



March 20, 2025

Ref: 20578.01

Chris Brand, Chairman, and Members of the  
Planning Board  
Town of Marlborough  
21 Milton Park Drive, Suite 200  
Milton, New York 12547

Re: Orchards on Hudson, 103-137 Dock Road

Dear Chairman Brand and Planning Board Members:

VHB Engineering, Surveying, Landscape Architecture and Geology, P.C. (VHB) has prepared this letter to address the two comment letters received regarding the proposed Orchards on Hudson project. For ease of review, a summary of each comment or question is provided followed by the Project Team's response. Where appropriate, similar comments received were grouped and paraphrased.

#### **Comment Letter from Scenic Hudson, Inc., Dated November 22, 2024**

**Comment 1 – Consistency with Hamlet Plan:** The proposal is not consistent with the Hamlet Master Plan. The plan indicates that Hamlet Expansion areas call for additional road and pedestrian connectivity and specifically states that "Multiple connections (streets, sidewalks, and trails) between new development and existing roads should be provided to the maximum extent practicable, thereby increasing safety, walkability, and ease of vehicular movement. (page 25)" The Hamlet Plan includes a map that shows a connectivity arrow that connects the Orchards on the Hudson site with Young Avenue, a cul-de-sac to the north. Further, the Hamlet Master Plan states that "Promoting connectivity to the center hamlet area, as well as schools and other community amenities, should also be considered with any development application. While the 25+- acre Orchards on Hudson site is in a Hamlet Expansion Area and proximate to the Hamlet, the residential units are laid out as an isolated enclave offering no other form of connectivity."

Response 1: The Applicant believes that the Proposed Project is well aligned with the goals and recommendations associated with the Project Site's designation as a Hamlet Expansion Area within the Town of Marlborough, Marlboro Hamlet Master Plan (prepared by Behan Planning and Design in March 2010). The Proposed Project provides both roadway and pedestrian connectivity from the Project Site to Route 9W, tying the project into the existing roadway network which feeds into the Hamlet Mixed Use area and Hamlet Center. Specifically, the primary access to the Project Site from Route 9W includes both vehicular access as well as sidewalk access, connecting future residents to the main roadway. This access is designed in close coordination with both the Town of Marlborough and the New York State Department of Transportation (NYSDOT) after careful study of potential alternatives. Due to the significant grade changes on the site resulting from historic mining activities, it is not feasible to connect the lower elevations of Dock Road with Young Avenue, as shown in the diagram referenced by the Commenter. Moreover, the Applicant was directed by the Marlborough Fire Department to keep traffic off of



Dock Road due to the existing maintenance and other difficulties associated with that roadway. (It is noted that elsewhere within the Hamlet Expansion Areas, the Hamlet Master Plan acknowledges that steep slopes present connectivity challenges.) Finally, contrary to the statement made by the Commenter, the Applicant has designed the project to promote a Hamlet feel and connection to neighbors and amenities within the community. The cottage units, proposed to be located closest to Route 9W, are connected via a network of pedestrian pathways, fostering the hamlet feel that is promoted within the Hamlet Master Plan.

**Comment 2 – Potential for Visual Impact:** The proposed clubhouse and Bowdoin Park are only one mile apart and people at the park would be engaged in recreation and nature study, and enjoying Hudson River views. Therefore, the potential for visual impact from the park should be assessed. In addition, the proposed project is likely to be visible from the Marlboro Nature Trail where views from Two Creeks Point would be just ¼ mile from the proposed development. The Enhanced Environmental Assessment states that “the existing dense vegetation on the site is to remain along all property boundaries to serve as a buffer between the proposed development and adjacent uses.” However, this existing screening should be considered temporary as there are no provisions in place to permanently protect the buffer. Therefore, it is important that a Visual Assessment with computer-generated simulations, particularly made during the leaf off season, should be developed to understand and assess the potential for visual impact.

