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MEMORANDUM

To: Village of Scarsdale Planning Board

Date: April 16, 2015

Subject: **Residence A Districts Lot Coverage Study – Report and Additional Recommendations**

We are pleased to submit a report and additional recommendations regarding the analyses of the regulation of lot area coverage and gravel paving in the Residence A Districts of the Village of Scarsdale Code.

Methodology

As presented in greater detail in our March 13, 2015 Preliminary Report, an analysis of Scarsdale and other municipal regulatory and operational approaches to lot area coverage, development and impervious surfaces was completed.

A review and comparison of how Scarsdale and similar communities in Westchester and Nassau Counties regulate lot coverage and impervious surfaces was undertaken and documented. We met with Elizabeth Marrinan, AICP, the Village staff planner, Frank Balbi, P.E., the Village engineer, and the Planning Board to understand how the pertinent regulations of the Scarsdale Code are applied and used to review land use applications.

To understand lot area coverage in Scarsdale, the extent of gravel driveways in the Village, and the potential reasons for residents' desires for non-conforming lot coverage, a *Driveway Inventory Analysis* was prepared by the Village of Scarsdale Engineering Department, and a survey of recent stormwater management and erosion control (SWEC) applications approved in 2013 and 2014 was conducted. From the two surveys referenced, a sample of Village properties was developed for further analysis.

The results of the sample-properties analyses were submitted to the Planning Board in our March 13, 2015 memorandum.

Analyses of Municipal Code Regulation of Impervious Surfaces and Lot Coverage

The Village of Scarsdale Code includes two conflicting definitions of impervious surfaces. The first definition, included in Chapter 254, is similar to the definitions included in the stormwater management and zoning chapters of most of the other municipal codes surveyed during the study. It is also consistent with the definition of "Impervious Cover" in the current version of the New York State Department of Environmental Conservation *Stormwater Management Design Manual, August 2010.* A survey of 33 municipalities found that most of the 23 municipal codes that include a definition for impervious surfaces, use some variation of the NYSDEC *Stormwater Management Design Manual* definition.

The second definition of "impervious surfaces" in the Scarsdale Code is located in Chapter 310, Zoning, in the section that regulates lot area coverage. It uses a numerical threshold as the determinant that a surface is impervious. The threshold used is the "runoff curve number" from a popular Natural Resources Conservation Service method for estimating the potential volume of stormwater runoff from specific types of natural and manufactured land surfaces located on specific underlying types of soils.

The numerical standard in the zoning section places the gravel paving of driveways, walkways, patios, etc. into the category of a pervious surface. No other municipal code surveyed (except the Tarrytown Code), or the NYSDEC stormwater design manual consider gravel paving pervious, or use a quantitative standard to define impervious.

The two conflicting standards in the Village Code can lead to confusion for residents submitting land use applications. Furthermore, we believe there is nothing gained by the numerical standard in the zoning section definition, with respect to defining an impervious surface, that isn't already embodied in the definition located in the stormwater section. Also to be considered are the unintended consequences of the numerical standard with respect to the proliferation on residential lots of gravel driveways. These unintended consequences include additional lot area coverage on properties in the Residence A districts beyond the maximum coverage allowable in the zoning code. Therefore, we recommend consideration of a definition of impervious surfaces in the zoning section of the Village Code that is consistent with the definition of impervious in the stormwater section. We further recommend that the new definition should not include a numerical standard.

The Planning Board discussed and suggested revisions of the impervious surface definition and examined the consequences of such revisions, which may render up to 504 or 10% of the total number of parcels in the Residence A districts, non-conforming

with respect to allowable lot area coverage. The estimate of non-conformity is based on the *Driveway Inventory Analysis* prepared by the Village Engineering Department discussed below. The actual percentage of non-conformity is probably somewhat less than 10% because not all the lots that include gravel driveways would be non-conforming with respect to lot coverage if the gravel drives were paved with a material considered impervious by the zoning code.

Based on discussions with the Planning Board during a March 16, 2015 presentation and public workshop, and analyses regarding potential non-conformities, impacts and consequences of revisions to the definition of impervious in the zoning chapter, draft code revisions were proposed by the Planning Board. The Planning Board directed that the definition of impervious be revised to eliminate the conflict with the stormwater definition, and be simple and direct. The Board also considered the suggestion that revision of the definition include relief for residents of lots with existing gravel driveways that may become non-conforming with respect to lot coverage when the definition is revised. Based on the workshop discussion and consultation with the Village Planner, a local law to amend the zoning section definition of impervious surfaces was drafted. It includes a "grandfather" clause for existing lot area coverage that would be made non-conforming by the amended definition for the Planning Board to review and consider.

