

February 7, 2020

**SCARSDALE FORUM INC.**

**THIS REPORT HAS BEEN PREPARED UNDER EXPEDITIOUS TREATMENT PROCEDURE OF SCARSDALE FORUM INC. BY THE COMMITTEES WHOSE MEMBERS' NAMES APPEAR BELOW. IT HAS BEEN APPROVED BY THE EXECUTIVE COMMITTEE OF THE FORUM AND AUTHORIZED FOR RELEASE TO THE PUBLIC, BUT IT HAS NOT YET BEEN SUBMITTED TO THE FORUM MEMBERS FOR THEIR APPROVAL.**

**Report of the Fiscal Affairs Scarsdale Committee  
and Downtown Revitalization Committee  
On  
Freightway Development Proposals**

The Committees propose the following resolution for adoption by the Forum:

**RESOLVED**, that the Report of the Fiscal Affairs Scarsdale Committee and Downtown Revitalization Committee on Freightway Development Proposals be approved.

**PRELIMINARY STATEMENT**

The Village Board of Trustees (“BOT” or “Village Board”) selected two real estate developers, AvalonBay Communities and East End Capital/LCOR, as “finalists” from the firms that responded to a June 19, 2019 Request for Proposals (RFP) to create a Transit-Oriented Development (TOD)<sup>1</sup> at the Village-owned Freightway site in the Village Center.<sup>2</sup> The firms presented their proposals at a BOT Work Session on December 11, 2019<sup>3</sup> at which the Mayor announced a 60-day period following the Work Session for public comment.<sup>4</sup> The BOT had intended to select one of the finalists as a preferred developer following the comment period and enter into a non-binding term sheet.<sup>5</sup> But in a January 9, 2020 letter, the Board informed the community that “we are putting a hold on the Freightway timeline,” and that “[a] preferred developer will not be chosen unless and until more appropriate starting points and data are provided and presented to the Board and to the

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<sup>1</sup> Wikipedia: “A transit-oriented development (TOD) is a type of urban development that maximizes the amount of residential, business and leisure space within walking distance of public transport.” [https://en.wikipedia.org/wiki/Transit-oriented\\_development](https://en.wikipedia.org/wiki/Transit-oriented_development) .

<sup>2</sup> Request for Proposals, June 19, 2019, <https://www.scarsdale.com/DocumentCenter/View/4762/Freightway-Redevelopment-Site--Request-for-Proposal>.

<sup>3</sup> Avalon presentation, <https://www.scarsdale.com/DocumentCenter/View/5428/Avalon-Freightway-Public-Presentation-pdf>; East End Capital/LCOR presentation, <https://www.scarsdale.com/DocumentCenter/View/5429/LCOR-and-East-End-Public-Presentation-pdf>; December 11, 2019 Work Session Video, <https://scarsdaleny.swagit.com/play/12112019-1052>

<sup>4</sup> The comment period ends on February 9, 2020.

<sup>5</sup> Freightway FAQ, December 2019, <https://www.scarsdale.com/DocumentCenter/View/5423/December-2019-Freightway-FAQ-PDF> p. 2-3; Mayor’s Open Letter to the Community, December 9, 2019, <https://www.scarsdale.com/DocumentCenter/View/5266/Freightway-Open-Letter-to-the-Scarsdale-Community-PDF> .

community.”<sup>6</sup> The BOT further stated that it “believes that the future of Freightway remains an important agenda item for continued community conversation” and welcomed public comment and input. At the January 14, 2020 BOT meeting, the Mayor pledged: “. . . any additional proposals that may be shown to the public will include data on financial and school impacts.”<sup>7</sup>

The developers’ RFP responses were not made public<sup>8</sup> and there is very little publicly available information about them, particularly their positive net fiscal impact on and benefits to the Village and the School District. The BOT has not disclosed any details about its goals and expectations, the advice it has received from its consultants, or its discussions with the School District. Nonetheless, the Committees are submitting to the Village Board these preliminary comments and recommendations about Freightway redevelopment during the current public comment period.

## **DISCUSSION**

### **Brief Historical Background**

Freightway development has a long history.<sup>9</sup> The site is owned by the Village and represents the last – and largest – potential development site available in Scarsdale. While a number of development projects have been completed in the nearby Village Center in recent years, the Freightway site has never undergone any major improvement, renovation, or development since the Freightway garage was constructed in 1972. Multiple development proposals, including some proposing residential apartments, have been rejected over the years.<sup>10</sup>

The Board convened a Freightway Steering Committee (“FSC”) in May 2017 to conduct a community visioning exercise, noting “the Village Board has indicated its interest in beginning to plan for the potential redevelopment of the Freightway Site, given the age and condition of the Freightway Garage and the opportunity to consider a transit-oriented development in this critical location in the Village.”<sup>11</sup> The FSC hired BFJ Planning, a consulting firm, to help coordinate public meetings, focus groups, in-person commuter surveys and an online survey with the FSC. The public feedback was memorialized in the FCS’s February 2018 Freightway Site Redevelopment Study (Freightway

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<sup>6</sup> <https://www.scarsdale.com/DocumentCenter/View/5475/VB-Community-Freightway-Update-Letter-PDF>.