Response 2 - The Applicant prepared an assessment of the potential visual impacts of the Proposed Project within the Expanded Environmental Assessment, dated August 2024, and concluded that no significant adverse visual impacts are anticipated. The analysis focused on the potential for visual impacts to users of Bowdoin Park, as this is the visual resource that would provide direct visibility to the Project Site from across the Hudson River. As the commenter notes, a photo was provided from this location, which shows the presence of utility poles and lines. However, the purpose of the photo was to demonstrate that there are existing buildings located along the hillside along the western edge of the Hudson River, and therefore the two-story clubhouse that would be visible on the Project Site from this location would be consistent with this existing aesthetic condition. The photo also demonstrates that one mile is a significant distance when considering visibility of buildings of the small scale (maximum of two stories) proposed on the Project Site. For these reasons, the construction of a new two-story building from a one-mile distance across the Hudson River would not constitute a significant adverse visual impact.

In response to the comment received, the Applicant has included additional photos below with viewpoints from the Two Creeks Point location along the Marlboro Nature Trail. These photographs were taken in the wintertime (leaf off conditions), and therefore show a worst-case scenario of the potential visibility of the Proposed Project buildings on the Project Site. As shown in the first photograph, the Project Site along the north side of Dock Road would be visible from the Two Creeks Point location in leaf-off conditions. However, as shown, there are existing trees along the north side of Lattintown Creek, between the Project Site and Two Creeks Point, that are taller than the tree line along the Project Site, and therefore would be expected to provide significant screening of the Proposed Project during the spring, summer, and fall seasons, when use of the trail would be expected to be highest. In addition, the right photo below shows the view from Two Creeks Point to the northwest along the bank of the creek. As shown, existing buildings along Route 9W are visible from this location in leaf-off conditions. Therefore, similar to the views from across the Hudson River, views of two-story homes or the proposed clubhouse on the Project Site are not considered out of character for this location. For these reasons, the Proposed Project would not have a significant adverse impact on visual conditions from Two Creeks Point.



*Photo 1: View northwest toward Route 9W from Two Creeks Point along Marlboro Nature Trail, leaf-off conditions*



*Photo 2: View north toward the Project Site from Two Creeks Point along Marlboro Nature Trail, leaf-off conditions*

Finally, it should also be noted that much of the existing dense vegetative buffer on the Project Site is located along the existing hillside as the Project Site slopes down towards Dock Road and the Hudson River shoreline. The trees and vegetation along this hillside would not be disturbed as part of the Proposed Project, and therefore should not be considered a temporary condition as was suggested by the commenter but rather a permanent buffer that will significantly reduce visibility to the Project Site from the surrounding area.

**Comment 3 – Vegetation Removal** - The project would result in a loss of 7.25 acres of forested lands and 5.16 acres of meadow. In their place, 7.28 acres of the site would become impervious with roads, parking lots, and buildings. The loss of habitat and increase in the need to manage stormwater should be assessed.

Response 3: As the Subject Property was formerly used as a gravel pit, the site has been largely disturbed and does not contain naturally vegetated areas. Moreover, based on a review of publicly accessible resources and correspondence with the New York Natural Heritage Program (NYNHP), the site does not represent habitat for any threatened, rare or species of concern. Therefore, the Proposed Project would not result in adverse impacts to sensitive habitats. Additionally, while the project is anticipated to increase impervious surface on the site, the Applicant is proposing to install approximately 7.1 additional acres of landscaping throughout the site for a total of  $8.17 \pm$  acres of landscaped areas. Ultimately, the project will ensure that there is a long-term custodian for the site where none exists today, and therefore is anticipated to improve habitat diversity overall.

Regarding stormwater management, the project includes a stormwater management system that is in keeping with all regulatory requirements, and has been designed to accommodate stormwater runoff from the site. Stormwater generated by the project would be captured and filtered on the property through a system comprising two catchment areas – the western (upper) catchment area and the eastern (lower) catchment area. Runoff from each



area will be collected via a system of catch basins and an on-site bioretention swale and directed to a proposed on-site underground detention chamber system, which will be designed to store and infiltrate runoff. With the implementation of the proposed stormwater management system, no significant adverse impacts related to stormwater are anticipated.

**Comment 4 – Traffic Impacts** - The Environmental Assessment Form states that peak traffic would only be expected in the evening. Given that people would leave their homes during morning times, as well as returning in the evening, morning peak hour traffic should also be evaluated.

See the Response to Comment 5 below.

