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Mr. Christopher Bradbury
Administrator, Village of Rye Brook
Village of Rye Brook Offices
938 King Street
Rye Brook, NY 10573

Dear Mr. Bradbury,

Re: Comments on the Scoping Outline for a Draft Environmental Impact Statement (DEIS) for a Proposed "Action" related to 900 King Street

As an original property owner in the Arbors PUD and long-time resident of Rye Brook, I read with interest the documents about 900 King Street that are posted on the Village's website. I am writing to thank the Village board for making the positive declaration pursuant to SEQR and to offer my suggestions on the DEIS scoping outline. Based on my reading, it appears the DEIS covers a proposed action that includes: (a) proposed zoning amendments and (b) a proposed concept plan submitted on behalf of Rye King Associates LLC. If approved, these changes would significantly affect our community for many years to come. So we all want to see the right decisions made. In this regard, I suggest the following:

1. Expand the scope of the DEIS to include a sharper focus on sustainable development. This can be done by consistently asking two sets of questions: (1) How will the changes at 900 King Street affect the community in the future? (2) How will changes in the community affect the 900 King Street property in the future?

Reasons: A focus on sustainability is an integral part of the character of the community in Rye Brook. Although specific laws and regulations are not yet in place, the Village's Comprehensive Plan clearly focuses on sustainability as a core component of the character of the community. And SEQR considers inconsistencies with community character to be an environmental impact. Yet the responses to the Full Environmental Assessment Form include little mention of the sustainable practices cited in the Plan, such as using "green building practices" and innovative parking solutions, or embracing the use of alternative energy sources. For example, the response is simply "No" to the question of "Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?" This response may not have a significant adverse environmental impact. But, sadly, it does not have a favorable impact either.

To be clear, I doubt that anyone wants the DEIS outline to call for any misleading "greenwashing." But the role of the Village board involves achieving the right balance between the economic, social and environmental aspects of the proposal. And a more in-depth analysis of the sustainability impacts would be helpful in finding the right balance.

2. Expand the scope of the economic analysis in the DEIS and add more alternatives. The economic analysis should look beyond tax revenues and include all the potential economic benefits, as well as a comparison with reasonable alternative uses and a sustainability risk assessment for each alternative. The risk assessment should include the risks associated with locating the proposed facility in a PUD.

Reasons: As currently drafted, the scoping outline is not responsive to the business realities. Clearly, there are multiple potential adverse environmental impacts associated with the proposed action. When it comes time to review the findings, any attempt to balance these adverse environmental impacts against the benefits will be complicated by the need for more information about the following business realities.

- Reality No. 1. The first business reality that needs to be addressed is the uncertainty about the level of demand for the proposed land use, either now or in the foreseeable future - which includes the ten or more years it will take before the baby boomer generation is ready to enter an assisted living facility. And, in the meantime, frankly, the long-term economic benefits of this proposed land usage seem to pale beside those of other alternatives.
- Reality No. 2. Although this type of economic analysis may not be required by SEQR, the second business reality that needs to be addressed is that the economic impacts of sustainable development are community-wide and region-wide, not site-specific. Alternative land uses can provide economic benefits that go far beyond the tax effects attributable solely to a single site on the Town of Rye tax assessment roll. This is why it is important to consider all the benefits.
- Reality No. 3. The third business reality is that the proposed action appears to be an unusually "high-risk" action in a highly competitive industry. The risk is that the future economic benefits may not be sustainable because they depend heavily on issues (e.g., future safety records) that difficult to predict or quantify.
- Reality No. 4. The fourth business reality is that a PUD is at best a suboptimal location for a facility of the type that is being proposed. This is so for many reasons, including the way the proposal undermines the whole purpose of PUDs (e.g., by destroying instead of preserving natural resources and open spaces).

Although this is understandably a difficult analysis, it would help with the balancing of any adverse environmental impacts if the scoping outline could make a best-efforts attempt to address these realities. The remainder of this letter provides specific suggestions for the comparison with alternatives, benefits analysis, risk assessment, and PUD-specific considerations.

3. Provide a realistic commercial office alternative. Specific suggestions:

- One of the most critical suggestions is that the DEIS should include the alternative of making whatever renovations are needed to provide a commercial office building that is greener, more compliant, and easier-to-rent-out than the current building and one that would have fewer environmental issues and less risk than the proposed action.
- An "as is" empty or nearly empty commercial office building should not be the sole basis for comparison with a commercial office building alternative because that condition may be temporary and may have been caused, at least in part, by the nature of changes in the Village's zoning laws.

