

HILLCREST COMMONS

SUPPLEMENTAL

FINAL ENVIRONMENTAL IMPACT STATEMENT

NYS Route 52
Towns of Carmel and Kent, New York

Lead Agency: Carmel Planning Board
Carmel Town Hall
60 McAlpin Avenue
Mahopac, New York 10541
Contact: Peggy Moore, Planning Board Secretary
(845) 628-1500

Project Sponsor:
BBJ Associates, LLC
570 Taxter Road, Sixth Floor
Elmsford, NY 10523
Contact: John Bainlardi
(914) 347-3333

Prepared By: Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516
Contact: Tim Miller, AICP
(845) 265-4400

Project Engineer: Insite Engineering, Surveying & Landscape Architecture, PC
3 Garrett Place
Carmel, NY 10512
(845) 225-9690

Lead Agency Acceptance Date: December 9, 2009

December 10, 2009

HILLCREST COMMONS
Supplemental Final Environmental Impact Statement
Towns of Carmel and Kent, Putnam County, New York

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1.0 INTRODUCTION

This Supplemental Final Environmental Impact Statement (SFEIS) provides responses to agency and public comments received by the lead agency on the Supplemental Draft Environmental Impact Statement (SDEIS) prepared for the Hillcrest Commons project, Town of Carmel, New York. The SFEIS has been prepared in accordance with Section 8-0101, et. seq. of the Environmental Conservation Law and the regulations promulgated by the New York State Department of Environmental Conservation (NYSDEC) thereunder, which appear at 6 NYCRR, Part 617, NY State Environmental Quality Review Act ("SEQRA").

1.1 Description of Application History

The Hillcrest Commons project has been the subject of a previous environmental review under the State Environmental Quality Review Act (SEQRA). Previously, a Draft Environmental Impact Statement (DEIS) was submitted to the Town of Carmel Planning Board, the Lead Agency for the Hillcrest Commons project. The Lead Agency issued a Notice of Completion for the DEIS and a Notice of SEQRA Hearing on June 1, 2005. The Planning Board reviewed the DEIS, which analyzed the potential impacts anticipated from an application that included 60,000 square feet of office space, 150 senior housing units, and supporting parking lots and stormwater management facilities. The site plan presented in the DEIS (hereinafter the "DEIS Plan") was modified to reduce potential impacts, in response to comments on the plan from the Lead Agency, the public and involved and interested agencies, resulting in the office component of the project being eliminated (hereinafter the "FEIS Plan").

The FEIS Plan (2006) and the potential impacts anticipated from it were described in the Final Environmental Impact Statement (FEIS). The FEIS was accepted by the Lead Agency on August 9, 2006 and a Findings Statement was adopted by the Lead Agency on August 23, 2006. Following the adoption of Findings and during the Site Plan review process, modifications were made to the FEIS Plan as a result of Planning Board and public comment (hereinafter the "Revised Site Plan"). The Revised Site Plan (2009) was presented and evaluated in the Supplemental Draft Environmental Impact Statement (SDEIS).

The Hillcrest Commons Findings Statement, which was adopted by the Lead Agency on August 23, 2006, was challenged pursuant to Article 78 of the New York Civil Practice Law and Rules in the Supreme Court of the State of New York. The court's disposition concerning the Article 78 challenge annulled the Findings Statement and remitted the matter back to the Lead Agency for further environmental review of the issues outlined in the judgment (June 19, 2007). A copy of the judgment was provided in SDEIS Appendix A.

The judgment indicated that the evaluation of wetlands and archeological resources were deferred by the Lead Agency, and that these two issues warranted further evaluation. Therefore, the project's potential impacts on wetlands and archeological resources, as well as impacts associated with the plan modifications that occurred after the approval of the FEIS and adoption of the August, 2006 Findings, were the focus of the SDEIS.

Since the Supreme Court judgment in June, 2007, the two primary outside agencies, OPRHP and the ACOE have completed their review on the two issues listed in the decision, wetlands and archeology. Documentation and correspondence related to these reviews are provided in the SDEIS and SFEIS.

An SDEIS was prepared by the applicant and initially submitted on April 3, 2009. Following revisions suggested by the Planning Board, the SDEIS was accepted as complete by the Planning Board on July 22, 2009. The SDEIS and Notice of Acceptance was circulated for review and comment pursuant to NYS Environmental Conservation Law Section 8-0109 and New York Codes Rules and Regulations, Title 6, Section 617.9. The document was made available for review at the Town of Carmel Town Hall, the Town of Kent Town Hall, the Mahopac Public Library, the Reed Memorial Library, and the Town of Kent Public Library. The document was also available on the Internet at Tim Miller Associates, Inc. website.

The Public Hearing for the SDEIS was held on August 26, 2009 at the Town of Carmel Town Hall. The hearing was closed on the same night but written comments on the SDEIS were received by the lead agency for 30 days, or until September 25, 2009.

Public comments on the SDEIS included issues that were beyond the Scope of the SDEIS, as determined by the Supreme Court decision (June, 2007), including comments related to blasting and traffic. Nevertheless, all substantive comments received on the SDEIS were responded to in this SFEIS, as required by 6 NYCRR, Section 617.9.(b)(3) of the SEQRA regulations.

1.2 Project Description

The Revised Site Plan (2009) involves a Subdivision and Site Plan application, as well as, a Special Exception Use Permit application for a total of 150 senior housing units in eight buildings and associated infrastructure. The Revised Site Plan (2009) includes a separate clubhouse building with an outdoor swimming pool and a separate water control building. The proposed entrance roadway, designed to meet Town roadway specifications, would provide access to the project site from New York State (NYS) Route 52. It is anticipated that if the proposed roadway is accepted for dedication, such dedication will be pursuant to an intermunicipal agreement with respect to maintenance. A Special Exception Use Permit is required from the Town of Carmel Planning Board for the construction of residential housing in the C-Commercial zone.

A project location map and local land use is shown in Figure 1-1. The Revised Site Plan (2009) is shown in Figure 1-2.

The proposed subdivision entails the consolidation and re-subdivision of five existing tax lots. The parcels to be combined and re-subdivided include three tax lots in the Town of Carmel (44.10-1-4, 44.9-1-51 and 44.09-1-9), two tax lots in the Town of Kent (44.10-2-1 and 44.09-2-27). The access road right-of-way parcel would straddle the Town line of the Towns of Kent and Carmel, with 1.08 acres in the Town of Carmel and 1.99 acres in the Town of Kent.

The project site considered in this SFEIS is referred to as the "Hillcrest Commons" site and is 80.85 acres in size. The Carmel Plaza property and a residential parcel on Route 52 consist of 26.90 acres. All property involved in the subdivision consists of 107.75 acres.

1.3 Affordable Senior Alternative

An evaluation of project alternatives was not included in the Scoping Document for this SDEIS, since the NYS Supreme Court judgment pursuant to the Article 78 focused on the potential impacts of the project on wetlands and archeological resources. The former DEIS and FEIS for the Hillcrest Commons project evaluated a range of alternatives, including alternative access into the property.

However, the applicant, BBJ Associates, LLC has continued to review and consider project alternatives since the adoption of Findings by the lead agency (August 23, 2006), and since the Supreme Court judgment pursuant to the Article 78 proceeding (June 19, 2007). Several new market rate senior housing communities in the area and the current downturn in the real estate economy are factors that have influenced the applicant's position to consider an affordable senior housing alternative. The applicant has made application to the NYS agency that provides affordable housing funding, the NYS Division of Housing and Community Renewal ("office") for funding for a senior affordable housing community. This alternative plan is similar to the successful Hughson Commons development in Carmel (92 units), and Stonecrest in the Town of Southeast (138 units), owned and operated by the applicant. The proposed 150 unit affordable rental project is described in SDEIS Section 5.0 Alternatives. This alternative would utilize the proposed entrance at NYS Route 52, north of the Carmel Plaza shopping center.

The Affordable Senior alternative offers several benefits. It is more marketable given current economic conditions. The alternative would use less water, sewer capacity and energy, as the unit sizes are smaller and 80 percent of the units are one-bedroom, one-bathroom units. Finally, the alternative would reduce overall site disturbance, as compared to the Revised Site Plan (2009).

1.4 SFEIS Format

In accordance with SEQRA, this SFEIS provides written responses to substantive and relevant comments on the SDEIS received by the lead agency during the public review period, including oral comments made at the August 26, 2009 Public Hearing. Complete copies of all written comments received on the SDEIS are included in Appendix A. A transcript of the Public Hearing is provided in Appendix B.

During the SDEIS public comment period, the following letters on the SDEIS were received from various agencies and interested parties:

Letter #	Table 1-1 List of Letters Received on SDEIS	Date
1	Marilyn Shanahan, SEQRA Coordination Section, The City of New York Department of Environmental Protection.	8-26-2009
2	Fay C. Muir, President, Croton Watershed Clean Water Coalition	8-26-2009
3	Michael W. Soyka, P.E., Rohde, Soyka, & Andrews Consulting Engineers	8-26-2009
4	Neil A. Wilson, LRC Planning Services, LLC (Town of Kent Planning Consultant)	9-19-2009
5	Bruce Barber, PWS, CPSWQ, Cert. Ecologist, Cornerstone Associates, Inc. (Town of Kent Environmental Consultant)	9-21-2009
6	Russell Fleming, P.E., Chairman, Town of Kent Planning Board	9-24-2009
7	Adam Peterson, Environmental Analyst, NYS Department of Environmental Conservation, Division of Environmental Permits, Region 3.	9-29-2009

The FEIS is arranged in sections, with comment summaries and responses arranged by subject area similar to the DEIS. A comment summary, in some cases, may incorporate more than one individual comment on the same subject, followed by a response to that comment. The sources of each comment are referenced. The format of the comments and responses is as follows:

Comment # (Source): Comment summary text.

Response #: Response text.

Substantive and relevant comments taken from the letters and hearing transcript are marked with references to the SFEIS comment/response numbers in the margins of Appendix A and B.

1.5 Required Approvals and Involved and Interested Agencies

Approvals and referrals required for this project and agencies having approval and permitting authority for the proposed action ("Involved Agencies") are listed below:

Subdivision Approval, Site Plan Approval, Special Exception Use Permit, Waiver of Town road standards.

