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March 7, 2008

Ms. Suzanne Cahill
City Planner
City of Kingston
420 Broadway
Kingston, NY 12401

RE: FoKW Consistency Analysis
Hudson Landing FGEIS Plan
City of Kingston/ Town of Ulster
Ulster County, New York

Dear Ms. Cahill:

Thank you for sending me Consistency Analysis: "Hudson Landing FGEIS Plan" prepared for the Friends of Kingston Waterfront (FoKW) by Jeff Anzevino of Scenic Hudson.

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I admit I found the document surprising. While FoKW's comments during the public comment period were both extensive and constructive, the comments in the Consistency Analysis letter are generally unsupported by facts, are at times misleading, and overall are disappointing, especially considering FoKW's previous good work on this project.

The purpose of this letter is to respond to the comments in the Consistency Analysis. In the first part, I will step back and evaluate plans for Hudson Landing according to the principles of Smart Growth that are promoted by Scenic Hudson. The second part of this letter will specifically identify and refute selected misleading and incorrect comments made in this letter. I have also included a brief third part, which will address Terry DeWan's recent review of Hudson Landing.

Part I:
Smart Growth and the Hudson River Valley
Scenic Hudson promotes a list of Smart Growth Principles that should guide new development in the Hudson River Valley. Taken from Scenic Hudson's website, these principles are as follows:

1. ***Thinking Regionally, Acting Locally***

Support local, community-based planning and land-use decisions while strengthening home rule with training programs for board members and voluntary regional coordination through the Hudson River Valley Greenway Compact.

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2. Protecting Our Landscape Legacy

Adopt protection measures for farmlands, important open space, parks and critical natural and wildlife areas that create connected greenspace systems across municipal boundaries and through the region.

3. Building Close-Knit, Interconnected Communities

Encourage compact, mixed-use development patterns, in and around existing centers and in locally identified priority growth areas, linked to more cost-efficient infrastructure and public services.

4. Respecting the Past, Building for the Future

Ensure that new development is compatible with existing community character, preserves and rehabilitates historic buildings and districts, and creates enduring value through high quality design.

5. Making Connections More Convenient

Provide a wider variety of transportation choices, including walkable neighborhoods that can support public transit, to reduce auto dependency, traffic congestion and pollution and allow better access to jobs and services.

6. Giving Growth Back its Good Name

Promote economic development, including agriculture and tourism, employment opportunities and a full range of housing options that are consistent with smart growth principles and use green building techniques whenever possible.

7. Streamlining Without Sacrificing Quality

Make the development process more predictable, fair and cost-effective through updated community plans, codes and design guidelines; coordinated review processes; interagency cooperation; and incentives for smart growth practices.

These Smart Growth Principles are similar to those promoted by the American Planning Association and the Smart Growth Institute, but have been customized for development in the Hudson River Valley.

Hudson Landing and Smart Growth Principles

The land proposed for Hudson Landing is urban and has been urbanized since at least the time of the Civil War. Large buildings and industrial operations are a part of the site's long history and is detailed in full in the FGEIS. The following photograph was taken in 1880 and shows one of the brickworks that occupied the site.

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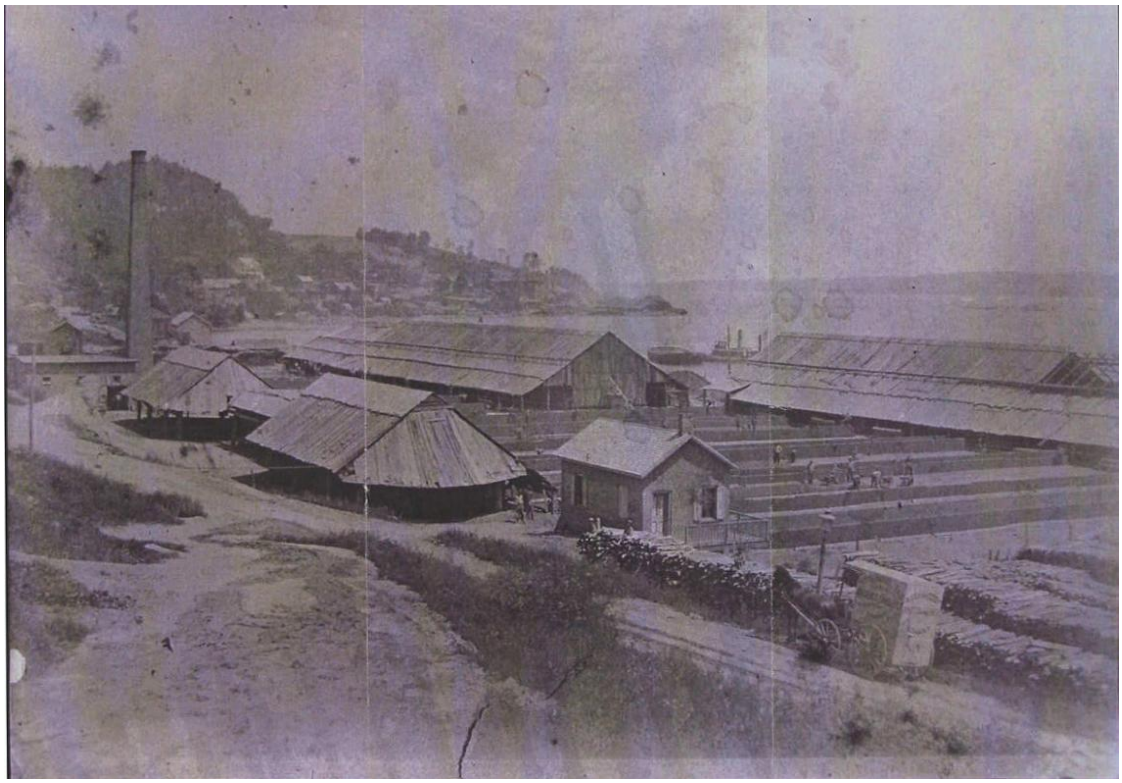
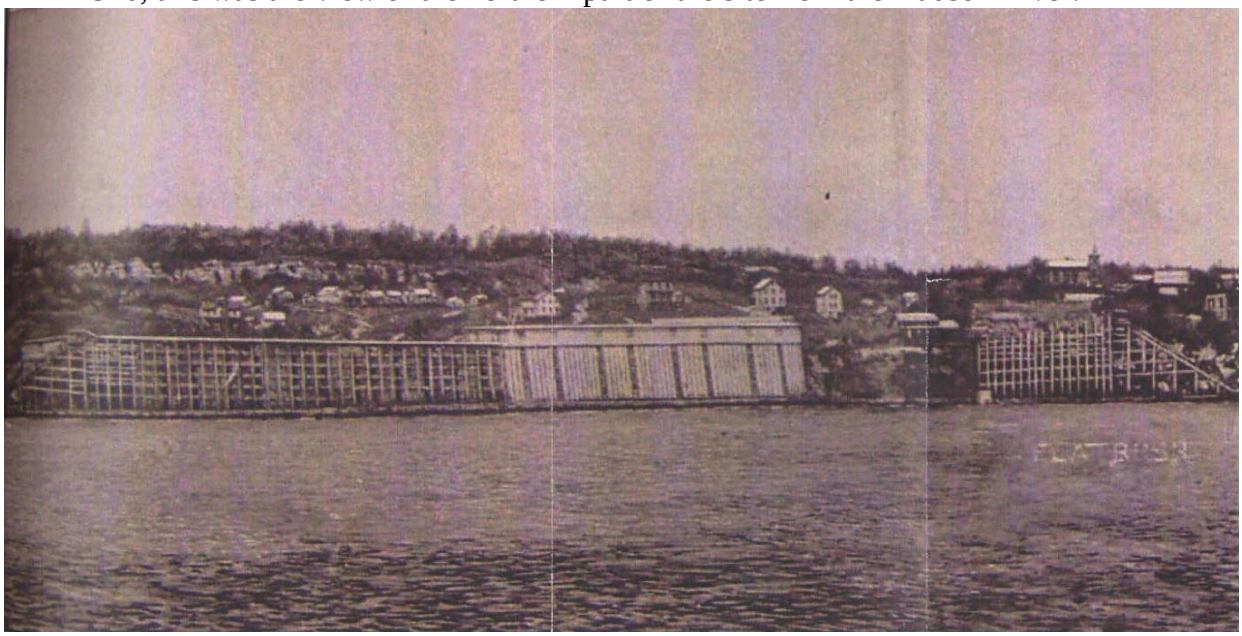