- It would be helpful if any comparisons with alternative uses for the site could be based on the assumption that the current troublesome non-conformities of the 900 King Street property with VRB zoning laws will be satisfactorily resolved and will no longer limit the site's potential or hinder the owner's ability to find suitable tenants. For additional information, refer to the Village's Comprehensive Plan. The Plan explains that both the Arbors residential section and the 900 King Street site fell out of compliance with the Village's zoning laws in the 1990s. The Plan adds that the resulting non-conformities may be limiting the potential of 900 King Street, possibly contributing to its vacancy issues. The Plan also spells out the revisions that are needed.
 - Arguably, the best way to facilitate the comparison with viable alternatives for commercial office use is for the Village to make the necessary zoning revisions as soon as possible. This will result in more accurate data for decision-making, and it will help to mitigate any adverse impacts. Just imagine the magnitude of the economic benefits that would accrue to the community if Amazon were to announce that it intends to build its second HQ in NY or CT, and it has determined that it needs a temporary HQ close to an airport (just like 900 King Street) to facilitate the start-up of its new HQ. This may sound too good to be true, but it will likely be forever relegated to an impossible dream if the Village does not fix the zoning laws that have contributed to office vacancies in the past.
 - To illustrate the value of expanding the scope to include a viable office building alternative, a greener solar-powered office building might be able to provide emergency shelter for residents of Rye Brook in an extended power outage like the one caused by Super Storm Sandy. This would likely enhance the Village's reputation as a leader in energy-efficiency and serve as an inducement to future economic growth that would more than compensate for any lost tax revenues in the short-term while the building is being renovated.
4. Provide a more comprehensive benefits analysis. Specific suggestions:
- The analysis of benefits should include broader economic growth, (e.g., the ability of the site to attract new businesses and high-paying jobs to the Village), and it should provide data on relevant trends.
 - To borrow a quote from a tweet made a few years ago by former NYC Mayor Mike Bloomberg, "In God we trust, everyone else bring data." For 900 King Street, this means the data in the economic analysis should be responsive to the business realities and should include the reasons why the applicant believes the proposed action will result in stable occupancy rates and sustainable economic benefits despite the business realities and perceptions of "high risk."
 - Examples of relevant data include information about emerging trends in demographics, healthcare alternatives for those who desire to age in place, and a host of regulatory developments ranging from changes in US federal and state income tax laws to the regulatory environment for healthcare and assisted living facilities. Ideally, if possible, the DEIS should provide targeted local data about the demographics of both the Village as a whole and the existing Arbors residential section of the PUD in addition to providing general data about the current and projected trends.

5. Provide a risk assessment. Identify the risks associated with each alternative land use and discuss the possible ways to mitigate these risks. Specific suggestions:
- Intuitively, it seems that any risks related to the safety of occupants in age-restricted independent living and assisted living facilities would appear to be of paramount importance in evaluating the proposed action because any mishaps could have important and far-reaching consequences. In this regard, a PUD location appears to be one of the least desirable locations because it further magnifies the safety risks in ways that cannot be solved by throwing money at the issues. The DEIS should include a discussion of the relevant risks in general and the risks of a PUD location in particular.
 - Examples of PUD-related risks include: (a) The need to rely on private roads such as Arbor Drive that do not benefit from the Village's snow removal or highway services. (b) The need to rely on the vigilance of nearby neighbors who are subject to special law enforcement protocols, (such as restrictions on who can call the police if someone's shouting is causing a disturbance and/or if someone appears to have lost his or her way). The protocol relies on who holds title to the land on which the incident occurs. This process can get incredibly bureaucratic and time-consuming in a subdivision whose property lines are visible only on maps and in a private community where the only after-hours contact is an off-site management company. The lack of on-site contacts in an emergency can unduly complicate the normal safety and security procedures that are routinely available in other parts of the Village or other parts of the state.
 - One way to mitigate the risks related to private roads might be to consider the feasibility of widening Arbor Drive and arranging for the Village to provide the needed snow removal and other services related to roads, such as removal of fallen trees in storms. But the Village Board may be reluctant to agree to this because it may set precedent that affects other PUDs as well. The risks related to law enforcement are more difficult, if not impossible, to mitigate.
 - For local property owners in the prime of their lives, the risks and constraints associated with property ownership in a PUD may be written off as just an inconvenience. But the same risks and constraints can mean the difference between life and death in situations where there is a greater risk of slips or falls among elderly residents or in facilities where there is an increased risk that someone who has (or is developing) a memory disorder may wander away from his or her normal surroundings. Under the circumstances, an emergency road is clearly a necessity. But even with an emergency road, precious time can be lost in reporting incidents, getting the necessary help, and re-routing emergency vehicles. The DEIS should discuss these risks.
 - To illustrate how risks can be a show-stopper, imagine the full spectrum of consequences for the community if the proposed facility's future ratings or track record shows shortcomings in the area of safety. Not only would this undermine future revenue streams for the owner of the 900 King Street property, but it would also cause reputational damage for the Village in which it is located. And this in turn would likely significantly discourage future economic growth in Rye Brook, rather than encourage it. In effect, everyone in the Village would pay for any accidents or mistakes. In contrast, a commercial office building or research laboratory does not expose the Village to these same risks, even when located in a PUD. And an office building has inherent advantages in terms of traffic control and preservation of open spaces and natural resources.

