses that were previously prohibited in traditional office zones, such as hotels, retail, banks, colleges and universities, health care, and indoor recreation, among others, have now been permitted to adaptively reuse vacant office space and revitalize the office zones and their surrounding areas.

8. The existing office building on the Property, like other such buildings throughout Westchester County, has faced a prolonged period of increased vacancy rates. As explained in the Analysis prepared by VHB, existing and projected market conditions make “reoccupancy [of the existing building] by an office use . . . highly challenging and unlikely.” Analysis at p. 2.

9. Petitioner proposes an addition and alterations to the existing office building on the Property for its adaptive reuse as a hotel, with approximately 150 guest rooms and 169 parking spaces. As demonstrated by the enclosed plans (see Exhibit B attached hereto) and the Analysis, it is respectfully submitted that the hotel will be compatible with and supportive of the commercial community in the area and will result in an overall economic benefit to the City of Rye. Moreover, the reduction in traffic and opportunity for additional landscaping that will result from the reuse will “enhance the site’s function as a transitional use” between the office zone and nearby residential properties. See Analysis at p. 3. See also Full Environmental Assessment Form and attachments thereto, attached hereto as Exhibit C, and Letters of Support from surrounding property owners, attached hereto as Exhibit D.

10. Petitioner requests the Zoning Text Amendments, which consist of modifications to the permitted uses and bulk requirements in the B-4 Zoning District, in order to allow hotels as a permitted use subject to additional standards and requirements, requiring approval from the Planning Commission.

11. The Zoning Text Amendments would not have any adverse impacts on the Zoning Ordinance or the City of Rye. The proposed amendments would permit hotels in the B-4 Zoning District subject to the condition that would require a hotel be located on a parcel of land the property lines of which are at least 1,500 feet from the property lines of another parcel land containing a hotel use, in order to avoid a concentration of hotels in one area. Taken together, these amendments would allow for a compatible and economically beneficial use while providing an appropriate transition to surrounding non-office uses.

12. As explained in greater detail in the Analysis prepared by VHB/Saccardi & Schiff, Inc., the proposed amendments would “enhance the attractiveness and competitiveness of the nearby offices and [retirement community]” and due to existing and additional landscaping and buffering would “not be expected to significantly affect neighborhood community character,” while generating more tax revenue for the City than office building. Therefore, “reuse of the property for a hotel presents a reasonable and logical alternative for this underutilized resource.” Analysis at p. 5-6.

13. For all of the foregoing reasons, it is respectfully submitted that the proposed text amendments should be granted.

**WHEREFORE**, Petitioners respectfully request that the City Council of the City of Rye amend the City of Rye Zoning Ordinance as set forth above.

Dated: Rye, New York  
April 4, 2012

Respectfully submitted,  
OLD POST ROAD ASSOCIATES, LLC

By: Allen Weiss

## PROPOSED TEXT AMENDMENTS – B-4 ZONING DISTRICT

1. Table B, Column 2 of Article VIII of the City of Rye Zoning Ordinance is hereby amended by adding a new subsection 3 under the subheading “B-4 Office Building Districts,” which shall state as follows:

(3) Hotels, excluding motels, subject to the following conditions:

- (a) A hotel shall be located on a parcel of land, the property lines of which are at least 1,500 feet from the property lines of another parcel of land containing a hotel use.

2. Table B, Column 3 of Article VIII of the City of Rye Zoning Ordinance is hereby amended by adding a new subsection 3 under the subheading “B-4 Office Building Districts,” which shall state as follows:

(3) Hotel accessory uses may include meeting rooms, open areas for the service of breakfast or snacks (but not restaurants or areas for cooking of lunch or dinner), enclosed swimming pools, and health clubs, but only for the exclusive use of guests of the hotel.

3. Chapter 197 Attachment 2, entitled “Table B: Business Districts Area, Yard, Height and Miscellaneous Regulations,” is hereby amended by adding the line item “Hotel” to the row entitled “B-4”, with the same requirements as for “Office buildings” in the B-4 District, provided however that the following requirements shall be modified as follows:

- (a) The requirement for One Side Yard shall be 50 feet.
- (b) The requirement for Maximum Ratio of Floor Area to Lot Area shall be 0.35(g).
- (c) The requirement for Maximum Height (stories) shall be 3, with no reference to footnote j.

# EXHIBIT A



To: Rye City Council

Date: March 16, 2012

Project No.:

From: Owen Wells, AICP; John Saccardi, AICP

Re: Land Use and Fiscal Analysis

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The Applicant is seeking a zoning text amendment to the B-4 District to facilitate the conversion of a mostly vacant office building at 120 Old Post Road into an approximately 150-room hotel. The existing building has been largely vacant for nearly two years, and as documented below, current real estate market conditions suggest that reoccupancy with an office use would be highly challenging. The proposed rezoning would allow the property to return to productive use, with a type of tenant that would be compatible with the surrounding land use pattern. The following memorandum summarizes various land use, market and fiscal considerations that support the rezoning request to facilitate reuse of the property.

### Market Conditions

Although labor market conditions in Westchester County have been improving slowly and the County has fared better than most parts of the State in recovering from the recent recession, the office real estate market continues its extreme slowdown. As recently reported in the Journal News, vacancy rates in Westchester County continue to rise. Recent reports “found that about 20 percent of Westchester’s class-A office space has been completely empty for the past three years, and the trend got slightly worse in the fourth quarter of 2011.”<sup>1</sup> The article also noted that offices are being repurposed for alternate uses such as health care or residential apartments. A review of year end market reports from leading commercial real estate firms supports these conclusions. Howard Greenberg’s summary of the Westchester County real estate market similarly focused on challenging conditions in the office market. “Office leasing velocity continues to be very low, and Westchester had about 600,000 square feet of negative absorption (space put back on the market) during 2011.”<sup>2</sup> Jones Lang Lasalle reports that “lack of demand, especially from large users, will continue to be an obstacle to the recovery of the Westchester County office market particularly as large available blocks accumulate.”<sup>3</sup> In addition, most leasing activity consisted of renewals or extensions. Jones Lang Lasalle’s data also indicate increases in both overall and Class-A vacancy rates (with the overall vacancy rate increasing to 19.6% by year end, and Class A vacancy rising to 21.6%.) Cushman and Wakefield reported similar vacancy conditions in the fourth quarter and a \$1.00 per square foot

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<sup>1</sup> Journal News, “Westchester office vacancies rise despite improving economy,” January 19, 2012.

<sup>2</sup> Howard Greenberg, “State of the Westchester County Real Estate Market,” February 10, 2012.

<sup>3</sup> Jones Lang Lasalle, “Office Insight Westchester County,” Q4 2011.

decrease in average asking rent for Class A space over the past year.<sup>4</sup> While these office market difficulties are felt across the County, the non-CBD submarkets outside of White Plains are facing more challenging conditions. The White Plains CBD submarket tends to be somewhat stronger than the rest of the County submarkets, with a slightly lower overall vacancy rate (with the exception of the relatively small Southern submarket) and higher rental rates. The Eastern submarket, which includes the proposed project site appears to be middle-of-the-pack in terms of overall vacancy rate and rents among the non-CBD submarkets. It is also noted that the Eastern submarket has the highest inventory of office space among the non-CBD submarkets. This large supply likely exerts downward pressure on rents and requires more leasing activity to make sizeable reductions in the vacancy rate.

In addition to the subject property, there is considerable vacancy in other buildings in the immediate area. Information from a local broker indicates that 411 and 555 Theodore Fremd each currently have over 20,000 square feet of available space (vacancy rates of 22% and 16%, respectively.) These challenging market conditions are also evidenced locally by recent tax certiorari activity for nearby office properties. Both 401 and 411 Theodore Fremd Avenue have pending tax certiorari proceedings. The properties at 1 Theall Road and 555 Theodore Fremd Avenue both had tax certioraris settled within the past five years. It is noted that the reuse of the adjacent building as an owner-occupied medical office has significantly improved the area's office vacancy rate.

With the over-abundance of available office space both locally and County-wide, decreasing rents, and prolonged vacancy of the existing building, reoccupancy by an office use appears highly challenging and unlikely. As detailed below, a hotel use presents a reasonable and logical alternative for an underutilized resource.

## **Land Use Planning**

### *Zoning*

The project site is located within the B-4 - Office Building District. (See attached Zoning Exhibit.) The B-4 District is generally located in three areas: near the Theodore Fremd/Playland Parkway/Old Post Road area at the western edge of the City (which includes the project site); near the I-95 and I-287 interchange along the border with Port Chester; and along the eastern edge of Midland Avenue near the City's northern border.

The B-4 District permits office buildings (among other non-residential uses, such as educational uses, recreation uses, residential care facilities, and religious uses), subject to certain additional standards and requirements in Section 197-11 related to access, parking screening, signage, and prohibition of potential nuisances. Hotels are not currently a permitted use in the district.

The only district in the City that currently permits hotels is the B-5 - Interchange Office Building District. The B-5 District permits the same uses as the B-4 District, but also allows for hotels. Uses in the B-5 are subject to the same standards and procedures as development of office buildings in the B-4 District. However, the dimensional regulations of the B-5 are generally more permissive than the current standards for office buildings in the B-4 District (e.g., a maximum height of 65' compared to 45', a maximum FAR of 0.45 compared to 0.3, and reduced side and rear yard requirements.) While remapping of the B-5 to the site would allow for hotel reuse, it is suggested that the City instead add hotels as a permitted use subject to additional standards and requirements within the existing B-4 District. This allows the City to establish/tailor specific standards and conditions and provides the City with a greater degree of control and scrutiny for any potential future applications.

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<sup>4</sup> Cushman & Wakefield, "Marketbeat Office Snapshot," Q4 2011.

### *Planning Documents*

The City's Master Plan was prepared in 1985 and intended to serve as a guide for development for the following 15 years. The plan does not include any specific actions or policies that directly relate to the proposed site, other than designating the area near the Theodore Fremd/Playland Parkway area, including the project site, for corporate office. The Plan noted that there had been "great pressure in Westchester County in recent years to build corporate office buildings... It has led to pressure by builders for the rezoning of Rye land from residential to commercial."<sup>5</sup> As discussed above, this condition has changed dramatically since the time of plan preparation.

The Master Plan does not include any specific recommendations related to the potential for hotel uses, although its general Business Development section goal to "maintain the City's existing economic base without making substantial changes in scale" would appear to support economic reuse of an existing building.

### *Land Use Relationships*

The project site is located at the edge of a cluster of office complexes. (See attached Land Use Exhibit.) As noted above, several of the nearby office buildings have substantial vacancies. The adjacent building to the west, has recently been reoccupied as a medical office. The site is also directly adjacent to the Osborn retirement community. A hotel appears to offer a natural complement to these uses by providing a resource for business travelers who are visiting nearby offices, as well as family members visiting relatives at the Osborn. Having a supporting hotel facility in close vicinity would be expected to increase the attractiveness and competitiveness of the nearby offices and the Osborn. This would serve to help protect and enhance the district's and the City's economic vitality.

In addition, the project is a redevelopment of an existing site, which would not significantly increase land disturbance or involve a change in overall scale that would significantly alter the community character. The site is bounded by the Playland Parkway Access Drive and Old Post Road. The Playland Parkway essentially isolates the site from the residential properties to the east. The only residential exposure would be to a few houses in the neighborhood across Old Post Road. This location (at the edge of the office cluster and between the larger office uses and the neighboring residential neighborhood) creates a transitional nature for the site. Given that the general scale of development on-site would not change, it is not expected that there would be a significant visual or land use impact. In addition, the site perimeter currently contains trees and vegetation that provide a buffer between the residences and the existing office building and supporting parking. In order to further minimize the potential for visual impact, it is suggested that the eventual site plan include enhancement of the vegetative buffer to further screen visibility of parking lot activity. Reuse as a hotel would also allow for a reduction of paved parking area, which provides an opportunity for additional landscaping along Old Post Road. It is also noted that, as documented in the traffic study prepared for this project by F.P. Clark and Associates, the proposed hotel use would generate less site traffic than an office. The reduction in traffic and associated site activity and the opportunity for additional buffering would further enhance the site's function as a transitional use.

### **Fiscal Impact**

The office site is subject to real property taxation by the City of Rye, the Rye City School District, and Westchester County, and special benefit assessments for Westchester County (e.g., sewer and solid waste special districts.) The project site currently has a full market value for assessment purposes of

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<sup>5</sup> City of Rye, NY 1985 Development Plan.

\$14,205,479. The City's equalization rate is 2.19%, which results in an assessed value of \$311,100. The 2011 tax rates for the taxing jurisdictions are presented in the table below.

**Table 1  
Tax Rates**

District	Tax Rate per \$1000 AV
Rye City School (2011-2012)	\$520.5437
City (2012)	\$144.99
County	\$156.863426
Blind Brook Sewer (County sewer)	\$21.616367
County Refuse	\$15.338029

Source: City of Rye – Online Tax Status Information System; Westchester County Tax Commission, 2011-2012 School District Tax Rates, 2011 Town Tax Rates, and 2011 Village Tax Rates.

The project site is currently occupied by one office tenant. As indicated above, the property has an assessed value of \$311,100. The existing tax generation from the site is provided in the table below. In total, the project produces approximately \$267,000 in annual property taxes. The School District is the largest component of the property tax bill, accounting for approximately 61% of the overall total or approximately \$160,000 annually.

**Table 2  
Existing Property Tax Generation – 120 Old Post Road**

District	Tax Rate per \$1000 AV	Assessed Value	Tax Generation
Rye City School (2011-2012)	\$520.5437	\$311,100	\$161,941.15
City (2012)	\$144.99	\$311,100	\$45,106.39
County	\$156.863426	\$311,100	\$48,800.21
Blind Brook Sewer (County sewer)	\$21.616367	\$311,100	\$6,724.85
County Refuse	\$15.338029	\$311,100	\$4,771.66
<b>Total</b>	<b>\$859.351522</b>	<b>\$311,100</b>	<b>\$267,344.26</b>

However, the owners have commenced a tax certiorari proceeding to reduce the Site's assessed value to more accurately reflect current market value. A successful challenge would result in a reduction in the tax generation. Based upon the Applicant's tax grievance and appraisal information, it is possible that the annual assessment and associated property tax could be reduced by up to 25%. This would reduce overall annual property tax generation to approximately \$199,489.

**Table 3**  
**Property Tax Generation – Reduced Assessed Value Scenario**

District	Tax Rate per \$1000 AV	Assessed Value	Tax Generation
Rye City School (2011-2012)	\$520.5437	\$232,140	\$120,839
City (2012)	\$144.99	\$232,140	\$33,658
County	\$156.863426	\$232,140	\$36,414
Blind Brook Sewer (County sewer)	\$21.616367	\$232,140	\$5,018
County Refuse	\$15.338029	\$232,140	\$3,561
<b>Total</b>	<b>\$859.351522</b>	<b>\$232,140</b>	<b>\$199,490</b>

There is currently one other hotel within the City – the Courtyard Rye Marriott on Midland Avenue at the municipal border with Port Chester. It is a 4-story hotel with 133 rooms and 12 suites. It includes relatively conventional amenities such as a business center, two meeting rooms, fitness center (with pool), and breakfast/dinner restaurant. It is valued for assessment purposes at \$20,639,269, which translates into an assessed value of \$452,000. With this assessment, the Marriott property would be expected to generate approximately \$388,000 annually in overall property taxes.

**Table 4**  
**Existing Property Tax Generation – Courtyard Marriott**

District	Tax Rate per \$1000 AV	Assessed Value	Tax Generation
Rye City School (2011-2012)	\$520.5437	\$452,000	\$235,285.75
City (2012)	\$144.99	\$452,000	\$65,535.48
County	\$156.863426	\$452,000	\$70,902.27
Blind Brook Sewer (County sewer)	\$21.616367	\$452,000	\$9,770.60
County Refuse	\$15.338029	\$452,000	\$6,932.79
<b>Total</b>	<b>\$859.351522</b>	<b>\$452,000</b>	<b>\$388,426.89</b>

The proposed hotel conversion would be expected to create an approximately 150-room hotel, which would be slightly larger, but roughly comparable to the number of rooms at the Marriott. It would not be expected to include large meeting or conference facilities or restaurant/bar, but would include a breakfast area, fitness area/gym and pool. The type and extent of proposed amenities appear to be relatively similar to those offered at the Marriott. With similar size and amenities, annual tax generation would likely be comparable to the \$388,000 produced by the Marriott. Factoring in an increase of approximately 3% to account for the slight increase in number of rooms (i.e. 5/145 = 3%), expected annual property tax generation from the hotel conversion would be approximately \$400,000.

The City of Rye also imposes a 3% tax on occupancy of hotel rooms. Assuming an average occupancy rate of 70% and an average rent of \$160 per night, the proposed 150 rooms would be expected to generate an annual occupancy tax of approximately \$183,960 for the City.