This photo looks to the north and was taken in the area of what is proposed to be the South Cove neighborhood.

1910, this was the view of the northern part of the site from the Hudson River:



The brickyard shown in the previous photograph would be to the south of this view. This photograph shows that the portion of the site adjacent to the Hudson River is composed massive structures used to move and hold ice that was cut from the Hudson River in the winter. Behind these structures lies Shultz Brickworks,

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which was another large-scale brick manufacturing facility that occupied this site during its long urban history.

Later, cement manufacturing operations occupied the site and the site was mined. The remnants of these uses are still clearly visible in the 120 foot silos that dominate any view of this portion of the River, and lower industrial buildings that are visible from the site itself, as seen in this photograph taken in 2004.

While trees have overgrown much of the site during the last 30 years of inactivity, the site is clearly urban, marked by human development and is, and continues to be, planned for urban development. The following map shows the urbanized area in Ulster County in pink with the Kingston Landing site outlined in red:

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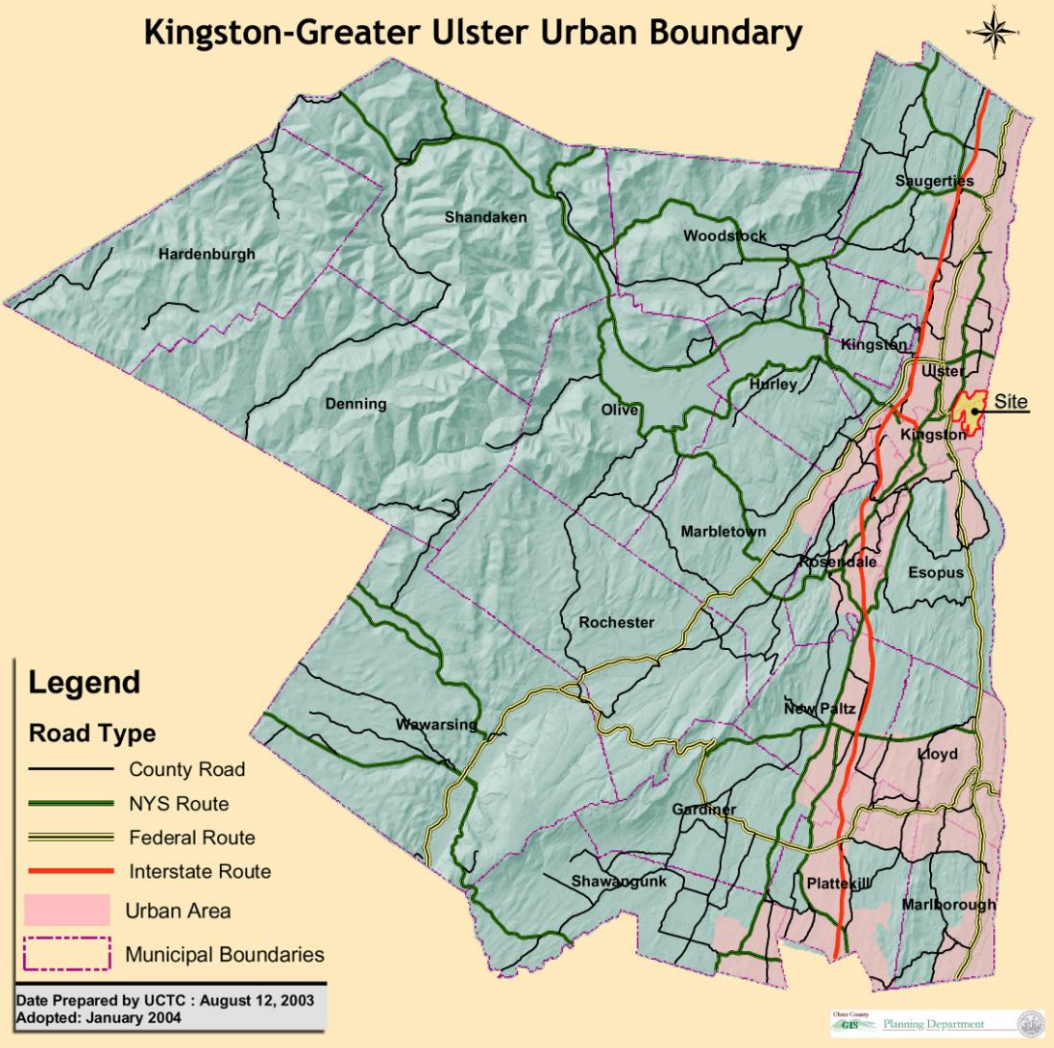

The site is near the center of the northern urbanized area in Ulster County, as my office highlighted in the above map, which was originally prepared for the Ulster County Planning Board as a part of the long-range transportation planning process in the County. The site has access to typical urban services (e.g. availability of city water, public sewerage and utilities) that would be expected in the center of an urban area.