Town of Carmel Planning Board, as Lead Agency
60 McAlpin Avenue
Carmel, New York 10512

Site Plan Approval, Subdivision Approval and waiver of road standards, Town Wetlands Permit, Town Steep Slopes Permit, Town Erosion Control Permit

Town of Kent Planning Board
531 Route 52
Kent Lakes, New York 10512

Area Variances for Residential Lot

Town of Carmel Zoning Board
10 McAlpin Avenue
Carmel, New York 10512

Water Connection and Sewer Connection

Putnam County Department of Health
1 Geneva Road
Brewster, New York 10509

Stormwater Pollution Prevention Plan/Sewer Connection

New York City Department of Environmental Protection
465 Columbus Avenue, Suite 350
Valhalla, New York 10595

SPDES General Permit for Stormwater (GP-0-08-001), Water Quality Certification

New York State Department of Environmental Conservation
21 South Putt Corners Road
New Paltz, New York 12561

Highway Work Permit

New York State Department of Transportation, Region 8
4 Burnett Boulevard
Poughkeepsie, New York 12601

Wetland Permit -

Town of Carmel Environmental Conservation Board

10 McAlpin Avenue
Carmel, New York 10512

Wetland Permit

United States Army Corps of Engineers
26 Federal Plaza
New York, New York 10278

Interested Parties

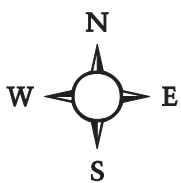
The following is a list of interested parties, as defined in 6 NYCRR, Part 617, SEQRA regulations. These agencies and boards will review the SFEIS and provide comments to the Lead Agency.

- Town of Carmel Architectural Review Board
- Putnam County Department of Planning and Development
- Carmel Fire Department
- Carmel Police Department
- Carmel Volunteer Ambulance Corps
- Putnam County Parks
- Carmel Central School District
- NYC Watershed Inspector General (NYS Office of the Attorney General)



Figure 1-1: Location Map
 Hillcrest Commons
 Towns of Carmel & Kent
 Putnam County, New York

Source: USGS 7.5-minute Topographic Map, Lake Carmel Quad
 Approx. Scale: 1" = 2,000'





Limits of Disturbance

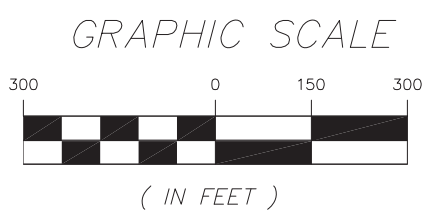
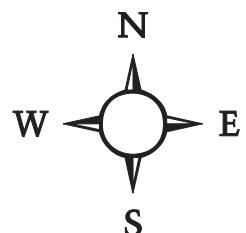


Figure 1-2: Revised Site Plan-
 Hillcrest Commons
 Towns of Carmel and Kent
 Putnam County, New York
 Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
 Date: 3/11/09

2.0 PROJECT DESCRIPTION COMMENTS AND RESPONSES

The following comments were made on the Supplemental Draft EIS and are responded to herein:

Comment 2-1 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY): I still want to express my concerns over the fact that we don't have a lot of green space left in Carmel, number one, and here we are going to rip apart more.

In 54 years, it seems like every single part of this town is being ripped apart, and it bothers me, and I think it should bother a lot of other people here, and I would really seriously ask this board to give some strong consideration to whether this project is a viable project for the Village of Carmel.

Response 2-1: Comment noted. The Hillcrest Commons project would result in the disturbance of 23.01 acres of an 80.85 acre site. Approximately 57.75 acres, or 71 percent of the site would remain undisturbed and the existing trees and vegetation would remain. The DEIS for the project contained a Senior Housing Market Analysis, which documented the need for senior housing in the Town of Carmel and in Putnam County. The project is intended to meet the growing demand for high quality, attractive, low maintenance senior housing in the Town.

Comment 2-2 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY): What are the costs going to be for these units for senior citizens? Is it going to be something where somebody may be in the Village of Carmel or may be even in the Town of Carmel can afford or are we going to bring people in from across state lines to fill these things? We give up our property and our town or we lose out again, that's my concerns.

Response 2-2: If the senior units are market rate homes, the average sales price is expected to be \$350,000 to \$500,000. This price is anticipated to be affordable for local residents based on the strength of the demographics of the age 55 and above households in this area.

In the event the applicant pursues a senior affordable rental housing project, (this alternative is evaluated in the SDEIS, see Section 5.0 Alternatives), the one-bedroom units would rent for approximately \$771 per month and the two bedroom units would rent for approximately \$920 per month. The affordable senior alternative offers several benefits. It is more marketable, given the current economic conditions, it fills a need for affordable senior housing in the Town and County, and that plan would reduce overall site disturbance, compared to the proposed plan.

Comment 2-3 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): On June 23, 2009, the New York State Appellate Court upheld the Town of Kent Zoning Board of Appeal's determination that the applicant could not use areas in the Town of Kent for its access roads. Therefore, the applicant's preferred plan cannot be built. Among others, the Court's ruling clearly indicates that in order to comply with Kent's Zoning Board, the applicant must relocate the project's access road.

Response 2-3: The Town of Kent Building Inspector has interpreted the Kent Zoning Law. In a letter dated September 28, 2009 (see Appendix C Correspondence), the

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Building Inspector determined that the proposed access road for Hillcrest Commons serves two uses: 1) a right-of-way to a public utility (a permitted use) and 2) access to multi-family housing (not a permitted use). Therefore, the Building Inspector concluded that "the proposed access road on the portion of the site in the Town of Kent is a permitted use subject to site plan approval". This is consistent with both the Zoning Board's January 19, 2007 decision and the Appellate Division's June 23, 2009 decision, which relied on the understanding that the proposed road only served a single use not allowed in the R-10 and Commercial Zoning Districts in Kent.

Comment 2-4 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): Obviously, the Appellate Court's determination alters many of the assumptions regarding the project's environmental impacts.

In relocating and redesigning the access road, the applicant must, for example, re-examine storm water impacts. In addition, the applicant must also re-examine impacts on wetlands, on known locations of the endangered species Shining Bedstraw, and also avoid sensitive archaeological areas.

Response 2-4: See Response 2-3, above. The proposed access road does not need to be relocated or redesigned. The road is still subject to Site Plan review in the Town of Carmel and in the Town of Kent. Shining bedstraw has not been definitively identified on the subject site and where other species of this plant have been sited, there is no proposed site disturbance. All sensitive archeological areas have been identified and avoided.

Comment 2-5 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): We know that the applicant, just stating that he has addressed some of these concerns but not all of these concerns, in addition to which, we, as the public and as members of the community, have not seen what he has sent to these agencies for approval, and have not had an opportunity to comment on it.

Response 2-5: The proposed action and its potential impacts and mitigation, is fully described in the SDEIS (July 23, 2009, and by reference the Hillcrest Commons FEIS, dated July 28, 2006 and the DEIS dated June 1, 2005). The application for the ACOE permit is provided in the SDEIS, as is the SWPPP, which is required by the NYSDEC and the NYCDEP. Following the Notice of Completion of the SDEIS on July 23, 2009, the public had opportunity to provide comments on the application at the Public Hearing on August 26, 2009 and written comments on the SDEIS were accepted until September 25, 2009.

Comment 2-6 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): Though this dates back to 2006, the supplement DEIS inexplicably failed to identify the Kent ZBA as an involved or interested agency.

Land use and zoning was fully analyzed in the former DEIS and FEIS and the land use impacts have not changed.

Response 2-6: The Town of Kent Planning Board is listed in the SDEIS as an Involved Agency which is responsible for Site Plan approval, as well as for Town of Kent permits

for activities in the Town of Kent. The Town of Kent has been provided all SEQRA documents and drawings associated with the Hillcrest Commons project.

Comment 2-7 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): Prior environmental reviews contain no viable access road alternative. Though the DEIS included a proposed road accessing the site from the south of the ShopRite Plaza, that alternative was rejected as having too many impacts upon wetlands and steep slopes.

***Response 2-7:** The Hillcrest Commons property has limited frontage on a public road, the approximately 130 feet of frontage on NYS Route 52 at the northern edge of the site. The applicant has no other rights to a full access. The original DEIS (June 1, 2005) and the FEIS (July 28, 2006) evaluated potential access road alternatives into the property, either through the existing Carmel Plaza Shopping Center or through a private residential lot on the south side of the shopping center. These alternatives would cause greater wetlands disturbance and/or disturbance to steep slopes than the proposed entrance. There are no other alternative access options, given the limited control of road frontage, proximity to wetlands and steep slopes, and conflicts with uses and traffic on the shopping center parcel.*

Comment 2-8 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of the Croton Watershed Clean Water Coalition): Finally, under SEQRA, subsequent to the project's re-design, the public must be provided with ample opportunity to analyze the new design and make comments. This project, that will include major blasting, the wholesale removal of forested areas to be replaced by impervious surfaces, increased negative impacts on air and water quality, as well as increased traffic, deserves strict reviewing by the many local residents who could be severely affected by these impacts.

***Response 2-8:** See Response 2-5, above. The public has been provided ample opportunity to review the currently proposed site plan, fully consistent with the requirements of SEQRA.*

Comment 2-9 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): Before I really begin to address some of these issues that we do have about this particular plan, I'm not sure which plan is this. I actually see that there are two plans online.

I certainly know this isn't the original proposal, but when you go online, there are two. There's an alternate building layout and a revised building layout. It would appear that the alternate building layout is the ones for rent; is that right?

So then the revised building layout are the ones for sale?

***Response 2-9:** The SDEIS refers to the proposed action of senior market rate units as the "Revised Site Plan". The senior affordable rental units are referred to as the Affordable Senior Alternative".*

Comment 2-10 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): Because we have similar concerns about both plans. And thank you for the additional setbacks that were made to both of the plans. It does certainly address earlier concerns, although, much like the concern that another neighbor had when he first got

up first to speak, it certainly is difficult to see such a small piece of land, which is landlocked, which has beautiful trees and it's on rock, be developed for so many people in such a small area.

The actual buildings are on a small piece of land. There is a larger acreage, I understand that, but where the actual population is going to be housed are in rather large units, and the way they sit on the side of that mountain, that ledge, and I'm on the ledge.

***Response 2-10:** The proposed residential buildings were purposely designed to be located on the most level and buildable portions of the site. The project was designed to minimize the impacts to wetlands, steep slopes, and was redesigned to provide a greater buffer between residential buildings and existing homes in the Hill and Dale neighborhood, east of the project.*

Comment 2-11 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Ann Fanizzi):

We have an opportunity here to learn from the past. We know what happened when construction occurred on steep slopes. We know what happened when blasting occurred over many months, if not years. In this particular instance, I looked at the DEIS, it could be anywhere from six months to a year. We know what happens when considerable soil is removed.

We know all about soil instability, and after the wonderful presentation by Janet and Mr. Wong and there are others from this community, so we know all of this.

***Response 2-11:** The potential impacts of soil erosion and blasting and mitigation for those potential impacts were described in the original DEIS (June 1, 2005), the FEIS (July 23, 2006) and the Findings Statement (Adopted August 23, 2006). Mitigation measures included specific erosion control procedures, a Stormwater Pollution Prevention Plan (SWPPP), and specific blasting mitigation measures. These mitigation measures still apply to the project. The adopted Findings concluded that with mitigation, the project would not adversely impact soils.*

Comment 2-12 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY):

I take it we're going to have another street light at that entrance; does anybody know that? Because again, that's going to bottleneck neck traffic.