<sup>7</sup> Agenda for the Village Board January 28, 2020 Meeting attaching Minutes of Village Board Meeting of January 14, 2020, p. 2-3, <https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/01282020-740>

<sup>8</sup> The BOT stated that the RFP responses were not disclosed to the public due to concerns about developer confidentiality concerns and to protect the BOT’s negotiating strategy. Freightway Frequently Asked Questions, December 2019, no. 16, p. 4, <https://www.scarsdale.com/DocumentCenter/View/5423/December-2019-Freightway-FAQ-PDF>

<sup>9</sup> Freightway Site Redevelopment Study, February 2018, p. 8-11, <https://www.scarsdale.com/DocumentCenter/View/2626/Freightway-Site-Redevelopment-Study-Feb-2018>

<sup>10</sup> See, e.g., An Update of the Village Center Component of the Village of Scarsdale Comprehensive Plan, August 2010 <https://www.scarsdale.com/DocumentCenter/View/1566/Village-Center-Component-of-the-Village-of-Scarsdale-Comprehensive-Plan-PDF> p. 9-11, (2010 Village Center Plan).

<sup>11</sup> <https://www.scarsdale.com/DocumentCenter/View/1703/Freightway-Steering-Committee-Establishment---Resolution>

Study).<sup>12</sup> The Study formed the basis for the Village Board's July 2018 Request for Expressions of Interest (RFEI)<sup>13</sup> and the subsequent June 2019 Request for Proposals (RFP).<sup>14</sup>

In December 2019, the Mayor described the TOD process as “a path to investigate whether development of the site is preferable to investing taxpayer funds into this aging structure.”<sup>15</sup> In an August 2017 Condition Survey Report, an engineering consultant to the Village evaluated the Freightway garage and estimated costs for repairs, upgrades and improvements to the garage at some \$1.4 million (with an additional amount if the work were done in phases).<sup>16</sup> A November 17, 2017 “Budget Cost Estimate” scheduled the work over a five-year period and added façade upgrades at a cost of \$250,000 for a total estimated cost of approximately \$2.26 million.<sup>17</sup> In January 2020, the engineering consultant again inspected the garage and on January 30, 2020 the community was advised that “the prior Condition Report is being updated to help inform decision-making on a moving forward basis.”<sup>18</sup>

### **The Visioning Freightway Study**

The FSC articulated a vision for a Freightway TOD consisting of seven principles<sup>19</sup> and four development scenarios presented as consistent with these principles and fiscally feasible:

**Option 1-** Rehabilitate the existing garage and construct a building in the Open Lot fronting on Popham Road with 2-3 floors of parking beneath a mixed-use building with between 58 and 93 residential units.

**Option 2-** Same as Option 1 but adding a platform to be built over the tracks and including a park at the corner of Popham Road and Scarsdale Avenue, with vehicular access to Scarsdale Avenue. Residential unit density would be increased to between 79 to 127 units to make the project feasible.

**Option 3-** Demolish the garage and build residential buildings over two-to-three levels of parking. Increasing the “density bonus” to between 91 and 145 residential units would be needed to make this option feasible.

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<sup>12</sup> <https://www.scarsdale.com/DocumentCenter/View/2626/Freightway-Site-Redevelopment-Study-Feb-2018>

<sup>13</sup> <http://www.scarsdale.com/DocumentCenter/View/3452/RFEI-Freightway-Redevelopment-Site-Scarsdale>

<sup>14</sup> <https://www.scarsdale.com/DocumentCenter/View/4762/Freightway-Redevelopment-Site--Request-for-Proposal>

<sup>15</sup> December 24, 2019 BOT meeting agenda attaching December 11, 2019 meeting minutes at <https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/12242019-726>, p. 522.

<sup>16</sup> Condition Survey Report of the Freightway Parking Garage, Desman, Inc., August 2017, <https://www.scarsdale.com/DocumentCenter/View/5481/Freightway-Garage---2017-Condition-Report-PDF>.

<sup>17</sup> Budget Cost Estimate, November, 2017, <https://www.scarsdale.com/DocumentCenter/View/5481/Freightway-Garage---2017-Condition-Report-PDF>, on last page.

<sup>18</sup> Scarsdale Official, January 30, 2020; discussion at BOT budget Work Session January 29, 2020.

<sup>19</sup> (1) Improve Parking and Circulation; (2) Ensure that public benefits are achieved by any development; (3) Ensure contextual development (scale, bulk, height); (4) Encourage mixed-use development supportive of Village Center; (5) Connect and integrate the Freightway Site with the Village Center; (6) Include environmentally sustainable development; (7) Plan for the long term future, within a reasonably practicable time horizon.

**Option 4-** Same as Option 3 but building a platform over the tracks (as in Option 2) and a vehicular access ramp. The FSC estimated that as many as 225 residential units would be needed to make this option feasible.<sup>20</sup>

The RFP did not restrict respondents to proposals that strictly conformed to the Freightway Study scenarios, but stated that a proposed project should be consistent with the seven principles outlined in the Study.<sup>21</sup>

While the BOT was evaluating the Freightway RFP responses, Rush Wilson, the long-time owner of the Scarsdale Improvement Corporation that owns most of the buildings in the Village Center, presented plans to develop 30 Popham Road and 1 Spencer Place at an October 7, 2019 Land Use meeting. Both projects involve adding residential units – 15 condo units at the Popham site and 48 condo units at the Spencer site – above expanded retail space, along with additional parking, as well as public space use and amenities. These proposals would require significant zoning changes.<sup>22</sup>