#### Comment Letter from Residents, Dated December 9, 2024

**Comment 5 – Traffic Concerns** - In the EAF, the applicant checked "yes" to the question: "Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?" However, the applicant only identified evening peak hours as the time of expected impact, overlooking the morning rush hour and weekends. Yet, their Traffic Impact Evaluation submitted in August 2024 reports that the proposed site access on US Route 9W will experience a Level of Service (LOS) F for the westbound approach during both peak hours. With long delays associated with LOS F, impatient drivers would be tempted to exit the site onto Route 9W putting themselves, other drivers and pedestrians on Route 9W at risk of crashes. We believe both the applicant's EAF and the traffic study projects unrealistic peak intervals and a relatively low vehicle trip generation for 103 townhomes and are concerned that the analysis does not fully account for the potential congestion and safety issues this development may cause.

Response 5 – The potential for traffic impacts associated with the Proposed Project was fully analyzed as part of the Traffic Impact Evaluation for the project. The site generated traffic for the weekday AM and PM peak hours was estimated using the Institute of Transportation Engineers' (ITE) publication *Trip Generation, 11th Edition*, in accordance with industry standards. While the capacity analyses shows that at the US Route 9W at the site access intersection westbound approach will experience a LOS F, with 50 to 70 seconds of delay, during both peak hours, this level of delay is typical for an unsignalized approach to a high-volume roadway, and the analysis concludes that the intersection will operate adequately with single lanes entering and exiting the site and stop control. The Traffic Impact Evaluation was reviewed closely by the NYSDOT and after close coordination on the design of the proposed site access, including a southbound left-turn lane into the site from Route 9W, and with careful consideration to roadway capacity and safety, NYSDOT has provided Stage 1 Conceptual Approval.

With regard to the specific question Environmental Assessment Form (EAF), according to New York State Department of Environmental Conservation guidance on the EAF, projects generating fewer than 100 peak hour vehicle trips are not considered to have a significant increase in traffic.<sup>1</sup> As the Proposed Project would generate fewer than 100 vehicle trips in during the peak hours (the Proposed Project is expected to generate 48 new vehicle trips during the weekday AM peak hour and 58 new vehicle trips during the weekday PM peak hour), the response

<sup>1</sup> Full Environmental Assessment Form (FEAF) Workbook. NYSDEC. <https://dec.ny.gov/sites/default/files/2024-01/feafprint.pdf> (Page 52)

according to the guidance would typically be "no." However, given the existing Levels of Service at the proposed site access intersection and for conservative disclosure purposes, at the Applicant's discretion the peak traffic was included in the EAF (specifically, the evening peak hour).

**Comment 6 – Proximity to Sewage Treatment Facility** - A major concern is the development's proximity to the Marlborough sewage treatment facility. The New York State Department of Environmental Conservation (DEC) specifically recommends not building within 400 feet of open-air sewage treatment processes due to risks related to air quality, odors, and public health. The proposed homes are planned as close as approximately 130 feet from the facility's oxidation ditch (a large, open-air, circular basin where wastewater flows), which could pose a significant health risk to future residents. This issue needs careful evaluation to ensure the development complies with safety guidelines and does not endanger public health. Moreover, the town may face ongoing complaints from future residents regarding odors and air quality.

Response 6 – The Applicant has corresponded with the Town of Marlborough Wastewater Department regarding the existing operations at the Marlboro Sewage Treatment Plant (STP) and understands that no odor complaints from existing nearby residences have been received. It is noted that single family residences are currently located within the 400-foot guideline set forth by NYSDEC as referenced in the comment letter, however the guideline is for siting a treatment plant and is not specific to development of sites surrounding an existing STP. There are also various existing site conditions that would reduce the potential for odors to reach the proposed residential units on the Project Site. The Project Site is located at a higher elevation than the STP operations, and odors would typically disperse down slope away from the residences. In addition, based on prevailing wind data collected at the Poughkeepsie/Hudson Valley Regional Airport located approximately 4 miles to the east of the Project Site, the most frequent wind direction over the past year came from the north, away from the proposed residential units.<sup>2</sup>

In addition to the site conditions described above, the Applicant is proposing several interventions to minimize the potential for visibility, odors, or other noxious effects on future residents. In particular, in accordance with the NYSDEC recommendations, the Applicant is proposing to provide a windbreak and buffer between the STP site and the Project Site. The buffer will consist of a mix of native and adaptive deciduous and majority evergreen species trees laid out in a double staggered row, infilled with a similar-attribute shrubs for diversity and effective screening, filtration, and buffering from the adjacent STP operations. In addition, the existing dense vegetation on the site is to remain along all property boundaries, including the property boundary shared with the STP, to serve as additional buffer between the proposed development and adjacent uses. Overall, the Applicant is committed to a site design that ensures the well-being of the future residents of the Proposed Project.