***Response 2-12:** The proposed Hillcrest Commons project would not generate enough traffic to meet the requirements of the NYSDOT for an additional traffic signal on NYS Route 52. The proposed site access is subject to review and approval by the NYSDOT.*

Comment 2-13 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY):

You've heard numerous people here including myself who basically don't like this whole concept. This may be a great project. It may be a very well thought out project. The fact of the matter is, it is not a project that the people in the Village of Carmel want. Okay. We just don't want it there. I could show you pictures back from the 60's of a farm that used to sit right in here.

What we're basically saying, the people in the Town of Carmel, we don't want this project to go through. We want our town left alone. We want to live our lives in peace and enjoy our community and not look at something that is not pleasing to us and not have to deal with more traffic, not have to deal with blasting, not have to deal with further loads on the fire department, on the police department, on everything else I mentioned before, and I don't know, this sign

says planning board. It just comes to my mind that part of the job of the planning board is to plan proper projects for our communities and make sure that it's a good plan for our communities and then the impact that it has or the effects that it has on the people of our communities is a positive effect, not something that's negative.

Response 2-13: *Comment noted. The Planning Board is an administrative body guided entirely by the zoning laws of the Town and other applicable laws and regulations. It is therefore conducting this review in accordance with those rules. The courts have found that mere opposition to a project does not constitute a legal basis for denying it.*

Comment 2-14 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Ann Fanizzi):

There is a SEIS, however there are a great deal of concerns that have been raised again and that really need to be resolved. So I'm asking you, is there such an animal that is a revised SEIS or an augmented SEIS. Maybe I'm using the wrong word?

Response 2-14: *The State Environmental Quality Review Act (SEQRA)(6 NYCRR Part 617) provides for a Supplemental EIS, in certain circumstances, as was the case with Hillcrest Commons, where a judge determined that specific issues were inadequately addressed in the SEQRA review process. SEQRA is specific regarding those circumstances where the lead agency may require a supplemental EIS. These include; changes proposed for the project, newly discovered information, or a change in circumstances related to the project. The Hillcrest Commons project is substantially unchanged from the project analyzed in the FEIS (July 28, 2006).*

Comment 2-15 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Ann Fanizzi):

Okay. So are you planning on possibly keeping the hearing open so we can have more input.

Because we do have several residents, and the applicant did meet with the residents, and I was there, and I thought it was very fruitful and productive, so I hope that we can prevail upon you to see that it is open again.

Response 2-15: *Written comments on the SDEIS were accepted by the lead agency through September 25, 2009, 30 days following the close of the Public Hearing.*

Comment 2-16 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY):

Well, you know, I don't think -- to be honest with you, I don't think you do understand. Our concerns in the Town of Carmel, the whole dam town is being ripped apart. We just want to stop it. We want to have our town the way it should be, pleasing to everybody, including newcomers and this is not a project that creates that feeling. Now, somehow or another, and I don't know how you can work your magic up here, but somehow or another, it needs to be stopped.

Response 2-16: *Comment noted.*

Comment 2-17 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Emma Kounine, Town of Carmel Planning Board Vice-Chairwoman):

I just wanted to clarify something that Ms. Fanizzi said. She quoted me correctly. We had an applicant here and I said, it's going to be different, we don't want property razed, but that development was nothing like this. That development was, I mean, property line to property line, completely stripped bare. In my opinion, very, very overdeveloped. You really can't compare the two, but the idea of not to strip

a land bare ever again, I said and I'll say it again: It's a little different here. This is like a whole mountain, it's not just a little area.

Response 2.0-17: *Comment noted.*

Comment 2-18 (Letter #3, August 26, 2009, Rohde, Soyka & Andrews Consulting Engineers, P.C., Michael W. Soyka, P.E.): Add Stormwater Pollution Prevention Plan acceptance as an action by the Town of Kent (page 1-3).

Response 2.18: *Comment noted. Review and approval of the SWPPP by the Town of Kent Planning Board is required.*

Comment 2-19 (Letter #4, September 19, 2009, LRC Planning Services, LLC., Neil A. Wilson, AICP): Section 2.6 "Project Description and Layout" (page 2-5) states that the road "would be constructed to the Standards of the Town of Carmel and the Town of Kent," This should be clarified.

Response 2-19: *The proposed access road would be constructed to Town roadway specification standards for both the Town of Carmel and the Town of Kent. Waivers and/or approval (by the Town Highway Superintendent and Town Engineer, as applicable) of the Street Design Standards for minimum radius of horizontal curve at centerline and for maximum grade will be necessary from both the Town of Carmel and Town of Kent. These waivers/approvals will reduce the site disturbance, excavation and loss of vegetation necessary to construct the road. An assessment of the benefits associated with the proposed road construction as designed, is provided in the prior project FEIS (July 28, 2006, see Response 2-4B). It is anticipated that if the proposed roadway is accepted for dedication, such dedication will be pursuant to an intermunicipal agreement with respect to maintenance.*

Comment 2-20 (Letter #7, September 29, 2009, New York State Department of Environmental Conservation, Mr. Adam Peterson): The New York State Department of Environmental Conservation (DEC or Department) has reviewed the Supplemental Draft Environmental Impact Statement (SDEIS) for the Hillcrest Commons condominium project proposed by BBJ Associates, LLC. The Department is an involved agency in the SEQR review of this project. The following permits and approvals will likely be required from DEC for the project including:

1. 401 Water Quality Certification for the filling of .51 acre of federally regulated wetland associated with the construction of the access road to serve the proposed development.
2. Coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-08-001) for the proposed disturbance of greater than 1 acre of land. A Notice of Intent (NOI) must be filed with DEC to obtain coverage under this permit. As this parcel is located within the Town of Carmel Municipal Separate Storm Sewer System (MS-4) the MS-4 Acceptance Form must be submitted when filing the Notice of Intent for coverage with the Department.

Response 2-20: *Comment noted. Applications for the above permits and approvals have been filed with the NYSDEC.*

3.0 Plan Changes Subsequent to 2006 FEIS Comments and Responses

This section of the Supplemental Final Environmental Impact Statement (SFEIS) includes those comments related to changes in the proposed plan of development, and those impact areas not specifically related to either wetlands or archeological resources.

Comment 3-1 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY): On top of all that, you have water, sewer, fire, highway department, police department, all these other facilities need to be coordinated for this project to go through, and I don't think that anybody gives a lot consideration towards those things.

Response 3-1: Hillcrest Commons' potential impacts upon community services was fully described in the DEIS and FEIS (see DEIS Section 3.7 Community Services and FEIS Section 9.0 Community Services). The applicant consulted and met with the Town Engineer on issues of water and sewer service. Letters were sent and calls were made regarding the project, to community service providers including: the Town fire department, police department, the Carmel Volunteer Ambulance Corps, the Town Highway Department and the NYSDOT.

Comment 3-2 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Karlten Wong): My concern is, of course, this is my house right here (indicating). I'm not sure what the setback is, Tim, as far as how much tree line is still available. Is that going to be wiped out? I know there's been a lot of discussion on shielding; how much footage? It basically is in my backyard, so that is of the utmost concern, that my life as well as my neighbors are impacted as little as possible.

Again, I'm a current Carmel resident for many, many years. I'm paying a huge amount of taxes, and of course the last thing I want to see is low income housing in my backyard.

Response 3-2: A minimum of 150 feet of existing trees and vegetation will be retained along the northeast property line, including directly behind (west of) the Wong residence. The closest building (Building B) to the Wong residence will be approximately 200 feet from that shared property line. According to the Town of Carmel Zoning Code, a condition for issuance of a Special Permit for Senior Housing requires a minimum building setback of 40 feet.

Comment 3-3 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Karlten Wong): Now the subject of low income housing comes in, and it's quite bothersome to me as well.

Response 3-3: Affordable rental housing for seniors aged 55 and older is an alternative that has been proposed by the applicant. It is unclear from the comment, any specific objections to affordable housing.

Comment 3-4 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Karlten Wong): There is the issue ... of removing the rock and for how long a period and will the blasting continue? I know very little about it, to be honest, but that information is not available to us either. Nobody gave us a time frame, (indiscernible) is not known. There are no guarantees of course.

Response 3-4: *Any required blasting is expected to be completed in a 6-month time period, during the site-work and grading phase. Blasting will not occur continuously over that six month period, but as required.*

Comment 3-5 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): Moving on from that, our concerns with development of this site, big concern, and Mr. Wong already brought part of it up, and that is the blasting. Of course if you're going to build you're going to have to blast, we understand that. However, Hill & Dale and the mountain that they're going to be building on, we're on the other side of it. It's all rock.

Response 3-5: *The Hill and Dale neighborhood on Willow Trail Road are located on the same hillside and those homes are underlain by the same geologic formation as occurs on the Hillcrest Commons property. Proposed blasting and mitigation measures are further described in Response 3-7, below.*

Comment 3-6 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): Blasting I know is a big concern ... but in our area, so in Carmel and Kent and Mahopac and maybe Patterson, there is a state blasting law. Is that right? There's a state law governing blasting, but the individual municipalities have no further constraints on blasting. Is that right? Is that wrong?

Response 3-6: *The Town of Carmel does not have a blasting law or specific provisions regarding blasting in their Code. The Town of Kent has a Blasting Law: Section 38-10 through 38-19 Explosives, Ammunition and Blasting Agents. Currently, no blasting is anticipated in the Town of Kent to construct the portion of the access road and stormwater management basins in Kent. Nevertheless, the applicant will conduct blasting using standards consistent with the Town of Kent Blasting Ordinance. The applicant and project construction manager will comply with all provisions of the NYS Blasting Code (NYS Labor Law Part (Rule) 39).*

Comment 3-7 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): We're on rock, we're blasting not on dense soil, but on rock, so the shock waves are going to be radiated further and not just down our hill, but over towards Fair Street and over towards the shopping center, Shoprite. So a big concern with that is obviously our (indiscernible), which we're all very dependent on, our septic, our chimneys, our foundations, and of course continuing that shockwave down the same rock.

We have our lake which is very precious to us. It's a source of our recreation, in all seasons. The end of our lake there is a dam. Now, the lake is also not going to be able to -- I mean, these waves are going to be disbursed and radiated because of the surface they're being blasted on, and depending on how tall these buildings are, then that would dictate how far down -- I know you have to go down below the frost line, but I would suspect that it would require more than that if the building is going to be very tall. Therefore, I would think your explosive is going to therefore have to be stronger.

We just want to know, especially in light of what happened to a neighbor, Lori Kemp, how can we protect ourselves so that we are not an individual homeowner suddenly with no water, suddenly with cracked foundations, cracked chimneys, our dam taking on a crack on leaking out water which is our source for a 138 homes, to have recreation, and it's also a source of great beauty. It's also a very big part of the environment for the beautiful water foul seasonally in the water.

The suggestion has been made that any house within 500 feet of blasting would not only be notified, but should anything happen, why that homeowner could approach Wilder Balter, the foreman, the contractor whose doing the blasting, that was never clear. But the bottom line was, it seemed to be that the responsibility was on you, the homeowner, to say that this happened as a result of the blasting.