The following aerial photo shows the site (again outlined in red) within its larger context:

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To the north, the site is bounded by the hamlet of East Kingston. To the northwest, the site is bounded by an active mining operation and, further, the Hudson Valley Mall and related big box retail. To the south, it is bounded by the Sailor's Cove property, the Kingston Business Park and, further, the Ponckhockie neighborhood. To the west, the site is bounded by Route 32 and the urban neighborhoods of City of Kingston and the Town of Ulster. The area that surrounds the site is decidedly urban. Yet the Consistency Analysis document states:

> "Hudson Landing's large scale development is not proposed in an area within, contiguous to or in close proximity to exiting areas of concentrated development where infrastructure and public services are adequate. Rather, Hudson Landing is proposed in an isolated location – a former quarry. The site requires extensive, and expensive, road construction to provide access to the site and extension of sewer and water infrastructure to serve the site." (pg. 11)

The assessment that the site is somehow isolated and not, in fact, in the middle of one of the highest, best-served urban areas in Ulster County, is factually incorrect and is unsupported by any evidence in the Consistency Analysis. The site may appear isolated, but that is solely due to its large size. As the foregoing evidence clearly shows, site was, and remains, a part of the urbanized area, and a part of the only city in Ulster County. Focusing development within urban centers is a fundamental principle of Smart Growth (see Smart Growth principle number 3), but, more importantly. It is also an important part of the plans and local land use

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decision-making for the City of Kingston and the County of Ulster (which supports Smart Growth principle number 1 regarding home rule). The Consistency Analysis continues:

> "Large-scale development at this remote site will not strengthen existing residential, industrial and commercial centers, nor foster an orderly pattern of growth where outward expansion is occurring as development would be leapfrogging over a previously undeveloped area, requiring costly roads and other infrastructure to be extended onto the site."(pg. 12)

And then concludes with:

> "If this project were to be proposed in a highly urbanized or overtly industrial context, density and scale issues might not be so critical. However, this is not the case." (pg. 14)

It is clear by simply looking at the aerial photo on the previous page that there is no leapfrogging of development with Hudson Landing, as the site is, in fact, in a "highly urbanized" context. The idea that the Hudson Landing site is rural and isolated is one of the fundamental premises of the arguments used in the Consistency Analysis, and, as shown, is clearly incorrect.

Finally, despite the contention that the site is "isolated" and "remote", FoKW has never said the site should not be developed, and proposed their own plan for the site that shows about 600 units.

Density and Smart Growth

While development within existing urban centers is a fundamental principle of Smart Growth, it only works if that development is at densities required to create bikeable, walkable neighborhoods that can support public transit (see Smart Growth principle number 5). While estimates vary, the general rule of thumb in smart growth planning circles is that it takes about 10 net units per acre (which excludes open spaces)[1]. The following image shows the plan proposed by FoKW and the most recent plan for Hudson Landing side-by-side.

[1] From the Primer for Smart Growth: "The old rule of thumb is that seven units per acre are required to support basic bus service. For premium bus service, the required residential density rises to 15 units per acre. For rail service, it is even higher. Such high densities are also required for active street life and viable neighborhood businesses." Source online at: http://www.epa.gov/dced/pdf/ptfd_primer.pdf

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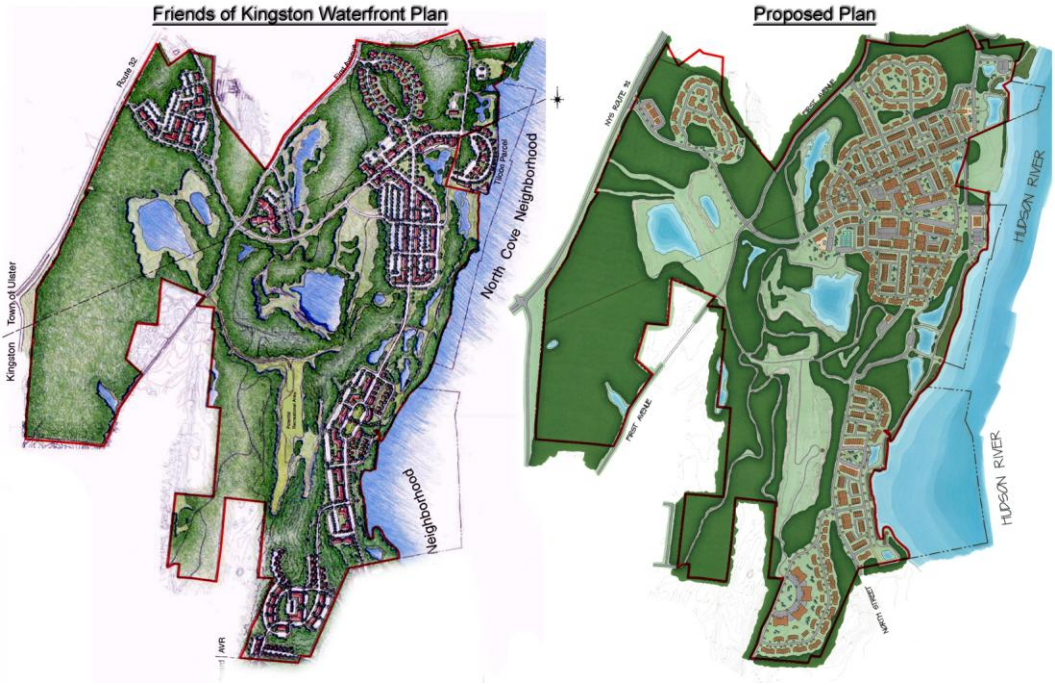
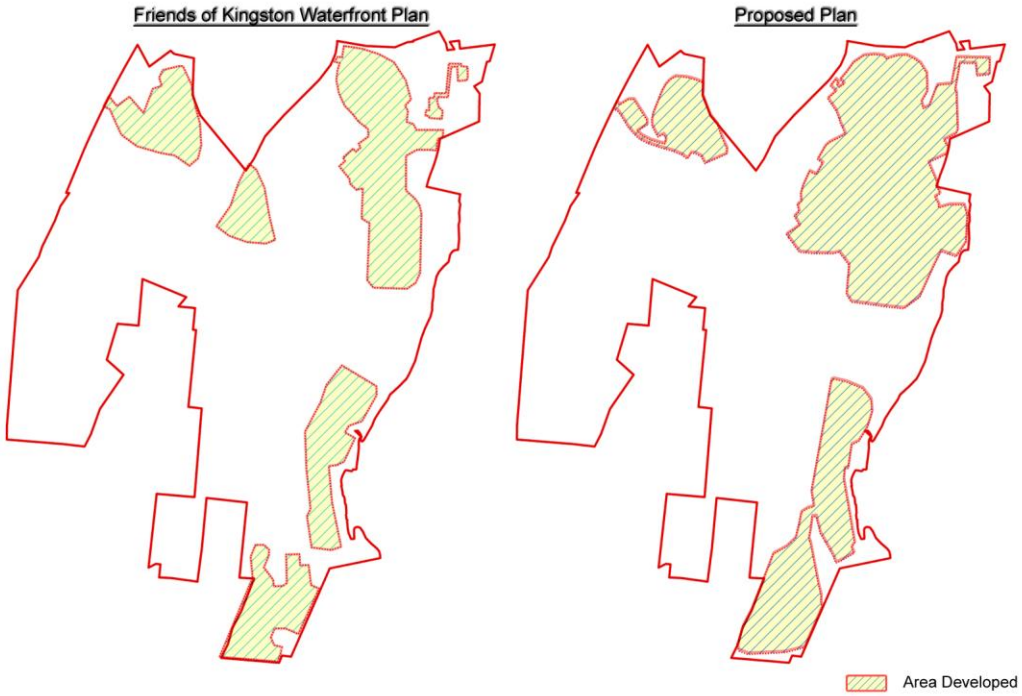


