

3.4 CULTURAL RESOURCES COMMENTS AND RESPONSES

3.4.1 Introduction

In September 2006 STRATA Cultural Resource Management (STRATA) conducted a Phase I Archeological Investigation on lands proposed for the commercial retail development. The Phase I report published in January 2007 identified the Brush's Corners Historic and Precontact Site (A07906.000077) in the eastern portion of the Project Area surrounding both sides of a wetland area at the confluence of two streams. A Phase II Site Evaluation was recommended and was executed between May and November of 2007.

The Phase II Site Evaluation divided the Brush's Corners site into a primarily historic component to the east of the eastern most wetland, designated Area A, and a primarily precontact component to the west of this wetland, designated Area B. Area B of the Brush's Corners Historic and Precontact Site is located within a large open field. The ±2 acres of Area B is almost wholly contained within the Area of Potential Effect (APE) and cannot be avoided through project redesign.

Area A

After the Phase II Site Evaluation, it was determined that the historic component of Area A could be effectively avoided and no additional archeological work was recommended; OPRHP concurred (refer to their letter dated March 27, 2008 in Appendix E).

As requested in the OPRHP letter dated July 10, 2008 (Appendix E), a detailed Avoidance Plan was developed in compliance with the "State Historic Preservation Office (SHPO) Avoidance Plan for the Protection of Archeological Sites" (included in the Archeologist's Phase II Site Evaluation and Appendix H of this FEIS) for the site boundary of Area A. The plan includes protection measures that confine impacts to the access road in the vicinity of Area A. This Avoidance Plan, which includes both short- and long-term avoidance and protection measures, must be adhered to as a condition of the OPRHP sign-off. The Avoidance Plan is as follows:

Short Term Site Avoidance/Protection

1. The site boundary (including buffer) was determined in consultation between the SHPO and the archeological consultant as documented in the Phase II Site Evaluation dated January 24, 2008 and accepted by OPRHP prior to initiation of the Phase III recovery effort;
2. The site boundary is clearly delineated and identified as a "Sensitive Area/No Access" on the plans included with this FEIS and will be depicted on the final construction plans;
3. As documented in the Insite Engineering, Surveying & Landscape Architecture, P.C. Memorandum dated January 25, 2008 (Appendix 4 in the Phase II Site Evaluation and Appendix H herein), the entire length of both sides of the proposed access will be marked with a orange construction fence during all construction activities. Signage stating "Sensitive Area/No Access" will be posted along the west side of the access where it is adjacent to the boundary of Area A. A drawing detailing the access road location and proposed upgrades was included in the Phase II Report a copy of which can be found in Appendix H herein;

4. A pre-construction meeting with the construction contractor(s), as required by the State to notify those in charge of the requirements to avoid and protect Area A, will be conducted with the OPRHP;
5. Existing landscape at the site will be maintained; modifications other than the placement of the materials for the access surface are not proposed; further coordination with the OPRHP is not required.

Long Term Site Avoidance/Protection

1. An archeology covenant will be transferred with the property containing Area A;
2. State and federal permits sought for this project would not require the inclusion of the avoidance/protection restrictions noted in the plan.

As documented in the OPRHP letter dated November 21, 2008 (Appendix E) two conditions in addition to the Data Recovery Plan to mitigate project related impacts are set forth. The first is the development of a plan by the consulting archeologist and the Putnam County Principal Planner for a interim display of artifacts collected during the archeological investigation. The Applicant has been in touch with the archeologist and OPRHP to discuss options for meeting this condition. A plan will be developed once the final Phase III Report is submitted (on or before November 21, 2009) and accepted as complete by the State.

Subsequent to the display of the artifacts found at the Stateline Retail Center site (Brush's Corners Historic and Precontact Site), the collection will be turned over to the New York State Museum which will act as the repository for the materials. Refer to the letter from the New York State Museum dated September 30, 2008 documenting their agreement to curate the artifacts and the letter from OPRHP dated November 21, 2008 documenting the requirement for the collection to be turned over to the museum. Copies of both letters can be found in Appendix E herein.