What I'm asking, what do we do to protect ourselves? If we take pictures on our own and then something happens say to a chimney, I don't know how you take a picture of a well, other than showing all your water running in the house, but certainly foundation, certainly trees, certainly anything that repeated violent eruptions, especially on rock, would dislodge and disrupt your way of life. So to that end, it seems to me that well, if I took pictures of my house and there was a problem and I went to whoever I've pointed you to go to, I'm left one-on-one to deal with someone, and then the burden of proof is on me that this wasn't preexisting, and as I said, some of the original homes in our lovely, lovely community are over 75 years old.

So would it be possible, beneficial to think about having this board make it a condition, appoint an independent nonpartisan inspector that could visit the areas that could do whatever is required so that we don't have to be a statistic stuck in the newspaper.

Response 3-7: *The DEIS, FEIS and adopted Findings Statement for Hillcrest Commons contained discussions of the potential for project construction blasting, potential impacts and blasting mitigation. The potential areas of blasting have not changed between those areas described in FEIS and for the Revised Site Plan (SDEIS Plan). The blasting mitigation measures agreed upon by the lead agency on August 23, 2006 remain valid for the modified plan.*

The following are blasting mitigation measures in the accepted Findings:

"Blasting is expected to be necessary at several locations in the central portion of the site for the residential buildings and related parking and driveways. Subsurface investigations will be conducted prior to construction to confirm the actual depths to bedrock in those areas proposed for substantial grading. If bedrock is identified in those areas, other construction methods will be evaluated, such as cutting, ripping, or chipping, that can be used in lieu of blasting.

Any blasting which is required will be done in full conformance with New York State Code. Blasting operations will be conducted under the direct control and supervision of competent and licensed professionals. The blasting contractor performing the work will be fully insured in accordance with State requirements. Once any required blasting sites have been identified, a general blasting schedule will be developed. The engineer for the Town of Carmel and the Town of Kent, will be provided with a blasting plan for review for blasting activity within their respective jurisdiction.

The quantity of explosives will be limited to the amount necessary to fracture the rock without endangering persons or property. Before firing, all blasts will be covered with a suitable protective device to prevent escape of broken rock. Blasting will only be conducted between the hours of 8:00 AM and 4:00 PM, and not on Sundays or holidays.

The applicant will identify all structures, including residential dwellings, located within 500 feet of the blast site. Neighboring property owners within 500 feet of blasting sites and appropriate municipal representatives (Town Clerk and Police Department) will be notified in writing of intent to blast not more than 30 days nor less than 48 hours prior to planned blasting activities. In addition, phone calls will be placed to town officials and

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neighboring residents within 24 hours prior to the start of blasting. A qualified independent specialist will inspect site foundations or other sensitive structures within 500 feet of blasting sites before and after blasting work. The blasting contractor will be liable for any damage to off-site properties resulting from blasting activities.

While there is little potential for impacts to nearby local wells, any documented impact to local wells will be remedied by the applicant. Mitigation for documented well impacts may include, well repair, deepening of a well, or well replacement. If required by the Town, the applicant will develop a well monitoring plan to obtain water level data on wells within 500 feet of blasting sites, before, during and after blasting".

In response to concerns about potential damage to private homes or wells, a qualified, independent specialist will inspect homes within 500 feet of blasting sites, before and after blasting. As indicated above, the blasting contractor will be liable for any damage to off-site properties resulting from blasting.

Comment 3-8 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): In one article I had read or in one of these records, that the blasting was expected to go on for months, possibly six months. I'm wondering what the time frame would be on that. I do know from looking up the blasting laws on the computer for the State of New York, they are very clear about the hours in which this operation and the times of the day that they can take place. However, they can even blast at night if the fire chief of the town is present and says yes.

Now, I was thinking why would anybody want to blast at night?

Response 3-8: *As described above in Response 3.4 above, blasting will be done over a 6 month period, during the grading for roads and building pads. Blasting will only be done in specific areas, as required. The blasting protocols provided in the Findings specify that blasting will only be conducted between the hours of 8:00 AM and 4:00 PM, and not on Sundays or holidays. No blasting will occur at night.*

Comment 3-9 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): The deforestation that would go on along with the laws and the laws that govern it.

Response 3-9: *Project construction would require the grading of 23.1 acres and the removal of trees and vegetation in that development area. Approximately 15.9 of those acres will be landscaped and revegetated. A significant portion of the site consisting of 58 acres (approximately 70 percent) and existing trees and vegetation will be retained.*

Comment 3-10 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): I know that there are laws that govern sloping development, and I do know that apparently there is a way around some of these things by backfilling and then building. Now, I think that would be very, very dangerous because this rock, some of it is almost like shale, it's brittle. So I really think that should be looked into.

Response 3-10: *The Hillcrest Commons project was designed to minimize the disturbance to and construction on steep slopes. The buildings and parking areas are located on the most level portions of the property. The project is designed and will be constructed following all appropriate engineering and building code requirements.*

Comment 3-11 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): According to their legend, it comes within a hundred feet of the end of Willow Trail. Now, we are extremely concerned that a fence be put up around this road to protect, because there's going to be foot traffic.

Let's assume they're going to want to go fishing. They can just walk right over the dam over the hill. The dam, possible liability for Hill & Dale is very real. So the fence would be something that would, I think, help with the whole neighborly feeling that I think we started to acquire after our last go-around two years ago.

Response 3-11: Currently, no fencing is proposed around the development or in the vicinity of the emergency access road. If security, trespassing or public safety are concerns of the Hill and Dale community, the issue can be addressed during the Site Plan review process.

Comment 3-12 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Lori Kemp): There are no blasting laws in New York State, so you're kind of on your own. I was wondering, is it going to be this whole row (indiscernible) are you removing all those trees?

Response 3-12: Trees and vegetation will only be removed within the limits of disturbance, as shown in Figure 1-2 Revised Site Plan. As shown in the figure, trees will be preserved over a large portion of the property, including at the top of the hill near the water tank and along the eastern property line, bordering the Hill and Dale neighborhood.

Comment 3-13 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Lori Kemp): View shed, I was looking at this project, and after seeing what happened with the (indiscernible) project where, I mean, that hillside is just devastated. We had an iconic view coming from Mahopac. It's a (indiscernible), it's very low, and in the back is green or brown or whatever, and to have these buildings there is going to destroy that view, I think, and if there are no trees in front of them -- well, I just wish, you know, we had a better idea of what it looked like.

Response 3-13: The DEIS included a detailed visual analysis for the project including photos and cross sections (line of sight profiles) from Route 52 and nearby vantage points. This analysis showed that the project buildings would not be visible from Route 52, given the topography and the existing trees that would be retained.

The Town of Kent recently requested that views of the site be evaluated in the context of historic properties or potential historic districts in the vicinity of the project. This visual analysis was completed by TMA and the results described in Response 5-5.

Comment 3-14 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Lori Kemp): but blasting alone, the fact that there is no protection for residents, you should seriously consider that and maybe have an independent engineering firm to -- if you do approve it, to monitor the blasting while it's going on.

Response 3-14: See Response 3-7 above. A qualified independent specialist will inspect homes within 500 feet of blasting sites before and after blasting work.

Comment 3-15 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY): I believe, if I'm correct, this is the existing water tank for the Carmel Municipal Water System.

Now, you're talking about blasting. I remember when that tank was put up there, okay, I don't know what kind of condition it's in now. You know, I would guesstimate made that they probably tried to maintain it the best that they can, but now you're talking about six months to a year of blasting. What is that going to do to the water mains from that tank and its municipal water system? If that gets damaged, who's going to foot that bill?

***Response 3-16:** The blasting contractor is required to carry an amount of insurance as determined in by the NYS blasting code and will be liable for any damage to Town infrastructure caused by the blasting.*

Comment 3-16 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Longo, Willow Trail, Carmel, NY): I also live on Willow Trail. I see my house on this map, but it's actually directly across on the other side of the hill.

Our house, I believe was built in 1995, and it's literally pinned to the other side of this hill -- mountain. My concern is the blasting. Six months, a year of blasting, what's going to happen to those pins? Is my house going to slide into the lake? So that is a major concern to me.

I have two children living in the house, my wife who's home, so that is a major concern for me.

***Response 3-16:** See Response 3-7, above.*

Comment 3-17 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Lori Kemp): One thing that I forgot to bring up was during construction when there's blasting, and I brought this up at other board meetings, but large holes are left open and rain water comes in and elevates the water table. So I don't know what can be done to prevent that during construction, but it's something that happens and should be considered, and that's it.

***Response 3-17:** Occasionally, rainwater will collect in excavations made by either blasting or other means. These excavations are temporary and are stabilized or converted to permanent stormwater treatment facilities. Any captured rainwater will percolate into the soil and/or bedrock at different rates depending upon the type of soil or fractures in rock. Typically, the water contributions of such excavations are minor and do not affect groundwater levels.*

Comment 3-18 (Letter #1, August 26, 2009, The City of New York Department of Environmental Protection, Marilyn Shanahan, SEQRA Coordination Section): Table 3.1-1 shows water demand/sewage flow to be 36,000 gpd under the revised SDEIS plan while page 3.1-5 indicates water and sewer demand are estimated at 45,000 gpd.

***Response 3-18:** The estimate on page 3.1-5 is incorrect. The current estimate is 36,000 gpd. However, if the affordable senior alternative is selected, the estimated daily water and sewer demand will be reduced to 7,500 gallons per day which is based upon actual annual usage at Hughson Commons, a 92 unit senior affordable community in Carmel, owned and managed by Wilder Balter Partners.*

Comment 3-19 (Letter #3, August 26, 2009, Rohde, Soyka & Andrews Consulting Engineers, P.C., Michael W. Soyka, P.E.): See page 3.14. The last paragraph under Water Resource states that no potential significant adverse impacts on the reservoir, or its watershed, are anticipated from the proposed project. The Croton watershed is a Total Maximum Daily Load (TMDL) restricted basin, with phosphorus being the pollutant of concern. This section should be expanded to address the impact of the phosphorus discharge from the project that the proposed stormwater management practices will have on the watershed.

Response 3-19: Stormwater quality and specifically phosphorus pollutant loading was described in DEIS Section 3.4.2 Water Resources, FEIS Section 6.0 Water Resources. Phosphorus pollutant loading to the Croton watershed was a subject in the Article 78 petition by the Croton Watershed Clean Water Coalition. The Supreme Court concluded that the issue of phosphorus did not require further environmental review and referenced the Planning Board's Findings Statement, that "the applicant's plans for stormwater management conformed to data established by the NYSDEC and the NYCDEP".