The Mayor stated at the December 11, 2019 BOT meeting that the “primary objectives” of the Freightway redevelopment effort were to “(i) improve commuter parking, (ii) bring vibrancy to the Village Center, and (iii) provide a positive net fiscal impact to the Village and the School District.”<sup>23</sup>

There is currently ample commuter parking at the Freightway garage, enough that the Village allows as many as 120 non-resident parkers every day. The garage plus the adjacent valet parking can accommodate 720 cars, of which 600 are used by Scarsdale residents. Parking in the Freightway garage is free after 6PM on weekdays, and all day on weekends. Commuter parking at Freightway is a profitable activity for the Village: the current adopted Village budget estimates Freightway permit revenue at \$720,000 and valet parking revenue at \$188,000 for a total of \$908,000.<sup>24</sup> Freightway operating expenses are \$150,000 per year.<sup>25</sup> \$50,000 is allocated for short-term repairs in the current capital plan.<sup>26</sup> The net revenue of over \$700,000 earned at the garage is used to fund Village operations and reduces the property tax levy.

Both anecdotally and from results of at least one focus group the site is considered to be quite unattractive, yet the Freightway garage is safe and fully operational. The capital budget and plan in the current adopted budget contemplates that \$2.3 million will be borrowed and spent over the next

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<sup>20</sup> Freightway Study, p. 61-66, PDF pages 67-72.

<sup>21</sup> RFP, p. 10.

<sup>22</sup> Scarsdale10583.com, October 10, 2019, <https://www.scarsdale10583.com/section-table/30-neighborhood-news/7832-ambitious-development-proposals-on-popham-road-and-christie-place-promise-to-breathe-new-life-into-village-center>; Scarsdale Inquirer, October 17, 2019, [https://www.scarsdalenews.com/news/scarsdale/major-property-owner-envisions-village-center-redevelopment/article\\_23f4876c-f117-11e9-9f6c-37cd531a603b.html](https://www.scarsdalenews.com/news/scarsdale/major-property-owner-envisions-village-center-redevelopment/article_23f4876c-f117-11e9-9f6c-37cd531a603b.html).

<sup>23</sup> December 24, 2019 BOT meeting agenda attaching December 11, 2019 BOT meeting minutes, p. 522, <https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/12242019-726>.

<sup>24</sup> Adopted Budget, p. 79, <https://www.scarsdale.com/ArchiveCenter/ViewFile/Item/129>.

<sup>25</sup> Freightway Study, p. 30.

<sup>26</sup> Adopted Budget, Fiscal Year 2019-2020, p. 106.

four years to renovate the Freightway garage,<sup>27</sup> including a new façade and LED lighting.<sup>28</sup> Although these capital improvements would reduce Freightway profits, revenue from the site could easily cover the cost of the renovation even if parking fees and permits remain unchanged from current rates. In addition, although the 2017 Condition Survey Report did not address this specifically, it is quite probable that the life of the garage would be extended for a considerable time. Both the life of a renovated Freightway garage and the cost of a replacement have been the subject of speculative and somewhat conflicting statements.<sup>29</sup> However, it is important to note that even the most conservative estimate finds that the garage if renovated should survive most of this decade. The Condition Report is being updated<sup>30</sup> and the Committees understand from discussions at the January 30, 2020 BOT Work Session that the updated report will estimate the life of the garage with and without renovation and update the cost of necessary work.

## **COMMENTS AND RECOMMENDATIONS**

### **1. “Positive Net Fiscal Impact” From the Freightway Site.**

***Recommended Financial Disclosures.*** While the BOT has informed the community that a TOD at Freightway would have to provide a “positive net fiscal impact to the Village and the School District,” to date there is little financial information or analysis for public review. The Village-owned garage at the site already appears to yield a positive net fiscal benefit that should continue, even when the renovations in the capital plan are taken into account. The Committees recommend that the BOT share with the public the details of the costs and benefits of continuing to operate the garage, including the term and cost of any borrowing to pay for the planned renovation, and projected revenues from fees and permits. The Committees also request disclosure of the updated Condition Report estimating the expected life of the Freightway garage once renovated, and also the timing and costs of future repairs and/or replacement thereafter.

On January 14, 2020, the Mayor pledged to include data on financial impacts for any additional redevelopment proposals that are shown to the public.<sup>31</sup> The Committees believe this a step in the right direction. Even before it presents any new development proposals, the Committees urge the BOT to share with the community details of the net fiscal benefit it envisions from entering into a private-public partnership with a developer. This is just some of the information the Committees believe the public should receive:

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<sup>27</sup> Adopted Budget Fiscal Year 2019-2020, p. 12, 106.

<sup>28</sup> Budget Cost Estimate, November, 2017, <https://www.scarsdale.com/DocumentCenter/View/5481/Freightway-Garage---2017-Condition-Report-PDF>, on last page.

<sup>29</sup> E.g., RFP, p. 1 (“complete replacement of the garage within 15 to 20 years which could cost well in excess of \$25 million”); Freightway FAQ: “Within 8-10 years, garage “will require more extensive renovation and possibly a complete replacement at a cost well in excess of \$25 million.”

<sup>30</sup> Scarsdale Official, January 30, 2020.