**Conclusion**

As noted above, both the County and the City of Rye are suffering from an over-abundance of available office space. The weak market and continued lack of demand, coupled with prolonged vacancy of the existing building suggests that reoccupancy by a substantial office use would be highly challenging and unlikely. A hotel offers a natural complement to the adjacent office and retirement community uses and would be expected to enhance their attractiveness and competitiveness. In

addition, given the site location, building scale, and opportunities for additional landscaping and buffering, the project would not be expected to significantly affect neighborhood community character. A hotel use would also be expected to generate more tax revenue for the City than an office building. Therefore, reuse of the property for a hotel presents a reasonable and logical alternative for this underutilized resource.

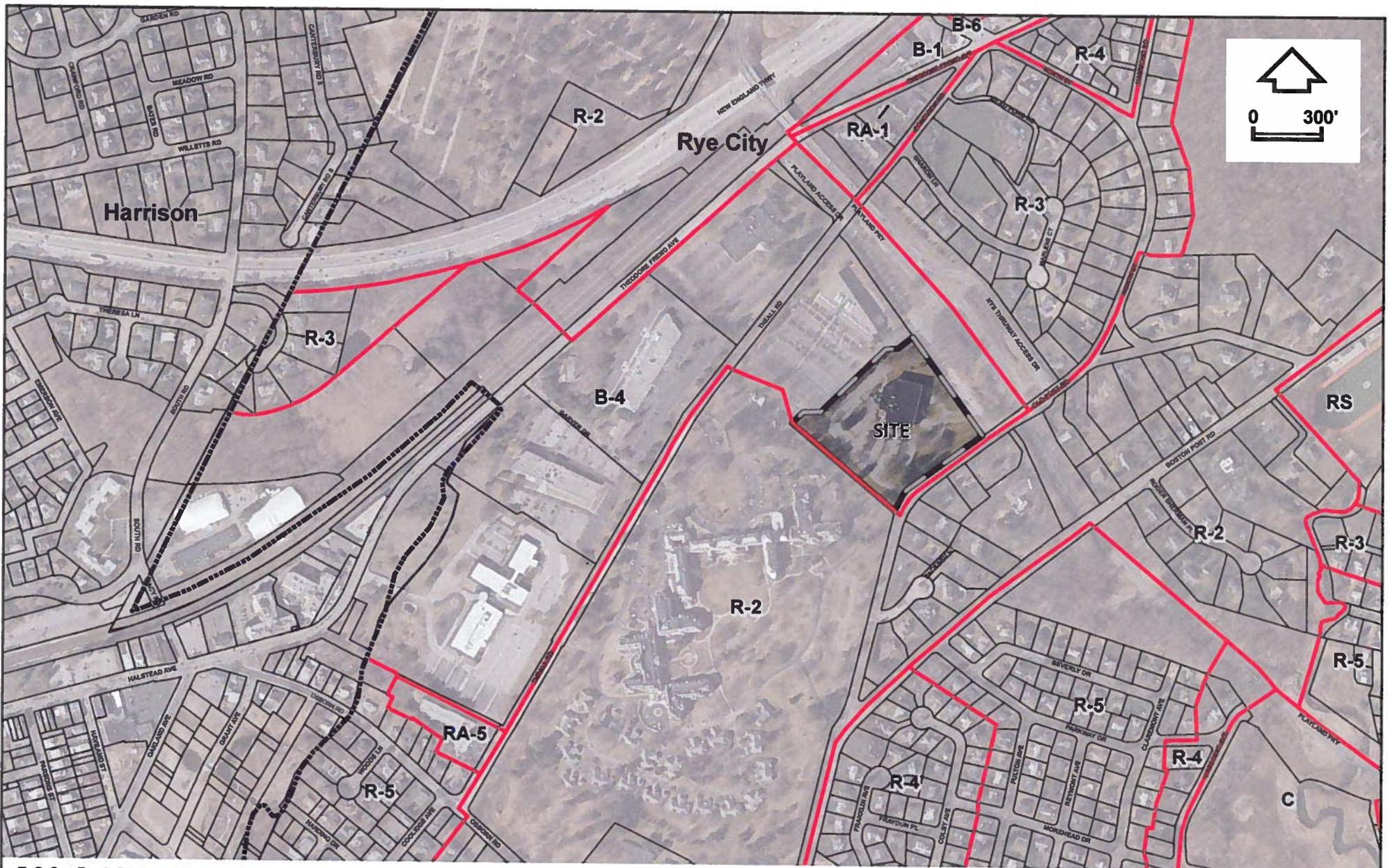


Exhibit  
**AERIAL**

**HOTEL CONVERSION-120 OLD POST ROAD  
Rye, New York**

SOURCE: GIS City of Rye and Harrison, NY

 **Engineering, Surveying and Landscape Architecture, P.C.**

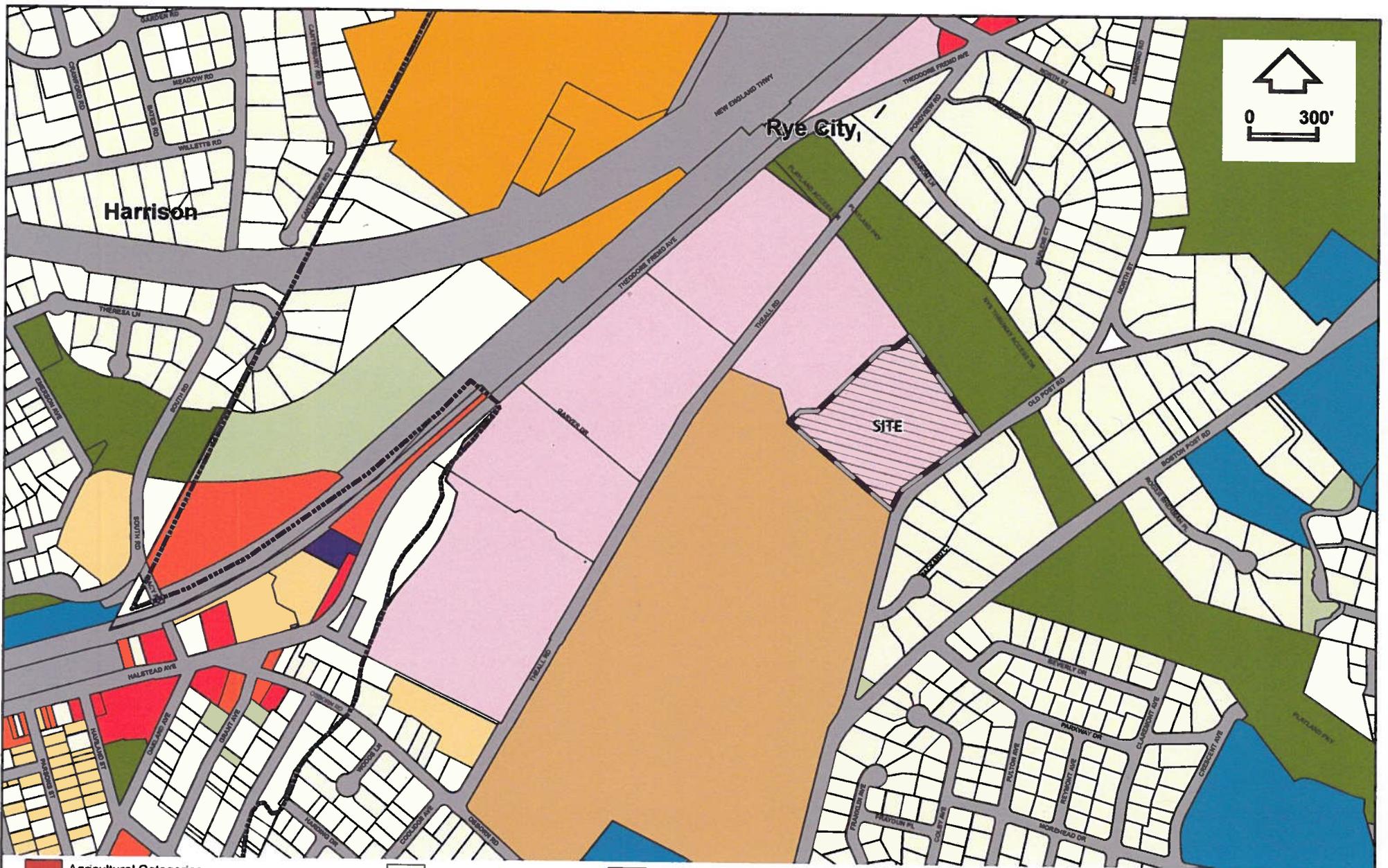


- R-2** One-Family Districts-Minimum lot size 1/2 acre
- R-3** One-Family Districts-Minimum lot size area of special flood hazard 1/2 acre; all other areas-1/3 acre
- R-4** One-Family Districts-Minimum lot size are of special flood hazard 1/2 acre; all other areas-10,000 square feet
- R-5** One-Family Districts-Minimum lot size: area of special flood hazard 1/2 acre; all other areas 7,500 square feet

- RS** School and Church Districts
- RA-1** Garden Apartment Districts-Minimum area per family 5,000 square feet
- RA-5** Senior Citizens Apartment Districts-Minimum area per family 800 square feet
- B-1** Neighborhood Business Districts
- B-4** Office Building Districts
- B-6** General Business Districts
- C** Parking Districts

Exhibit  
**ZONING MAP**

**HOTEL CONVERSION-120 OLD POST ROAD**  
**Rye, New York**



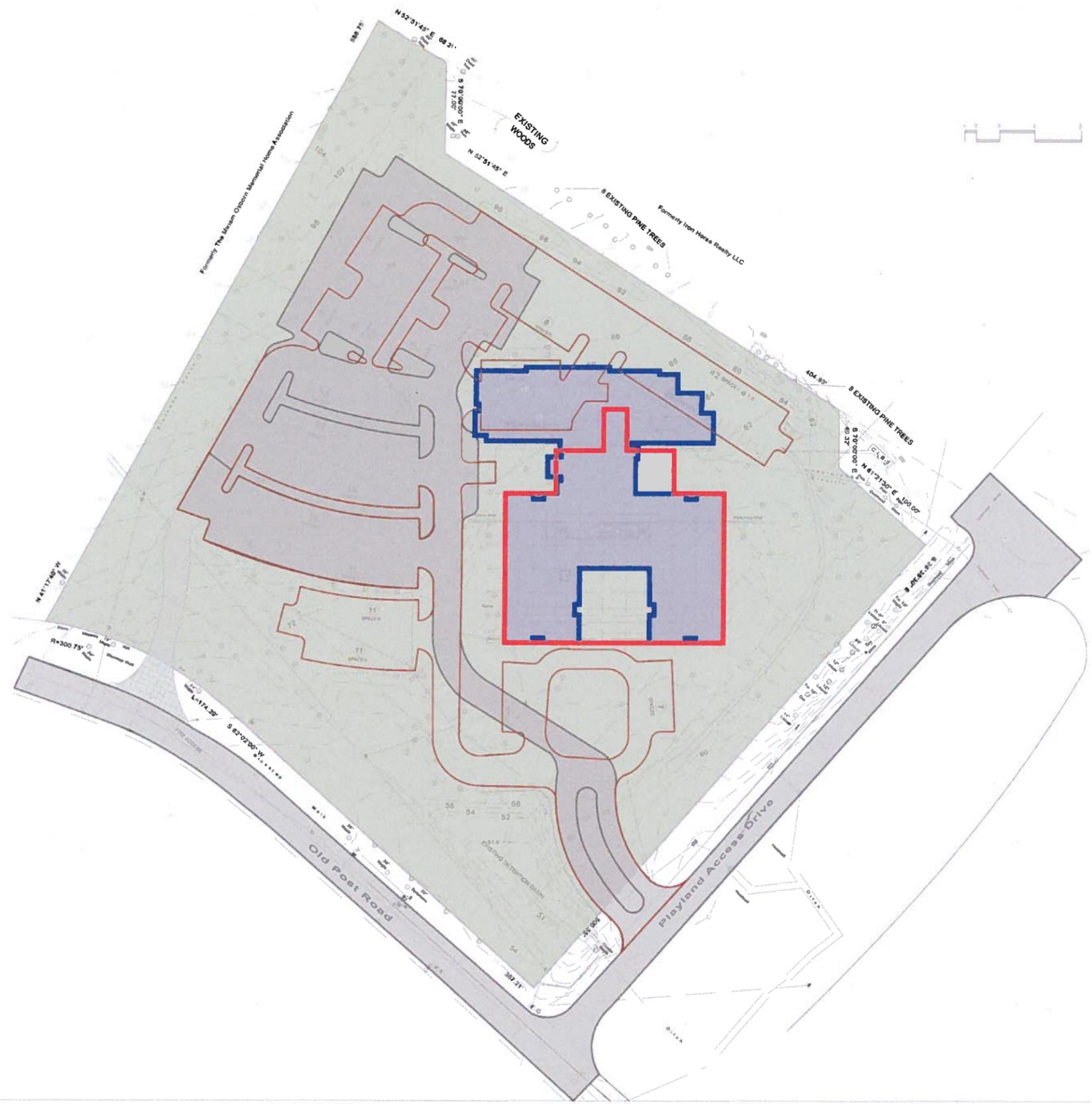
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|--------------------------------------|--|----------------------|
| Agricultural Categories              | Residential                              | Retirement Community |
| Cemeteries                           | Mixed Use                                |                      |
| Commercial-Retail                    | Nature Preserves                         |                      |
| Common Land Homeowners Association   | Office and Research                      |                      |
| High Density Residential             | Private Recreation                       |                      |
| Institutional and Public Assembly    | Public Parks, Parkway Lands              |                      |
| Manufacturing, Industrial, Warehouse | Transportation, Communication, Utilities |                      |
|                                      | Vacant/Undeveloped                       |                      |

SOURCE: GIS City of Rye and Harrison, NY

Exhibit  
**LAND USE**  
**HOTEL CONVERSION-120 OLD POST ROAD**  
**Rye, New York**