Comment 3-20 (Letter #3, August 26, 2009, Rohde, Soyka & Andrews Consulting Engineers, P.C., Michael W. Soyka, P.E.): The Preliminary Stormwater Pollution Prevention Plan (SWPPP) is incomplete and does not address, or in some cases even recognize, the following required elements:

- a. On page 3 of the SWPPP it states that the soil classifications and data can be found on Figures 2 and 3. That information is not shown on the aforementioned Figures.
- b. It also states on Page 3: "The hydrologic soils groups for the project 'consist of mainly of (sic) B Soils.'" It then lists several soil groups. The hydrologic soil group for each of the soil types identified should be shown, since all of the soil groups mentioned are not B soils.
- c. What are the pollution control measures that will be used to control litter?
- d. Provide an Operations and Maintenance plan for post construction components (PCC). Refer to the inspection forms in the appendices to the NYS Stormwater Management Design Manual for guidance.
- e. prepare a schedule of PCC inspections.
- f. Provide sample inspection reports for use during construction and after construction.
- g. Provide the MS4 - SWPPP Acceptance Form r the Town of Kent and the Town of Carmel.
- h. Provide a completed Notice of Intent.
- i. Provide a blank Notice of Termination.
- j. Refer to Part III A,5 of the Construction Permit, GP-0-08-001 and provide the contractor and subcontractor certification statement.
- k. Provide mapping showing the locations of the deep hole testing that is recorded in Appendix C to the Preliminary SWPPP.

Response 3-20: The final Stormwater Pollution Prevention Plan (SWPPP) will include all of the listed elements. Many of the listed elements are typically only included with the

final design of the project, as minor site plan changes will affect the final information. On page 3 of the SWPPP the reference to Figures 2 and 3 for soil classifications and data is incorrect. The reference should be to Figures 4 and 5 and this will be revised in the Final SWPPP. On page 3 of the SWPPP the hydrologic soil group for each of the soil types identified will be listed in the Final SWPPP. The correct hydrologic soil groups and corresponding CN values were utilized for each soil type, in the HydroCAD analysis and therefore the analytical work will not be affected.

Comment 3-21 (Letter #4, September 19, 2009, LRC Planning Services, LLC., Neil A. Wilson, AICP): Section 1.5 "Listing of Matters to be Decided": The list includes a "waiver of road standards" from the Town of Kent Planning Board as a required approval but no information as to the specifics of the waiver request are provided.

Response 3-21: See Response 2-19 regarding the specifics of the waiver request.

Comment 3-22 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Soil logs indicating deep and percolation inspection and test data should be provided.

Response 3-22: Soil logs indicating the deep-hole test results are provided in the SWPPP, included in the SDEIS. Percolation testing was not performed nor is it required for the proposed stormwater management basins. Percolation tests are only required when infiltration stormwater management practices are proposed. Based on the type of project, and existing soil conditions on the site, formal infiltration practices are not suitable for the project.

Comment 3-23 (Letter #6, September 24, 2009, Town of Kent Planning Board, Russell P. Fleming, P.E., Chairman): We have been advised that your town does not have a blasting ordinance, and hope that you insist the developer hold to a standard consistent with that contained in the ordinance of the Town of Kent, since some of the blasting is expected to take place within our town. Although Section 3.1-4 of the SDEIS states that impacts to the groundwater are not expected, we are concerned that blasting associated with the project holds the potential for release of radon into well water, and urge that the Putnam Health Department be consulted, with radon testing of nearby wells conducted in advance and for a period of one year following blasting.

While Section 3.1 states that the proposed project is not expected to result in significant noise or air quality impacts, it should be recognized that the blasting can result in the release of radon into the basements of surrounding homes.

Response 3-23: Currently, no blasting is anticipated in the Town of Kent. Nevertheless, the applicant will conduct blasting using standards consistent with the Town of Kent Blasting Ordinance. A Town of Kent blasting permit will only be obtained if blasting is required in the Town.

Radon is a naturally occurring gas that is released upon the exposure of rock surfaces to air and radon can be released to groundwater through natural chemical exchange processes. Radon gas will seek areas of lower atmospheric pressure and therefore will travel from underground or exposed rock surfaces upwards into the air or into basements located directly above the exposed rock. At Hillcrest Commons, areas of potential blasting are greater than 280 feet from any property line (see DEIS Figure 3.1-6

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Potential Blasting Locations). Radon is expected to be released into the air from freshly exposed bedrock in the direct vicinity of blasting. It is not expected to be released several hundred feet from the area of blasting, either into basements or into off-site wells.

4.0 WETLANDS COMMENTS AND RESPONSES

Comment 4-1 (Letter #1, August 26, 2009, The City of New York Department of Environmental Protection, Marilyn Shanahan, SEQRA Coordination Section): With regard to the wetland mitigation, an impact to creation ratio of 1.4:1 is proposed. The applicant should explore a mitigation ratio of at least 2:1.

Response 4-1: The comment is correct in that the current mitigation ratio is 1.4:1. The goal of any wetland mitigation plan is a 1:1 replacement ratio of wetland function (“no net loss”). Due to the characteristics of the proposed mitigation area, its proximity to the existing wetland and relative isolation from the proposed site activities there is a high expectation that at least a 1:1 replacement will be accomplished. Nevertheless, the applicant is considering some off site component to the overall mitigation proposal as part of the permitting process for the Town of Kent, which may expand the overall mitigation plan.

Comment 4-2 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Site inspection utilizing methodology found in Chapter 39A of the Town of Kent Town Code revealed an additional wetland area adjacent to Flag #17 as depicted on Figure 3.2-4 in the SDEIS. It is requested that a NYS Licensed Land Surveyor update the completed wetland field boundary determination and provide calculation of the total area (in square feet) within the wetland boundaries in the Town of Kent to determine if the wetland area meets jurisdictional size requirements. If found to be a jurisdictional Town of Kent wetlands, additional review and comment will be required.

Response 4-2: Comment noted. The area in question has been flagged in the field and located by a licensed surveyor. This additional wetland area (0.05 acres in the Town of Kent, 0.08 acres total) is shown in Figure 4-1. Project plans will be updated to reflect this recently revised wetland line. It is anticipated that there will be additional review and comment of this proposal during the site plan and wetland application review before the Town of Kent. It has not been determined at this time whether the area in question is regulated as a wetland by the Town of Kent, or is part of a watercourse and watercourse setback under the Kent Code.

Comment 4-3 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): The applicant has indicated that the function of identified Town of Kent watercourse and buffer is surface water conveyance. Based upon review, it would appear that additional functions include ground water recharge as well as flood attenuation. How will these area functions be mitigated as the watercourse if proposed to be piped?

Response 4-3: The subject watercourse is derived from groundwater discharge from the adjacent slopes to the east, and in the applicant’s opinion do not perform a significant recharge function. The conveyance function will continue through the proposed culvert and not be affected by this project. Any loss of flood attenuation is mitigated by the redundant stormwater control structures that are proposed.

Comment 4-4 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): There has not been an analysis of the pre and post construction hydrology of watercourse. Based upon the proposed improvements (road, stormwater basin, and piping) it would appear that the functions of ground water recharge and

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flood attenuation will be substantially impacted if not lost. Please indicate if alternative such as permeable pavement, etc. can be used.

Response 4-4: *It is not expected that there will be any direct impacts to the hydrology of the watercourse since all flows from the sub-basin will continue flowing to the channel. The stormwater system is designed to capture and treat flows from the new roadway, then discharge back to the watercourse at the same location where overland flow currently enters it. Since the basin will keep peak flows at the existing rate, no changes are expected.*

Comment 4-5 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Analysis of Indiana bat and Shining bedstraw including map of observed locations, limits of disturbance, and planned conservation/protection is not included.

Response 4-5: *Analysis of potential impacts to Indiana bat and shining bedstraw were fully evaluated as part of the original Environmental Impact Statement, and were not required as part of the Supplemental EIS. The SEIS scope asked for indication of "Rare and endangered species associated with wetland". Neither of these species are considered wetland dependent species.*

Analysis in the EIS resulted in a finding that Shining bedstraw has not been definitively identified on the subject site and where related species of this plant have been sited, there is no proposed site disturbance. According to the approved Findings Statement:

"The NYS endangered plant species shining bedstraw (Gallium concinnum) was not positively identified on the Hillcrest Commons site. A bedstraw species was identified on portions of the site that are not proposed for development. Bedstraw specimens were observed on the hillside near the dirt road that leads to the Town water tank on the north side of the supermarket, near the northern edge of the supermarket parking lot, and near wetland B in the southern portion of the site.

Prior to construction, all occurrences of bedstraw will be identified in the field and located on the site plan. If any construction is proposed within 50 feet of bedstraw specimens, snow fencing will be placed between the bedstraw habitat and the proposed construction limits. Signs will be placed on the fencing indicating a "keep out" area for all construction activity."

The project site's potential habitat for Indiana Bat (Myotis sidalis) was evaluated as part of the original EIS process and the USACOE permitting application. A summary of findings is provided in SDEIS Appendix G - Wetlands Permitting Documents/Correspondence. The project site does not provide suitable habitat for the Indiana bat.

Comment 4-6 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): The short-term and long-term modifications of water budgets, pollution loading and impacts to vegetative cover have not been included. Analysis of heightened phosphorous criteria and the Long-term storm water basin maintenance requirements has not been provided.

Response 4-6: *These issues are considered in the current stormwater pollution prevention plan (SWPPP), as described in the SDEIS, which is being reviewed by the NYCDEP. Water quality treatment to the DEC Chapter 10 standards for enhanced phosphorus removal are included in the stormwater design. The stormwater facilities will*

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be maintained by the applicant to ensure their long term effectiveness. Further discussion of long-term maintenance is provided in Response 4-13, below.

Comment 4-7 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): The amount of fill to be removed or placed in the watercourse and watercourse buffer has not been provided.

***Response 4-7:** The project engineer estimates that 15 cubic yards of fill will be placed in the watercourse and 850 cubic yards in the watercourse buffer, related to the installation of a culvert and the construction of the access road.*

Comment 4-8 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Proposed maintenance including the removal of invasive species has not been included.

***Response 4-8:** The landscape plan for the site entrance will include the removal of non-native, invasive plant material including phragmites, purple loosestrife and oriental bittersweet as part of the routine maintenance plan for this area.*

Comment 4-9 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Applicant proposes to mitigate impacts to Town of Kent jurisdictional watercourse and watercourse buffer by the expansion of wetland "B" located in the Town of Carmel. It is unclear how the proposed mitigation will mitigate for impacted ground water recharge and flood attenuation in the Town of Kent.

***Response 4-9:** As noted above, the subject wetland is a slope discharge wetland rather than a recharge wetland. Based on the physical characteristics of the site, there are no indicators for the wetland providing flood storage to any great degree. A large portion of the wetland is or has recently been maintained as lawn, to the point where a shed was constructed in the past within the wetland and appears to be well used. An existing foot bridge across the watercourse does not show any indication of having been washed out or otherwise affected by floodwaters, and any conclusion that this wetland is providing flood control to any great extent is questionable. There appears to be little reason to develop a wetland mitigation program to mitigate the loss of these two particular functions.*

While it is true that the proposed wetland impact is in part in the Town of Kent, and the entire wetland mitigation area is in the Town of Carmel, there is certainly a hydrologic connection between these wetlands and no doubt that they are both part of the same watershed and wetland system. Nevertheless, the applicant is considering some off site component to the overall mitigation proposal as part of the permitting process for the Town of Kent, which may expand the overall mitigation plan.