6. Expand the scope of the DEIS to include a focus on PUD-specific issues and integration with the rest of the PUD and nearby school property. No matter what land use is eventually approved for the 900 King Street part of the PUD, it would be helpful if the scope of the DEIS could include one or more sections that focus on what I would call hyper-local issues. There has been some discussion of defining these issues in terms of property located within a quarter mile or three-quarters of a mile of the proposed facility. But I believe the issues that need to be addressed are better defined as PUD-specific issues, including the integration of any proposed land use with the rest of the PUD and the nearby school property.

(a) Background on PUD-specific issues: Key points about why the scope of the DEIS should include PUD-specific issues and integration with the rest of the PUD:

- The 900 King Street site is not a PUD onto itself. Notwithstanding the proposed title for the proposed zoning amendments, 900 King Street is not big enough to satisfy the minimum space requirements for a PUD as established by the zoning laws. Both the Town of Rye and the Village of Rye Brook laws require at least 30 contiguous acres for land to qualify as a PUD. Some discussion and analysis would be helpful on how effectively the proposed action accomplishes the original purposes of a PUD, especially with regard to conservation of resources and creation of economic value.
- The reason for the long-standing 30-acre requirement dates back to 1973 when the Town of Rye enacted the zoning requirements for the Town's first PUD district. The Town of Rye law specified that the purposes of a PUD include the following: (a) "To protect, conserve and enhance natural resources, outstanding natural topography and geological features such as trees, vistas, soil stability, man-made landscaping and other features and to encourage the efficient use of land in relation to public and private facilities and utilities," and (b) "To conserve the economic value of land and to strengthen and sustain its taxable potential."
- To accomplish these goals, the Rye Town Planning Board approved a 60/40 split of residential use and office and/or research laboratory use. This was a carefully considered and well-thought-out decision. Since then, the percentage of residential use has crept past that benchmark by a small margin. Any further slippage from the benchmark would likely interfere with the accomplishment of the goals and would require some practical compromises with the property owners in the rest of the PUD in addition to review and approval by the Village Planning Board and Board of Trustees. The DEIS should discuss the nature of any proposed compromises in this regard.
- Traffic was always an important consideration in planning the design of the PUD. Per the minutes of the Dec. 12, 1972 Rye Town Planning Board meeting, the floor area ratio for each gross acre of land devoted to office or research laboratory use was not to exceed 0.145, but it could be increased to 0.190 if the facility was placed under long-term lease to or the ownership of a single corporate tenant – provided there is reasonable evidence that the traffic on King Street in the vicinity of the site can be adequately controlled. Somehow, the current FAR crept up to be considerably in excess of 0.19 without any evidence that the traffic on King Street could be adequately controlled. Any further slippage would likely require compromises that should be addressed and reflected in the DEIS.

(b) Specific suggestions for topics to consider as part of the PUD-specific issues and school integration.