*Engineering, Surveying and Landscape Architecture, P.C.*

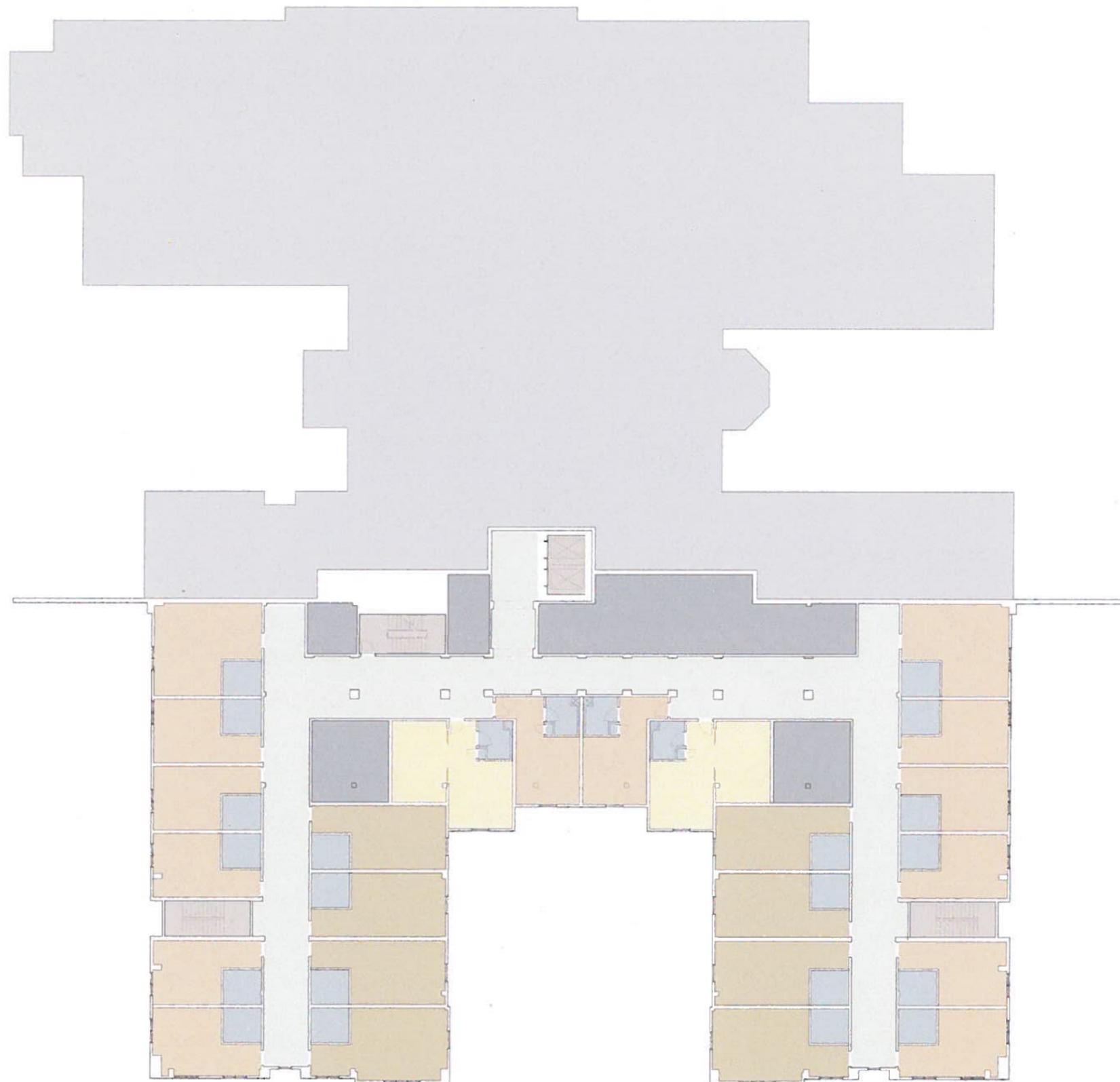
# EXHIBIT B



**LEGEND**

- EXISTING BUILDING
- PROPOSED BUILDING
- EXISTING PARKING
- PROPOSED PARKING





LEGEND	
	SERVICE
	CORRIDOR
	SINGLE SUITES
	DOUBLE BED ROOM
	DOUBLE ROOM
	BATH ROOM
	VERTICAL CIRCULATION

24 ROOMS

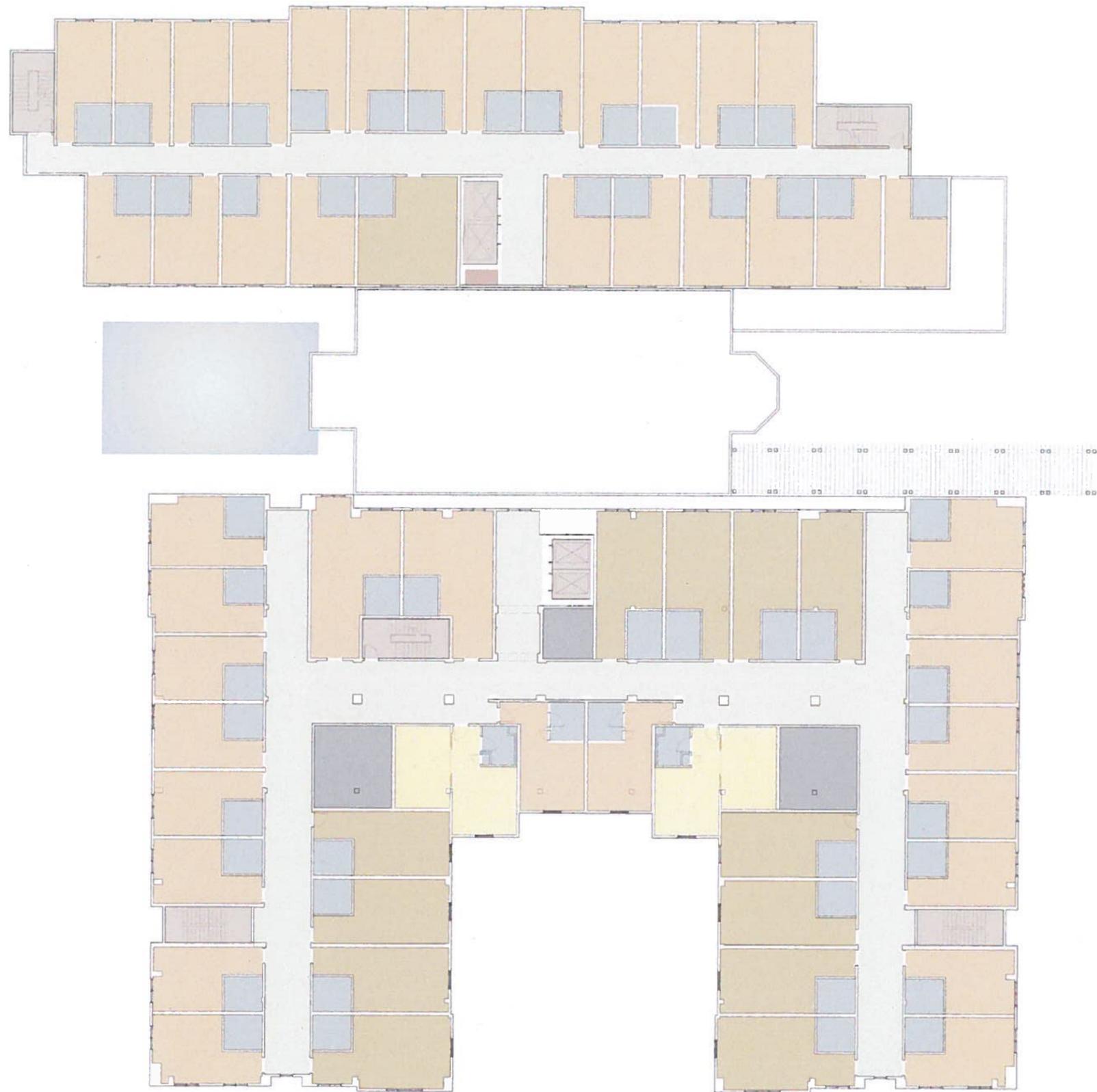




LEGEND	
[Grey square]	SERVICE
[White square]	CORRIDOR
[Light tan square]	SINGLE BED ROOM
[Medium tan square]	DOUBLE BED ROOM
[Light tan square]	DOUBLE ROOM
[Light tan square]	BATH ROOM
[Light tan square]	VERTICAL CIRCULATION
[Light tan square]	MEETING ROOM
[Light tan square]	BREAKFAST RM.
[Blue square]	FITNESS/ SWIMMING
[Red square]	OFFICE

44 ROOMS

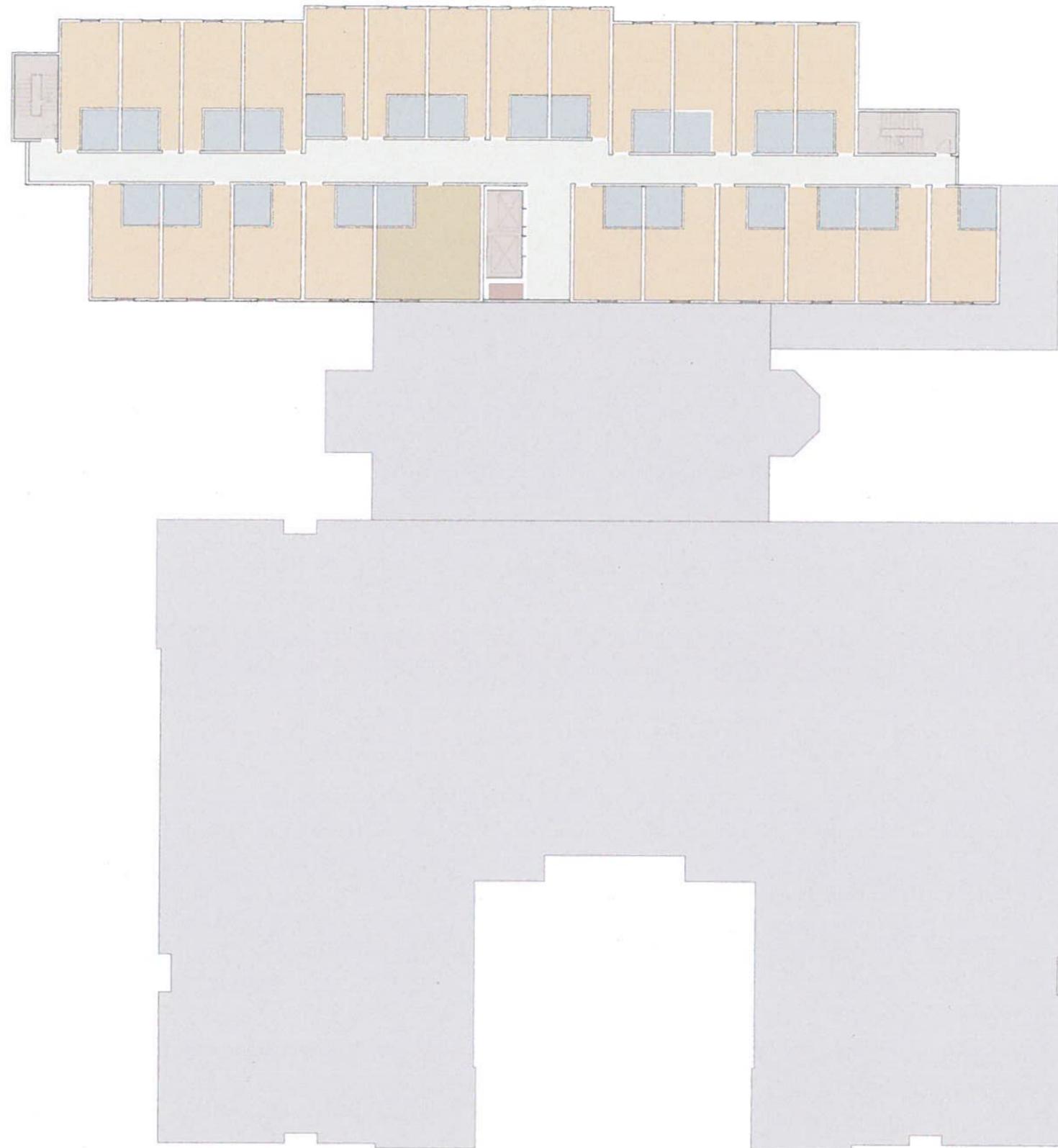




LEGEND	
■	SERVICE
□	CORRIDOR
■	SINGLE BED ROOM
■	DOUBLE BED ROOM
□	DOUBLE ROOM
■	BATH ROOM
■	VERTICAL CIRCULATION
■	MEETING ROOM
■	BREAKFAST RM.
■	FITNESS/ SWIMMING
■	OFFICE

58 ROOMS





LEGEND	
■	SERVICE
□	CORRIDOR
■	SINGLE BED ROOM
■	DOUBLE BED ROOM
■	DOUBLE ROOM
■	BATH ROOM
■	VERTICAL CIRCULATION
■	MEETING ROOM
■	BREAKFAST RM.
■	FITNESS/ SWIMMING
■	OFFICE

24 ROOMS





Tecton Architects, Inc.  
April 4, 2012

Adaptive Re-Use 120 Old Post Road  
Rye, New York

A-5 PERSPECTIVE





Tecton Architects, Inc.  
April 4, 2012

Adaptive Re-Use 120 Old Post Road  
Rye, New York

A-6 PERSPECTIVE





3/31/2012

**PRELIMINARY**

TYPE	PLANT LIST
A1	Gleditsia triacanthos 'Sunburst' (Golden Honeylocust)
B1	Betula nigra 'Cully' (River Birch)
C1	Acer rubrum 'October Glory' (October Glory Maple)
D1	Quercus bicolor (Swamp White Oak)
E1	Salix niobe (Weeping Willow)
F1	Juniperus chinensis 'Robusta Green' (Robusta Juniper)
F2	Picea glauca (White Spruce)
F3	Rhamnus frangula 'Ron Williams' (FineLine Buckthorn)
G1	Amelanchier canadensis (Shadblow)
G2	Cercus canadensis 'Forest Pansy' (Red-leaf Redbud)
G3	Cornus Mas 'Golden Glory' (Cornelian Dogwood)
H1	Magnolia virginiana 'Moonglow'
H2	Viburnum Pilicatum var. Tomentosum 'Mariesii'
H3	Sambucus canadensis 'York' (Elberberry)
J1	Cotinus coggygna 'Atropurpureus' (Purple Smokebush)
J2	Hamamelis virginiana (Virginia Witchhazel)
J3	Ilex verticillata 'Berry Nice' (Winterberry)
K1	Physocarpus opul. 'SummerWine' (Rd Ninebark)
K2	Syringa meyeri 'Palibin' (Dwarf Korean Lilac)
K3	Salix purpurea (Blue Artic Willow)
K4	Hydrangea quercifolia 'SnowQueen' (Oakleaf Hydrangea)
L1	Clethra alnifolia 'Hummingbird' (Summersweet)
L2	Viburnum trilobum 'Bailey's compactum' (Cranberry)
L3	Cornus sanguinea 'Midwinter Fire' (Red stem Dogwood)
L4	Vaccinium corymbosum 'Blue Jay' (Blueberry)
M1	Weigela 'Wine and Roses'
M2	Spiraea bumalda x 'Neon Flash' (Spiraea)
M3	Deutzia gracilis 'Chardonnay Pearls'
M4	Rhododendron yak 'Ken Janek'
N	Microbiota decussata (Russian Cypress)
P1	Sedum Mix Sedum rupestre 'Angelina', 'John Creech', spunium 'Fulda Glow' & reflexum
P2	Salvia nemerosa 'May Night' (May Night Salvia)
P3	Athyrium felix femina 'Cristata' (Lady Fern) w/ 1 white Naturalizing Narcissi Bulb per fern
Q1	Calamagrostis arundinacea 'Karl Foerster' (Reed Grass)
Q2	Pennisetum orientale 'Karley Rose' (Fountain Grass)
Q3	Miscanthus sinensis 'Zebrinus'

CINQUEFOIL

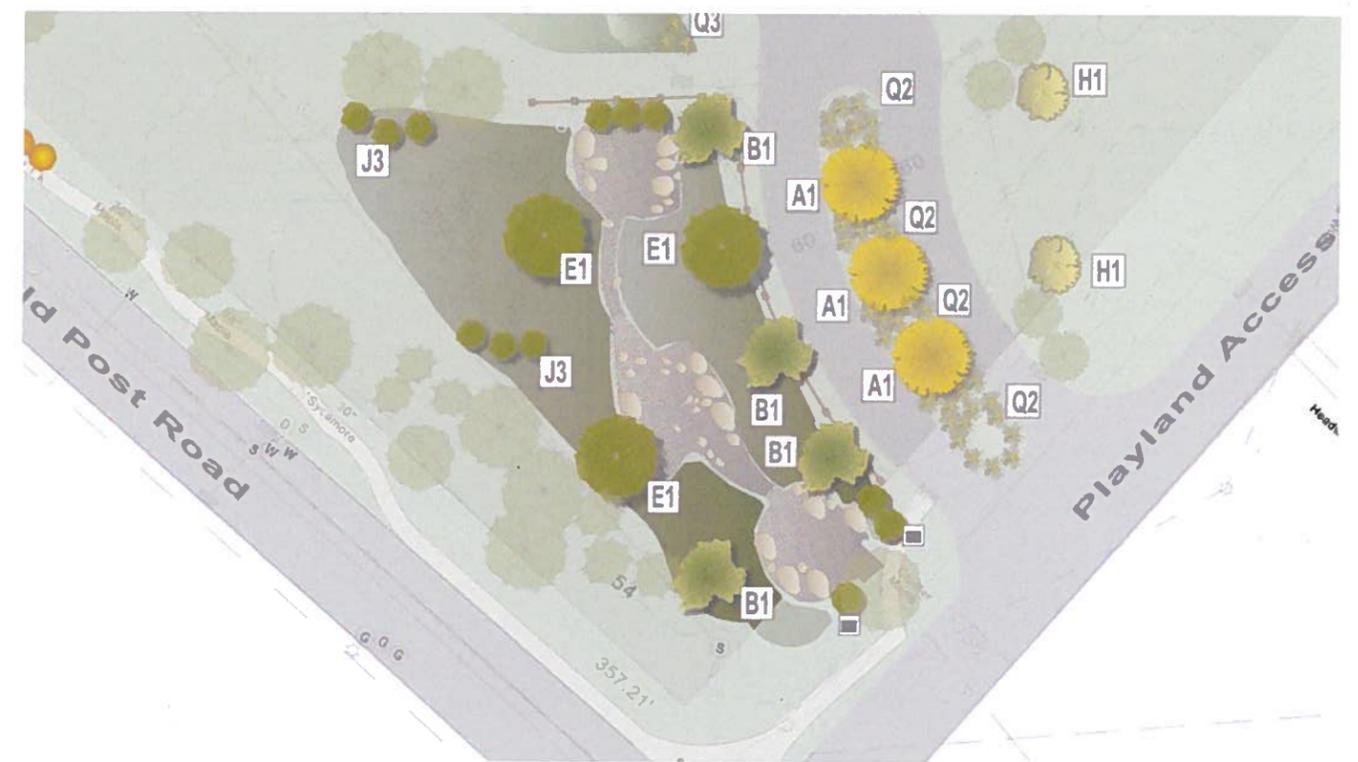
**PRELIMINARY**

SIZE	NOTES	B	4
1-1 1/2'		Light shade tree	Plaza Tree tolerant/urban
1 1/2-2'	multi-tr.	Light shade tree	native/sustainable wet/urban
1 1/2-2'	cal.	Street tree	native/sustainable wet
6'		Wet shade tree	native/disease resistant
1 1/2-2'	cal.	Wet shade tree	native midwest wet
6-7'ht	6' oc.	Evergreen vertical	sustainable drought/urban
6-7'	10' o.c.	Evergreen Tree	drought/urban native northern NewEngland
2-3'	2.5'o.c.	Vertical shrub	yellow fall Proven winner
4-5'	height	understory Tree	native/sustainable wet
1 1/2-2'	cal.	understory Tree	native/sustainable
4-5'		understory Tree	native/sustainable
4-5'	multi-tr.	understory Tree	native/sustainable wet
2-3' ht	8' oc.	Large shrub	sustainable
15-24"	8' oc.	Large shrub	native/sustainable wet
3-4' ht	10' oc.	Large shrub	sustainable drought/urban
2-3' ht	8' oc.	Large shrub	native/sustainable drought
15-18" ht.	8' oc.	Large shrub	native/sustainable wet
12-15" ht.	5' oc.	shrub	native/sustainable drought/urban
18-24"	5' oc.	shrub	sustainable
12-15" ht.	6' oc.	shrub	sustainable drought/wet
12-18"	5'oc.	shrub	native/sustainable
12-18"	5'oc.	shrub	native/sustainable
15-24"	5' oc	shrub	native/sustainable
18-30"	5'oc.	shrub	native/sustainable adaptable
30-36"	5' oc.	shrub	native/sustainable wet
10-18" ht.	4' oc.	shrub	native/sustainable drought/wet
15-18"	4' o.c.	shrub	sustainable
10-15"	4' oc.	shrub	sustainable drought/wet
15-18"	3.5'o.c.	low shrub	Cary Award
18-24"	5' oc.	lowEvergreenCover	native/sustainable Cary Award
18/3' pot	12'o.c.	Herbaceous Per.	
5 pint	18'oc.	Herbaceous Per.	
5 pint	18' oc.	Herbaceous Per.	
Plant bulbs in groups of 5, 6'oc.			
1 gal	4' oc.	Ornamental grass	
1 gal	3'oc.	Ornamental grass	
1 gal	4' oc.	Ornamental grass	