Comment 4-10 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): The applicant has not received an ACOE individual permit which includes mitigation measures.

***Response 4-10:** The applicant has been working with the Army Corps of Engineers for many months to complete the Individual Permit process. Correspondence is included in Appendix D - Wetland Permitting Documents/Correspondence. It is noted that the Public*

Notice for this application was published on October 21, 2009. A copy of the Public Notice is also provided in Appendix D.

Comment 4-11 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Please provide greater clarity regarding the acceptable function of the stormwater basin located in the watercourse buffer as the water table ranges from 1.0 feet above to 0.5 feet below the ground surface from November through April (page 3.2-2 of SDEIS). How will this basin function during these cold temperatures (icing).

***Response 4-11:** This water quality basin has been designed with a standing pool elevation of 586.5, which is approximately the average existing grade in this area. So if groundwater fluctuates seasonally within one foot of the existing grade, this fluctuation is accounted for in the standing pool elevation. From that point a berm is created to provide free board for storage of the water quality volume (to an elevation of 589.25), therefore allowing both the standing pool for additional stormwater treatment and storage capacity for water quality detention. Cold weather will not affect the function of this basin. If the micropool surfaces are frozen, melted runoff will still flow over the top of the ice and fill the basin to the overflow elevation.*

Comment 4-12 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): What mechanism(s) will, be in place to ensure maintenance of open flow of watercourses and piping located on properties to the south (i.e. culverts under dirt roads, shopping center culverts)?

***Response 4-12:** The watercourse in question flows south through a culvert under the Carmel Plaza Shopping Center parking lot, through the wetland on the south side of the property, under Fair Street, under Route 6 and eventually to the Croton Falls Reservoir. It flows through a number of culverts, pipes and in open channels on public and private land. The maintenance of culverts and drainage structures on private land (i.e. shopping center) is the responsibility of individual property owners. Maintenance of culverts under Town roads is the responsibility of the Town of Carmel.*

Comment 4-13 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): What maintenance will be in place to ensure water quality and quantity thresholds of the stormwater basins located in the Town of Kent will be maintained and not impact watercourse function? Will drainage easements be required?

***Response 4-13:** The applicant is willing to enter into a long term maintenance agreement for the stormwater facilities with the Town of Carmel and/or the Town of Kent, as applicable. The agreement would be based upon the sample agreement recommended by the NYSDEC, as part of the NYSDEC stormwater permit GP-0-08-001 (see sample agreement in Appendix C - Correspondence).*

Comment 4-14 (Letter #5, September 21, 2009, Cornerstone Associates, Bruce Barber, Town of Kent Environmental Consultant): Please provide correspondence from NYCDEP indicating that construction of the road is permitted within a jurisdictional watercourse and watercourse buffer.

***Response 4-14:** The applicant has submitted a full SPPP application for the project with the NYCDEP, and the NYCDEP has deemed the application complete. The NYCDEP has not raised any concerns regarding the construction of the road in comments*

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received on the application, or in comments on the SDEIS (see Appendix A, Comment letter No. 1 from NYCDEP, August 26, 2009).

Comment 4-15 (Letter #7, September 29, 2009, New York State Department of Environmental Conservation, Mr. Adam Peterson): Based upon review of aerial photos and the wetland delineation provided, it appears that the subject property contains wetlands that are of size and quality to be eligible for inclusion on the state regulatory maps for Freshwater Wetlands. Although not currently identified on state wetland regulatory maps, it is the Department's position that impacts to these wetlands should be avoided and minimized to the extent practicable. In similar circumstances, the Department has worked with project sponsors to achieve an acceptable development consistent with the state regulatory permit standards (6 NYCRR Part 663) without being delayed by the formal process of adding a wetland to the state map. The above referenced wetland is located along the south-western portion of the subject parcel and is identified as "Wetland B" within the SDEIS. The Supplemental Final Environmental Impact Statement (SFEIS) should indicate the status of this wetland as eligible for inclusion on the state regulatory maps and should reference this wetland as a "NYS Eligible Freshwater Wetland." As no disturbance is proposed within this wetland (the proposed access road is to cross federally regulated "Wetland A" located on the northern portion of the site) and the only proposed disturbance within its 100 foot adjacent area is for the implementation of .76 acre of wetland mitigation plantings to compensate for the federally regulated wetlands to be lost through construction of the access road, the proposal is consistent with DEC permitting standards.

Response 4-15: *Comment noted. Based on its size as delineated for the Town of Carmel and the ACOE, Wetland B may be eligible for future mapping by the DEC as a State regulated wetland. With the exception of the proposed wetland mitigation area, which is consistent with DEC permitting standards, no activities are proposed within or adjacent to Wetland B.*

Comment 4-16 (Letter #7, September 29, 2009, New York State Department of Environmental Conservation, Mr. Adam Peterson): Section 3.2.1 states "The NYSDEC Freshwater Wetlands Map for Lake Carmel, Putnam County, covers the site (see Figure 3.2-2). The map indicates that no State-regulated wetlands are present on, or adjacent to the project site, that the closest State regulated wetlands are Wetlands LC-17, LC-25, and LC-26, and that these wetlands are located approximately one half mile from the site." This section should be revised to note the status of "Wetland B" as a "NYS Eligible Freshwater Wetland." Section 3.2.3 provides detailed descriptions of the on- site wetlands. The description under "Wetland B" should again identify this wetland as a "NYS Eligible Freshwater Wetland." Finally, several figures within the SDEIS denote "Wetland B" including figures 3.2-3 and 2-5. These figures should be revised to reflect the preferred language of DEC referenced above.

Response 4-16: *Please see the response to Comment 4-15 above. While the applicant cannot, at this point in the process, revise the text or figures in the accepted SDEIS, it is acknowledged and made part of the overall SEIS record that based on the current delineation, Wetland B may be a "NYS Eligible Freshwater Wetland".*

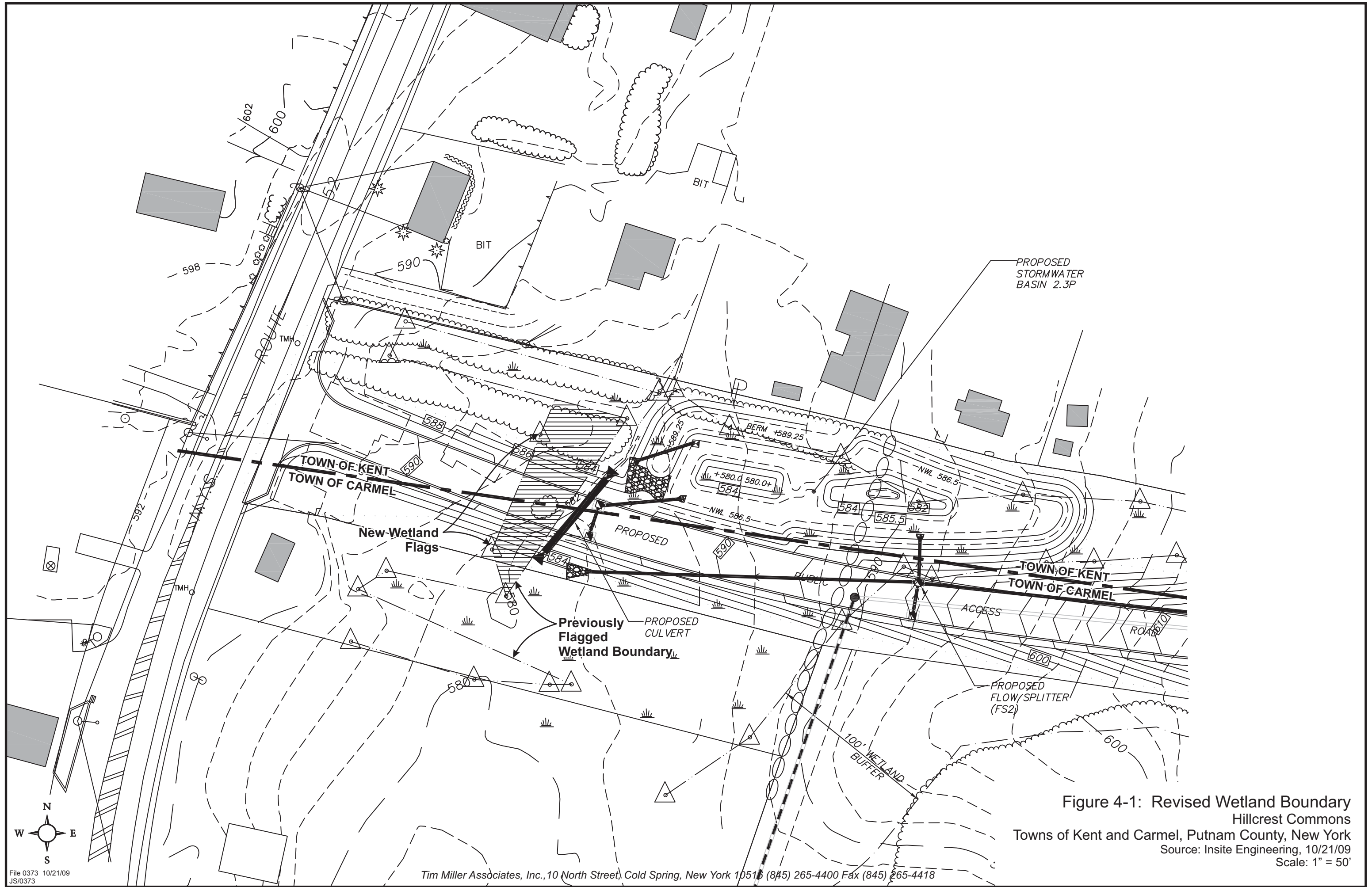


Figure 4-1: Revised Wetland Boundary
 Hillcrest Commons
 Towns of Kent and Carmel, Putnam County, New York
 Source: Insite Engineering, 10/21/09
 Scale: 1" = 50'

5.0 CULTURAL RESOURCES COMMENTS AND RESPONSES

Comment 5-1 (August 26, 2009, Hillcrest Commons Public Hearing & Letter #2, Ms. Fay Muir, President of Croton Watershed Clean Water Coalition): The Lead Agency's original SEQRA findings were challenged in court by us. Subsequently, the New York State Supreme Court granted our petition and remanded the matter for the completion of archaeological studies.

The additional archaeological studies required by the Supreme Court confirmed Mr. Bosch's analysis by identifying 42 locations of quartz veins, geologic interests and archeological interests. These studies indicate that two areas of the site are eligible for inclusion in the State and National Registers of Historic Places due to the site's use for processing and production of stone tools for Native Americans.

While we recognize that the applicant has made substantial progress regarding archaeological impacts, there is still important issues that remain unresolved.