- The DEIS should consider the viability of creating a pedestrian overpass or underpass across Arbor Drive. The Rye Town Planning Board decided at its Dec. 12, 1972 meeting to require a pedestrian overpass or underpass to provide access to the nearby school. The DEIS should also consider granting permission to all the residents of the 250-townhouse residential section of the PUD to use the passageway as well.
- The DEIS should consider revising the zoning laws for the existing townhouse section of the PUD concurrently with the laws for 900 King Street to achieve greater consistency. This would include: (a) removing the requirement that PUD zones must be north of the Hutchinson River, and (b) revising the requirement that the total number of dwelling units cannot exceed 6 per gross acre in the residential part of the total PUD site. The Comprehensive Plan notes that this part of the PUD currently has about 6.76 units per gross acre (250 units on 37 acres). In contrast, the proposed action is seeking approval of up to 10.4 units per gross acre for senior living facilities and 8 units per gross acre for assisted living facilities. Some practical compromise and consistency would be welcome and appreciated.
- The DEIS should consider creating a shared truck parking/maintenance/dumpster area for use by all sections of the PUD on the 900 King Street site and consider ways to promote greener policies for the entire PUD. Current sanitation practices are especially troublesome, and there is no place to store gas-powered maintenance equipment or to park large trucks that do not fit in the lined parking spaces and are prohibited from parking on the private roads. The noise and pollution are not welcome and are prohibited in most other residential areas of the Village. Perhaps the DEIS might consider creating a special zone for these items far away from the residences. This area could be opened up to the school district as well, especially during periods when the school facilities are under construction.
- Some construction is anticipated at the Blind Brook high school, perhaps in 2019. The DEIS should consider coordinating the timing of this construction with any planned construction at 900 King Street, so that all the construction does not happen concurrently resulting in undue noise and traffic disruption.
- If the 900 King Street project requires the removal of trees, the DEIS should discuss the locations for planting replacement trees. A location near the athletic fields would help to buffer the noise that has risen to objectionable levels in recent years.
- The DEIS should address the subject of what will happen to the wildlife often seen when driving in and out of Arbor Drive. This wildlife includes deer, geese, and rabbits.
- The DEIS should address the laws that govern substance abuse in areas near school property (within 100 or 1000 feet of the property line) by determining that all school boundary lines are appropriately marked on the site plan and by determining what enforcement protocols or processes are available to facilitate compliance with the laws and related school policies. If appropriate, the plans should clarify who owns the monument area along Arbor Drive and show where the boundary lines fall around the detention basin and metal shed.

- In addition to considering what would be required for the entire PUD to benefit from municipal snow removal services, the DEIS should consider what would be required for the entire PUD to qualify for municipal leaf removal services.
- The DEIS should address the definitions of public vs. private water hydrants and clarify responsibilities for hydrants.
- The DEIS should consider creating a supplemental school bus stop to which parents can drive in inclement weather conditions, so as to reduce the traffic tie-ups caused by cars parking on narrow roads in the Arbors near the regular school bus stops.
- The DEIS should consider creating a shared basketball court for use by the entire PUD. Hoops are prohibited throughout the townhouse residential section of the PUD due to the noise.
- The DEIS should consider creating charging stations for electric cars and sharing the facility with the rest of the PUD.

For expediency, a separate section could be added to the DEIS on PUD-specific issues and how best to conserve natural resources and preserve the economic value of the PUD if the applicant is willing to discuss these issues with the property owners in the Arbors.

Truthfully, it is a little disappointing that neither the Village nor the applicant have tried to contact the Arbors property owners directly about this proposed project and its effects on us. Some of the PUD-specific issues might be better addressed in a private meeting with the property owners of the Arbors. One way to arrange is this is to ask the HOA's board of directors to send an invitation to the property owners by email. However, it should be noted that the HOA is a separate legal entity and often it does not share information with either the individual property owners or the renters of the properties owned by non-resident owners. This means additional efforts are often needed to contact us directly. Arguably the most effective means of contact is to send notices by US postal mail to the property owners of record on the tax assessment roll.

Thank you for considering my comments and suggestions. If you have any questions or need any more information about any of these points, please do not hesitate to call.

Yours truly,



Rosemary Schlank

C: Mayor Rosenberg and the VRB Board of Trustees
Chairman Goodman and the VRB Planning Board
Dr. Jonathan Ross, Superintendent, Blind Brook School System
Dan Barnett, President of the Arbors HOA
David Gelfarb, Attorney for the Board of Directors of the Arbors HOA