At a glance, the plans are not dissimilar, as they develop generally the same areas of the site. To calculate net unit density, we have to determine the amount of land that is to be developed, and then divide the total number of units proposed by developed land area. The developed land area (the area used for building, local access and accessory uses) in the two plans for the Hudson Landing parcel are shown below:



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The FGEIS plan develops about 140 acres of 461.6 acres (which excludes the portions of the site that are actually in the Hudson River.) The FoKW plan develops about 102 of the 461.6 acres.

In summary, unit densities for the two plans are as follows:

	Housing Units	Area of site (acres)	Gross Unit Density	Developed area (acres)	Net Unit Density
FGEIS Plan	1,750	461.6	3.8	140	12.5
FoKW Plan	600	461.6	1.3	102	5.9

The net unit density of the current plan for the site is 12.5 units per acre, a density which should be able to support an array of public transportation options.

For the Hudson Landing parcel, the FoKW plan calls for about 600 units of housing. Comparing apples-to-apples, calculating the net unit density for the Hudson Landing site shows about 5.9 units per acre. Such densities should make traditional transit options (bus, light rail) difficult, especially since the developed areas are more fragmented. Densities at the level proposed by FoKW actually undermine Smart Growth principle number 5.

Nevertheless, it is still possible to argue that this area does not need the growth that is planned for this site, that it is too much, too fast.

If not here, then where?
Smart Growth principle number 1 tells us to think regionally and act locally. Forecasts taken from the Ulster County transportation plan show that the County is expected to grow from between 10,000 to 15,600 households in the 20-year period from 2000 to 2020. Estimates made by the U.S. Census Bureau since the 2000 Census show that these forecasts are reasonable. Using the lowest growth projection produced by Ulster County, the Hudson Landing development could accommodate approximately 17.5% of the household growth forecast for the entire County as it is currently planned. As proposed by FoKW, the site will accommodate just 6% of the growth expected in the County. Which begs the question, if not here, then where? What other parts of the County have the infrastructure and the plans to accommodate growth at this scale? Some, surely, but the number of such sites is finite. Concentrating the County's growth within its urban areas is what the County and City has planned, and is certainly supported by Smart Growth principles promoted by Scenic Hudson.

Other smart growth principles
Comments thus far have focused on Smart Growth Principles numbers 1, 3, & 5, but, the Hudson Landing proposal supports the other principles as well.

Number 2 "*Protecting Our Landscape Legacy"*
Hudson Landing helps to protect the "Landscape Legacy" by preserving over 260 contiguous acres of open space (and over 300 total), which will be deeded to the

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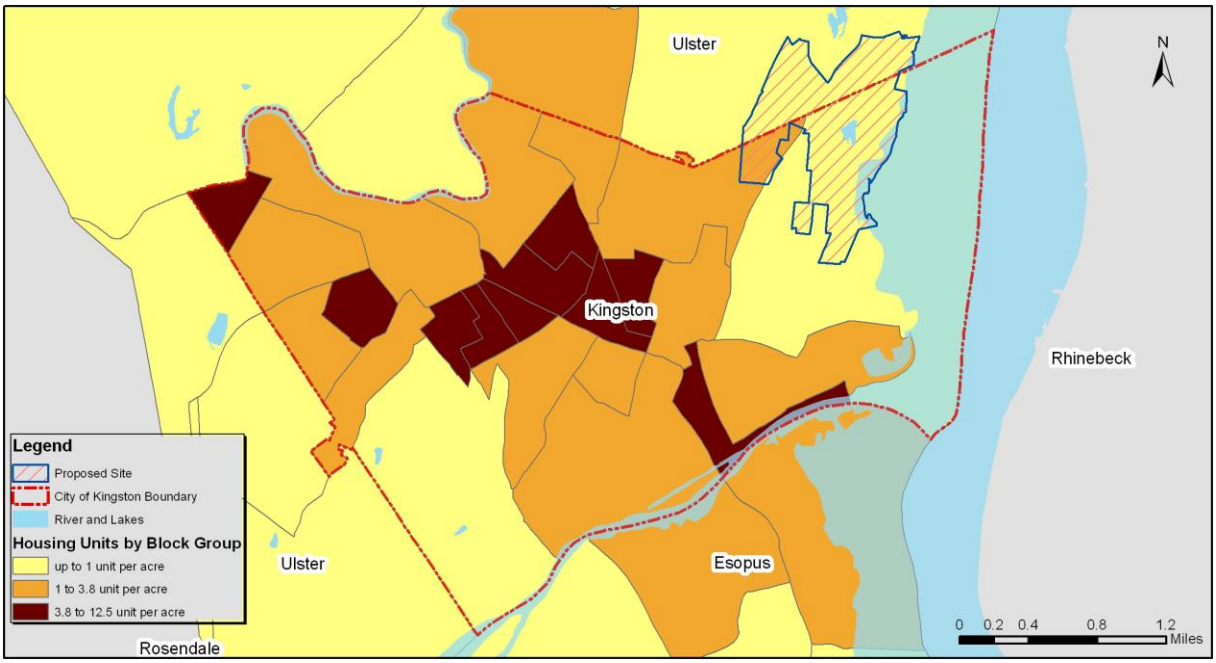
public, and which contains some of the immediate area's most interesting land forms. Also, by preserving urban densities, Hudson Landing should relieve development pressures elsewhere in Ulster County and thereby support Smart Growth principle number 2.