PLANTINGS AROUND BUILDING



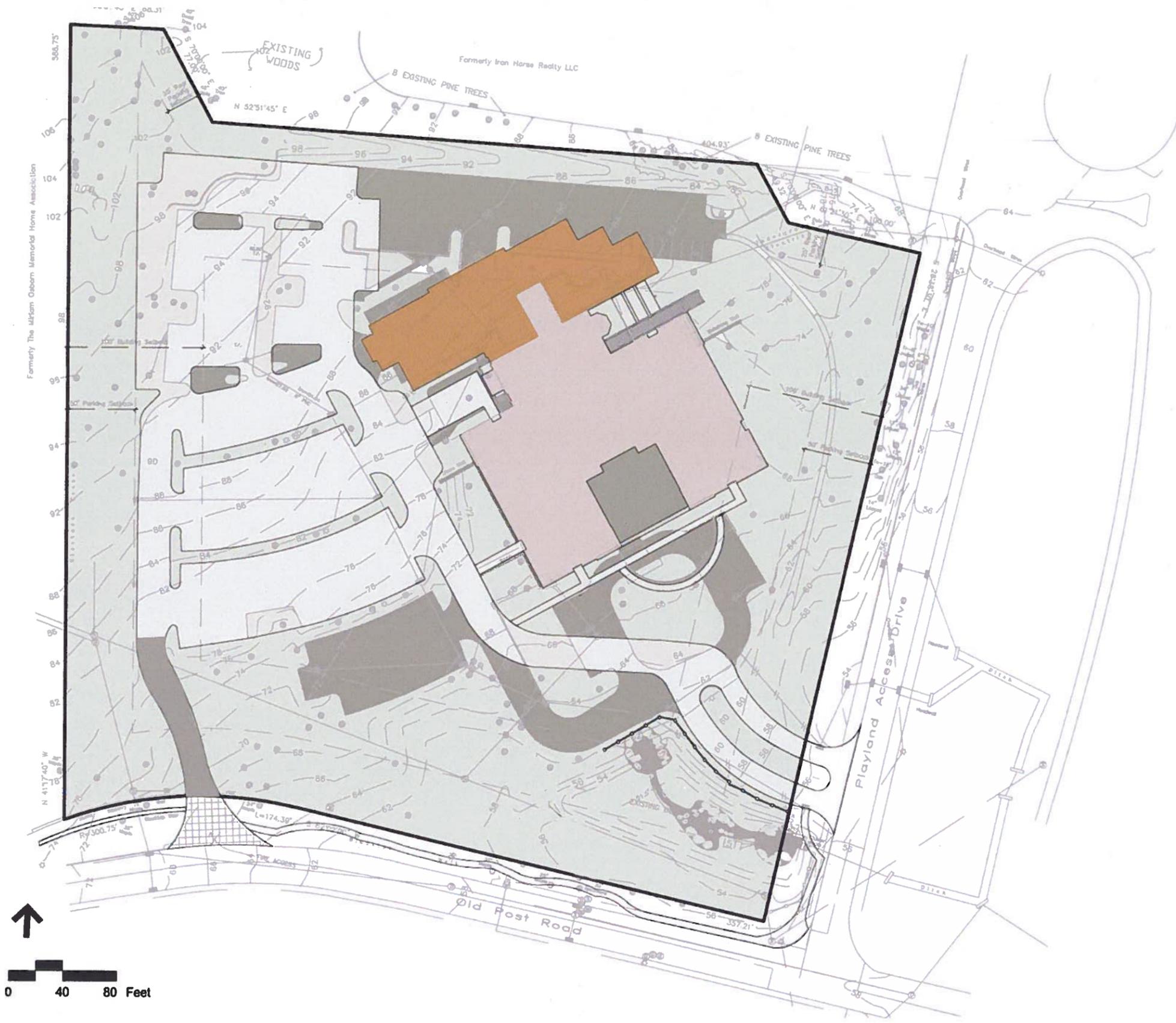
PLANTINGS AT ENTRY DRIVE

3/31/2012

**PRELIMINARY**

TYPE	PLANT LIST	SIZE	NOTES	PLANT LIST	SIZE	NOTES
A1	Gleditsia triacanthos 'Sunburst' (Golden Honeylocust)	1-1 1/2'		B	8	Light shade tree
B1	Betula nigra 'Cully' (River Birch)	1 1/2-2'	multi-tr.	Plaza Tree	tolerant/urban	
C1	Acer rubrum 'October Glory' (October Glory Maple)	1 1/2-2'	cal.	Light shade tree	native/sustainable wet/urban	
D1	Quercus bicolor (Swamp White Oak)	6'		Street tree	native/sustainable wet	
E1	Salix nigra (Weeping Willow)	1 1/2-2'	cal.	Wet shade tree	native/disease resistant	
F1	Juniperus chinensis 'Robusta Green' (Robusta Juniper)	6-7'ht	8' oc	Wet shade tree	native midwest/ wet	
F2	Picea glauca (White Spruce)	6-7'	10' oc	Evergreen vertical	sustainable drought/urban	
F3	Rhamnus frangula 'Ron Williams' (FineLine Buckthorn)	2-3'	2.5' oc	Evergreen Tree	drought/urban native northern New England	
G1	Amelanchier canadensis (Shadblow)	4-5'	height	Vertical shrub	yellow fall Proven winner	
G2	Cercus canadensis 'Forest Pansy' (Red-leaf Redbud)	1 1/2-2'	cal.	understory Tree	native/sustainable wet	
G3	Cornus Mas 'Golden Glory' (Cornelian Dogwood)	4-5'		understory Tree	native/sustainable	
H1	Magnolia virginiana 'Moonlight'	4-5'	multi-tr.	understory Tree	native/sustainable wet	
H2	Viburnum Placatum var. Tomentosum 'Mariesii'	2-3' ht	8' oc	Large shrub	sustainable	
H3	Sambucus canadensis 'York' (Elderberry)	15-24"	8' oc	Large shrub	native/sustainable wet	
J1	Cotinus coggygria 'Atropurpurea' (Purple Smokebush)	3-4' ht	10' oc.	Large shrub	sustainable drought/urban	
J2	Hamamelis virginiana (Virginia Witchhazel)	2-3' ht	8' oc	Large shrub	native/sustainable drought	
J3	Ilex verticillata 'Berry Nite' (Winterberry)	15-18" ht	8' oc	Large shrub	native/sustainable wet	
K1	Physocarpus opul. 'Summer Wine' (Red Ninebark)	12-15" ht	5' oc	shrub	native/sustainable drought/urban	
K2	Syringa meyeri 'Palibin' (Dwarf Korean Lilac)	18-24"	5' oc	shrub	sustainable	
K3	Salix purpurea (Blue Aric Willow)	12-15" ht	8' oc	shrub	sustainable drought/wet	
K4	Hydrangea quercifolia 'Snow Queen' (Oakleaf Hydrangee)	12-18"	5' oc.	shrub	native/sustainable	
L1	Clethra alnifolia 'Hummingbird' (Summersweet)	12-18"	5' oc.	shrub	native/sustainable	
L2	Viburnum trilobum 'Bailey's compactum' (Cranberry)	15-24"	5' oc	shrub	native/sustainable	
L3	Cornus sanguinea 'Midwinter Fire' (Red stem Dogwood)	18-30"	5' oc.	shrub	native/sustainable adaptable	
L4	Vaccinium corymbosum 'Blue Jay' (Blueberry)	30-35"	5' oc	shrub	native/sustainable wet	
M1	Weigela 'Wine and Roses'	10-18" ht	4' oc.	shrub	native/sustainable drought/wet	
M2	Spiraea bumalda x 'Neon Flash' (Spiraea)	15-18"	4' oc.	shrub	sustainable	
M3	Deutzia gracilis 'Chardonnoy Pearls'	10-15"	4' oc	shrub	sustainable drought/wet	
M4	Rhododendron yak 'Ken Janek'	15-18"	3.5' oc.	low shrub	Cary Award	
N	Microbiota decussata (Russian Cypress)	18-24"	5' oc	low Evergreen Cover	native/sustainable Cary Award	
P1	Sedum Mix 'Sedum rupestre 'Angelina', 'John Creech', spurium 'Fukida Glow' & reflexum	18/3" pot	12" oc.	Herbaceous Per.		
P2	Salvia nemerosa 'May Night' (May Night Salvia)	5" pt	18" oc.	Herbaceous Per.		
P3	Adiantum latifolium 'Cristata' (Lady Fern)	5" pt	18" oc.	Herbaceous Per.		
Q1	Calamagrostis arundinacea 'Karl Foerster' (Reed Grass)	1 gal	4' oc	Ornamental grass		
Q2	Pennisetum orientale 'Kerley Rose' (Fountain Grass)	1 gal	3' oc.	Ornamental grass		
Q3	Miscanthus sinensis 'Zebrinus'	1 gal	4' oc	Ornamental grass		





**LEGEND:**

- EXISTING BUILDING TO REMAIN
- NEW BUILDING ADDITION
- EXISTING PERVIOUS TO REMAIN
- NEW PERVIOUS
- EXISTING IMPERVIOUS TO REMAIN
- NEW IMPERVIOUS

**IMPERVIOUS COMPARISON:**

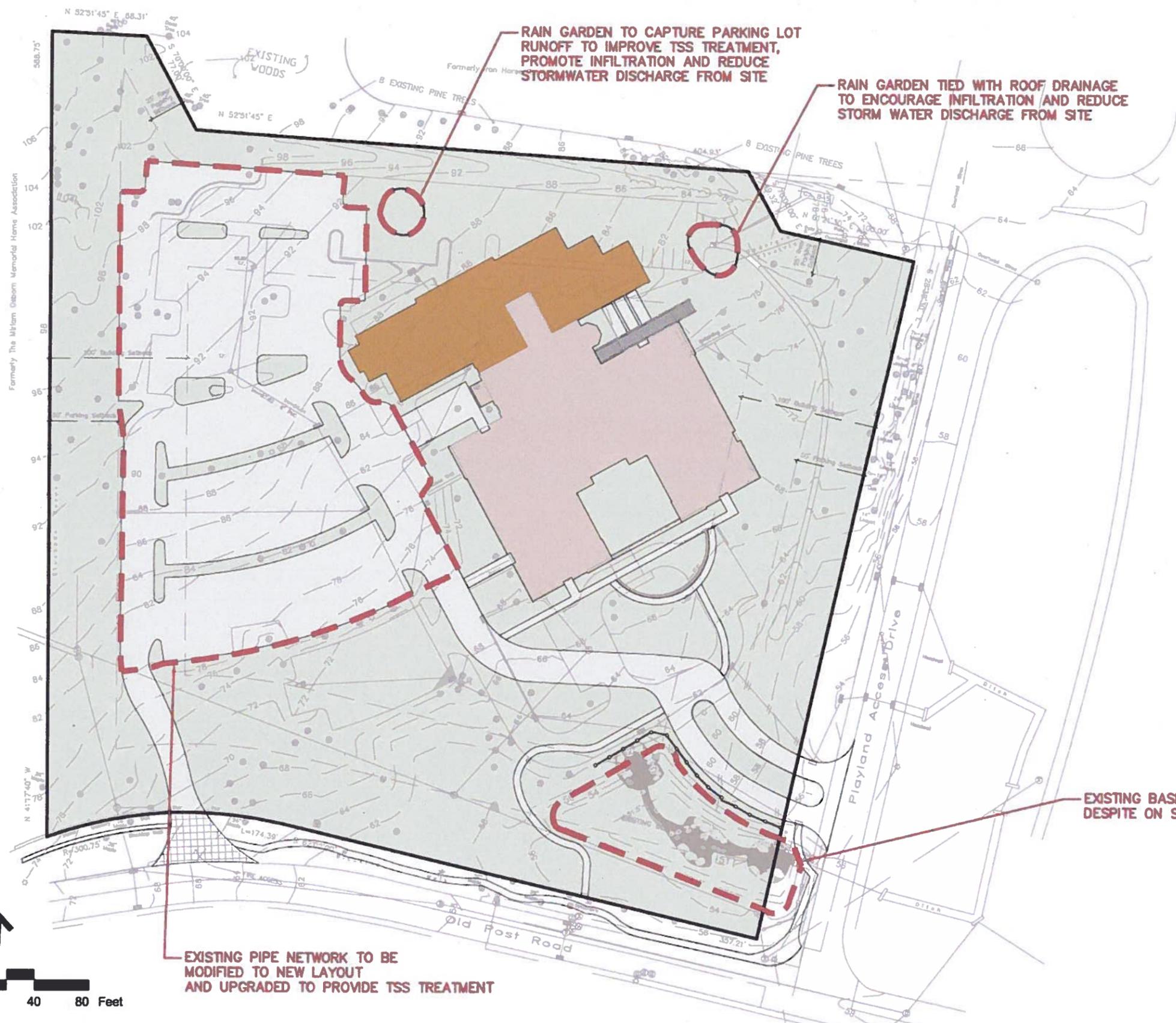
LOT AREA	= ±305,515 SF
EXISTING TOTAL IMPERVIOUS	= ±130,945 SF (43%)
PROPOSED TOTAL IMPERVIOUS	= ±115,581 SF (38%)
IMPERVIOUS REDUCTION	= ± 15,364 SF ( 5%)

Vanasse Hangen Brustlin, Inc.

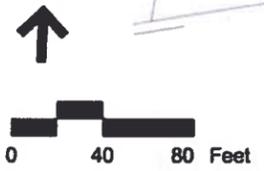
Impervious Comparison 03/22/2011

Adaptive Re-Use 120 Old Post Road  
Rye, NY





- LEGEND:**
- PROPOSED BUILDING
  - PROPOSED PERVIOUS
  - PROPOSED IMPERVIOUS



**EXISTING PIPE NETWORK TO BE MODIFIED TO NEW LAYOUT AND UPGRADED TO PROVIDE TSS TREATMENT**

**RAIN GARDEN TO CAPTURE PARKING LOT RUNOFF TO IMPROVE TSS TREATMENT, PROMOTE INFILTRATION AND REDUCE STORMWATER DISCHARGE FROM SITE**

**RAIN GARDEN TIED WITH ROOF DRAINAGE TO ENCOURAGE INFILTRATION AND REDUCE STORM WATER DISCHARGE FROM SITE**

**EXISTING BASIN VOLUME TO BE MAINTAINED DESPITE ON SITE REDUCTION OF IMPERVIOUS**

Vanasse Hangen Brustlin, Inc.  
 Drainage Improvements 03/22/2012  
 Adaptive Re-Use 120 Old Post Road  
 Rye, NY



# EXHIBIT C

**617.20**  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

**Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.

**Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.

**Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

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**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

Identify the Portions of EAF completed for this project:

Part 1

Part 2

Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore a **negative declaration will be prepared**.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.\***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared**.