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<sup>2</sup> The Midwestern Regional Climate Center (MRCC). <https://mrcc.purdue.edu/CLIMATE/>. Poughkeepsie/Hudson Valley Regional Airport (NY) Wind Rose. March 01, 2024 through March 1, 2025. Accessed March 17, 2025

**Comment 7 – Visual Impacts** - The project will be clearly visible and negatively impact the viewshed from several locations, including Two Creeks Point on the Marlboro Nature Trail (the main vista of the town's only hiking trail), The Raccoon Saloon, Danskammer House B&B, homes on Hudson Terrace, and Bowdoin Park across the Hudson River. However, the visual assessment provided by the developer does not fully capture the extent of the impact. The developer submitted only one photo from Bowdoin Park, in which a utility pole is inexplicably blocking the view of the project site.<sup>6</sup> This incomplete assessment is insufficient. To better assess the true visual impact, we recommend a more comprehensive Visual Impact Assessment, including computer-generated simulations from various viewpoints and in both leaf-on and leaf-off conditions.

Response 7 – The Applicant prepared an assessment of the potential visual impacts of the Proposed Project within the Expanded Environmental Assessment, dated August 2024, and concluded that no significant adverse visual impacts are anticipated. As detailed above, several factors make it such that the Project has very low visibility from the surrounding roadways, including the perimeter tree cover, the location of the Project Site to the rear of the properties fronting on Route 9W, and the existing elevation of the site, situated below the elevation of Route 9W and above the elevation of Dock Road as it descends to the waterfront. Existing intervening buildings and tree cover make it such that the Proposed Project would not be visible from businesses along Route 9W or homes located west of Route 9W.

See also the response to Comment 2 above.

**Comment 8 – Inconsistent Projections of School Children** - In the EAF, the developers project 27 additional school children. However, in a separate communication with the Marlborough Central School District, they project 43 children. This discrepancy needs clarification, as accurate school enrollment projections are critical for assessing the costs and potential strain on local schools. We recommend a more thorough analysis to ensure that the development will not overburden the district's capacity.

Response 8 – As detailed in the Expanded Environmental Assessment, dated August 2024, the Proposed Project is projected to generate approximately 27 school aged children, and would result in a net fiscal benefit to the Marlboro Central School District. At the time of the initial communication with the Marlboro Central School District, the site planning for the Proposed Project was in a conceptual phase and therefore for conservative analysis purposes, the Applicant estimated a higher number of residential units than were ultimately proposed and analyzed in the EAF and Expanded Environmental Assessment. The school district did not identify a potential adverse impact resulting from the higher estimate of school children, and therefore it reasons that the lower number of children anticipated from fewer proposed units would not result in an adverse impact to the Marlboro Central School District. The Applicant has made every effort to keep the school district apprised of the latest plans for the Project Site, including multiple follow up meetings and correspondence, and the Applicant has also shared the updated site plans with the school district directly. The site access was also coordinated with the school district and updated per the Marlboro Central School District's guidelines for safe bus pick-up and drop-off.

**Comment 9 – Concerns Regarding the Gatehouse** - The gatehouse and call box is positioned only 53 feet from the heavily trafficked Route 9W. With the call box so close to the road, large vehicles may not have enough space to safely stop and wait for clearance without blocking traffic. Additionally, the limited space between the gatehouse and the road could obstruct emergency vehicle access, delaying response times in the event of an emergency. Given these concerns, we urge the Planning Board to require that the gatehouse be removed from the site plan. At a minimum, if the gatehouse remains, it must be relocated further from Route 9W to provide adequate space for vehicles to stop safely.