<sup>31</sup> Agenda for the Village Board January 28, 2020 Meeting attaching Minutes of Village Board Meeting of January 14, 2020, p. 2-3, [https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/\\_01282020-740](https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/_01282020-740).

- Does the Board have a target amount of tax relief for a Freightway redevelopment project?
- How does that compare with the tax relief provided by the existing garage?
- Will property taxes be reduced? If so, when is the earliest any reductions could take place and what are the estimated reductions likely to be?
- What are the risks associated with the TOD fiscal benefits?
- What new revenues are projected?
- What would the assessed value of the apartment buildings be?
- Which partner gets the parking revenues and what are the projected amounts?

If the BOT does provide another proposal to the community, the Committees recommend that it make a full disclosure of financial details, including a pro forma model. This Committees recommend that the model assume conservative estimates based on information that is publicly available. The BOT has explained that it was withholding financial information to avoid weakening its negotiating position.<sup>32</sup> The Committees believe that disclosure of a financial model could strengthen the Village's negotiating position and generate in-depth feedback and analysis that may be valuable.

***A New Parking Garage?*** A TOD was seen as a way to avoid the cost of renovating the existing Freightway garage and also the cost of ultimately replacing it.<sup>33</sup> However, neither a TOD nor any other public-private partnership deal would allow the Village to avoid paying for a replacement garage. The Committees understand that in an arm's length transaction, even a complicated transaction with a lot of moving parts, costs are incurred to receive benefits. In a complex transaction such as Freightway, the costs and benefits are simply more difficult to quantify and project. The Freightway Study expects any developer would build at least 720 public parking spaces;<sup>34</sup> the Village would necessarily compensate the developer for building those spaces. The Committees are concerned that the Village could end up paying a significant amount upfront for a garage that it may never need, and certainly does not need at this time. The community should have sufficient information to understand how much it will be paying for a garage in any redevelopment proposal. The Freightway Study estimated that each underground space costs \$40,000<sup>35</sup> or \$28.8 million in total. The Village would effectively pay that amount by giving up land it owns and allowing construction of apartments with access to our schools. Since additional parking at Freightway is not required at this time, and with excess capacity already available, such a proposal seems unwise and even unfair to Village residents who do not use the garage. The Committees call on the BOT to disclose the cost of a new parking garage, including its own cost estimates of underground parking and other options.

A problem in analyzing the net fiscal impact of a long-term redevelopment proposal that includes commuter parking is that the need or desire for commuter parking decades into the future is an unknown variable. Analysis of a Freightway site redevelopment should be forward-looking and

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<sup>32</sup> Freightway Frequently Asked Questions, December 2019, no. 16, p. 4, <https://www.scarsdale.com/DocumentCenter/View/5423/December-2019-Freightway-FAQ-PDF>.

<sup>33</sup> Freightway Frequently Asked Questions, December 2019, nos. 1 and 2, p. 1., <https://www.scarsdale.com/DocumentCenter/View/5423/December-2019-Freightway-FAQ-PDF>.

<sup>34</sup> Freightway Study, p. 50 (Principle 1.1- "new development should replace existing parking as well as its own parking needs and should also consider additional short-term parking spaces for shoppers and merchants.").

<sup>35</sup> Freightway Study, p. 68. The East End/LCOR presentation shows 4 levels of underground parking. Slide 34. Water table issues could increase costs. See Freightway Study, p. 57.



consider alternatives to constructing 720 commuter spaces. Driving a car to the Village Center and storing it in a garage during the day is not the direction of the future. “Last mile/first mile”<sup>36</sup> ways to get people from their homes to public transportation is a hot topic in transportation planning and is rapidly evolving.<sup>37</sup> Ride-sharing, electric scooters<sup>38</sup> and electric bikes are attractive and realistic alternatives to expensive commuter parking. Reductions in commuter car traffic would help alleviate the Garth Road bottleneck and reduce negative environmental impacts of car use.<sup>39</sup> Transportation experts do not agree about when fully autonomous cars that would not need to be parked at the train station will be available but they could be in use by the next decade.<sup>40</sup> The Freightway Study recognized the changing transportation paradigm, and called on developers to “future-proof” parking areas<sup>41</sup> so that alternatives are in place should driving habits change significantly. The Committees urge the BOT to share its analysis of this issue, including advice it has received, that would shed light on whether replacing the garage (rather than renovating) makes sense from any fiscal perspective.

The high cost of a new garage, a large scale development and potential adverse financial and non-financial implications for the Village and the School District, and the uncertainty of the Village’s future needs are compelling reasons for maintaining the existing garage facility and going ahead with budgeted repairs until the Village has a better idea of our future needs. This approach has the added benefit of avoiding the severe long-term disruption to commuter parking, station access and loss of permit revenue. It also allows the Village to continue to earn predictable profits from selling permits. The Village could even generate additional revenue simply by raising fees should that be needed.

***Other “Free Stuff.”*** In addition to a parking garage, the Freightway Study identified other public benefits that developers could provide in a TOD: pedestrian walkways and bridging over the Metro-North tracks to connect the site to the Village Center; a vehicle ramp over the tracks to Scarsdale Road to alleviate Garth Road congestion; a platform over the tracks<sup>42</sup>; or a park and other community spaces.<sup>43</sup> As noted previously, the Committees recognize that these public benefits are not “free.” The FSC envisioned that a developer could build more apartments at the site in return for including some or all of these costly features in its proposal; more amenities would require more residential units.

