

***TESTIMONY BY THE  
HEMPSTEAD HARBOR PROTECTION COMMITTEE***

For the  
Scoping Session

*in the*  
Application of 4B's Realty Land's End, LLC and 4B's Realty Seacoast Lane, LLC  
For an  
Application for Proposed Subdivision Approval  
"Land's End Subdivision"

December 15, 2005 at 7:30 p.m.  
Sands Point Village Hall, 26 Tibbits Lane, Sands Point, New York

**Introduction**

Good Evening. My name is Eric Swenson and I am the Director of the Hempstead Harbor Protection Committee. At the outset, I would like to thank the Village Board for holding this public scoping session tonight. This Committee has long been a strong advocate of holding public scoping sessions. We believe that it is in the interest of all parties, including the developers, to identify important areas of concern early on in the process so that they can be adequately addressed and to identify areas of common agreement. In the long run, these discussions and their outcome make for better communities.

As you know, the Hempstead Harbor Protection Committee was formed in 1995 as an inter-municipal organization dedicated to revitalizing Hempstead Harbor and improving its water quality.

The nine municipalities that make up the Committee (including the Village of Sands Point) have worked closely with state agencies, citizen groups and others to successfully complete an extensive *Water Quality Improvement Plan* in 1998 and a comprehensive *Harbor Management Plan* in 2004 that addresses surface water uses in the harbor. Both of these plans have been adopted in full by all nine municipalities.

It is important to remember that what happens in one community can, and almost always does, set a trend for what happens in another community. Changes in usage on the harbor's surrounding shorelines invariably will affect the harbor itself, for better or worse.

For these reasons, we feel that a well-written and detailed Draft Environmental Impact Statement is a necessary pre-requisite to provide the Village Board with the information it needs to make a proper decision on this application and we applaud the Village for requiring such information.

I would like to point out that the Committee does not take positions either *for* or *against* projects being reviewed by our member municipalities. Rather, when it comes to applications that must be decided upon by our member municipalities, we see our role as reviewing the documents and providing the lead agency with sufficient comments that will allow them to better determine the proposed

project's impacts – both direct and indirect - on the harbor's water quality and on long term plans for the harbor.

I would also like to note that since the Committee's mission is focused on maintaining and improving the water quality of Hempstead Harbor and not on environmental issues in general, the Committee has chosen to limit its comments to those scoping items that are likely to have a direct environmental impact on the harbor and its watershed. As such, for issues such as traffic, aesthetics, density and economics, we will not be offering comments tonight.

### **The Need for Habitat Protection**

We note that the location of this proposed development is in an especially sensitive and valuable habitat area since it borders on one of the harbor's creeks and is adjacent to the Prospect Point Bird Sanctuary where the North Shore Audubon Society has identified nesting sites for piping plovers, Least Terns and oystercatchers, all of which are endangered species.

Last month I had the opportunity to visit East Creek by rowboat and observe first-hand the magnificent refuge that surrounds the creek. Even on a frigid day in November, the creek was breathtaking and teeming with wildlife. In our opinion, this is one of the most astounding and undisturbed natural areas on

Long Island. The protection of this habitat area is of critical importance to the health of the harbor and its inhabitants.

The Long Island Sound Study Comprehensive Conservation and Management Plan, which was approved in 1994, states that of all the problems facing Long Island Sound's living resources, habitat loss and degradation are of grave importance.

In fact, the U.S. Geological Survey has estimated that by 1980, New York State had already lost 60% of its wetlands. Certainly the real estate boom that continues today has resulted in even greater losses.

At the same time, the overall water quality in Hempstead Harbor has in fact improved in recent years and as wetlands have been allowed to recover, we have seen a return of several important species including peregrine falcons, osprey and diamondback terrapins.

The importance of Hempstead Harbor as a habitat area can be seen in the fact in that in October of this year, New York State designated all of Hempstead Harbor as a New York State Significant Coastal Fish and Wildlife Habitat Area. The harbor's importance is further reflected in the fact that it is also part of one of the Audubon Society's designated Important Bird Areas of New York State.

Sands Point's open spaces have been a major contributor to the harbor's comeback. The Prospect Point Bird Sanctuary is a particularly important habitat area of the harbor as it is a haven for a variety of species. As previously mentioned, piping plovers, Least Terns and oystercatchers regularly nest in the area. In fact, four pairs of piping plovers with 13 young were hatched in 2002. The bird list at this area now stands at an astonishing 257 species, which rivals the species lists of most of the larger wildlife refuges on Long Island.

The marsh at Prospect Point is a haven for a variety of species. Current notable breeders are green-backed heron, marsh wren, willow flycatcher, osprey, screech owl, tree swallow, barn swallow, and belted kingfisher. The nearby Sands Point Preserve has breeding Northern rough winged swallow, great horned and screech owls, red tailed hawk, chimney swift, eastern phoebe and American woodcock.

In addition to regular breeding pairs of piping plovers and peregrine falcons, three other species on the state's endangered species list are occasionally seen in the harbor including black tern, roseate tern and short-eared owls.