**Response 9 – In response to the comments received, the Applicant and project design team have relocated the gatehouse further from Route 9W by an additional approximately 17 feet, for a total distance of 70.5 feet from Route 9W. This will allow for additional queuing capacity and easier turning movements at the entrance to the Project Site. The Applicant has maintained the gatehouse to control public access to the proposed private roadways on the project site that will require privately funded maintenance.**

**Comment 10 – Environmental Impacts** - The proposed project would result in the removal of 7.25 acres of forest and 5.16 acres of meadow—critical habitats for a variety of local species. The loss of these natural areas, combined with the addition of 7.28 acres of impervious surfaces, would not only reduce biodiversity but could also significantly exacerbate stormwater runoff, leading to increased erosion, water pollution, and downstream flooding. These impacts could have serious and lasting consequences for the local ecosystem. Furthermore, the New York State Department of Environmental Conservation (DEC) 'Hudson Valley Natural Resource Mapper' identifies this area as a 'known important area for rare terrestrial animals,' highlighting its ecological significance.

**Response 10 – See Response to Comment 3 above.**

**Comment 11 – Community Impact and Hamlet Plan consistency** - The Marlboro Hamlet Master Plan dated March 10, 2010 envisions the area as a mixed-use, walkable community with strong pedestrian and road connections to the Hamlet center and surrounding amenities. However, the proposed gatehouse and 'gated community' layout would isolate the development from the rest of the Hamlet, undermining the connectivity envisioned in the Master Plan. We strongly believe that the gate should be removed entirely to allow for better integration with the surrounding community and to promote the walkability and accessibility that the Master Plan calls for. A revised, open design that fosters connectivity with the broader Hamlet community is essential.

Additionally, we have serious concerns about the impact this development will have on local parking. The proposed project will increase the local population, leading to greater demand for parking spaces, while also eliminating crucial parking that was previously available to the public. The Master Plan identifies the site at 103 Dock Road as a potential location for a municipal parking lot. With parking already in short supply in the Hamlet, the loss of this space to a private development will exacerbate the current parking shortage, making it even more difficult for residents and visitors to access local businesses safely.

**Response 11 – See response to Comment 1 for an analysis of the Proposed Project's consistency with the Hamlet Master Plan, including the proposed connectivity to the larger community.**

Regarding the potential for impacts to nearby public parking spaces, the commenter incorrectly asserts that public parking is located on the Project Site. No public parking spaces would be eliminated as a result of the Proposed Project. While the Hamlet Master Plan suggests the use of a small portion of the Project Site located at the corner of Dock Road and Route 9W for municipal parking, this would require purchasing of the property by the Town of Marlborough. The Applicant has offered to sell portions of the Project Site along Dock Road to the adjacent Falcon business which could yield sufficient parking to support the demand. Overall, the Applicant believes the Proposed Project would provide a multitude of benefits to the Town of Marlborough and represents the highest and best use for the property. In addition, other sites identified within the Hamlet Master Plan as appropriate for public parking are closer to the Hamlet center businesses and therefore would provide greater access for Town residents and visitors.

**Comment 12 – Water Consumption** - October 2024 marked the driest month in 150 years in our area, and the ongoing drought has prompted the Town of Marlborough to issue an emergency water alert on November 1st, urging residents to conserve water. Our primary source of drinking water, the New York City Delaware Aqueduct, along with Chadwick Lake in the Town of Newburgh, our emergency backup, are both facing significant drought conditions. Given the severity of this situation, it is critical that comprehensive studies be conducted to ensure that our safe yield and water budgets are properly aligned, safeguarding our water supply for the future.

**Response 12** – The Applicant has been closely coordinating with the Marlborough Water District, who is the responsible agency for safeguarding the future water supply, and no indication has been provided to the Applicant that there are concerns or potential significant adverse impacts related to water supply to the Proposed Project. The Applicant will be required to comply with all Water District requirements before construction of the Proposed Project.

**Comment 13 – Public Funding Sources (AR)**

**Response 13** - The Applicant is not pursuing a PILOT agreement or a public grant for the Proposed Project.

Sincerely,

VHB

A handwritten signature in black ink that reads "Abigail Rudow". The signature is fluid and cursive, with "Abigail" on the top line and "Rudow" on the bottom line.

Abigail Rudow, AICP  
Senior Environmental Planner