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<sup>36</sup> [https://en.wikipedia.org/wiki/Last\\_mile\\_\(transportation\)#Usage\\_in\\_transportation\\_networks](https://en.wikipedia.org/wiki/Last_mile_(transportation)#Usage_in_transportation_networks).

<sup>37</sup> <https://www.cbinsights.com/research/transportation-service-smart-commuting/>.

<sup>38</sup> An electric scooter from Costco is less than \$600, will travel 25 miles on a single charge and climb a 15% grade, [https://www.amazon.com/Segway-Ninebot-KickScooter-Electric-Mobility-Upgraded/dp/B07H8T9K9J/ref=asc\\_df\\_B07H8T9K9J/?tag=hyprod-20&linkCode=df0&hvadid=312134104306&hvpos=1o9&hvnetw=g&hvrnd=12493323078840456508&hvpone=&hvpstwo=&hvmqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9004233&hvtargid=aud-829758849484:pla-637627964388&pvc=1](https://www.amazon.com/Segway-Ninebot-KickScooter-Electric-Mobility-Upgraded/dp/B07H8T9K9J/ref=asc_df_B07H8T9K9J/?tag=hyprod-20&linkCode=df0&hvadid=312134104306&hvpos=1o9&hvnetw=g&hvrnd=12493323078840456508&hvpone=&hvpstwo=&hvmqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9004233&hvtargid=aud-829758849484:pla-637627964388&pvc=1).

<sup>39</sup> The term “micro mobility” is used to refer to non-vehicle transport options (scooters, Segway, bikes, etc.), TRB Research In Progress, <https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=4691>.

<sup>40</sup> <https://www.mckinsey.com/features/mckinsey-center-for-future-mobility/overview/autonomous-driving>; see National Academies of Sciences Engineering and Medicine’s Transportation Research Board (TRB) report on [Renewing National Commitment to Interstate Highway System](https://www.nap.edu/read/25334/chapter/15#356). <https://www.nap.edu/read/25334/chapter/15#356> Pages 356 & 357 warn that misleading statements have been made about the capabilities of so called “autonomous vehicles” and the expectation for such technologies to be reasonably expected within the coming decades.

<sup>41</sup> Freightway Study, p. 56.

<sup>42</sup> The community would need assurances that there would be no public access under the platform for normal station and area use or for loitering.

<sup>43</sup> Freightway Study, p. 51, listing other public benefits.

The community needs to better understand these and other potential tradeoffs. The Committees would like to understand how the competitive bidding process resulted in proposals with negligible public benefits, but which included nearly 300 residential units and were substantially different from the scenarios that the FSC found to be feasible in its 2018 Freightway Study. The Committees request the BOT to share its current understanding of the cost of each of these features<sup>44</sup> and the number of residential units required to get them. This would enable the Committees and the rest of the community to better understand the issues and provide meaningful input.

## **2. Risk to Scarsdale Schools and Home Values.**

***Potential School Tax Impact.*** The school tax fiscal impact of a TOD depends on whether the apartments will generate the same school tax per child that is paid by the existing single-family homeowners. If they do not, school taxes will effectively increase for all residents. Since the risk is entirely on them, any inaccurate projection used to assess the fiscal benefit of a proposal could create a substantial and long-term problem.

The number of families with school age children that a multi-family housing (MFH) development could attract is difficult to estimate. Scarsdale School Superintendent, Dr. Thomas Hagerman, responded to public comments about this issue at a December 16, 2019 school board meeting, stating that “Scarsdale is somewhat of an anomaly” and that models used for “Anywhere USA” may not be useful for our school district.<sup>45</sup> This is primarily because many Scarsdale residents move to the Village specifically and only for the School District. Additionally, recent unanticipated negative effects of MFH development on the public schools in neighboring municipalities of Larchmont and Mamaroneck, as well as Short Hills, NJ and other similar high-performing school districts in the region, show that student generation in new MFH developments is difficult to accurately anticipate.<sup>46</sup>

The Freightway Study calculated an average of 0.41 school children per unit in the four current multi-family buildings in Scarsdale,<sup>47</sup> however, a School District FOIL response states that there are 58 school children in at least 224 apartments in the District.<sup>48</sup> The 285 apartment units proposed by East End/LCOR at the Freightway site could easily attract more than 100 school-aged children, given the reputation and desirability of Village schools. It is entirely reasonable to expect

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<sup>44</sup> Cost estimates were provided in the Freightway study, p. 68-69.

<sup>45</sup> Scarsdale10583.com, December 17, 2019 at <http://scarsdale10583.com/schools/7971-board-of-education-discusses-budgets-freightway-and-more-at-final-meeting-of-the-year>.

<sup>46</sup> E.g., <https://www.northjersey.com/story/news/essex/millburn-short-hills/2016/05/09/planner-tells-millburn-proposed-200unit-apartment-building-would-bring-up-to-32-students/94692636/>;  
<https://www.tapinto.net/towns/millburn-slash-short-hills/sections/government/articles/short-hills-housing-development-anticipates-100-125-students-in-millburn-schools-lawsuit-filed-against-millburn-township-and-woodland-road-developer>;  
<http://syossetjerichotribune.com/2018/07/02/residents-have-a-lot-to-say-about-syosset-park-development/>.

<sup>47</sup> Freightway Study, p. 69, fn 1.