Response 5-1: *The New York State Office of Parks, Recreation and Historic Preservation (OPRHP), is office responsible for making a determination with regard to historic resource impacts. The OPRHP has worked closely with the two cultural resource consultants (LaPorta and Associates, LLP and Columbia Heritage, Ltd.), retained by the applicant to conduct studies of the site for historic and archeological resources. Based upon the completed studies, the OPRHP has determined (see letter dated September 5, 2008, SDEIS Appendix D) that "it is the opinion of the OPRHP that the project will have No Adverse Impact to historic properties in or eligible for inclusion in the State and National Registers of Historic Places with the following conditions:"*

- 1) *The Avoidance Plan is expanded to include the several components of the Pre-contact Quarry Complex, noted above; and*
- 2) *A covenant is filed with the County Clerk's office at the time the final subdivision plat is filed with reference to the Pre-contact Quarry Complex, sites A07901.000076-77 and A07901.000080.*

The Avoidance Plan has been modified to include the referenced components and the covenant will be filed with final subdivision plat, as requested by OPRHP. This final condition will be included with the SEQRA Findings statement for this SDEIS.

There are no open or unresolved issues with regard to archeological resources on the property.

Comment 5-2 (Letter #4, September 19, 2009, LRC Planning Services, LLC., Neil A. Wilson, AICP): Section 3,3 "Cultural Resources": The discussion of Cultural Resources should include mapping showing the location of the original shovel tests conducted for the Phase IB and Phase TI investigations. The mapping of the original shovel tests should be correlated to the proposed grading as depicted on the Grading & Utilities Plan (SP-3.1).

Response 5-2: *A map with shovel test locations and the limits of disturbance or Area of Potential Affect (APE) was provided with the Phase 1B report. A copy of this map is attached with this FEIS.*

Comment 5-3 (Letter #4, September 19, 2009, LRC Planning Services, LLC., Neil A. Wilson, AICP): Section 3.3 "Cultural Resources": The language of the deed restriction to protect the identified sensitive areas should be provided. Final correspondence from OPRHP should also be provided indicating acceptance of the "Avoidance Plan". The most recent correspondence from OPRHP is dated March 27, 2008 and simply states that final plans are required for review.

***Response 5-3:** BBJ Associates, LLC, the property owner has committed to provide a deed restrictive covenant on the property at the time the final subdivision plat is filed with the County Clerk's office (see "Sample Covenant" provided with OPRHP dated September 5, 2008, SDEIS Appendix D). Final correspondence from OPRHP is dated September 5, 2009, wherein OPRHP required the two conditions listed in Response 5-1 above.*

Comment 5-4 (Letter #4, September 19, 2009, LRC Planning Services, LLC., Neil A. Wilson, AICP): Figure 3.3-1 "Avoidance Plan for Archaeological Resources": The mapping of the two sensitive areas located in the Town of Kent fail to identify which "cluster" these two areas are a part of. It is also unclear from the map as to whether these two areas are actually meant to be protected?

***Response 5-4:** The two referenced areas shown on the revised Avoidance Plan are identified as "LPA Hypothesized Site Locations (Sensitive Area/ No Access)". These two locations are not part of an identified cluster and were only identified by LaPorta and Associates, LLP as potential sensitive areas. These two areas will be protected with construction fencing and signs, in the same manner as the other identified sites.*

Comment 5-5 (Letter #6, September 24, 2009, Town of Kent Planning Board, Russell P. Fleming, P.E., Chairman): While our environmental consultant has addressed the bulk of the wetlands issues within his comments, our Planning Board is concerned that the focus of the cultural impact analysis is too narrow, in that it confined itself to archeological concerns. Within the scope of SEQRA, the "impact on historic and archeological resources" should extend to the impact of the project on the historical appearance of the hamlet of Carmel, particularly the well-known view of the hamlet when entering from the west along Route 6. To the best of our knowledge, this project will sit above and to the left of the steeple of the Mt. Carmel Baptist Church in that historic view. The SDEIS, in evaluating the visual impact of the project, speaks only of the impact along Route 52 and Willow Trail.

Within the examples of "impact on historic and archeological resources" listed in Part 2 of the Full Environmental Assessment Form (SEQR Appendix A) as responsibilities of the lead agency is the question of the impact caused by "Proposed Action occurring wholly or partially within or substantially contiguous to any facility listed on the State or National Register of historic places". Some of the buildings in that view of Carmel are listed on the National Register of Historic Places, including the Putnam County Courthouse and the Reed Memorial Library, while a number of others are eligible. In fact, we are aware of past proposals to create a historic district. We believe that the project can be considered "substantially contiguous" to those culturally significant buildings, and that the visual impact should be considered, especially since rearrangement of the buildings on the site is part of the SDEIS process.

In the past, our Planning Board has requested that the applicant provide mock-ups of the potential visual impact. This could assist your Board in making decisions relative to tree lines to

remain, or which of the eight buildings are to be eliminated if the six-building option is pursued. The importance of maintaining this historic view should be a priority for your Board.

Response 5-5: *The Phase 1A Cultural Resource Survey completed by Columbia Heritage, Ltd. (November, 2004) provided an assessment of historic structures in the vicinity of the Hillcrest Commons site and the project's potential affect on those structures. A search files maintained by OPRHP found "no structures currently listed, nominated or determined eligible for listing on the National Register of Historic Places located in the vicinity of the study area. No buildings that meet the minimum age requirements for listing were identified adjacent to or with a view of the proposed development".*

The commentor is correct that the Putnam County Courthouse and the Reed Memorial Library are listed on the National Register. In response to the comment the applicant has conducted a visual analysis, in the context of views of the site that may include historic structures, including the Putnam County Courthouse, the Reed Memorial Library and the Mount Carmel Baptist Church. The visual analysis is provided as Appendix E.

The analysis included a visual survey and collection of photos from public vantage points that include above described historic structures, including views from Route 6, across Lake Gleneida. Weather balloons were used to determine the proposed building roof lines and to establish the proposed location of project buildings in the visual landscape.

The visual survey determined that the Hillcrest Commons site is not visible from the three historic structures identified above (1) Mount Carmel Baptist Church, 2) Putnam County Courthouse or the 3) Reed Memorial Library) due to the intervening tree cover and buildings.

The survey found that following the project construction, the roof tops of proposed buildings may be visible within the wooded hillside of the development, when viewed from Route 6 across Lake Gleneida. The roofs will be a muted earthen color and will not be in stark contrast to the wooded hillside. The building facades will be screened by the preservation of existing trees down slope of the development area. Existing mature trees with a height of 55 to 60 feet will be retained near the water tank and at the crest of the hill.

Given the context of the existing views and the ameliorating effects of distance, the project will not result in a significant change of the current views across Lake Gleneida from Route 6, and in particular will have no adverse effect on historic resources in the hamlet of Carmel. Consistent with NYSDEC visual assessment policy, the project will not result in a "significant" aesthetic impact, and will not diminish the public enjoyment and appreciation of the existing visual resources nor impair the character or visual quality of the hamlet.

Comment 5-6 (Letter #7, September 29, 2009, New York State Department of Environmental Conservation, Mr. Adam Peterson): Please note that as a State Agency with regulatory authority over this proposal, DEC has an obligation pursuant to the State Historic Preservation Act to ensure that the requirements of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) are enacted. Therefore, any permit issued by this Department will include conditions regarding the implementation of deed covenants and the

Avoidance Plan for Archeological Resources noted in the September 5, 2008 correspondence from Cynthia Blakemore of the OPRHP.

Response 5-6: Comment noted.

**6.0 ADVERSE ENVIRONMENTAL IMPACTS THAT CANNOT BE AVOIDED IF THE
PROPOSED ACTION IS IMPLEMENTED COMMENTS AND RESPONSES**

No comments were recieved for this section.

7.0 ALTERNATIVES COMMENTS AND RESPONSES

An evaluation of project alternatives was not included in the Scoping Document for the SDEIS, since the Supreme Court judgment pursuant to the Article 78 was limited to the evaluation of the potential impacts of the project on wetlands and archeological resources. The DEIS and FEIS for the Hillcrest Commons project evaluated a range of alternatives, including alternative access into the property. The SDEIS described a senior affordable project, proposed by the applicant. This alternative would consist of 150 affordable rental apartments for seniors aged 55 and older. The project footprint would be smaller and would result in less site disturbance than the proposed project (see SDEIS Section 5.0 Alternatives).

Comment 7-1 (Letter #1, The City of New York Department of Environmental Protection, Marilyn Shanahan, SEQRA Coordination Section, August 26, 2009): The SDEIS proposes an "Affordable Senior Alternative" consisting of 150 senior residential rental units in six structures. The alternative would result in a reduction in overall land disturbance, reduces impact to steep slopes and less impervious surface when compared to the latest revised SDEIS layout. Additionally, the alternative will preserve approximately two additional acres of land characterized as "wooded".

Response 7-1: Comment noted.

Comment 7-2 (Letter #1, The City of New York Department of Environmental Protection, Marilyn Shanahan, SEQRA Coordination Section, August 26, 2009): The second paragraph of Section 5.0 states that "the applicant anticipates that the project will be a senior affordable rental housing project." Given the reduces environmental impacts enumerated above. Stormwater Programs supports the project sponsor's inclination towards the "Affordable Senior Alternative".

Response 7-2: Comment noted.

Comment 7-3 (Letter #4, LRC Planning Services, LLC., Neil A. Wilson, AICP, September 19, 2009): Section 5.0 "Alternative: The SDEIS should address in greater detail the plan to ensure that the proposed senior units remain "affordable" and whether the "affordability of these units would remain in place for the life of the units or whether they would revert to market rate housing at some future point. In addition, will there be restrictions on the ability of the project sponsor, or a future owner, to convert the units to condominium ownership?"

Response 7-3: Affordable rental developments require federal and state funding to enable the rents to be affordable for senior citizens based on affordable income levels for area residents, in this case Putnam County. The primary federal funding program for affordable rental housing throughout the United States since 1986 is the Low Income Housing Tax Credit Program ("LIHTC") , which provides investors with long term tax benefits for investing in affordable housing. This program is administered by each state housing agency, in this case the NY State Division of Housing and Community Renewal ("DHCR"). In some cases projects are administered in conjunction with other State affordable housing programs. One of the requirements imposed under the federal legislation is that the project remain affordable for a minimum of 15 years. However the process of obtaining LIHTC funds is competitive; and DHCR provides higher scoring for affordable housing development applications that extend the affordable housing period from 15 years to 30 years. Therefore, under an affordable housing program for Hillcrest, since the applicant envisions using primarily LIHTC funding, the applicant would commit

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to a 30 year affordable housing compliance period. The investor community which purchases the LIHTC generally accepts the 30 year compliance period. The LIHTC funding program was successfully used to develop and operate Hughson Commons, a 94 unit senior housing community on Hughson Street in Carmel developed, owned and managed by the applicant in 2003.

8.0 OTHER ISSUES COMMENTS AND RESPONSES

Traffic

The NYS Supreme Court judgment related to the Hillcrest Commons Article 78 (June 2007) determined that traffic was not an issue to be reanalyzed in the SDEIS. Nevertheless, traffic conditions do change over time and therefore, changes to traffic conditions since the DEIS and FEIS were evaluated as part of the SDEIS. Updated traffic information was provided in SDEIS Appendix E and the Tim Miller Associates, Inc. December 2, 2008 letter to the Planning Board (see SDEIS Appendix B).