Number 4 "*Respecting the Past, Building for the Future"*

Hudson Landing also respects the past and builds for the future (principle number 4). Clearly, the plan to preserve the historic landscape and the two historic structures on the site support this smart growth principle. The development is also in keeping with the multi-center nature of the City of Kingston. For a small city, the City of Kingston is unusual in that it has three distinct centers: the Rondout, Uptown (the Stockade District), and Midtown (the Broadway area). Data show that housing unit density, and the general urban design and form of this new center is compatible with the existing community character of these older urban centers.

At the time of the 2000 Census, the City of Kingston had 10,637 housing units. With 7.3 square miles of land area, that is 2.3 housing units per acre. If the areas planned for the Hudson Landing and Sailor's Cove developments in the City of Kingston are excluded, as they currently house zero housing units, the balance of the City has a gross unit density of 2.6 units per acre, somewhat lower than the 3.8 units per acre planned for the Hudson Landing site. Of course, different neighborhoods are built at different densities, and if Hudson Landing's gross unit density is compared with the gross unit density of the other centers in the City of Kingston, it actually shows a *lower* unit density than block groups in these other urban centers. The following thematic map shows block groups in the City of Kingston colored according to their gross unit density.



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3.8 units per acre was purposely selected as a thematic boundary to show block groups that have a greater gross unit density than what is proposed at Hudson Landing. At the time of the Census in 2000, fully 10 of the 24 block groups in the City of Kingston had a greater gross housing unit density than what is proposed at Hudson Landing, and includes block groups in the Rondout (the area by Esopus Creek), Midtown (the cluster in the center of the map) and Uptown. The following table shows a few of these selected block groups compared with Hudson Landing.

2000 Census Housing Unit Density
Selected Block Groups in the City of Kingston

Census Tract	Block group	Land Area (acres)	Housing Units	Units per Acre	Neighborhood
9517	3	86.3	342	4.0	Rondout
9520	1	71.4	477	6.7	Midtown
9520	2	95.9	518	5.4	Midtown
9521	2	44.2	345	7.8	Uptown/Midtown
9521	3	48.7	428	8.8	Uptown
Proposed Hudson Landing	na	461.6	1750	3.8	Hudson Landing

Census geographies rarely perfectly delineate neighborhoods, and Hudson Landing is preserving a large amount of open space, but Census data still make it clear that the unit densities proposed for the Hudson Landing project are in-line with densities that currently exist in the City of Kingston.

Number 6 "*Give growth back its good name*"
This principle focuses on diversity: Mix housing unit types. Provide space not only for homes, but for jobs as well. Think about tourism and even agriculture when planning for economic development in the region. The Hudson Landing project excels when evaluated against this principle. It provides a mix of housing units ranging from single family homes to row houses, to condominiums to garden apartments. While the amount of commercial space has declined considerably since the initial proposal, it still has over 78,000 SF of space which includes not only traditional commercial space, but also live/work spaces to accommodate the changing nature of work.

The preservation of open spaces with dramatic views, along with a mile of riverfront access with kayaking and hiking opportunities, should attract many people to the area, both local and regional tourists looking for new recreation opportunities. Finally, while the development does not expressly address local

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agricultural opportunities, by developing an urban area at high density, the project may help to relieve development pressure on nearby exurban agricultural lands.

Number 7 *"Streamlining Without Sacrificing Quality"*
This principle is about making the development process more predictable and fair, while still maintaining quality development.

To be sure, the initial DGEIS plan for this site needed work. That plan proposed a sprawling, suburban style subdivision that was not designed according to Smart Growth principles. The City of Kingston, as lead agency for the State Environmental Quality Review (SEQR) process led an extremely careful review of this plan and left the public comment period open for months, collecting and considering all the comments received. During this time FoKW provided excellent comments along with thousands of other individuals and groups. And the contribution of the public during this period ended up making a difference, a truly substantial difference, in the plan for the site. It is my personal opinion that the process that was led by the City will be held up as a model as to how to conduct a thorough, inclusive environmental review of a large project. The Consistency Analysis letter submitted by Scenic Hudson is the kind of tactic that makes this smart growth principle necessary. Released two years after the end of the public comment period and 8 months after the proposed revisions to plan for the site were made public, this consistency letter, was not predicted, and is certainly not fair. As I have already shown, it contains errors in fact, but it also has misrepresentations. Part II of this letter will discuss those misrepresentations in detail.

Part II
Misrepresentations and misunderstandings in the Consistency Analysis

Lighthouse Landing
The Consistency Analysis repeatedly uses Lighthouse Landing, which is the development at the site of the old GM plant in Westchester County, as a comparative development. On page 5 the Consistency Analysis States:

> In terms of acreage, building envelope and number of residential units, Hudson Landing is the single largest development ever proposed on the Hudson River waterfront north of New York City. Hudson Landing is proposed at a scale 150% larger than 1,170-unit Lighthouse Landing in Sleepy Hollow. Lighthouse Landing is in densely-populated Westchester County, in close proximity to New York City, with easy access to major highways and commuter rail lines and bus transit.