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Adaptive Reuse - 120 Old Post Road

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Name of Action

City of Rye City Council

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Name of Lead Agency

---

Print or Type Name of Responsible Officer in Lead Agency

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Title of Responsible Officer

---

Signature of Responsible Officer in Lead Agency

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Signature of Preparer (if different from responsible officer)

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Adaptive Reuse - 120 Old Post Road

Location of Action (include Street Address, Municipality and County)

120 Old Post Road, Rye, Westchester County (Sheet 146.13, Block 1, Lot 7)

Name of Applicant/Sponsor Old Post Road Associates, LLC

Address 120 Old Post Road

City / PO Rye State NY Zip Code 10580

Business Telephone 914-481-5800

Name of Owner (if different) \_\_\_\_\_

Address \_\_\_\_\_

City / PO \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

Description of Action:

The proposed action is the amendment of the City of Rye Zoning Ordinance to expand the permitted uses subject to additional standards and requirements in the B-4 District to include hotels, which are already permitted in the B-5 District, in order to facilitate the adaptive re-use of office buildings with low occupancy rates, including the proposed adaptive re-use of an underutilized office building at the subject property as a 150-room hotel. The existing office building at the subject site is largely vacant and current real estate market conditions suggest that reoccupancy with an office use would be highly challenging. The proposed re-zoning would allow the subject property to return to productive use, with a type of tenant that would be compatible with and supportive of the surrounding land use pattern. The proposed action would also result in a reduction in the amount of impervious surfaces on the site and the implementation of a landscape plan to enhance the site's vegetation and buffering.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Total acreage of project area: 7 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	<u>3</u> acres	<u>2.6</u> acres
Other (Indicate type) <u>Lawn and landscaped area</u>	<u>4</u> acres	<u>4.4</u> acres

3. What is predominant soil type(s) on project site? PnC - Paxton fine sandy loam; PnB - Paxton fine sandy loam

- a. Soil drainage:  Well drained 100 % of site  Moderately well drained \_\_\_\_\_ % of site.  
 Poorly drained \_\_\_\_\_ % of site
- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? NA acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

a. What is depth to bedrock >5 (in feet) Soil Survey of Putnam and Westchester Counties, USDA SCS.

5. Approximate percentage of proposed project site with slopes:  
 0-10% 94 %  10- 15% 2 %  15% or greater 4 %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes  No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No

8. What is the depth of the water table? 1.5-2.5 (in feet) Soil Survey of Putnam and Westchester Counties, USDA SCS.

9. Is site located over a primary, principal, or sole source aquifer?  Yes  No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Previously developed site in built-up, suburban location.

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No

15. Streams within or contiguous to project area:

NA

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

NA

b. Size (in acres):

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No
- b. If YES, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description**

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: 7 acres.
- b. Project acreage to be developed: 7 acres initially; 7 acres ultimately.
- c. Project acreage to remain undeveloped: NA acres. (4.4 acres to be landscaped or open space area.)
- d. Length of project, in miles: NA (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. NA %
- f. Number of off-street parking spaces existing 240 ; proposed 169
- g. Maximum vehicular trips generated per hour: 93 (upon completion of project)?
- h. If residential: Number and type of housing units: NA
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | _____      | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure: 48' height; 217' width; 233' length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 1,150± ft. 530±' along Playland Access Drive  
520±' along Old Post Road
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? 3,000± cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- Redevelopment and landscaped area.
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 (net increase of .4 acres)

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No

6. If single phase project: Anticipated period of construction: 12 months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated NA (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No  TBD

9. Number of jobs generated: during construction 130 ; after project is complete 45

10. Number of jobs eliminated by this project 12 .

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type public sewer

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? 6.75 tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name Charles Point Resource Recovery Facility ; location Peekskill, NY

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

Recyclables.

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity NA gallons/minute.

23. Total anticipated water usage per day 18,000 gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

**25. Approvals Required:**

			Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Zoning text amendment</u>	_____
			_____	_____
			_____	_____
City, Town, Village Planning Board	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
City, Town Zoning Board	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
City, County Health Department	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
Other Local Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
Other Regional Agencies	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>County Planning referral</u>	_____
			_____	_____
			_____	_____
State Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
Federal Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |  |   |  |                                      |
|--|---|--|--------------------------------------|
| <input checked="" type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan                   | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

B-4 Office Building

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

Approximately 91,500 square feet of floor area.

4. What is the proposed zoning of the site?

B-4 Office Building

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

Approximately 107,000 square feet of hotel floor area.

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

Action is compatible with and supportive of adjacent uses.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Land Use: Office, single-family residential, retirement community, multifamily residential

Zoning: B-4 Office Building; R-2, R-3, and R-5 One-Family; RA-1 Garden Apartment

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? NA

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

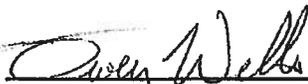
**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Old Post Road Associates, LLC Date 3/30/12

Signature 

Title Project Manager, VIIB - Planning consultants to the Applicant

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

**General Information (Read Carefully)**

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable**? The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions (Read carefully)**

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

### Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO  YES

**Examples** that would apply to column 2

- |  |                                     |                          |                              |                             |
|--|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

	1	2	3	
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

- Construction or expansion of a sanitary landfill.    Yes  No
- Construction in a designated floodway.    Yes  No
- Other impacts:    Yes  No

Construction of building addition and removal of existing impervious driveway and parking areas.

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

- Specific land forms:    Yes  No

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

**Examples that would apply to column 2**

- Developable area of site contains a protected water body.    Yes  No
- Dredging more than 100 cubic yards of material from channel of a protected stream.    Yes  No
- Extension of utility distribution facilities through a protected water body.    Yes  No
- Construction in a designated freshwater or tidal wetland.    Yes  No
- Other impacts:    Yes  No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

**Examples that would apply to column 2**

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.    Yes  No
- Construction of a body of water that exceeds 10 acres of surface area.    Yes  No
- Other impacts:    Yes  No



1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO     YES

**Examples that would apply to column 2**

- |  |                                     |                          |                              |                             |
|--|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows                   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion.                   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Redevelopment of the site will include installation of a stormwater management system in accordance with contemporary low impact design standards. See attached description of conceptual stormwater management design.

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO     YES

**Examples that would apply to column 2**

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use.                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO     YES

**Examples that would apply to column 2**

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO  YES

Examples that would apply to column 2

- |  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|--|-------------------------------------|-----------------------------------|--|
| • Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.                          | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?

NO  YES

Examples that would apply to column 2

- |  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|--|-------------------------------------|-----------------------------------|--|
| • The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)                                 | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction activity would excavate or compact the soil profile of agricultural land.   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)  
 NO  YES

**Examples that would apply to column 2**

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

The project would be expected to enhance local visual conditions through a reduction in the amount of surface parking area and implementation of a landscape plan. The landscape plan would provide additional plantings between the building and the Old Post Road frontage, which would provide additional screening for the residential neighborhood across the street.

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?  
 NO  YES

**Examples that would apply to column 2**

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

While the project area (and essentially all of the City) is within an identified potentially archaeologically sensitive area, prior development and disturbance of the site and surroundings limits the potential for impact to, or recovery of, meaningful archaeological resources.

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO  YES

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • A major reduction of an open space important to the community.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO  YES

List the environmental characteristics that caused the designation of the CEA.

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • Proposed Action to locate within the CEA?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?

NO  YES

**Examples that would apply to column 2**

- |  |                                     |                          |                              |                             |
|--|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in major traffic problems.             | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

See attached traffic study for analysis of potential trip generation and traffic impacts.

**IMPACT ON ENERGY**

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO  YES

**Examples that would apply to column 2**

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**NOISE AND ODOR IMPACT**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO  YES

**Examples that would apply to column 2**

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Blasting within 1,500 feet of a hospital, school or other sensitive facility.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day).   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will remove natural barriers that would act as a noise screen.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |



	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?

NO     YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.



## Part III – Attachment to EAF

### Impact Evaluation of Part II Affirmative Responses

The following text provides a brief description and evaluation of significance for the potential impacts identified in the Part II check boxes. For the Proposed Action, the types of impacts often associated with a development proposal are limited, since the project involves a previously developed site and the adaptive reuse of an existing building. In addition, the site is not constrained by wetlands or other regulated waterbodies, floodplains, significant steep slopes, or other identified sensitive natural resources. Furthermore, as a conversion of an existing facility, the project would not represent new utility demands or site traffic increases.

#### *Impact on Land*

The conversion of the office building to a hotel involves a building addition to the rear of the existing building, the removal of portions of the existing building and parking/driveway areas, and parking lot reconfiguration. This would necessarily involve grading and construction activity that would result in land disturbance. However, the site has been previously disturbed and the new building addition would generally be located in an area currently occupied by parking. In addition, the project will result in a substantial reduction in impervious surfaces, restoring areas that are currently paved to open space. Given the previously disturbed suburban nature of the site, the lack of significant environmental features (e.g., steep slopes, wetlands, etc.), and the overall reduction in impervious surfaces, sitework is not considered a significant impact.

The one item that potentially exceeds the threshold examples provided for this question in the EAF Part II relates to the depth to the water table. According to the United States Department of Agriculture (USDA) Natural Resources Conservation Service Soil Survey information, groundwater may be encountered between 1.5 to 2.5 feet below grade from February to March. No detailed, site-specific subsurface information is available at this point to confirm the generic USDA soil survey information. However, the current building has not experienced any significant problems related to a potential seasonal high water table. As a result, no significant construction complications would be expected for the addition to the rear, up-slope side of the building. Therefore, the depth to groundwater item does not appear significant or require mitigation.

#### *Impact on Water*

As indicated in the EAF Part I, the site does not contain any wetlands or other protected water bodies and a substantial increased demand on water supplies would not be anticipated. As described above, the proposed site plan would reduce the amount of overall impervious surfaces by over 15,000 square



feet. This will result in an overall improvement in water quality, increase in runoff infiltration and reduction in peak and total storm water discharge from the site. In addition, the proposed storm water management plan (discussed further in the following paragraphs) integrates contemporary low-impact design techniques and several new storm water measures designed to further reduce runoff and improve storm water quality. These improvements would be expected to have a positive impact on water resources.

As shown on Sheet S-1 of the Conceptual Site Plan Drawing Set attached to the petition, the total site impervious decreases from 43% in the existing condition to 38% in the proposed condition, a net decrease of 5%. More importantly, in the proposed condition, the parking area portion of the site is significantly reduced by 8%. The reduction in storm water volume in contact with the parking area reduces potential contaminant loading and improves storm water quality from the site. The net reduction in impervious increases the potential site percolation of storm water, reducing expected total runoff volume and peak.

The existing storm water basin size will be maintained and the performance evaluated to fully utilize the detention capacity by modification of the existing outlet control. The modification of the outlet, combined with the reduction in impervious, will increase detention time and reduce peak flow from the site.

In addition to the benefits noted above resulting from the decrease in impervious and reduction in parking area, the project also proposes two rain gardens to provide percolation and treatment of storm water runoff. The first is proposed near the eastern end of the upper parking area and will capture surface runoff from the upper parking area. The second rain garden is on the east side of the building to capture roof drainage. The rain garden at the upper parking area will reduce runoff volume and peak by providing infiltration and treatment of runoff for total suspended solids (TSS). The rain garden east of the building will provide infiltration of roof runoff resulting in a reduction of overall site runoff volume and peak. The rain gardens will be planted with a variety of water tolerant shrubs and trees.

In addition, in line storm water treatment will be added to the parking lot piping network to provide protection to the downstream receptors from potential parking lots spills or discharges and improve water quality from the parking areas. The treatment unit will provide mechanical TSS treatment and oil/water separation.

#### *Impact on Aesthetics*

The project would be expected to enhance local visual conditions through a reduction in the amount of surface parking area and implementation of a landscape plan. The landscape plan includes new plantings between the building and the Old Post Road frontage, which would supplement existing mature trees and provide additional screening for the residential neighborhood. (See Sheet L-1 of the Conceptual Site Plan Drawing set and the attached Landscape Plan Description.)



In addition, the proposed building modifications are expected to soften the visual character of the site. The removal of a portion of the existing office building allows for the creation of a front courtyard, which helps to break down the building massing. The articulation of the building façade further softens and transforms the current building's current monolithic appearance. In addition, the proposed architecture incorporates more traditional residential design elements (e.g., gabled roof, residential-scale fenestration, clapboard siding and stone building materials). These features combine to help create a building design that would be appropriate for a site that serves as a transition between corporate offices and surrounding neighborhoods. (See perspective renderings on the Conceptual Site Plan Drawing Sheets A-5 and A-6.)

#### *Impact on Transportation*

The conversion from an office building to a hotel would result in a change in traffic patterns. As indicated in the attached Traffic Access and Impact Evaluation report, based on Institute of Transportation Engineers (ITE) standards, a multi-tenant office building would be estimated to generate 109 and 104 vehicle trips ends during the weekday AM and PM peak hours, respectively. A 150-room hotel would be estimated to generate 84 and 89 vehicle trip ends during the same weekday peak hours. Therefore, the conversion from an office building to a hotel would be expected to reduce total site traffic generation by 25 and 15 vehicle trip ends during the weekday AM and PM peak hours, respectively. This would have an overall benefit to traffic operations and capacity along the nearby roadways and intersections. (See attached Traffic Access and Impact Evaluation report for additional detail.)

#### *Impact on Growth and Character of Community or Neighborhood*

The proposed project would result in a change in the land use of the parcel. As detailed in the Land Use and Fiscal Impact memorandum attached to the petition, the rezoning would facilitate the return of the property to productive use, with a type of tenant that would be compatible with the surrounding land use pattern.

The project site is located at the edge of a cluster of office complexes. The site is also directly adjacent to the Osborn retirement community. As noted in the supporting material, the County is suffering from an over-abundance of available office space. The weak market and continued lack of demand, coupled with prolonged vacancy of the existing building suggests that reoccupancy by a substantial office use would be highly challenging and unlikely. A hotel appears to offer a natural complement to the adjacent uses by providing a resource for business travelers who are visiting nearby offices, as well as family members visiting relatives at the Osborn. Having a supporting hotel facility in close vicinity would be expected to increase the attractiveness and competitiveness of the nearby offices and the Osborn. This would serve to help protect and enhance the district's and the City's economic vitality.

In addition, the project is a redevelopment of an existing site, which would not significantly increase land disturbance or involve a change in overall scale that would significantly alter the community character. The site is bounded by the Playland Parkway Access Drive and Old Post Road. The Playland Parkway essentially isolates the site from the residential properties to the east. The only residential

exposure would be to a few houses in the neighborhood across Old Post Road. This location (at the edge of the office cluster and between the larger office uses and the neighboring residential neighborhood) creates a transitional nature for the site. Given that the general scale of development on-site would not change, it is not expected that there would be a significant visual or land use impact. In addition, the site perimeter currently contains trees and vegetation that provide a buffer between the residences and the existing office building and supporting parking. In order to further minimize the potential for visual impact, the landscape plan includes enhancement of the vegetative buffer to further screen visibility of parking lot activity. Reuse as a hotel would also allow for a reduction of paved parking area, which provides an opportunity for additional landscaping along Old Post Road. It is also noted that, as described above, the proposed hotel use would generate less site traffic than an office. The reduction in traffic and associated site activity and the opportunity for additional buffering would further enhance the site's function as a transitional use.

Given the site location, building scale, and opportunities for additional landscaping and buffering, the project would not be expected to significantly affect neighborhood community character. A hotel use would also be expected to generate more tax revenue for the City than an office building. Therefore, reuse of the property for a hotel presents a reasonable and logical alternative for this underutilized resource.

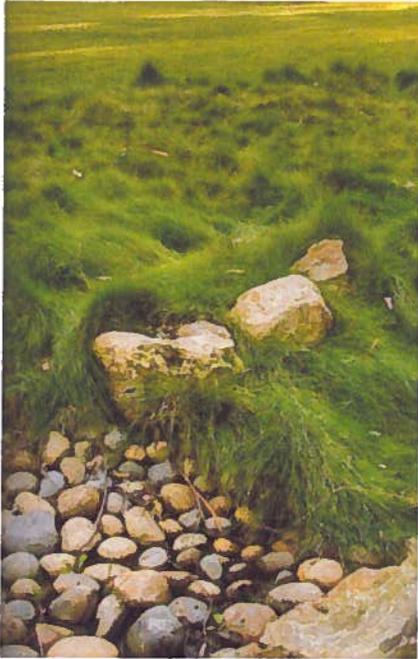
**EAF Attachment 1: Landscape Plan Description**

## HOTEL SITE CONCEPT IN RYE, NEW YORK

The landscape will transition from the native landscape of New York to a structured landscape at the building emphasizing plant diversity and taking advantage of the existing established plants.