The second, avoidance of Area A by confining impacts to the access road, is met during the construction phase as noted in the avoidance plan. Post-construction, access to the general area would be restricted by a locked gate to the subsurface septic system (SSTS) maintenance road. In addition, permanent features, such as small boulders, will be installed along the west side of the access road where adjacent to the historic area to prevent accidental intrusion into that area by maintenance vehicles traveling to the subsurface septic system (SSTS). In addition, the "Sensitive Area/No Access" signs posted along the west side of the access road during the construction phase of the project will remain.

It should be noted that access to the SSTS over the road adjacent to the historic site is estimated to be biannually for mowing and to maintain the system. These protection measures implemented in the plan will ensure long-term avoidance/disturbance of this historically sensitive area.

Area B

The precontact component of Area B was further elucidated through a variety of methodologies and the site was identified as potentially eligible for the State and National Register of Historic Places. This prompted a recommendation for a Phase III Mitigation; the OPRHP concurred (refer to Appendix E, Correspondence).

Cultural Resources

August 10, 2009

A Phase III Data Recovery Plan (DRP), was developed and subsequently approved by the OPRHP (refer to the OPRHP letter dated July 10, 2008 contained in Appendix E, Correspondence). This DRP for the Brush's Corners Area B site, which was initiated in August, 2008 and completed on October 30, 2008, consisted of a phased approach beginning with a second visual surface survey of the field after it had been replowed. The field was replowed and disked and, after an adequate rainfall, was surveyed twice, once in each direction, by a team of archeologists. Artifacts identified during the visual surface survey were bagged, numbered, flagged, and their locations subsequently recorded by the project surveyor on August 22, 2008.

When areas of high artifact concentration were identified a series of 0.5-m x 0.5-m square shovel tests were systematically excavated in the various loci to pinpoint the highest artifact densities.

Once the square shovel tests were completed, areas of artifact concentration were further explored with 1-meter x 1-meter (3-ft x 3-ft) or larger excavation units. An artifact distribution map was created combining the data from all previous investigations and used to identify areas of concentrations within the site. A total of 204 1-m x 1-m units were excavated throughout the site based on the artifact distribution map.

The final phase of the Phase III mitigation consisted of mechanical stripping of portions of the site for the purpose of exposing subsurface features that may have escaped prior detection. The stripping helped to expose several subsurface features as well as provide information concerning the stratigraphy of the site below depths previously excavated by hand.

Additional investigations as a part of the Phase III Data Retrieval included a site visit on August 20, 2008 by Dr. Lucianne Lavin who performed the lithic analysis of the artifact collection. She was given a site tour by the Principal Investigator and observed some of the excavation units that had been opened to date. On September 16, 2008 a geomorphological evaluation was performed by Dr. Julieann Van Nest of the New York State Museum (NYSM). Dr. Van Nest met with the Principal Investigator for a site tour and then proceeded to conduct her evaluation.

With completion of the field work and the submission of the End of Fieldwork letter by Strata to the OPRHP (Appendix E, Correspondence), the approved DRP has been satisfied. Correspondence from OPRHP, dated November 21, 2008, states "[t]he OPRHP has reviewed and approved the End-of-Field letter from the Brush's Corners Precontact Site. This clears the site for construction activities" (Appendix E). The results of the Phase III Data Retrieval will be combined into a Final Report. The report will contain an overview of the fieldwork and include relevant maps, photographs, and profiles. Artifact catalogs will describe provenience, descriptions, weights, counts, and date ranges where appropriate. Analysis and interpretation will synthesize the findings and provide conclusions regarding the culture phases of site occupations and insights into the lifeways of the inhabitants. A summary chapter will be included for a general audience. As noted in the Area A subsection above, as a condition of OPRHP signoff, the artifact collection (for Areas A and B) will go on display at a time and location developed in conjunction with the State. Once the educational component is satisfied, the entire artifact collection will be relocated to a permanent repository facility operating under an official curation policy to safeguard the long-term storage of the collection. In a letter dated September 30, 2008, STRATA was informed by Andrea Lain of the NYSM that the museum had agreed to curate the precontact artifact collection from the Brush's Corners Site (see attached letter in Appendix E, Correspondence). This collection will be available to archeologists and others for review in support of related future investigations.