The Lighthouse Landing site just under 100 acres, which means its gross dwelling unit density is about 12.0 per acre, as compared to the 3.8 per acre for Hudson Landing. Lighthouse Landing also has 167,000 SF of commercial space (or 1,670 SF per acre) or nearly 10 times the density of 169 SF of commercial space per acre proposed for Hudson Landing.

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In terms of land area, Hudson Landing is nearly five times the size of Lighthouse Landing, so it is not surprising that it has more units. Surely, the applicant should not be punished simply for having a large site. To omit land area when comparing two developments is a terribly misleading representation, as it would be easy for a reader to conclude that development at Hudson Landing is proposed at densities that are higher than what is proposed at Lighthouse Landing. In fact, as already shown, densities proposed for Hudson Landing are in-line with the existing centers in the City of Kingston and about a third of that which is proposed for Lighthouse Landing.

Further, little if any of the commentary during Lighthouse Landing's public comment period concerned visual resources or any of the issues addressed in the Consistency Analysis. Rather, the size of the original Lighthouse Landing proposal was challenged, not due to its visual impact and scenic issues, but due to concerns on the impact it would have on local traffic and congestion in Tarrytown. With the reductions that have been made in the Hudson Landing plan, no material adverse impacts are expected to local traffic and congestion.

Consistency with the Local Waterfront Revitalization Program, the Scenic Areas of Statewide Significance, and the New York State Costal Program

As you know, the Applicant has prepared an extensive and thorough 24-page response to visual resource comments, which includes an extensive discussion regarding consistency with the Local Waterfront Revitalization Program (LWRP), the Scenic Areas of Statewide Significance (SASS) and the New York State Coastal Program. I will not repeat the arguments contained therein here, as their discussion is cogent, persuasive and thorough. Nevertheless, I will highlight the point that the Kingston waterfront is outside the SASS boundary and is repeatedly called a "discordant" part of the view from subunits in the SASS in the documentation of the SASS:

> "The most significant discordant features are the industrial and mining sites visible in Ulster and Kingston, just outside the western boundary of the SASS. (NYSDOS, 1993, p.192).
>
> "The *industrial sites* on the western shore across from the southern portion of the subunit are somewhat *discordant and reduce the scenic quality of the views*. (NYSDOS, 1993, p.192) (emphasis added).
>
> *"Negative elements in the viewshed include the derelict industrial facilities on the East Kingston waterfront* and the recent housing development on the riverfront slopes at Port Ewen." (emphasis added) (NYSDOS, 1993, p.208)

While the SASS was designated 15 years ago, it built upon work that dates back to the mid-1980s and the Mid-Hudson Historic Shorelands Scenic District. At that time both the memory and reality of industrial activity on the shoreline was still fresh and the visual evidence was even more apparent than it is today. Decades of uncontrolled forest reclamation along with industrial decay has softened the visual impacts of these activities, but the SASS documentation

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clearly indentifies the area of Hudson Landing as a discordant feature of the SASS. To say, as the Consistency Analysis does on page 6: "The Estates District SASS shares a common boundary with Hudson Landing along the Hudson riverfront. Thus the development would comprise the SASS's foreground view" is to make a conclusion that is not supported by the SASS documentation and misunderstands how the surrounding environment contributed to, and detracted from, this SASS at the time of its designation.

The applicant addresses this and other consistency issues ably in the response to comments, and I encourage a careful read of those materials.

St. Lawrence Cement decision

The selective use the St. Lawrence Cement (SLC) decision is another disappointing part of the Consistency Analysis.

After a long process, in 2005 the Department of State (DoS) issued a 20-page decision on a proposal from St. Lawrence Cement to develop a very large industrial facility in the Town of Greenport and in the City of Hudson. The decision was important, as it essentially stopped the project based upon inconsistencies with New York's Coastal Management Program, and related policies in the LWRP for the nearby Village of Athens.

The proposal for the SLC site, however, is not at all similar to what is proposed for Hudson Landing:

> "The SLC facility includes a 1,222-acre mine and 547 acres of land contiguous to the mine in the Town of Greenport and a 14-acre riverfront industrial area in the City of Hudson. The new cement manufacturing plant would be constructed within SLC's existing mine in the Town of Greenport. . . . The project would include a preheater tower (337 feet in height), and attached main stack (363 feet in height); eight blending silos (20 feet in diameter by 174 feet tall and 207 feet to the top of the bucket elevator); 2 clinker silos (140 feet in diameter by 189 feet tall); and 8 cement silos (66 feet in diameter by 171 feet tall, with 228 feet to the top of the bucket elevator). . . ." (pgs. 1-2 of DoS SLC decision).

At the dock in the City of Hudson, the SLC project made major changes to the shore area:

> ". . . the proposed project would involve dredging approximately 62,000 cubic yards of material from the nearshore area of the Hudson River near the dock. The area to be dredged would be 5.71 acres in extent, including 5.45 acres of subtidal habitat and 0.26 acres of intertidal habitat. Stone revetment would be placed along the newly dredged slope, filling approximately 1180 linear feet over 1.09 acres of Hudson River intertidal and subtidal area. Steel sheet piling would be driven waterward approximately 420 feet of existing bulkhead on the northern portion of the property. To the south of the bulkheading, an open-pile, T-shaped dock for barge breasting and mooring would be constructed and a portion of industrial fill would be removed and relocated eastward. . . . A breasting barge (250 feet long by 63 feet wide) would also be moored at the bulkhead to hold the HudsonMax vessels away from the dock, in water deeper than water adjacent to the bulkhead. A new 260 feet long steel grate dock parallel to the shore is proposed to

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be constructed approximately 500 feet south of the existing SLC dock, for berthing of cement barges. The dock would be approximately 15 feet wide, supported by 4 dolphins, and connected to the shore in the center via a fixed steel grate gangway (20 feet wide by approximately 50 feet long). The cement barges that would use this dock are approximately 400 feet long and 72 feet wide, and weigh approximately 12,000 tons." (pg. 2 of DoS SLC decision)

It continues:

> "In addition to the fixed components to be constructed as part of the Greenport facility, activities at the proposed plant would also generate noise and plumes of visible vapor and particulate matter. These plumes would be visible for many miles from areas in and beyond the coastal area." (pg. 3 of DOS SLC decision)

Beyond the fixed aspects of the facility and the plumes it would generate, the intensive nature of the use of the site is also noted in the DoS decision:

