



CITY OF RYE
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November 30, 2004

Christopher Bradbury
Village Administrator
Village of Rye Brook
King Street
Rye Brook, NY

Dear Chris,

Flooding continues to be a significant concern for the City of Rye. We were all reminded of our vulnerability to flood damage along Blind Brook in September when residents of Rye Brook and Rye suffered flood damage.

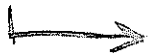
We are writing to express opposition to the proposed Bowman Avenue Development. This project has been resubmitted to the Village of Rye Brook Board of Trustees for review.

The City of Rye continues to have significant concerns regarding this proposal and would recommend rejection of the project and consideration of alternative uses for this property.

Both the City of Rye and the Village of Rye Brook have worked to respond to flooding issues through adoption of land use policies which seek to address flooding for our communities.

The Bowman Avenue project will limit the ability to our two municipalities to reduce flooding based upon flood control infrastructure improvements. By building and paving in the riparian buffer the project violates a variety of planning initiatives which recommend against such actions within our watershed and waters leading to Long Island Sound.

D-6



Watershed Advisory Committee 3

The Village of Rye Brook Board of Trustees passed a resolution endorsing the Watershed Advisory Committee 3 principles on March 4, 1998. The Watershed Advisory Committee Planning Process grew out of Westchester County's Long Island Sound Non-point Source Pollution Prevention program for Long Island Sound and was "created to foster a cooperative relationship between all municipalities" and "to recognize the importance of developing locally acceptable nonpoint source pollution control plans."

The Watershed Advisory Committee 3 (WAC 3) study area included the Blind Brook subwatershed and those portions found in the Village of Rye, City of Rye, and the Town/Village of Harrison.

The proposal violates agreed upon principles in the Watershed Advisory Committee 3 Management Plan report "Controlling Nonpoint Source Pollution in Long Island Sound". Most notably, a major principle of the WAC 3 management plan report and of nonpoint source pollution prevention guidelines is to avoid building in riparian buffer areas.

The report states:

"Adequate buffers from new development and redevelopment, such as buildings, parking lots, roads and managed lawns, should be provided throughout the WAC 3 study area; buffers filter stormwater runoff before it enters streams and wetlands."

According to the DEIS the proposed project includes building and paved areas for 95% of the land portion of the property. The DEIS states "for the subject development, this means that all areas within 100 feet of the shoreline are within the buffer area."

The Village of Rye Brook Wetlands and Watercourses law establishes criteria by which wetland and watercourse decisions are balanced including the duty to minimize impacts on a project, to "have as little impact as possible" and to place activity "to the maximum extent practicable" outside of a wetland and wetland/watercourse buffer.

Section 245 - C.

Preference will be given to activities that must have a watercourse or wetland location in order to function and that will have as little impact as possible upon the wetland/watercourse buffer. In general, permission will not be granted for dredging or ditching solely for the purpose of draining wetlands, controlling mosquitoes, lagooning, constructing factories, providing spoil and dump sites or building roadways or structures that may be located elsewhere. The regulated activity must, to the maximum extent practicable, be confined to the portion of a lot outside of a wetland and wetland/watercourse buffer. All measures must be taken to minimize, to the maximum extent practicable, direct and indirect impacts upon the wetland.

Given the fact that the proposal paves practically the entire site (building, parking, and roadway areas) and leaves inadequate buffer areas to protect against flooding and environmental impacts moving forward on this application would not be appropriate.

The Westchester County Committee on Nonpoint Source Pollution Fact Sheet on impervious areas offers some highlights regarding the importance of protecting buffer areas:

"Q: What affects do we see from stormwater runoff of impervious areas?"

A: The following impacts of imperviousness have been scientifically documented:

- Flooding as more water is delivered directly to water bodies without being slowed down by vegetation or absorbed into the soil.
- Erosion as stream banks are undercut and washed away due to higher and faster flows of water.
- Sedimentation due to upstream soil erosion, which is gradually filling in our lakes, harbors, bays and other water bodies.

impervious surfaces.

- Water quality degradation from increased pollution levels such as excessive nitrates, phosphates and pathogens.
- Habitat loss of certain fish and wildlife species due to water temperature increases, sedimentation and nitrogen and phosphorous loading.”

Westchester County's Open Space Plan also reaffirms the priority position buffer protection holds in open space planning in Westchester.

“Policy 5. ENVIRONMENTAL RESOURCES

It shall be the policy of the County to facilitate the protection and preservation of properties that the county has identified as having special natural, scenic or environmental significance.

Priorities:

- * Properties which protect water quality including groundwater supplies
- * Properties that lie along shorelines or reservoirs
- * Wetlands, floodplains and streamside buffers
- * Prime agricultural land
- * Properties that offer potential for reclaiming wetland and other environmentally sensitive lands that have already been altered or adversely affected
- * Properties which provide exceptional habitats for plants fish and wildlife species, provide critical habitat linkages or which can be reclaimed to provide for biodiversity or other environmental needs.”

It is clearly established that allowing development in riparian buffers, and in this case, development to the edge of the watercourse, will reduce the water retention and cleansing capabilities of porous surfaces. The result will be increased flooding and decreased water quality. The strip portion of the proposal helps serve that function in relation to the shopping center and medical building complex it abuts.

The proposal claims that, “a stormwater management program is proposed which will reduce post-development peak runoff rates over the existing condition.” This claim is not substantiated. Even were it accurate it would be insufficient. Given the flooding damage along Blind Brook in Rye Brook and Rye this year it is clear that both municipalities must work together to reduce the existing flood impacts and the public safety challenges they pose.

The project document claims regarding flooding, environmental, water quality, sediment control, and wetland protection are not persuasive and have not satisfied the concerns this community has previously raised. The City of Rye continues to oppose approval of this project.

The City of Rye is studying options for increasing flood protection along Blind Brook. Included in that review are options for improving the storage capacity of the lower pond, part of which is included in the City of Rye's flood control property owned in the vicinity of this proposal. [The City of Rye owns 34.5 acres west of the proposal site for flood control purposes. This holding includes a flood control dam, the upper pond, and a portion of the lower pond. This land was purchased for flood control purposes in 1940 and has not been developed. Of the 34.5 acres, 17.9 are in the Village of Rye Brook and 16.6 are in the Town of Harrison.]

and increase parkland and open space resources in the area including the site now the subject of this application. The City continues to be interested in working on possible solutions and will support efforts to obtain support from federal, state, and county emergency management and environmental agencies. The Village of Rye Brook joined as a partner community in the City's Project Impact emergency management program under the Federal Emergency Management Agency.

When this identical project was proposed a decade ago there was concern in the broader environmental community regarding this project. At the time the Federated Conservationists of Westchester County issued a letter of concern about the project. The Village may want to renew that contact before making any decision. The Westchester County Soil and Water Conservation District may also be willing to offer comment and advice through staff or Board review.

Thank you for your consideration in this matter. Please contact us for additional information regarding this project and related issues where the Village and the City can work together.

Sincerely,

A handwritten signature in black ink, appearing to read "O. Paul Shew", with a long horizontal line extending to the right.

O. Paul Shew
City Manager