Analysis of Recent Scarsdale Development Applications Regarding Lot Coverage

The question of why new-home, addition and site-work building permit applications are proposing total lot area coverages beyond the maximum allowable was examined. As discussed in more detail in our March 13, 2015 memorandum, The *Driveway Inventory Analysis* prepared by the Village of Scarsdale Engineering Department inventoried 5,026 Residence A district residential building parcels. Of the 5,026 parcels surveyed, 401 parcels have gravel surfaces and 103 have a combination of asphalt paving and gravel surfaces, which is 504 parcels or 10% of the total number of Residence A parcels.

Analysis of recent SWEC applications for home additions, site work or new homes approved in 2013 and 2014 found, of the 160 applications surveyed, 39 applications, or 24.4%, proposed gravel surfaces all or in part. Currently, only 10% of parcels includes gravel surfaces, which raises the concern that if the trend continues for 24.4% of new SWEC applications to utilize gravel paving, the percentage of properties with gravel surfaces will increase over time. Further analysis showed that gravel paving is utilized to allow proposals of lot area coverage that are beyond the maximum allowable by the zoning regulations, so lot area coverage also will increase throughout the Residence A districts beyond what is contemplated by the lot coverage regulations.

The potential causes for the need on the part of residents to request lot area coverage above what is allowable was investigated to understand the dynamics of the regulations as applied to Residence A district lots. Building coverage and total lot area coverage are linked because the total lot area coverage includes building coverage. Investigation of recent applications indicates that most building coverages in these applications range from 76% to 96% of the maximum allowable, and gravel paving is used to increase proposed lot area coverage from 100% to 140% of the maximum allowable. Therefore, it appears that the need for larger areas of lot coverage may be driven by a combination of an increase in the size of homes, and the desire on the part of residents for site amenities such as pools, tennis courts, patios, parking courts, and circular driveways. Lot-area exclusions related to wetlands on some properties, and the depth of front yard setbacks may also play a part in the issue.

The existing provisions of the Village Code were reviewed, to determine if there may be other provisions in the Code that affect lot area coverage, which also could be responsible in some measure for the feeling on the part of the Board of Trustees and members of the Planning Board that Residence A districts in the Village are becoming "over-built." Two existing provisions were identified that may play a part in the issue.

The first is Section 310-103 D that exempts certain amounts of the floor area of a garage from inclusion in the calculation of the FAR of a lot in all Residence A districts. The second is Section 310-104 that allows an FAR bonus for increased side-yard setbacks in all the Residence A districts (with the exception of the Residence AA-1 district). The exemption and the bonus, while not directly linked to lot area coverage, may generate some of the increase in building coverage, which would leave less lot area coverage capacity available on a lot for other structures and surfaces. Each also would increase the bulk of buildings on a lot beyond what is contemplated by the FAR regulations. However, without further study, it is not possible to determine how many applications take advantage of the exemption and the bonus or the significance of the effect on lot area coverage.

Another avenue of investigation may be the maximum allowable FAR in the Residence A districts. A quick mini-comparison of Scarsdale FARs with those in Rye Brook and Bronxville revealed that Scarsdale's maximum FARs are comfortably midway between the maximum FARs of Rye Brook and Bronxville. The Bronxville Code generally allows more FAR than the Scarsdale Code on the same-sized lot, and the Rye Brook Code allows less FAR. While the FAR of a lot may have some effect on the increase in building coverage, FAR regulation primarily affects building bulk.

Additional Recommendations

We do not recommend any additional code revisions related to lot coverage at this time beyond revising the zoning chapter definition of impervious surfaces to remove the conflict with the definition of impervious in the stormwater chapter, and providing relief for lots with lot area coverage made non-conforming by the new impervious definition. Revising the definition will effectively reduce the amount of "as-of-right" lot area coverage that can be built in the Residence A districts. Over time, applicants for additions, site work and new homes will re-balance the amounts of building and lot area coverage on a lot, or seek relief from the Zoning Board of Appeals if lot conditions preclude an acceptable balance or site design.

The revised definition is, we believe, a substantial code change that should be allowed to guide development for a year or two before any other changes related to lot area coverage are considered. We understand that the Village Board of Trustees is studying existing Village regulations related to residential building bulk. Any additional code revisions arising from the building bulk study also should be given time to affect new applications and interact with the lot coverage revisions.

If, after a year or two, it appears that additional restriction is necessary, the Boards might consider a new provision requiring a percentage of usable landscaped open space area on lots in the Residence A districts. Such a provision would allow property owners more site design flexibility compared to other possible additional requirements, such as maximum coverage in a front yard included in other codes studied because the open space could be located anywhere on a lot.

The data, analysis and recommendations presented herein are for your consideration. We hope the information provides useful insight and identifies trends of land use and development in the Residence A districts useful to the deliberations of the Planning and Village Boards as each reviews current planning policies and zoning regulations with respect to lot area coverage and development on residential properties. We look forward to additional discussion with the Planning Board.

Marilyn Timpone-Mohamed, ASLA, AICP
Senior Associate/Planning/Environment

cc: Elizabeth Marrinan, AICP, Village Planner
Frank Balbi, P.E., Village Engineer

Attachment: *Introductory Local Law*