> "The SLC proposal represents a dramatic expansion in industrial activity at the SLC dock in Hudson. The proposed riverfront industrial facility, immediately adjacent to the City's waterfront parks, would serve as the shipping center for one of the largest cement manufacturing facilities in the nation, producing 2 million metric tons per year. Under the proposal, HudsonMax vessel activity would increase to 16-22 stops per year at the docking facility, a 433 - 1000% increase in the presence of a HudsonMax vessel at the Hudson waterfront, and include mooring for up to 3 days at a time. Unloading and loading operations, including the transport and stockpiling of road salt, gypsum, and GBFS, would occur on a 24-hour basis. Cement barges of twelve-thousand metric ton capacity, which are about 400 feet long and 72 feet wide, would be used to transport finished material up to 4 times per week. Loading of these vessels takes up to 14 hours. In addition to the increased activity of HudsonMax vessels, tugs and barges, and associated loading and unloading operations, the proposed project would also entail the construction and operation of an enclosed conveyor system connecting the riverfront industrial activity to the Greenport facility. The product transfer and storage associated with the proposed SLC riverfront industrial facility would transform the existing dock into a major shipping terminal. Rather than revitalize the waterfront, at its proposed scale, this shipping complex will dominate this and surrounding waterfront areas for the 50 to 60 year useful life of the industrial complex." (pg. 6 of DoS SLC decision)

In summary, SLC proposed a very large industrial complex with structures the height of 35-story buildings, plumes that would be visible for miles, and massive industrial activity that would operate, when ships were in port, 24 hours a day. This is nothing like what is proposed mixed-use residential activities along Hudson Landing. In fact, the DoS SLC decision holds mixed-use development proposed up as a desirable use of land along the waterfront:

> "In developed waterfront areas on the Hudson River, land for new economic activity is at a premium. The most significant acreage available is underused industrial land between the river and the railroad tracks. Redevelopment of large parcels between the river and the railroad tracks for non-industrial uses is now occurring in nearly every major urban area in the Hudson Valley and is being supported by millions of dollars in federal and state grant funds and private investment. Throughout the Hudson Valley, these projects are transforming industrial sites into retail commercial uses, restaurants, parks, marinas and other tourist destinations, giving a needed boost to the local economy. Waterfront revitalization is providing the catalyst for these riverfront communities to enhance their

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> economic vitality, increase tax revenues, add jobs, revitalize downtowns, and provide public recreation opportunities to the waterfront. *This is particularly the case in Hudson River areas such as Yonkers, Irvington, Poughkeepsie, Sleepy Hollow, Tarrytown, Peekskill, Newburgh, Kingston, and Hudson.* This Hudson Valley trend – converting riverfront industrial land to higher economically valued multiple mixed uses – started in the City of Hudson more than 2 decades ago. Since then, governments and the private sector have moved forward by denying approval for an oil refinery on the site of what is now the waterfront park, removing oil tanks and discontinuing other industrial uses, and creating a vision for a recreational and mixed use waterfront. (pg. 5 *emphasis added*)

The DoS SLC decision not only rejects SLC project but speaks favorably of mixed use waterfront development, and specifically mentions Kingston (along with other communities) as an example of not only a trend, but a positive move away from heavy industry to "higher economically valued multiple mixed uses."

The Consistency Analysis quotes two parts of the 20-page DoS SLC Decision document. The following examines both of those quotes. Page 3 of the Consistency Analysis states:

> "While Hudson Landing itself is not located in the SASS, there is no doubt it will impact the SASS. Under precedent set in the "St. Lawrence Cement (SLC) Decision" (April 19, 2005), NYSDOS objected to consistency certification because of SLC's potential affect on the Catskill-Olana SASS:
>
> > *Consideration must be given to the proposal's (SLC) affect on scenic areas of statewide significance (SASS) and other areas which contribute to the overall scenic beauty of the coastal area. The Catskill-Olana SASS would be affected by the proposal." (page 17)*

The Catskill-Olana SASS is different from the Estates District SASS. When a SASS is designated, it is also documented. Discordant features along with contributing elements are all noted in a write-up of what makes the designated area an area of statewide significance. As noted earlier, the Kingston waterfront is repeatedly considered a discordant feature in the Estate District SASS. However, the Olana subunit,

> "was included in the Catskill-Olana SASS not only for its own beauty but *also for the beauty of its surrounding views*, . . . The Olana property is a designed landscape of extraordinary importance that recognizes its connection to the landscape beyond its borders. Olana's viewsheds are some of the most dramatic and famous in the Hudson River Valley." (pg. 18 of DoS SLC decision, emphasis added)

Important elements of SASSs are noted, and they vary by SASS. In Catskill-Olana, views from the district are noted as being important. In the Estates District SASS, interior views and views to the district are recognized as being of primary importance, while exterior views are largely identified as having discordant features.

The Consistency Analysis's other quote of the DoS SLC decision again comes from page 3 of the Consistency Analysis:

ENVIRONMENTAL

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> . . . As *"previous consistency decisions are often used to inform subsequent decisions"* (ibid, page 18), it is appropriate for NYSDOS to hold AVR's Hudson Landing project to the same standards as SLC and Athens Generating.

To fully understand the meaning of the quoted sentence, the entire paragraph in which it appears should be read:

> "Previous consistency decisions are often useful to inform subsequent decisions. In 2000, DOS objected to the consistency certification submitted by Athens Generating Plant due, in large part, to the visual impacts of the proposed plant's plume upon scenic and historic resources. In that instance, the DOS objection was based in large part on a visible plume projected to exist for approximately 114 hours annually (Athens Generating Project, Federal Consistency Statement, February 2000). SLC reports that the cement manufacturing facility in Greenport would generate a visible plume approximately 1540 daylight hours annually. Even under "fair to clear weather conditions," SLC estimates that a plume would be visible 811 hours per year, close to 600% more frequent than the plume predicted by Athens Generation to which DOS objected." (pg 18 of DOS SLC decision)

And later on page 19, DoS SLC decision describes the size of said plume:

> "The average annual plume estimated by SLC will be 1,106 feet long x 588 feet high and is estimated by SLC to be visible about 39% of daylight hours."

The size of the plume to which the DoS SLC decision refers, is huge: it is as tall as a 60-story building that is twice as wide as it is tall. The content of a previous consistency decision about an industrial complex that creates a huge plume is an inappropriate comparison to the mixed use residential/commercial waterfront development that is proposed for Hudson Landing.