The 2005 DEIS contained a complete study of the traffic network, including an analysis of nine (9) intersections as well as the proposed project entrance. The selected intersections and content of the study was determined in the approved SEQRA Scope. Existing traffic conditions were described and future no-build and build conditions were projected. The FEIS (2006) provided revised estimates of peak hour traffic at the project entrance and Route 52, based upon a revised project that no longer contained an office component.

In order to assess whether the traffic analysis and assumptions remained valid since the 2005 DEIS traffic study, additional traffic counts were in collected in 2008 and 2009 for the SDEIS and the results analyzed. Revised PM peak hour traffic counts were collected on November 19, 2008, on Route 52 at the project entrance. Additional counts were also collected at Route 52 at the two Carmel Plaza entrances. Weekday morning counts were collected on March 11, 2009, weekday afternoon counts on March 12, 2009 and Saturday peak hour volumes on March 14, 2009.

The traffic counts indicated that 2008 and 2009 traffic volumes on Route 52 are generally at or below 2004 volumes. Specifically, the total traffic volumes (combined northbound and southbound) have declined approximately 9 percent since 2004 at Route 52 and the project entrance (see SDEIS Appendix E). Total peak hour traffic volumes (combined northbound and southbound) at the Carmel Plaza entrances have declined between 3 percent and 12 percent, between 2004 and 2009 (see SDEIS Appendix E).

The SDEIS reviewed those projects which are proposed, constructed, or no longer under consideration since they will impact future traffic conditions. The 2008 and 2009 traffic counts include traffic from those projects that were built since the DEIS.

Finally, Future "Build Condition" traffic (2012) was estimated for the Carmel Plaza entrance, just south of the proposed Hillcrest Commons entrance. This analysis provided a representation of the change in network traffic presuming a conservatively high two percent per year growth rate. The analysis considered the Gateway Summit and Fairways, Patterson Crossing, and Kent Manor projects as approved. Additional traffic of two percent per year for three years (to 2012) was added to account for other projects that may be completed in the area even though the recent data for peak hour traffic shows that local traffic volumes have been declining or remaining nearly constant. The estimated future traffic with the project (Build Condition, 2012) is anticipated to be lower than projected 2007 Build Condition in the FEIS, given the lower existing traffic volumes, and fewer anticipated local projects contributing traffic.

Comment 8-1 (August 26, 2009, Hillcrest Commons Public Hearing, Mr. Tom Boyce, 2 East Drive, Carmel, NY): For myself and my neighbors and the Village of Carmel, we have an extreme traffic problem on 52, and this is just going to make it worse again.

Response 8-1: The purpose of a traffic study is to evaluate existing traffic conditions, estimate future traffic conditions, factoring in annual growth and any major proposed development in the area, and then analyze whether the traffic from the project (Hillcrest Commons) will have a negative affect on local traffic conditions in the future. As described in the introduction above, traffic volumes on NYS Route 52 have decreased or remained approximately the same since the traffic study was done in 2005. According to recent analysis done in the Hillcrest Commons 2009 SDEIS, future traffic (2012) is estimated to be less than that projected in the FEIS (2007 estimated traffic). While the project will add traffic to the network, the project is not expected to adversely affect local traffic conditions.

Comment 8-2 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): When we looked at some things online, I discovered a letter from the Kent planning board dated 11/13/08 from a Mr. Singer addressed to Mr. Gary and your board, and amongst other things, he touches on regarding this development proposal that ... he's talking about re-visiting the traffic impact for this [project]. Mr. Miller in fact indicated that the judge didn't ask [or] require to supplement that [issue], but subsequently, ... Mr. Miller's group did answer Mr. Singer's request for more information, but it's little confusing.

Response 8-2: As noted in the comment, the NYS Supreme Court judgment did not identify traffic as an issue to be reanalyzed in Supplemental DEIS. In response to the lead agency and the Town of Kent, the applicant has provided current information regarding the existing traffic on NYS Route 52 and further analysis of future traffic, as described above.

Comment 8-3 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): I had spent a lot of time on the last traffic report going back over two years ago, and they were based on the DOT traffic surveys from 2005, because at that time in 2006 these weren't available, and those surveys -- those reports are based on cars that began at Route 301 and ended at Route 311, and we discussed at that time how in point of fact, even though they did come up with a number, we're talking now only peak hours. And the figure at that time was, peak hours on that stretch of 52 was coming in at something like 16,700 and change. Now, we know that wasn't even an accurate figure, because if a person started off at 301 but maybe turned down Fair Street, didn't go to 311, they were not counted. We never fully understood how the vehicles that transport more than say just a family, like say a 60 passenger bus, how were they accounted for in a DOT survey.

Response 8-3: The traffic study done in 2005 followed professional methods for conducting traffic studies and analyzed nine local intersections, including those in the Town of Kent. The study was reviewed by the Town's traffic consultant, John Collins Engineers, Inc. Traffic studies are based upon the number of vehicles, either passenger vehicles or trucks, and not by passengers.

The study examined peak hours of traffic at each location regardless of whether they passed through other intersections. The existing traffic analyses are based on a direct count of vehicles unlike the NYSDOT tube counts described below.

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The NYSDOT survey or tube count is for vehicles passing a specific point on NYS Route 52 that is intended to be representative of traffic on that section of roadway. These surveys are done with tubes that count vehicle axles passing over them. An axle correction factor is used to estimate the number of vehicles based on the number of axles counted. The NYSDOT conducts other counts to develop the axle correction factors.

There are no roads in Putnam County with peak hour volumes of 16,700 vehicles. The existing peak hour volume on any of the studied roadways was less than 1,800 vehicles (Hillcrest DEIS).

Comment 8-4 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): Subsequently, in Mr. Miller's response that you all asked on behalf of the Kent planning board, they checked the most recent DOT's. Now, that is from 2008, 2009. The numbers are significantly lower. In 2008, actually in the middle of 2005, but in 2008, there wasn't even fewer cars on 52. Well, fewer, not for those of us who lived there, but considerably, down by 20 percent. We attribute to -- because these people all still live there. At that point, gasoline was approximately \$4 a gallon. I can tell you in my own family, we greatly adjusted our trips to and from wherever we had to go. Many people car pooled, some people did other creative things, and the particular week that this test was structured, happened to be Easter week.

***Response 8-4:** Peak weekday traffic on Route 52 was counted in both November, 2008 and in March, 2009. As described above, total peak traffic on Route 52 has declined by 3 to 12 percent. The observed traffic reduction is the result of a combination of factors including the economic recession, gasoline prices, and a local and national change in drivers habits.*

The future analysis presumed background growth of two percent per year as was used in the DEIS. In addition to background growth, other area projects were included in the 2012 future conditions.

Comment 8-5 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): So I think you have people on vacation, people that perhaps were away, and the point is, I think Mr. Singer, in asking this to be re-visited, that we have to take into consideration the fact that are presence on these surveys, and that's very clearly that before we even have the development of Hillcrest Commons or the numbers from Kent Manor, which has definitely been approved, Patterson Crossing I don't even think was factored in, this has to go back I think to the 2007 DOT or wait until the next viable DOT can come up, because now gasoline is coming down and it's more affordable, people are getting out and about more.

***Response 8-5:** The estimates of future traffic in the "Build Condition" included those development projects that have active or approved permit applications in the Towns of Carmel and Kent. The estimated traffic from Kent Manor and from Patterson Crossing were included in the analysis as noted in SDEIS Appendix E page 4.*

Comment 8-6 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): We do believe that this is why the traffic analysis came in at such low numbers, and subsequently, according to this report that was put out for this proposal, it's kind of based on a diminishing, therefore, we can take on more development, and in point of fact, we are saying to please re-visit that because while we are not professionals, certainly

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anyone can see that we are coming out of a recession, gasoline being so high, so many of us having been driving SUV's, we were being a little more careful. So I think again that bears looking into, and if the board can consider that, we would greatly appreciate that, because when all of the other developments do come in and between just Hillcrest Commons alone and Kent Manor, there is only a difference of about 400 feet between where they're proposing both the entrances to these places to be. So that's a really kind of small area.

Response 8-6: See Responses 8-4 and 8-5, and Introduction, above regarding the traffic analysis.

The closest location Kent Manor traffic may access NYS Route 52 is at Horse Pound Road about a quarter mile from the Hillcrest Commons entrance. The new access road from NYS Route 52 to Kent Manor would be approximately one half mile from the entrance.

Comment 8-7 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Janet Berberich, 44 Willow Trail, Carmel, NY): The bottom line is, if these developments come in and we are back up to the driving capacity on that road of the DOT survey for 2007 year, looking at over 18,000 plus cars on that road at peak hours, it would take just to get out of Hill & Dale, a car coming around every couple of seconds, and I think it worked out to be like every 13 seconds. So I mean, it's preventable, a lot of these issues. Maybe a way around it would be to down size this project further yet, we're still at the 150, and while on their traffic report they're talking about only cars at peak hours, even out onto 52, it's a bad section of 52, and it is also heavily traveled.

Response 8-7: See Introduction, above.

Volumes on NYS Route 52 at the site access are projected to be below 1,800 vehicles in the peak hour (FEIS Appendix C Attachment A, Figures 3.6-19 to 3.6-21).

Comment 8-8 (August 26, 2009, Hillcrest Commons Public Hearing, Ms. Lori Kemp): Of course I'm concerned about traffic. We don't need one more car over there.

Response 8-8: Comment noted.

Comment 8-9 (Letter #6, September 24, 2009, Town of Kent Planning Board, Russell P. Fleming, P.E., Chairman): Our Planning Board continues to have concerns in other areas. For example, we are disappointed that your Planning Board could not find a way to consolidate the traffic leaving the proposed project with that leaving the Shoprite Plaza, so as to provide a common point of entrance onto Route 52, We note that you have in the past recognized this as an advantage, such as with the Dunkin Doughnuts property at the K-Mart Plaza, so that a single traffic light can safely accommodate the entrance of vehicles onto the state road. We remain concerned about the synergistic effect on traffic congestion that this development will have with other proposed developments along Routes 52 and 311, including Kent Manor and the proposed Patterson Crossing project.

Response 8-9: *The applicant has explored an alternative access that utilizes the Carmel Plaza shopping center and an adjacent privately owned parcel, thereby utilizing the existing traffic signal at the shopping center entrance. The owner of the shopping center and the Planning Board raised concerns about access through the parking lot by Hillcrest Commons drivers, conflicting traffic, easements and other issues and the private land owner was unwilling to sell his property for this purpose. Moreover, the use*

Other Issues

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of this parcel for a roadway access would result in considerable disturbance and filling of regulated wetland. Neither the Planning Board nor the applicant can compel a private third party to provide access to another private property.

See also Responses 8-5 and 8-3 regarding other area projects.