### Dry Stream Bed at Street Entrance

In a natural drainage basin the stream is composed of headwaters, meandering middle land and a lower delta.



The existing basin on the south west side of the entrance drive would be a meandering dry stream bed which will be enhanced with a combination of stone and rock. The basin's paved swale will be covered in spots with larger stone to create a wider stream bed. Large trees and shrubs will be used at the sides of the basin to soften the basins edges and blend it into the landscape. Native trees include river birch, swamp

white oak and spring blooming shadblow other native and sustainable plants will be well represented.



### Building Entrance

In concept the building's main entrance is the epicenter of the landscape design with pedestrian flow into and out of the building. A canopy extends out of the building core and provides a drop off area for guests. Native specimen plants accent the walk to the entrance. Red-leafed Redbud, River Birch and Robusta Green Juniper will visually reinforce the entrance from the street. The south facing entrance courtyard will have a mix of ornamental shrubs and grasses.



### High Pool Courtyard

The courtyard creates a link between different functions of the hotel and provides an exterior connection between the interior and exterior. The courtyard has a northeast exposure protecting it from winter winds and providing a soft morning light. A rain garden is connected with the court and will provide a quiet contemplation corner for travelers wishing to slow the pace of life.

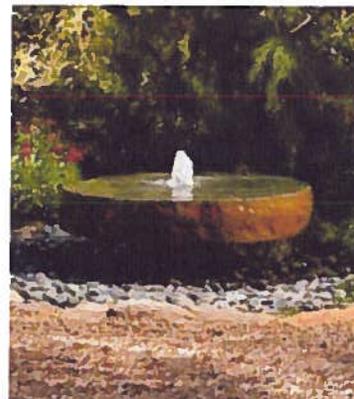
The rough low mow grass will be planted with spring bulbs. Weeping willows will be planted along the rain garden edges. The pool and workout space will have views into the space.



### Light Court

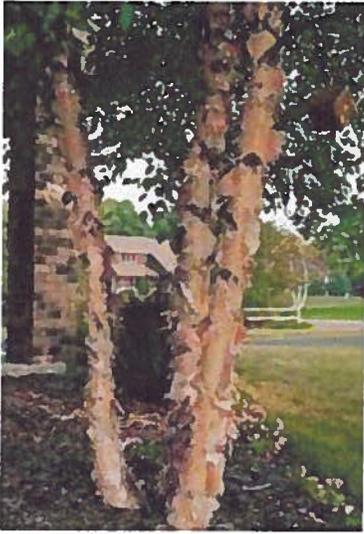
This courtyard will have a relaxed formal layout. The light shade courtyard tree Honey Locust will be mixed the evergreen vertical Robusta Green Juniper which formally defines the corners of the space. A path from the court will connect to the lobby and the

recreation trail at Old Post Road.

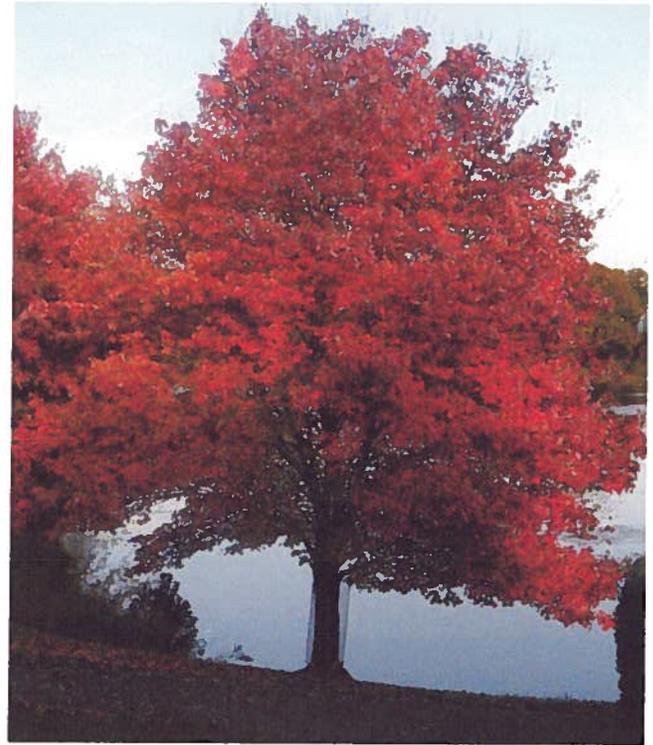


### Old Post Road Residential Park Buffer

The reinforcement of existing well developed trees with understory flowering trees and shrubs will emphasize the scenery and plants of New York as well as provide a Park Landscape buffer between the hotel and the residential neighborhood. The path along Old Post Road right of way will be relocated and repaved to provide the neighborhood and hotel with a recreation path that takes advantage of shade and naturalized buffers. To maintain biodiversity the understory flowering native trees will mix Shadblow, pagoda dogwood and Sweetbay Magnolia with existing trees.



**Betula nigra 'Cully'**  
**River Birch**  
 Light textured fast growing tree with attractive red-brown exfoliating bark best grown as multi-stemmed specimen. The tree has a 40' mature height with a width of 35' and is light yellow in fall.



**Acer rubrum 'October Glory'**  
**Red Maple**  
 An excellent native street shade tree coloring late in the season to brilliant shades of orange and red with fast growth rate maturing at 50'.



**Amelanchier Canadensis**  
**Shadblow**  
 A native tree useful and beautiful as both a single leader tree, as well as a large multi-stem shrub is a harbinger of spring with outstanding red fall leaf color. The white burst of spring flowers is followed by a small very dark colored edible berry. The bark

is smooth and light gray. Serviceberry might reach 20' to 25' both tall and wide at maturity.



**Cornus mas**  
**Cornelian Cherry**  
 A deciduous

flowering ornamental tree with abundant early spring flower and fall red berry which grows to 20'.



**Cercus canadensis 'Forest Pansy'**  
**Red-leaf Redbud**  
 Superb red leaf form of under story native ornamental.



*Physocarpus opul.* 'Diabolo'

**Diabolo Ninebark**

Super hardy European educated red foliaged shrub; native with exfoliating winter bark.



*Pennisetum alopecuroides*

'Hamlin'

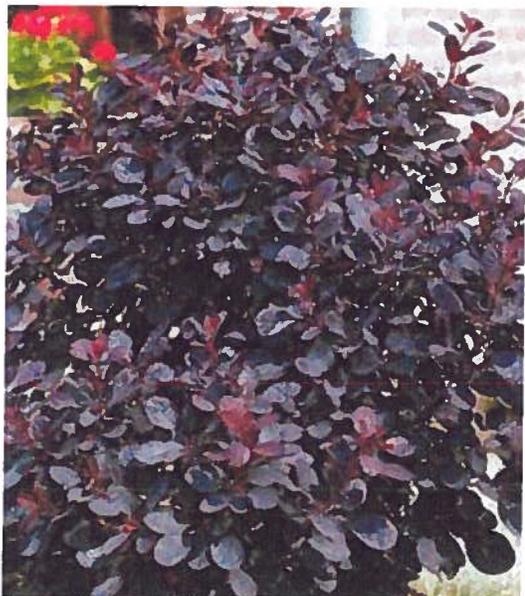
**Hamlin Fountain Grass**



*Calamagrostis arundinacea*

'Karl Forster'

**Karl Forster Reed Grass**



*Cotinus coggygria* 'Atropurpureus'

**Purpleleaf Smokebush**

Showy 5-8" smoke plumes occur June into August add an exotic flair to a red leaf accent shrub.



*Clethra alnifolia* 'Hummingbird'

**Summersweet**

Native versatile compact selection of the glossy leaved with late fragrant non-fading red-pink blossoms and yellow fall color.



**Magnolia virginiana 'Moonglow'**

**Sweetbay Magnolia**

Stunning native sustainable shrubby tree who's large green leaves provide backdrop for fragrant cream flowers which emerge throughout the summer.



**Miscanthus sinensis 'Zebrinus'**



**Hamamelis virginiana**

**Virginia Withhazel**

Native sustainable late fall bloom shrub with yellow fall color providing good bird cover.



**No Mow Grass Mix**

Mix of 4-7" fescue requiring little irrigation forming soft carpets. Recommend the grass be mowed for maintenance in fall. Needs good drainage.

**Sustainable Site Development**

**Vegetation:** to provide livable atmosphere, moderate climate and filter pollutants from air and soil.' SSI-2007

Vegetation has been chosen from native and sustainable plant varieties, which reduce maintenance, increase plant growth potential and stock availability from local growers. Emphasis of the New York landscape will expose international visitors to our regional beauty as well as provide employees and local visitors a park-like setting.

The grassy roughs are areas in which low mow grass species are used. Once established the roughs will reduce maintenance and provide a ground cover for native trees and shrubs.

A NYC study on shade tree climate moderation found an annual savings of \$27.8 million or \$47.63/ tree.

A 30% shading factor in parking lots can lower temperature 15 degrees.

Trees provide oxygen and filter pollutants from the air.

**Materials**

The selection of materials will seek to manage resources and materials efficiently, select materials for durability, use local materials and reduce urban heat island effect.

The use of cool paving and ecopavers to reduce heat island effect.

**Hydrology**

Sustainable practices seek to balance water budget, incorporate water infiltration, reuse water and provide clean and slow water flow.

The dry streambed will function as a local water garden filtering surface water to support ground water tables and reduce run off.

The Site development will not increase existing runoff.

**Soils**

Soils will be amended to provide healthy growing environments.

During the construction process efforts will be made to reduce compaction, removal of topsoil and disturbance of existing vegetation.

'Sustainable Site: One that links natural and built systems to achieve balanced environmental, social & economic outcomes to improve quality of life and the long term health of communities.'

*Preliminary report of Standards and Guidelines Sustainable Site Initiative/ 2007*

**EAF Attachment 2: Traffic Access and Impact Evaluation Report**





**FREDERICK P. CLARK ASSOCIATES, INC.**

PLANNING, TRANSPORTATION, ENVIRONMENT AND DEVELOPMENT  
RYE, NEW YORK FAIRFIELD, CONNECTICUT

with North Street and Theodore Fremd Avenue are controlled with traffic signals, which are maintained by the City of Rye.

5. *Playland Parkway* – This is a generally north-south, limited-access arterial, beginning at Interchange 19 on the New England Thruway (Interstate 95) and terminating to the southeast at Playland, which is a County-owned Park. A full-movement interchange provides access to Playland Access Drive and Old Post Road/North Street near the side. Playland Parkway provides two travel lanes in each direction and is median divided to a point south of the Boston Post Road Overpass. There are grade separating bridges at Old Post Road and Boston Post Road providing continuous traffic flow on Playland Parkway.
6. *New England Thruway (Interstate 95)* – This is a north-south, limited-access, Interstate Highway serving Westchester County. It provides three lanes in each direction and is median divided. The posted speed limit is 55 miles per hour for vehicles and 50 miles per hour for trucks. Access is provided to the Study Area via Interchange 19, which provides ramps in both directions on Interstate 95. These ramps connect directly to Playland Parkway, which provides direct to Playland Access Drive and Old Post Road.

**Site Traffic Generation Comparison**

As part of the modification to the site development, the existing 70,000 square-foot, multi-tenant office space will be converted to a 150-room hotel. Based on trip generation rates provided by the Institute of Transportation Engineers (ITE) and published in “Trip Generation,” 8<sup>th</sup> Edition, published in 2008, the current multi-tenant office building is estimated to generate 109 and 104 vehicle trip ends during the typical weekday morning and weekday afternoon peak hours, respectively.

The proposed 150-room hotel is estimated to generate 84 and 89 vehicle trip ends during the same weekday morning and weekday afternoon peak hours, respectively. Therefore, a conversion from a multi-tenant office building to a hotel will reduce the total site traffic generation by 25 and 15 vehicle trip ends during the weekday morning and weekday afternoon peak hours, respectively. This reduction in site traffic generation is minor; however, any reduction in traffic volumes on Study Area roadways will result in improved traffic flow and a reduction in vehicle delays at nearby unsignalized intersections. The attached Table 1 provides a more detailed breakdown of site traffic generation and a comparison between the existing 70,000 square-foot, multi-tenant office building and 150-room hotel scenarios.



Table 1  
**SITE TRAFFIC GENERATION COMPARISON – PEAK HOURS**  
Office to Hotel Building Conversion  
120 Old Post Road  
Rye, New York

LAND USE	SIZE	TRAFFIC DIRECTION	VEHICLE TRIP ENDS	
			Weekday Morning	Weekday Afternoon
General Office Building	70,000 S.F.	Enter	96	18
		Exit	<u>13</u>	<u>86</u>
		Total	109	104
Hotel	150 Rooms	Enter	51	47
		Exit	<u>33</u>	<u>42</u>
		Total	84	89
Net Difference		Enter	-45	29
		Exit	<u>20</u>	<u>-44</u>
		Total	-25	-15

Source: "Trip Generation," 8<sup>th</sup> Edition, published by the Institute of Transportation Engineers (ITE), 2008 using General Office Building, Code #710 Average Rates and Hotel, Code #310 Average Rates.

Note: Hotel Traffic was used for site traffic generation

Frederick P. Clark Associates, Inc.

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Revised 3-26-12

# EXHIBIT D



# The Osborn

*A tradition of gracious retirement living*

March 15, 2012

Frank S. McCullough, Jr., Esq.  
McCullough, Goldberger & Staudt, LLP  
1311 Mamaroneck Avenue, Suite 340  
White Plains, NY 10605

Dear Mr. McCullough:

We understand that your client Alfred Weissman and his Company own the adjacent property on the corner of the Playland Access Road and Old Post Road, formerly the headquarters of Mobius.

They wish to develop a 150-room hotel on that site. They are making an application to the City of Rye for a Zoning Amendment required for the project. We further understand that there will be an addition to the west side of the existing building that will include parking, which will actually reduce the number of surface parking spaces on the site.

The Osborn believes that this will be a good use of that property. It will add tax revenues to the City of Rye, the Rye City School District, and Westchester County; thus lessening the burden on the existing taxpayers, of which The Osborn is the largest taxpayer in all of Rye. It will provide needed lodging for the many visitors who have friends and relatives residing at The Osborn.

Accordingly, we are pleased to offer our support for the project as we understand it at this time.

Sincerely,



Mark R. Zwerger  
Chief Executive Officer



Martin E. Franklin  
*Founder & Executive Chairman*

March 22, 2012

Mayor Doug French and Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: Zoning Amendment Petition by Old Post Road Associates, LLC  
120 Old Post Road, Rye, NY

Dear Mayor French & Members of the Council:

I am submitting this letter in connection with the zoning amendment petition by Old Post Road Associates, LLC, to permit a hotel at the above referenced property, which is currently occupied by a nearly vacant office building. The headquarters of our Company, Jarden Corporation (NYSE:JAH) is located in the immediate vicinity of the subject property.

I am aware that the plans for the proposed hotel will require an amendment to the City of Rye Zoning Ordinance to allow hotels in the B-4 zoning district under certain specific conditions. The proposed improvements will not have a negative effect on the neighborhood or adjacent properties and will be in keeping with the character of the neighborhood, while repurposing an existing office building and providing much-needed income to the City via the hotel occupancy tax. I am in support of this application and the granting of the requested zoning amendment.

Very truly yours,

A handwritten signature in blue ink, appearing to read "M. Franklin", followed by a horizontal line.

Martin E. Franklin



555 Theodore Fremd Avenue  
Suite C-301  
Rye, New York 10580  
914.740.1500

March 20, 2012

Mayor Doug French and Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: Zoning Amendment Petition by Old Post Road Associates, LLC  
120 Old Post Road, Rye, NY

Dear Mayor French & Members of the Council:

We are submitting this letter in connection with the zoning amendment petition by Old Post Road Associates, LLC, to permit a hotel at the above referenced property, which is currently occupied by a nearly vacant office building. We are a tenant in the immediate vicinity of the subject property.

We are aware that the plans for the proposed hotel will require an amendment to the City of Rye Zoning Ordinance to allow hotels in the B-4 zoning district under certain specific conditions. We do not believe that the proposed improvements will have a negative effect on the neighborhood or adjacent properties. In addition, as a local business, it will be beneficial for us to have a high quality local hotel option in which our out of town clients and employees can stay while visiting us. We are in support of this application and the granting of the requested zoning amendment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Caplan", written over a horizontal line.