Instead, the Consistency Analysis states:

> "Abiding by precedent, it is appropriate for the NYSDOS to hold AVR's Hudson Landing project to the same standards it did the St. Lawrence Cement plant and Athens Generating." (pg. 6)

If Hudson Landing were held to the same standards as SLC and Athens Generating, the foregoing shows that it would fair quite well.

Part III
DeWan's Review of Hudson Landing Visual Impact Study

At the same time I received the Consistency Analysis, I also received "Review of Hudson Landing Visual Impact Study for Hudson River Heritage" by Terrence J. DeWan & Associates, November 27, 2007.

This document is likewise flawed as the Consistency Analysis, but instead of being, apparently, purposely misleading, it make errors that suggest that the author—who is based out-of-state—is simply unfamiliar with the site, process, and the technology used to represent the project.

ENVIRONMENTAL

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For example, on page 8 this letter makes reference to a presentation that I prepared and made:

> "The work that was prepared by ESC (for the City of Kingston) and shown at the June community meeting was titled Visual Impact Analysis. However, very little actual analysis was presented."

The document referenced was, in fact, titled Kingston Landing Visual Resources Focus Group, as can be seen in a copy that has been posted on our website since that meeting occurred.[2]

The purpose of the meeting was not to present a formal visual impact analysis. While this kind of analysis is important, it belongs in the EIS, not in a relatively short public meeting where a new proposal needs to be communicated. The presentation was designed to engage the public using the most accessible elements of the project— photographs, photosimulations, and renderings—to communicate the changes in the plan that reflect public comments. It was never intended, nor presented, as an analysis of visual impacts.

Mr. DeWan also seems to misunderstand the technology of photosimulation when he writes describing the photosimulations:

> "The buildings seem to be photographs of real structures that have been superimposed on the existing conditions photographs" (pg 6).

To any professional experienced in the technology, the photosimulations are readily identifiable as "verifiable digital photomontages," not simply the superimposition of two images as described in the letter. What Mr. DeWan describes is actually an artist's rendering using photographs as the media, which would not be an acceptable method of photosimulation under SEQR. The photosimulations prepared for Hudson Landing were constructed in a process that merges a digital 3D model of the proposed action with an existing conditions photograph using a computer camera set at the same location using the same lens as the photograph, and corrected using matchpoints that exist in both the digital 3D model and the photograph. They are called verifiable, as the digital 3D model is dimensionally accurate and can be audited, or verified, to ensure accuracy.[3]

Mr. DeWan's letter also devotes space to differences between renderings and photosimulations. When two different methods of representations are used to describe the same action, it is absolutely correct to pay close attention, as they cannot provide conflicting information. The best way to do this—and I would

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[2] http://www.simcenter.org/PDFs/Kingston_Landing_Presentation01.pdf

[3] More on visual simulation methods can be found in the document Visual Simulation under SEQR http://www.simcenter.org/Viz_sim_in_SEQR/Viz_sim_in_SEQR.pdf

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argue the only correct way to do this—is to render views from the 3D digital model of the action, and then perform the artistic rendering using that computer generated rendering as a guide. This ensures all the buildings are in the proper location, at their proper height and, most importantly from a SEQR standpoint, ensures that the photosimulations and the renderings describe the same action.

The DeWan letter states:

> "Some of the illustrations seem hastily conceived, such as the mule barn on page I-3. In this case the historic structure seems crowded and overwhelmed by the presence of its proposed new neighbors. These four-story buildings seem out, (sic) especially when considered in the context of the more typical structures seen along the Hudson River as show (sic) on pages 9 and 10." (pg. 8)

It is not typically appropriate to describe illustrations done in this manner as "hastily conceived." They simply show the action as it is proposed. Mr. DeWan's statement suggests that had this viewpoint been considered more carefully, it would have looked different, with smaller buildings and perhaps more space around the mule barn. Doing this, of course, would describe a different action and create an inconsistency that would undermine a fundamental premise of SEQR.

Mr. DeWan does recognize that the photosimulations show a worst case scenario and states correctly that "there has been no attempt to see how the application of the development guidelines would change the overall appearance of Hudson Landing" (pg. 7). The Lead Agency has asked the applicant for materials that would do just this and those materials are pending.

Close

Mr. DeWan's comments do not carry the same weight as the comments made by FoKW and do not warrant the same kind of response. While both letters contain inaccuracies, I am not certain Mr. DeWan knew better. Scenic Hudson, however, should have known better. The comparison of Hudson Landing with St. Lawrence Cement was an inflammatory attempt to link projects that have nothing to do with the other. Their selective comparison of Lighthouse Landing and Hudson Landing was disingenuous as critical data about the projects that would allow for a fair comparison was omitted. Their aggressive use of assertions unsubstantiated by hard data and objective criteria is a form of intellectual bullying that has now become an unfortunate part of the record regarding this project. As I hope I have shown, using hard data and objective criteria, Hudson Landing is not "too dense," but is consistent with existing densities in the City of Kingston; the Hudson Landing site is urban and is at the center of Ulster County's urbanized area; Hudson Landing is developed according to the principles of Smart Growth and supports those principles much better than the plan put forth by FoKW. Finally, while I only touch on the project's consistency with State Coastal Management Policies, the LWRP and the SASS, this letter, when read

ENVIRONMENTAL

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with the response to comments regarding consistency, demonstrates the project's consistency with these policies.

The design for Hudson Landing has improved vastly since the DGEIS. Even after the FGEIS plan was released, additional changes were made to the plan to avoid karst geology to directly address the on-going dialogue between the applicant, FoKW, and the Lead Agency. Until the appearance of the Consistency Analysis, Scenic Hudson and FoKW were informal partners in this process.

There remains an important role for Scenic Hudson to play on this project by helping to find a long-term solution for the maintenance, management, programming and promotion of the publicly accessible open spaces that this project creates. More than 300 acres of public open space and a mile of public access to the waterfront that this project creates will need to be maintained and managed for long-term public enjoyment. With Scenic Hudson's experience in this field they could play a critical role not only for the benefit of this project, but for the benefit of all the region's residents. They just need to step up and start contributing again.

Please contact me at 212-279-1851 should you have any questions.

Sincerely,

George M. Janes, AICP
Environmental Simulation Center

CC: Dan Shuster,
John Lyons,
Dan Simone