The Phase III mitigation of the portion of the Brush's Corners Precontact Site, Area B contained within the Area of Potential Effect has been completed thereby satisfying the requirements of the OPRHP. No further archeological work is recommended for the Stateline Retail Center Project Area.

The Phase III work retrieved a representative sample of the archeological data contained within the site and thereby mitigate impacts associated with the construction of the project.

3.4.2 Comments and Responses

Comment 3.4-1 (AKRF, Letter #4, September 29, 2008): The following revisions are suggested for the Cultural Resources section of the DEIS. In general, the DEIS accurately and extensively presents the results of the archaeological studies. However, more distinction must still be made between archaeological and historic (a.k.a. architectural resources). In addition, it needs to be made clearer that compliance obligations regarding potential historic (architectural) resources have been fulfilled, as per the suggestions below.

On page 3.4-2 and throughout the document, the term “Native American Era” should be changed to “Precontact Period;” and “European American Era,” should be changed to “Historic Period.”

Response 3.4-1: Comment noted. As exemplified in the introduction above, the terminology has been revised for clarity and consistency. The Applicant also acknowledges the commentator being generally satisfied with the level of effort with regards to the Cultural Resource Surveys.

Comment 3.4-2 (AKRF, Letter #4, September 29, 2008): It should be clarified that the discussion of the avoidance measures to be taken for the above-ground historic-period resources in Area A (see page 3.4-6) are relevant to the Archaeological Resources. While these features could be considered historic (architectural) as well as archaeological resources, it would be much clearer to refer to them as archaeological resources.

Response 3.4-2: Comment noted. The resources in Area A to which OPRHP has offered their concurrence with the proposed avoidance plan as presented in the Phase II report and restated in the Phase III Data Retrieval Plan are “archaeological” resources.

Comment 3.4-3 (AKRF, Letter #4, September 29, 2008): The discussion of potential impacts in Section 3.4.3 should note: “There are no historic resources that have been listed on or determined eligible for listing on the S/NR located in the study area. Furthermore, no historic resources that appear to meet the S/NR eligibility criteria are located in the study area, with the exception of the historic-period stone features identified in the Phase I and II archaeological studies and discussed in greater detail in section 3.4.2 above.”

Response 3.4-3: Comment noted.

Comment 3.4-4 (AKRF, Letter #4, September 29, 2008): The study area for potential historic resources should be identified. The text in the last paragraph of page 3.4-2 states that no known or potential historic resources are located “within its viewshed.” It is important to note that there are no known or potential resources but “within its viewshed” should be made more

specific. A field survey should have been done to determine that there were no potential historic resources, and if it was, it should be noted that a field survey was conducted.

Response 3.4-4: *“Within its viewshed” is intended to define the entirety of the project site and views of the immediate unobstructed surroundings. The Archaeologist conducted a visual survey for potential historic resources as a part of the Phase 1A site review and found none. It should be noted that OPRHP has reviewed the Phase I and Phase II reports with no objection to the defined viewshed.*

Comment 3.4-5 (AKRF, Letter #4, September 29, 2008): The impacts findings could be clarified/made stronger by stating an actual SEQRA finding for both archaeological and historic resources.

Response 3.4-5: *In consideration of the avoidance plan documented in the Introduction of this chapter and included in Appendix G of this FEIS, there will be no impact to archaeological resources identified on the project site. In consideration of the completion of the State approved Phase III recovery conducted by STRATA in Area B, (refer to the November 21, 2008 letter from OPRHP in Appendix E) the record of archaeological resources located on the project site has been sufficiently preserved and no further archeological work is required.*