Rick Caplan  
Managing Partner

Faros  
Properties

551 Fifth Avenue Suite 413 New York, New York 10017 212 499-0700 [www.farosproperties.com](http://www.farosproperties.com)

April 5, 2012

Mayor Doug French  
Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: **Zoning Amendment Petition by Old Post Road Associates, LLC**  
**120 Old Post Road, Rye, NY**

Dear Mayor French & Members of the Council,

We are submitting this letter regarding the zoning amendment petition by Old Post Road Associates, LLC, to permit a hotel at the above referenced property, which is currently occupied by a nearly vacant office building.

We are aware that the plans for the proposed hotel will require an amendment to the City of Rye Zoning Ordinance to allow hotels in the B-4 zoning district under certain specific conditions. We do not believe that the proposed improvements will have a negative effect on the neighborhood or adjacent properties. We believe that the proposed hotel will be in keeping with the character of the surrounding community while repurposing an existing office building and providing income to the City. We are in support of this application and the granting of the requested zoning amendment.

Sincerely,



Jeremy Leventhal

Faros Properties



Alexander Leventhal

Faros Properties



# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager

DATE: April 18, 2012

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Discussion of proposal to amend Chapter 187 "Trees" of the City Code regarding the legislation of trees.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Environmental Advocacy Group of Rye (EAGR) and the Conservation Commission/Advisory Council have proposed changes to the existing City tree ordinance – Chapter 187 of the Rye City Code.

As requested by the Council at the April 4 meeting, attached is an updated draft local law amending the City's Tree Law and explanatory memorandum for the City's Council's consideration. If the attached law is deemed acceptable for a hearing by the City Council notice of the public hearing and the completion of a Full Environmental Assessment Form (EAF) will be required.

See attached.

Christian K. Miller, AICP  
City Planner  
1051 Boston Post Road  
Rye, New York 10580



Tel: (914) 967-7167  
Fax: (914) 967-7185  
E-mail: [cmiller@ryeny.gov](mailto:cmiller@ryeny.gov)  
<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Planning**

**Memorandum**

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To: Rye City Council

From: Christian K. Miller, AICP, City Planner

cc: Scott Pickup, City Manager  
Kristen K. Wilson, Esq., Corporation Counsel

Date: April 6, 2012

Subject: **Amendments to Chapter 187, *Trees*, of the City Code (Revised Draft)**

Attached hereto is a revised draft amending Chapter 187, *Trees*, of the Rye City Code. The revised draft includes the following changes:

- *City Tree Permits*. The language of §187-6 was revised to make it more clear that all City property except for City road right-of-ways are subject to the same tree removal requirements as private property.
- *Invasive Species*. Section 187-10 was revised to add the scientific names of all invasive tree species.
- *Tree Removal on Large Properties*. Section 187-11 was revised to require approval by the Board of Architectural Review (BAR) for the removal of ten or more trees on a property larger than five acres. Properties less than five acres require BAR approval for four or more trees. In all other cases removal of trees more than 8 inches DBH require approval by the Tree Forman. Based on a lot size analysis using the City's GIS it is estimated that there are approximately 45 properties out of the 4,500 properties in the City that are greater than five acres.
- *Mitigation*. Section 187-11 was revised to give the BAR the authority (but not the obligation) to require replacement trees as a condition of issuing a permit. The number, type and size of replacement trees would be at the discretion of the BAR, which must consider the feasibility of the site and other practical difficulties to accommodate replacement trees.

## Amendments to Chapter 187, *Trees*, of the Rye City Code

April 6, 2012

Page 2 of 6

- *Tree Removal Criteria.* Section 187-12 was revised to state that tree removal is permitted if a tree is “dead” as well as diseased. Trees can be removed if the applicant demonstrates that the tree “could” rather than “would” cause a hardship or endanger the public.

The following provides a detailed description of the proposed changes and where it differs from the amendments proposed by EAGR.

- *Findings and purpose (§ 187-1).* This section was revised to include the additional language suggested by EAGR to enhance that the purpose of the tree law is to protect and provide for increased regulation of trees in the City. It does not include the language that the purpose of the law is to promote the planting of trees. This language is unnecessary because the existing tree law does not include barriers to planting of trees except for reasonable oversight by the City when trees are proposed to be planted on City property or City right-of-way.
- *Definitions (§ 187-2).* The definition of “shrub” and “person” was revised or added to the existing law as recommended by EAGR. “Invasive species” was not defined, but the specific listing of prohibited trees was expanded to include invasive tree species. The definition of “protected tree” was not included in the definitions because it conflicted with the existing provisions designating protected trees in Section 187-16 of the law.
- *Planting of Trees (§ 187-3).* No changes were made to this section. It was the intent of EAGR’s proposed changes to this section to remove barriers to planting trees on private property. It is unnecessary because the City does not restrict, charge fees or regulate the planting of trees on private property except for existing section 187-10 which “...prohibits silver maples and allied species, ailanthus and poplars of any variety within a distance of 20 feet from any public street, right-of-way, sidewalk or other public place.” EAGR’s proposed language potentially conflicts with existing provisions in the law, which requires residents to obtain Tree Foreman approval to plant trees on public property. The City must continue to retain its existing authority to require oversight of tree planting on City property to confirm that the proper tree is planted in the appropriate location.
- *Injury to Public Trees (§ 187-4).* This section was amended to include the existing restrictions prohibiting the tying animals or fastening signs to public trees currently found in section 187-5 (see discussion immediately below). This change was made to provide for a new section 187-5 outlining the responsibilities of the City.
- *Responsibility of City (§ 187-5).* This section was changed to include the language proposed by EAGR regarding the responsibility of the City with respect to the preservation and maintenance of trees.

## Amendments to Chapter 187, *Trees*, of the Rye City Code

April 6, 2012

Page 3 of 6

- *Permit Required for Public Trees (§ 187-6)*. This section was amended as requested by EAGR that all City property, except for City road right-of-ways would be subject to the tree removal process as private property owners.
- *Removal of Limbs (§ 187-9)*. This section was amended to include new language proposed by EAGR regarding the responsibility of utility companies to adhere to the tree maintenance practices established by the International Society of Arboriculture (ISA) and American National Standards Institute (ANSI).
- *Prohibited Trees (§ 187-10)*. This section was amended to prohibit the planting of the following trees: Amur maple, Norway maple, Sycamore maple, Planetree maple, Princess Tree, White poplar, Silver poplar, Black locust, Yellow locust, False acacia, Tree of heaven, Copal tree and European black alder. The list of prohibited trees in the current law was expanded as recommended by EAGR to include invasive species. EAGR recommended that the law reference the Invasive Plant Atlas of New England (IPANE), as amended. The IPANE website includes a long list of invasive plant material including trees, shrubs and groundcover. In order to avoid confusion for the public and staff I amended the law to include only the tree species considered invasive by the IPANE website. I did not want to create the impression that the proposed tree law amendments prohibited certain kinds of shrubs or groundcover listed on the website.
- *Removal of Trees; Permit Required (§187-11)*. The law was revised as recommended by EAGR, to require that all trees over 8 inches DBH to obtain a tree removal permit. Currently, only those trees over 8 inches in caliper located in the front yard setback or abutting public property require a tree removal permit for the City's Tree Foreman. Under the proposed amended tree law tree removal permits would continue to be issued by the City's Tree Foreman consistent with current practice. Staff believes at this time that it can administer the increased permit load without the need to retain a consulting arborist<sup>1</sup>. This will allow the permits to be administered more quickly and at a lower permit cost as encouraged by EAGR.

The law does not provide for a new Tree Review Committee (TRC) to review and approve each tree removal permit. As discussed at the Council's March 14 meeting, the administrative and procedural demands of a new discretionary board may be more significant than the City Council or EAGR realize. A TRC will be a discretionary review board and have the same administrative and procedural responsibilities as any other City land use board, such as the City Planning Commission, Board of Architectural Review or Board of Appeals. A TRC will be required to meet on a regular basis, keep minutes, have meetings open to the public, keep records of its decisions, conduct site inspections and

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<sup>1</sup> 2011 – 97; 2010 – 71; 2009 - 79; 2008 – 52; 2007 – 85; 2006 – 80; 2005 – 78; 2004 – 88.

## Amendments to Chapter 187, *Trees*, of the Rye City Code

April 6, 2012

Page 4 of 6

generally be prepared to work thorough conversations where the applicant or members of the community want a tree removed and others may not. Within this context there is increasing legal liability with not authorizing the removal of trees where there is evidence from a professional that the tree may represent a hazard.

As a more manageable alternative, the proposed draft law requires the Board of Architectural Review (BAR) to review and approve requests to remove more than three trees on a property. This change was made given that the BAR has some tree review responsibilities under the existing tree law and under Chapter 53 of the City Code. Furthermore, the removal of more than three trees is likely often related to activities that would be subject to BAR review anyway. This will provide some permitting efficiency for applicants and City Staff. At the Council's March 14 meeting a member of the BAR stated support for amendments to the tree law. Giving the BAR these additional responsibilities has not been confirmed with all BAR members.

As discussed at the City Council's April 4 meeting the draft law was further revised to require approval by the Board of Architectural Review (BAR) for the removal of ten or more trees on a property larger than five acres. Properties less than five acres require BAR approval for four or more trees. In all other cases removal of trees more than 8 inches DBH require approval by the Tree Forman. Based on a lot size analysis using the City's GIS it is estimated that there are approximately 45 properties out of the 4,500 properties in the City that are greater than five acres.

Supporting the BAR will increase permit processing, administrative support and permit compliance demands of the City Building Department. The Planning Department will assist to the extent possible, however these additional responsibilities will require adjustments in current service to accommodate these new demands. The City Council or BAR may also want to offset these demands by considering adjustments in the definition of "small project" to reduce the number of applications the BAR reviews.

The revised draft law authorizes (but does not require) the BAR to require replacement trees as a condition of issuing a permit. The number, type and size of replacement trees would be at the discretion of the BAR, which must consider the feasibility of the site and other practical difficulties to accommodate replacement trees. This is a compromise from the EAGR law, which authorized the TRC to require the planting of mitigation trees of a specific size and a two-year survival period. Staff will be required to inspect properties to confirm that mitigation trees were planted and survived for a period of "two calendar years". Non-compliance with approved tree permits will increase enforcement responsibilities for the City and leave a property subject to inspection by City staff or the TRC. This is a significant issue that can encumber properties with permit

## Amendments to Chapter 187, *Trees*, of the Rye City Code

April 6, 2012

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conditions for an indefinite period unless specified in the law. City staff will evaluate our ability monitor and enforce the mitigation provision as we get more experience with the number of type of tree removal permits we receive over the next year.

- *Granting of Permits; Stop Orders (§187-12)*. The law was revised consistent with the recommendations of EAGR to allow for the City Manger to authorize tree removal without a permit for limited periods after storm events. The tree removal criteria was also revised to clarify that the Tree Foreman can authorize the removal of a tree already approved to be removed by a City land use board.

The law was not amended to change the tree removal criteria proposed by EAGR. The criteria are generally the same except that the proposed EAGR amendments would require a determination by a certified arborist that the tree is dead or requires removal. Requiring an applicant or the City to retain an arborist to determine whether a tree can be removed in all cases would be costly and potentially unnecessary when a tree is clearly dead or diseased. The City will continue its current practice of requesting an arborist determination from the applicant in cases where the health of the tree does not appear compromised in the opinion of the Tree Foreman.

The proposed EAGR law also proposed limiting tree removal for only the “placement of a primary structure on a lot.” This criteria is too limiting and would appear to prohibit other reasonable and permitted uses of property. The existing language in the law was retained, which allows removal “if a tree substantially interferes with a permitted use of the property”.

The attached law continues to have City staff retain its enforcement authority over the tree ordinance. Enforcement under the EAGR law would be dependant on whether the TRC determines there is a violation. Enforcement is an extremely sensitive issue that has legal ramifications that are challenging for a lay committee to administer.

Since the BAR would assume tree review authority this section of the law was revised to make the Planning Commission the appellate board in the event a permit is denied.

- *Prohibited Use of City Transfer Station for Trunks and Stumps (§187-15)*. This section was removed because it is no longer relevant. The City no longer operates a transfer station.
- *Penalties for Offences (§187-17)*. The law was revised as recommended by EAGR to increase the fine for unpermitted removal from \$250 to \$500. The section was also revised to incorporate some of the mitigation ideas suggested by EAGR in their proposed amendments. The revised enforcement section sets

**Amendments to Chapter 187, *Trees*, of the Rye City Code**

April 6, 2012

Page 6 of 6

forth minimum tree caliper sizes for replacement trees lost to unauthorized removal similar to the mitigation provisions recommended by EAGR. It also allows for payment to a City tree replacement fund. Other aspects of the EAGR amendments to the enforcement section presented legal concerns that can be better addressed by Corporation Counsel.

**DRAFT****LOCAL LAW  
CITY OF RYE NO. \_\_\_\_\_ -2012****A Local law to amend Chapter 187 “Trees”, of the  
Code of the City of Rye, New York**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1.** Chapter 187, “Trees”, of the Code of the City of Rye is hereby amended in its entirety and replaced with the following<sup>1</sup>:

**ARTICLE I Findings and Purpose**

§ 187-1 Findings and purpose.

The preservation and maintenance of trees and wooded lands is necessary to protect the health, safety and general welfare of the City of Rye because trees provide shade, impede soil erosion, aid water absorption, reduce stormwater runoff, enhance air quality, mitigate global climate change, yield advantageous microclimate effects, offer a natural barrier to noise, provide a natural habitat for wildlife, enhance property values and add to the aesthetic quality of the community. The unregulated removal of trees deprives the community of all these benefits. The purpose of this Local Law is to preserve trees and minimize their damage and removal, thereby enhancing the health, property values and general welfare of the residents of the City of Rye.

**ARTICLE II Definitions**

§ 187-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**CITY NATURALIST** The naturalist for the City of Rye or such representative as designated by the City Manager with the consent of the Conservation Commission.

**DBH (Diameter Breast Height):** The diameter of a tree measured at a point 4.5 feet above ground level at the base of the tree on the uphill side.

**PERSON:** Any individual, firm, partnership, association, or corporation or other legal entity.

**RIGHT-OF-WAY** The strip of land over which facilities such as roads are built as identified on the official City Map.

**SHRUB** A woody plants of relatively low height, having several ~~with many more or less erect~~ stems arising from the base and lacking a single trunk; a bush.

<sup>1</sup> For the reader’s convenience all changes to existing Chapter 187 are shown in underline for additions and ~~strikethrough~~ for deletions.

TREE All woody plants having one well-defined stem and a more or less definitely formed crown and attaining a height of at least 15 feet and a diameter of not less than two inches at maturity.

TREE FOREMAN The labor foreman in charge of trees or such representative designated by the Superintendent of Public Works.

### **ARTICLE III Trees on Public Property**

[Amended 11-30-2005 by L.L. No. 4-2005]

#### § 187-3 Planting of trees.

No person shall plant any tree, shrub or other vegetation within the limits of any public street, right-of-way, park or other public place without first obtaining a permit from the Department of Public Works and complying with the following requirements. Such a permit shall be granted only upon the determination by the Tree Foreman, after consulting with the Police Department, that such a planting will not create a traffic hazard and will not interfere with the use of such street, right-of-way, park or other public place by the public and that such planting will enhance the beauty and appearance of the street, right-of-way, park or other public place and the surrounding area.

- A. Trees planted within the limits of any public street, right-of-way, park or other public place shall be of a species and quality approved by the Tree Foreman and shall be planted at least 30 feet apart unless otherwise authorized by the Tree Foreman. Each tree shall measure not less than 2 1/2 inches nursery caliper.
  
- B. Should any tree, shrub or plant planted within the limits of any public street, right-of-way, park or other public place pursuant to any such permit, in the opinion of the Tree Foreman, at any time constitute a traffic hazard, interfere with the use of such street, right-of-way, park or other public place by the public or detract from the beauty and appearance of the street, right-of-way, park or other public place or the surrounding area, such tree, shrub or plant will be removed.

#### § 187-4 Injuries to public trees.

The following acts as to City trees are prohibited: namely, to injure trees by chopping into them, scarring the trunks, driving nails into the trunks or limbs, building fires near trunks or under branches and pouring or depositing substances injurious to growth on soil near trees, including oil, gasoline, tar, creosote, salt or other injurious substances. No person shall fasten or tie any animal to or attach any sign, bill, card, notice or advertisement to any tree or shrub in any public street, right-of-way, park or public place or allow any animal under his control to injure any such tree or shrub.