<sup>48</sup> Response to Steve Pass FOIL Request, January 7, 2020.



that access to Scarsdale schools would be a significant selling point also for TOD units built at the Freightway site.<sup>49</sup>

One way to eliminate school tax risk from residential development is to require that any future development partner be willing to consider age-restricted housing for the Freightway site. The Freightway Study showed that public survey respondents overwhelmingly supported “senior housing.”<sup>50</sup> The projected school tax effect of a proposed development, however, must be based on “worst-case” estimates of student generation.

The BOT could also consider a contractual mechanism to protect the Village if school enrollment exceeds an agreed amount by shifting the economic risk to the developer. For example, an agreement in the nature of Payments in Lieu of Taxes (“PILOT”)<sup>51</sup> could be negotiated to close the budget gap caused by the increased costs of this development that may not be paid in full by property tax revenue of residential units within the development (e.g., children entering the School District). It would also protect the Village from a long-term scenario in which a developer could pursue tax certiorari actions to reduce the tax burden of its development.<sup>52</sup>

Another potential mechanism for supplementing property taxes would be a long-term land lease of the property (instead of conveying title of the land to a developer). The lease rental payment would be a fixed base rent plus a floating rent component equal to the incremental cost to the School District of educating resident children in the Scarsdale schools (or otherwise incurring School District costs for their education). Such an approach would shift the economic burden of paying for unanticipated numbers of school-aged children to the developer.

***Potential Impact on Value of Single-Family Homes.*** Even if there is no potential increase in single-family home school tax bills, the Committees are concerned that adding nearly 300 residential rental units with access to Scarsdale schools to the Village housing supply could put pressure on single-family home values. There is already some concern about the Scarsdale housing market post-SALT, and a TOD development as proposed could encourage empty nesters to move out. Since those residences could be replaced by families with school-aged children, the potentially significant negative effects on school taxes would be further exacerbated. This potential negative fiscal impact of a TOD should be considered in as much depth as possible, and we recommend that the Village Board make as transparent as possible any analysis of this issue with the public.

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<sup>49</sup> A January 2020 demographic study prepared for the Scarsdale school district shows basically flat enrollment for the next five years. Commenting on a potential Freightway TOD, the study stated: “Historically, TODs have fewer students than housing developments not located near mass transit as occupants are likely to be Millennials and Baby Boomers, which are likely to have few school-age children. However, due to the appeal of Scarsdale Public Schools, as observed in its significantly high birth-to-kindergarten ratios, this development may not conform to the demographics of other TODs.” Demographic Study for the Scarsdale Schools, January 2020,

[https://go.boarddocs.com/ny/scarsdale/Board.nsf/files/BKNTMC773FB2/\\$file/Scarsdale%20Report%202020.pdf](https://go.boarddocs.com/ny/scarsdale/Board.nsf/files/BKNTMC773FB2/$file/Scarsdale%20Report%202020.pdf), p. 24-25.

<sup>50</sup> <https://www.scarsdale.com/DocumentCenter/View/2626/Freightway-Site-Redevelopment-Study-Feb-2018>, page 107.

<sup>51</sup> A payment in lieu of taxes (usually abbreviated as PILOT, or sometimes as PILT) is a payment made to compensate a government for some or all of the property tax revenue lost due to tax-exempt ownership or use of real property. See [https://en.wikipedia.org/wiki/Payment\\_in\\_lieu\\_of\\_taxes](https://en.wikipedia.org/wiki/Payment_in_lieu_of_taxes).

<sup>52</sup> “Real estate tax certiorari is the legal process by which a property owner can challenge the real estate tax assessment...in attempt to reduce the property’s assessment and real estate taxes.” <https://www.phillipsnizer.com/property-tax-certiorari>.

It is not an overstatement to say that our school system is the foundation for property values in Scarsdale.<sup>53</sup> The Mayor agreed at the December 11, 2019 Work Session that the school impact is a “threshold issue” in determining whether or not to proceed with a proposed project.<sup>54</sup> Determining the maximum number of school children that can be added to the Fox Meadow elementary school (which currently is the school that would absorb any new elementary students) or another elementary school, the Middle School and the High School without hiring additional teachers or enlarging facilities is a necessary step in considering a residential development at the Freightway site. This Committees recommend that the BOT work diligently with the School District to evaluate the potential impact any development scenario might have on the quality of education provided to our children, the potential for overcrowding or mass scale redistricting, and other effects such as additional teaching staff or facilities. The Committees urge the BOT to share this analysis with the public.

The impact of a TOD proposal on the schools and homeowners must be based on “worst case” scenarios. This Committees recommend that the Board reject any proposal that poses any risk of overcrowding, redistricting, or construction of additional facilities, even in the unlikely event that measures could be taken to prevent an increase in school taxes.

### **3. Increasing Village Center Vibrancy.**

The Village Board understands that preserving and enhancing the Village Center is critical to maintaining our property values, and wisely made bringing vibrancy to the Village Center an objective of any Freightway TOD. Revitalizing the Village Center is the subject of the 2010 Village Center Plan.<sup>55</sup> The Municipal Services<sup>56</sup> and Downtown Revitalization Committees (DRC) of the Scarsdale Forum have reported on the need for improved pedestrian circulation, traffic management, and the downtown experience. The Downtown Revitalization Committee conducted a 2018 survey with more than 1,200 responses from Scarsdale residents (as well as from adjacent communities) and published its findings in a May 2018 report.<sup>57</sup> The Downtown Revitalization Committee also released a survey of Scarsdale Village merchants in January of 2019.<sup>58</sup> In each DRC report, members of the Scarsdale community and those from surrounding towns who visit our Village Center all identified improved parking and increased retail options as desirable.