The mouth of the creek, which is immediately adjacent to the Land's End parcel, is a daily feeding ground for the herons the nest on the offshore islands and the

tidal flats provide food for close to 20 species of migrating shorebirds, including Red Knots. In addition, harbor seals are regularly seen in winter at the point, sometimes sunning themselves on the marsh beach.

Many other species on the state's lists of threatened species and species of special concern can be found in this area.

For all of these reasons, it is important to maintain existing wetlands and habitat areas to the greatest extent possible. When development does take place, it is important that best management practices be incorporated into the design, construction and long term maintenance of the development.

What constitutes "best management practices" for watersheds is a fast growing field and this Committee would be more than glad to sit down with the village and/or the developer to help identify these practices and help determine their applicability. If construction is permitted in this area, the inclusion and enforcement of best management practices would help mitigate the potential impacts to habitat in this area.

### **Stormwater Management**

Since the Committee's *Water Quality Improvement Plan* identified stormwater runoff as the single largest threat to the harbor's water quality, it is critically

important that stormwater management be adequately addressed. We note that the county's requirements are for the containment of an eight inch rain storm. Proper containment of stormwater is important as it mitigates against the direct input of water-borne bacteria and viruses as well as heavy metals, pesticides, fertilizers and other organic and inorganic contaminants. Given the proximity of these parcels to East Creek and the harbor and valuable habitat areas, we feel that this project should design its stormwater system to at least meet the county standard.

Stormwater filtration devices should be incorporated into any catch basin that is proposed. Such devices would serve to capture contaminants before they get a chance to harm the stream or harbor.

Further, since a system will only function as well as it is maintained, it is essential that maintenance of all stormwater infrastructure be addressed in the DEIS.

In order to assess the impact of the development over time, we would like to request that East Creek be sampled prior to construction to establish baseline conditions. This could then serve as a benchmark to help identify impacts over time and possibly provide an early warning mechanism for failing septic or stormwater systems.

## **Design Considerations**

In sensitive habitat areas like this, we would especially like to see the document include a low-impact landscape and maintenance plan. This plan should include show the areas to be cleared, areas to be developed with impervious surfaces, areas to be planted with fertilizer-dependent vegetation and areas to be preserved in their natural state and provide calculations for each.

Emphasis should be placed on limiting the amount of manicured lawn areas; incorporating native vegetation that will not require extensive watering; and incorporating vegetative swales and appropriate sloping to prevent runoff into sensitive habitat areas. Other design features should include locating the buildings as far from the creek as possible; installing pervious pavers in place of asphalt and diverting roof downspouts into "rain gardens".

## **Construction Issues**

The DEIS should also include topographic information obtained through the review of relevant USGS maps and site-specific topographic surveys. Mappings and quantifications of the spatial extent of any steep slopes should be provided. The DEIS should discuss any changes in topography that would result from the proposed development.



While this project will require a New York State Phase II Construction Stormwater permit which will include a sediment and erosion control plan, we would nevertheless like to see the DEIS include a section on sediment and erosion control that provides details as to how and where sediment will be contained and how construction will be staged. The Village needs to be assured that the developer has the knowledge, commitment and ability to control sediment and erosion from the site. Failure to do so could cause irreparable harm to the creek that could take years to recover from.

### **Septic Waste**

How septic waste is handled is another major concern of this Committee since septic wastes can contain pathogens, nutrients, volatile organics, heavy metals and other pollutants that can work their way into the creek and harbor if not properly treated. This is especially important in areas like Land's End where the water table is close to the surface, leaving little area for natural filtration. If septic flows are not accurately predicted or if septic systems are not adequately sized, designed and/or maintained, septic waste will quickly leach into East Creek and ultimately into Long Island Sound and Hempstead Harbor.

For these reasons, we feel that the document should provide projections for water use and sanitary flows. It should also describe the depth to groundwater and the type and sizes of the septic systems. The *Soil Survey of Nassau County*

should be used to determine the general soil types on the sites and the characteristics of such soils. To confirm this and to ensure that septic systems are properly designed, soil borings should be required and the soil boring data included in the DEIS in order to demonstrate the suitability of the proposed on-site septic systems.

As with stormwater systems, proper maintenance is important even for the best-designed septic systems. Too often, septic systems are “out of sight – out of mind”. In order to help prevent this, the DEIS should include a maintenance schedule for the upkeep of these septic systems.

### **Land Use and Zoning**

In terms of land use and zoning, the DEIS should address the consistency of the project with the recommendations contained in the Committee’s *Harbor Management Plan for Hempstead Harbor*. This document is available online at [www.HempsteadHarbor.org](http://www.HempsteadHarbor.org).

### **Reasonable Alternatives**

Our final comment is with respect to the alternatives that should be looked at. The document should address the alternative of lower density residential development.

## **Conclusion**

In conclusion, on behalf of the Committee, I would like to thank you again for the opportunity to provide you with our input. We would be more than glad to work with the Village and/or the applicant to ensure that the environmental review process is meaningful and effective in protecting this valuable habitat area.