§ 187-5 ~~Fastening of animals or attaching of signs to trees or shrubs. Responsibility of City~~

~~No person shall fasten or tie any animal to or attach any sign, bill, card, notice or advertisement to any tree or shrub in any public street, right of way, park or public place or allow any animal under his control to injure any such tree or shrub. It is the responsibility of the City to plant and maintain public trees. The City may remove any tree which is in an unsafe condition or is harmful to sewers, electric power lines, gas lines, water lines or other public improvements. The City shall not remove, top off, or substantially alter the shape of any living tree in the absence of one of the above conditions. Trees that are severely damaged by storms or other causes, or trees under utility wires or other obstructions where pruning practices are impractical, may be exempted from this provision. Where public trees are to be planted under utility lines, selections shall be made of a species compatible to be planted under power lines and other utilities. This Article does not prohibit the planting of public trees by property owners provided that the General Foreman of the Department of Public Works has reviewed and approved such plantings.~~

§ 187-6 Permit required for ~~treating~~ public trees.

No person shall prune, spray, treat cavities, fertilize, cable, brace or otherwise treat or cause to be treated City trees without first having obtained a permit from the Department of Public Works and approved by the Tree Foreman. No City employee shall treat City trees without first consulting the Tree Foreman. The removal of trees on all City property, except City road right-of-ways shall be subject the requirements of § 187-11.

§ 187-7 Deposit to guarantee proper work.

Before a permit shall be issued, the applicant must deposit with the Department of Public Works a sum of money equal to the cost of such treatment as a guaranty that said work will be properly done. The Department of Public Works shall pay this money to the Comptroller. This sum of money shall be returned after the work has been inspected by the Tree Foreman, provided that he or she shall certify that said work is up to standard. If it is not properly done, the Tree Foreman shall cause the work to be completed to his or her satisfaction. After the completion of the work, the Tree Foreman shall certify to the Comptroller the cost of completing the work, and the surplus remaining after deducting such cost shall be returned to the applicant.

§ 187-8 Use of spurs, insulated wires or guy wires.

Any person, including public utilities, their agents, servants and employees, is prohibited from climbing trees with the aid of spurs. Any wires of public utilities passing among the branches of City trees shall be properly insulated so as to prevent damage to said trees. Guy wires shall not be attached to trees in such a manner as to girdle or restrict growth. When it is necessary to attach any guy wires or cables, such devices shall be attached by means of lag hooks screwed into the trunks or by eyebolts passing through the trunk.

§ 187-9 Removal of limbs.

When it is necessary to remove limbs to make clear passage for wires and where the removal of such limbs might injure a tree or spoil its symmetry or otherwise mar its appearance, it shall be

necessary to obtain a permit from the Department of Public Works before starting such work. It shall not be necessary to secure a permit for the usual periodical removal of small branches to allow the free passage of wires, but any such work will be subject to inspection by the Tree Foreman. Utilities, or their agents, responsible for maintaining rights of way in the City shall follow the tree maintenance practices established by the International Society of Arboriculture (ISA) and American National Standards Institute (ANSI), which have been approved and recommended by the National Arbor Day Foundation. Trimming of habitat shall be in a reasonable manner to protect the health and appearance of the tree. Utilities performing work at street level or below shall take reasonable precautions against inflicting injury to any tree and/or its roots. If a utility proposes to remove any tree, advance permission must be obtained from the Department of Public Works, except in the event of an emergency when a tree has fallen on a distribution line. W, and where such work is not up to standard, any expense incurred by the City in repairing the same will be charged to the public utility responsible.

#### ARTICLE IV Trees on Private Property

[Amended 12-20-2000 by L.L. No. 18-2000; 11-30-2005 by L.L. No. 4-2005]

##### § 187-10 Prohibited trees.

Property owners and other persons are prohibited from planting silver maples (Acer saccharinum) and allied species, ailanthus and poplars of any variety within a distance of 20 feet from any public street, right-of-way, sidewalk or other public place. In addition, the following trees are considered invasive species and not permitted to be planted on any property: Amur maple (Acer ginnala Maxim.), Norway maple (Acer platanoides L.), Sycamore maple (Acer pseudoplatanus L.), Planetree maple, Princess Tree (Paulownia tomentosa), White poplar (Populus alba L.), Silver poplar (Acer saccharinum), Black locust (Robinia pseudoacacia L.), Yellow locust (Robinia pseudoacacia L.), False acacia, Tree of heaven (Ailanthus altissima (Mill.)), Copal tree and European black alder (Alnus glutinosa (L.)).

##### § 187-11 Removal of trees; permit required.

Any property owner applying for subdivision approval whose plans would require the removal of any trees is subject to regulations outlined in Chapter 170, Article IV, § 170-15D. In all other cases, addition, a permit shall be required as follows:

- A. Tree removal on properties less than five (5) acres in area. The removal of less than four (4) trees no person shall remove a tree greater than eight (8) inches DBH or greater shall not be permitted in diameter measured 54 inches from the base of said

~~tree in a required yard adjoining public property or any tree in an historic district without first obtaining a tree removal permit from the Department of Public Works the Tree Foreman. Dimensions for required yards are established in Chapter 197, Article VIII, § 197-86. In cases pertaining to required side yards, the one-side minimum yard dimension shall apply. The removal of four (4) or more trees eight (8) inches DBH or greater within one (1) year shall not be permitted unless approved by the Board of Architectural Review subject to the review criteria of §187-12.B.~~

- B. Tree removal on properties greater than five (5) acres in area. The removal of less than ten (10) trees eight (8) inches DBH or greater within one (1) year shall not be permitted without first obtaining a tree removal permit from the Tree Foreman. The removal of ten (10) or more trees eight (8) inches DBH or greater within one (1) year shall not be permitted unless approved by the Board of Architectural Review subject to the review criteria of §187-12.B.

§ 187-12 Granting of permit; stop orders.

- A. Application for permits must be made by the owner and other person, firm or corporation, if any, actually performing the work, in writing, to the Department of Public Works ~~upon forms prescribed by the City Naturalist, The City Naturalist may adopt rules for obtaining and processing of permits subject to approval by the City Council.~~ The fee for each application shall be set annually by resolution of the City Council before adoption of the budget for the following year, payable upon submission of the application. Approval of permits shall be made by the ~~City Naturalist~~ Tree Foreman. Denial of permits by the ~~City Naturalist~~ Tree Foreman or Board of Architectural Review may be appealed to the ~~Board of Architectural Review~~ Planning Commission pursuant to the review procedures under this Code. The ~~Board of Architectural Review~~ Planning Commission is authorized and empowered to obtain the assistance, when necessary, of persons especially qualified by reason of training or experience in tree planting, preservation and landscaping.
- B. Permits for the removal, cutting or destruction of trees may be granted by the Tree Foreman or Board of Architectural review, as applicable, under the following circumstances:
- (1) If the presence of the tree ~~would~~ could cause hardship or endanger the public or the person or the property of the owner or of an adjoining owner.
  - (2) If a tree is dead, diseased or threatens the health of other trees.
  - (3) If a tree substantially interferes with a permitted use of the property.
  - (4) If the tree was authorized to be removed as part of an approval granted by the Board of Architectural Review, Planning Commission or Board of Appeals.

C. Stop order. If the City Naturalist or Tree Foreman determines the removal, cutting or destruction of trees for which a permit has been granted is not proceeding according to the permit, the City Naturalist or Tree Foreman may issue a stop order. Work will not resume until approved corrective measures are undertaken.

D. After an extreme weather event, and at the discretion of the City Manager, removal of damaged trees may be allowed without a permit for a reasonable period of time.

E. When an application is subject to review the Board of Architectural Review, the Board may require as a condition of permit approval the planting of replacement trees. The type, size and quantity of replacement trees shall at the discretion of the Board of Architectural Review, which shall consider the feasibility of the site and other practical difficulties to accommodate replacement trees.

#### § 187-13 Removal of branches overhanging highways.

Where privately owned trees encroach upon any street, right-of-way, park or other public place, the Tree Foreman is authorized to remove branches overhanging any public street, right-of-way, park or other public place, or if, in his or her judgment, such trees are dangerous to the public, he or she is authorized to remove them.

#### § 187-14 Removal of dead trees.

Where any dead tree or trees located on private property adjacent to a public street, right-of-way, park or other public place constitute a danger or are potentially dangerous to the traveling public, the Tree Foreman may serve personally or by mail upon the owner of said property a written notice to remove the dead tree or trees, and upon failure to do so within 20 days after the service of said notice, the City, through its contractors, agents or employees, may remove the same and assess the cost thereof against the property affected by said assessment, to be levied, collected and enforced in the same manner as taxes upon said property for City purposes are levied, collected and enforced.

#### ~~§ 187-15 Prohibited use of City transfer station for trunks and stumps.~~

~~It shall be unlawful for any person to place, deposit or dump on the City's transfer station any trunks, limbs or branches of trees in excess of six inches in diameter, and, further, it shall be unlawful to use said transfer station for the deposit of tree stumps.~~

### ARTICLE V Protected Trees

#### § 187-16 Protected trees.

Trees designated as protected may not be removed unless the City Naturalist or Tree Foreman determines, because of their condition, they are a danger to persons or property or that they are

diseased and cannot be saved. A tree may be designated as protected by the Board of Architectural Review after a public hearing. Such designation may be made because of the tree's age, history, uniqueness or special beauty. No protected tree designation may be made without the written consent of the tree's owner.

## ARTICLE VI Penalties for Offenses

§ 187-17 Penalties for offenses.

- A. Any person, firm or corporation violating any of the provisions of this chapter will be required to replace, in kind, each and every tree removed, cut down or destroyed. If the tree was so large and mature that it cannot be replaced, the City Naturalist or Tree Foreman may require the planting of multiple trees having a minimum size of three (3) inches in diameter measured 54 inches from the base of said tree. If multiple trees cannot be planted on the site of the violation, other available planting spaces on public property will may be used to accommodate the balance of the penalty or an equivalent monetary value for required replacement trees may be deposited into a City tree replacement fund. No certificate of occupancy shall be issued for any new construction on property on which occurred any violation of this chapter unless and until the provisions of this subsection have been complied with.
- B. In addition to any other penalty, any person, firm or corporation or individual hired by such firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the City in the amount of \$250-500 for each and every tree removed, cut down or destroyed in violation of this chapter.
- C. In addition to the foregoing, any person, firm or corporation engaged in the business of tree removal or care who or which shall aid, assist or abet in the violation of this chapter may be denied the status of a permittee under § 187-12 for a reasonable period of time to ensure future compliance, in the discretion of the City Naturalist, subject to appeal to the City Manager.

## ARTICLE VII Enforcement

§ 187-18 Enforcement.

The City Naturalist, ~~tree~~Tree ~~f~~Foreman and Building Inspector, with the assistance of the police, shall enforce this chapter.

### Section 2. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 3.    Effective Date**

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager

DATE: April 18, 2012

CONTACT: Scott Pickup, City Manager

**AGENDA ITEM:** Discussion of proposed Memorandum of Agreement between the City of Rye and Lester's of Rye, LLC for the right of first refusal for the purchase of the property located at 1037 Boston Post Road.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City's lease with the current tenant, Lester's of Rye, LLC, ends in February 2013. The City has had discussions with the current tenant regarding the possible sale of 1037 BPR and Lester's has demonstrated a strong interest in purchasing the building. The City will determine if there are any other interested buyers in the Property during a due diligence period ending June 13, 2012. A listing sheet will be distributed describing the property and specifying the terms of any offer. Lester's of Rye, LLC has put an offer in on the property and the City has agreed to grant Lester's a right of first refusal to purchase the property after the due diligence period has ended subject to the terms of the attached Memorandum of Agreement.



# CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager

DATE: April 18, 2012

CONTACT: Scott Pickup, City Manager

**ACTION:** Consideration to set a Public Hearing for May 9, 2012 to discuss potential capital projects to be included in a November, 2012 Bond Referendum.

**FOR THE MEETING OF:**

April 18, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Timeline for a 2012 Bond Referendum:

April, 2012 – identify projects to be included in the bond referendum  
April 18, 2012 – set the Public Hearing for May 9, 2012 regarding projects to be bonded  
May 9, 2012 – open the Public Hearing regarding projects to be bonded  
May 23, 2012 – close Public Hearing regarding the projects to be bonded  
May 24, 2012 – June 7<sup>th</sup> – City Staff to work with Bond Counsel on bonding resolution  
June 8, 2012 – Distribute Bond Resolution to Council for review prior to adoption  
June 13, 2012 – adopt bonding resolution by 60% majority including a yes vote by the Mayor  
August, 2012 – send ballot information to Board of Elections (City Staff action only)  
November, 2012 – General Election  
November, 2012 – override the tax levy cap for 2013 budget to pay debt  
November to December 2012 – borrow funds if Bond Referendum passes  
January, 2013 – begin work on projects  
November, 2013 – override the tax levy cap for 2014 budget to pay debt  
December, 2013 – first interest payment due  
June, 2014 – second interest payment due  
December, 2014 – first principal payment and third interest payments due



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**CITY OF RYE**  
**Department of Finance**  
**MEMO**

TO: City Manager, Scott Pickup

FROM: Jean Gribbins, City Comptroller

DATE: March 16, 2012

RE: Timeline for November 2012 Bond Referendum

Scott –

I had presented a timeline for a November 2012 Bond Referendum at the November 30, 2011 Budget Workshop. I have adjusted it for the specific Council Meeting dates, excluding the July meeting below:

- April 2012 – identify projects that will be bonded for
- April 18th – set Public Hearing for May 9th regarding projects to be bonded for
- May 9th – open Public Hearing regarding the projects to be bonded for
- May 23rd – close Public Hearing regarding the projects to be bonded for
- May 24<sup>th</sup> – June 7<sup>th</sup> – City Staff to work with Bond Counsel on bonding resolution
- June 8<sup>th</sup> – Distribute Bond Resolution to Council for review prior to adoption
- June 13, 2012 – adopt bonding resolution by 60% including a yes vote by the Mayor
- August 2012 – send ballot information to Board of Elections (City Staff action only)
- November 2012 – General Election
- November 2012 – override levy cap for 2013 budget to pay debt
- November – December 2012 – borrow funds if referendum passes
- January 2013 – begin work on projects
- November 2013 – override levy cap for 2014 budget to pay debt
- December 2013 – first interest payment due
- June 2014 – second interest payment due
- December 2014 – first principal payment and third interest payments due

The original schedule I presented had the adoption of the bond resolution by Council at the July meeting, the Public Hearings during June, and the identification of bonded projects in May. Removing the July meeting condenses the schedule.

Jean Gribbins, CPA  
City Comptroller



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**CITY OF RYE**  
**Department of Finance**  
**MEMO**

TO: City Manager, Scott Pickup

FROM: Jean Gribbins, City Comptroller

DATE: March 16, 2012

RE: 2012 Bond Referendum Debt Service

Scott –

I presented the following information at the November 30, 2011 Budget Workshop on Debt.

In the first year after borrowing, or 2013, the City would have two interest payments.

In the second year after borrowing, or 2014, the City would have two interest payments, as well as a principal payment.

For a \$5 Million borrowing, in the 2013 Budget, the City's expense base will increase by the amount of the two interest payments, or \$150 – 200,000 (3% & 4% borrowing rates) or a 1% tax rate increase, holding all other expenses constant.

For the 2014 Budget, the City's expense base will increase by another \$180 – 200,000 (3% & 4% borrowing rates) or an additional 1% tax rate increase, holding all other expenses constant, to cover two interest payments and one principal payment.

For a \$10 Million borrowing, in the 2013 Budget, the City's expense base will increase by the amount of the two interest payments, or \$300 – 400,000 (3% & 4% borrowing rates) or a 1.5 to 2% tax rate increase, holding all other expenses constant.

For the 2014 Budget, the City's expense base will increase by another \$360 – 400,000 (3% & 4% borrowing rates) or an additional 2% tax rate increase, holding all other expenses constant, to cover two interest payments and one principal payment.

Please keep in mind that for both of those years, the City will still be under the levy cap limit. Council will need to override the levy limit in order to cover the increase in debt service until it becomes part of the City's expense base.

Borrowings are repaid over the PPU, or Period of Probable Usefulness of the asset.

The City uses level debt amortization, which keeps the total Principal and Interest to be paid each year at a fairly consistent amount, in order to make year over year budgeting more consistent, avoiding peaks and valleys in the expenditures.

Jean Gribbins, CPA  
City Comptroller



# CITY COUNCIL AGENDA

NO. 12      DEPT.: City Council      DATE: April 18, 2012  
CONTACT: Mayor Douglas French

**AGENDA ITEM:** One Appointment to the Board of Assessment Review for a five-year term expiring on September 30, 2017, by the Mayor with Council approval.

**FOR THE MEETING OF:**  
April 18, 2012  
**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Council appoint Howard Husock to the Board of Assessment Review.

**IMPACT:**     Environmental     Fiscal     Neighborhood     Other:

**BACKGROUND:**

<u>Current Committee Members</u>	<u>Expiration Date</u>
Caroline Mosher Gadaleta, Chair	9-30-14
Robert Byrne	9-30-15
Debbie Galliard	9-30-16