Connecting the Freightway site to the rest of the Village Center was a key principle in the Freightway Study.<sup>59</sup> The Freightway Study suggested utilizing air rights to build over the tracks in two of the four redevelopment scenarios that included a platform over the Metro-North rail tracks.<sup>60</sup>

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<sup>53</sup> 2010 Village Center Plan, fn 10, p. 32.

<sup>54</sup> December 11, 2019 Work Session Video, <https://scarsdaleny.swagit.com/play/12112019-1052>, at 1:44, 3:03.

<sup>55</sup> See fn 10, <https://www.scarsdale.com/DocumentCenter/View/1566/Village-Center-Component-of-the-Village-of-Scarsdale-Comprehensive-Plan-PDF>.

<sup>56</sup> See reports, <https://www.scarsdaleforum.com/Reports/Download/934>; <https://www.scarsdaleforum.com/Reports/Download/684>; <https://www.scarsdaleforum.com/Reports/Download/560>.

<sup>57</sup> Downtown Revitalization Committee on the Consumer Survey Concerning Scarsdale Village <https://www.scarsdaleforum.com/Reports/View/652/28>.

<sup>58</sup> Downtown Revitalization Committee Report On Merchant Survey Concerning Village Center <https://www.scarsdaleforum.com/Reports/View/771/28>.

<sup>59</sup> The 2010 Village Center Plan made a similar point, fn 10, p. 32.

<sup>60</sup> Freightway Study, p. 62-66. The 2010 Village Center Plan likewise noted the importance of air rights and building over the tracks. 2010 Village Center Report, p. 44-46.

The Study contemplated that redevelopment would create new connections to Scarsdale Avenue to improve vehicular circulation.<sup>61</sup> It envisioned that a TOD would alleviate traffic congestion, especially the long waits to exit the site onto Garth Road and then onto Popham Road at peak commuting times.<sup>62</sup> A TOD proposal that does not provide vehicular access to Scarsdale Avenue would likely make both traffic and congestion worse by adding the new residents' vehicles to the site. Without significant increased bridging, traffic management, and commitment to a unified Village Center, the physical segregation of the two sides of the train tracks will most likely continue to adversely affect our Downtown. Increased and expanded over-track bridging is essential to bring Freightway residents into the Village Center and ensure a cohesive downtown experience for all pedestrians.

Freightway Study, Principle 1.3 provided that any redevelopment plan must minimize impacts on those who use the parking facility and to the adjacent residential neighborhoods. Years of disruption during construction will likely have a negative impact on shops and restaurants in the Village Center and along Garth Road. In addition, residents in the neighborhoods abutting the area will likely be adversely affected. The Committees recommend that the Village Board develop and share a plan that will minimize disruption and allow ongoing efforts to revitalize Scarsdale's downtown areas to continue. A specific concern will be the availability of merchant and employee parking at a location other than at the existing on-street meters in the limited spaces allocated to shoppers.

#### **4. Next Steps.**

The December 11, 2019 Work Session successfully focused the community's attention on the future of the Freightway site and on options to improve its use for the benefit Village residents. This Committees believe it was prudent for the Board to look at the site and consider potential opportunities for fiscal and other benefits to the Village before going ahead with the renovation of the garage as recommended in the 2017 engineering report, and to determine whether a TOD would be the best option.

On January 14, 2020, the Mayor stated that "no next steps are planned at this time."<sup>63</sup> The reality is that the Freightway garage continues to meet Scarsdale's commuter parking needs and generates significant income that exceeds its operating expenses as well as the renovation costs in the capital plan. It will last for many years if it is not demolished. This Committees recommend that the BOT proceed with the budgeted renovation of the existing garage to continue providing parking services and collecting net revenues. After all, renovating the garage does not foreclose future development of the Freightway site. Freightway Study Options 1 and 2 are examples of potentially feasible TOD projects that could follow renovation of the garage. A continuing community dialogue is critical to the success of this process.

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<sup>61</sup> Freightway Study, Principle 1.4, p. 50.

<sup>62</sup> Freightway Study, p. 26, 33-35.

<sup>63</sup> Agenda for the Village Board January 28, 2020 Meeting attaching Minutes of Village Board Meeting of January 14, 2020, p. 2-3, <https://www.scarsdale.com/AgendaCenter/ViewFile/Agenda/01282020-740>.

The Freightway Study was focused on a TOD at the Freightway site<sup>64</sup> and the RFP asked for TOD proposals.<sup>65</sup> If a TOD with a sufficient net benefit to the Village is feasible, the BOT could consider formulating a new, more refined and targeted RFP,<sup>66</sup> after a more rigorous analysis of the costs and benefits of specific amenities that could be included in the project, determining the maximum number of units to avoid negative school effects, and taking into account community input.

Considering the gap between the two finalists' proposals and the scenarios envisioned in the Freightway Study, the RFEI, and the community response to date, the Committees remind the Village Board to also consider non-residential alternatives for the site. These could add vibrancy to the Village Center, provide amenities sought by residents, and generate additional revenue.

For example, a non-residential development could include the amenities that residents have asked for, including but not limited to: an indoor pool that could be used for swimming lessons, fitness swimming and use by school swim teams in addition to fitness swimming; space for fitness/wellness classes and studios; basketball and racquetball courts; art and craft studios; permanent space for Scarsdale Adult School classes; space for youth activities; and a performance/theater space. These uses could generate rental and fee revenue. A plaza at the corner of Popham Road and Garth Road for outdoor dining, a Farmers market, and other events could be included. This is an opportunity to provide amenities and activities that would bring people to the Village Center,<sup>67</sup> benefit empty nesters, including those who have downsized to the Village Center, and enhance property values and the Scarsdale brand. This type of development, which would likely require additional investment by the Village, was considered in the 2010 Village Center Report<sup>68</sup> (Option 2). Commercial alternative uses such as medical offices should also be considered as a way to get amenities that residents would like without necessitating any residential units (or at least fewer units) to offset costs, provided that such uses would increase Village Center vibrancy and not negatively impact parking and traffic at the site.

In addition, this Committees recommend that the BOT focus on how to best achieve the Village's objectives for the Village Center as a whole. The future of the Freightway site must be considered in conjunction with other Village Center development and other efforts to revitalize the Village Center. This Committees believe it would be a mistake for the Board to address development proposals in a piecemeal fashion; a comprehensive approach could lead to even greater benefits for the Village (and avoid detrimental effects and redundant efforts) and meet the goal of creating vibrancy in the Village Center. The Committees recommend that the BOT consider updating the 2010 Village Center Plan in its entirety to ensure that recommendations are still valid in 2020, especially as it relates to the impact of any potential development of the Freightway site and the Scarsdale Improvement Corporation-owned sites at 30 Popham Road and 1 Spencer Place.

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<sup>64</sup> Freightway Study, p. 1-2; Resolution creating the Freightway Steering Committee to consider a transit-oriented development, dated March 28, 2017, at <https://www.scarsdale.com/DocumentCenter/View/1703/Freightway-Steering-Committee-Establishment---Resolution>.

<sup>65</sup> RFP, p. 9.

<sup>66</sup> The BOT is under no obligation to limit a new RFP to developers who responded to the RFEI or any other group, if the BOT believes that the community would be better served by re-opening the process to the broader development community.

<sup>67</sup> The 2010 Village Center Plan advocated expanding civic and educational facilities in the Village Center. Fn 10, p. 30.

<sup>68</sup> 2010 Village Center Report p. 43.

Any new development at the Freightway site and in the rest of the Village Center will be expected to endure for many decades, even into the next century. Once Scarsdale is committed to a particular outcome, the opportunity to modify it without significant future costs will be lost. The most favorable outcomes can only be achieved with patience and input from all stakeholders, not only developers or consultants. For all these reasons, the Village Board should share with the public the critical data necessary for an informed decision that will prioritize feasible and realistic outcomes for Freightway site development. We applaud the Village Board for keeping the Freightway public comment period open and ask that it share as soon as possible any takeaways learned when the period closes on February 9, 2020.

The Christie Place development is a prime example of how public comments can lead to a development success. A plan to build a multi-story above ground parking structure on land condemned by the Village for that purpose was halted when, at the last minute, two trustees decided not to vote for the plan. Then-Mayor Beverley Sved led a long process that involved multiple stakeholders and resulted in a much better plan to construct a mixed-use building with senior housing and underground parking.<sup>69</sup> As a counterpoint, the development of 7 Popham Road became an example of a lost design and amenity opportunity – a tall bulky structure with an arched façade that was intended to include a sidewalk café or to serve small stores, but was built with nothing but a narrow exterior pedestrian corridor along traffic on the Popham Road bridge without any public amenities or even landscaping.<sup>70</sup>

## **CONCLUSION**

The Committees recommends that the Village Board take the necessary time to figure out the best way to prioritize and meet Scarsdale’s collective objectives at the Freightway site and in the Village Center as a whole, without taking on unnecessary risks or adding unneeded burdens to our school budget, school system, or property values.

Respectfully submitted by the following members of the Fiscal Affairs Committee of the Scarsdale Forum.

Anne Hintermeister, Chair  
John Bensché  
Robert Berg  
Madelaine Eppenstein  
Timothy Foley  
Mary Beth Gose  
Robert Harrison  
Terri Harrison  
Linda Killian

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<sup>69</sup> “Yes (at Last) to a Scarsdale Project,” New York Times, October 22, 2006, <https://www.nytimes.com/2006/10/22/realestate/22wczo.html>.

<sup>70</sup> 2010 Village Center Plan, fn 10, p. 21.

Mark Lewis  
Richard Pinto  
James Pullman  
Kenneth Rilander  
James Wetmur

Respectfully submitted by the following members of the Downtown Revitalization Committee of the Scarsdale Forum.

Susan Douglass, Chair  
John Bensché  
Scott Douglass  
Linda Blair  
Betsy Bush  
Madelaine Eppenstein  
Thomas Giordano  
Alex Harrison  
Robert Harrison  
Terri Harrison  
Sal Jain  
Eli Mattioli  
Nicky Mehta  
BK Munguia  
Richard Pinto  
Kenneth Rilander  
Lisa VanGundy