HILLCREST COMMONS

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: Deborah Post
(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: August 9, 2006
Comment Period: August 21, 2006

~~March 17, 2006~~
~~Revised July 5, 2006~~
July 28, 2006
(with Addendum - August 9, 2006)

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

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HILLCREST COMMONS

FINAL ENVIRONMENTAL IMPACT STATEMENT

Addendum

August 9, 2006

The Final Environmental Impact Statement for Hillcrest Commons was conditionally accepted by the Town of Carmel Planning Board at a meeting on July 26, 2006. The Planning Board requested the applicant to resolve issues related to Town water and sewer capacity and infrastructure, to the satisfaction of the Town of Carmel Engineer, Mr. John Karell, and the Town's engineering consultant, Dolph Rotfeld Engineering, P.C. A letter dated July 14, 2006, from Dolph Rotfeld Engineering, P.C. provided comment on the project and requested additional information. A copy of the letter is attached. The project engineer, Insite Engineering, Surveying & Landscape Architecture, P.C. (Insite), provided a response and additional information in a letter dated August 1, 2006 (see attached). Dolf Rotfeld Engineering, P.C. submitted a letter to the Town of Carmel on August 4, 2006 indicating that the applicant has satisfactorily addressed comments by their office (see attached).

The following is a summary of the issues raised and the proposed mitigation by the applicant.

1) Dolph Rotfeld Engineering, P.C. questioned the capacity and condition of the existing sanitary sewer system from the proposed development to the wastewater treatment plant.

Response: The applicant has agreed to video inspect the existing sewer main from the Shoprite Plaza to Fair Street and flow monitor prior to Fair Street. The applicant is willing to repair any deficiencies in the above noted segment that would be directly impacted by the subject property. According to previous reports, there is adequate capacity from Fair Street to the plant. The results of the inspection will be provided to the Town.

2) Information was requested regarding the condition of the privately owned and maintained sanitary sewer on the Shoprite Plaza property that will be dedicated to the Town.

Response: The applicant proposes to test the private sewer line for leakage and video inspect the sewer prior to site plan approval. The results of the inspection will be provided to the Town. The applicant will repair any deficiencies that are discovered prior to the Town's acceptance of the sewer mains.

3) The applicant was requested to contribute towards a reduction of infiltration and inflow in the system or do some of the work in the system to accomplish a reduction.

Response: Based upon recent flow data for the wastewater treatment plant, it does not appear that inflow and infiltration is a major problem. The applicant is proposing to flow monitor and video inspect existing sewer mains from the project site to Fair Street. In addition, the subject property has been paying sewer taxes for many years and will continue to pay taxes to contribute to the maintenance of the Town sewer infrastructure and the reduction of inflow and infiltration into the system.

4) The water storage capacity for Water District #2 has been questioned.

Response: The applicant is willing to install a 45,400 gallon storage tank (average daily project design flow) adjacent to the existing Town tank and proposed booster pump system. The tank will be engineered into the proposed booster pump station in order to buffer peak domestic flows from the new development and supplement available water volume for fire protection needs.

5) A restrictive covenant was requested to be placed on the property deed to prohibit the use of municipal water for irrigation purposes on the site.

Response: The applicant is agreeable to such a restrictive covenant being placed on the property deed.

6) The potential for declining water levels in Lake Gleneida was questioned. Lake Gleneida is the water source for Carmel Water District #2. Based upon these concerns, Dolph Rotfeld Engineering, P.C. recommends investigating the replenishment of Lake Gleneida from the West Branch reservoir via a pumping station.

Response: The applicant agrees that the Town should continue to monitor the Lake Gleneida water levels as they have over the past several years. The applicant is willing to grant a significant easement area on the subject property to permit CWD#2 to investigate and develop a groundwater source to supplement their existing water supply if so desired.

In addition, all project buildings will be protected by an automatic fire sprinkler system so as to not increase CWD#2 fire protection needs.

Dolph Rotfeld Engineering, P.C.
CONSULTANTS & DESIGNERS
200 White Plains Road, Tarrytown, NY 10591 * (914) 631-8600

August 4, 2006

Mr. John Karell, Jr., P.E., Town Engineer
Town of Carmel
60 McAlpin Avenue
Town Hall
Mahopac, New York 10541

Re: Hillcrest Commons DEIS
Water District # 2
Sewer District # 2
Town of Carmel

Dear Mr. Karell:

Regarding the FEIS for the above referenced project, we have reviewed Insite's response letter dated August 1, 2006 and they have satisfactorily addressed our office's comments.

If you have any questions, please feel free to contact our office.

Sincerely yours,

Michael F. Stein, P.E.
Project Manager

1.0 INTRODUCTION

This Final Environmental Impact Statement (FEIS) provides responses to agency and public comments received by the lead agency on the Draft Environmental Impact Statement (DEIS) prepared for the Hillcrest Commons project, Town of Carmel, New York. The FEIS 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 (NYS DEC) thereunder, which appear at 6 NYCRR, Part 617, NY State Environmental Quality Review Act ("SEQRA").

The Applicant prepared a Draft Environmental Impact Statement (DEIS) in response to a Positive Declaration issued by the Town of Carmel. The DEIS scope was established by a scoping outline developed by the Carmel Planning Board, acting as lead agency, in cooperation with all other involved agencies and interested parties. The Scoping Outline was adopted April 28, 2004.

The DEIS was originally submitted to the Town of Carmel on November 30, 2004. Based upon comments received from the lead agency, the applicant submitted a revised DEIS to the Planning Board on March 31, 2005. The lead agency reviewed the DEIS for adequacy with respect to its scope, adequacy and content for the purpose of public review, and issued a Notice of Completion for the DEIS and a Notice of SEQRA Hearing on June 1, 2005. The Planning Board conducted a Public Hearing on the DEIS on July 6, 2005, and maintained an open public comment period for an additional 30 days. The accepted scope outlining the information to be covered in the DEIS is provided in Appendix A of the DEIS.

The FEIS consists of this volume and accompanying set of drawings and the DEIS, which is hereby incorporated by reference into this FEIS.

An initial draft of the FEIS was submitted to the Planning Board and its consultants on March 17, 2006. Since that submittal, the applicant has modified the proposed project and the Site Plan. The primary modification involves the elimination of the 69,000 sf of office uses. The project will remain a senior residential project with 150 units of senior housing, now contained in nine (9) buildings, with a community building and swimming pool. The revised Site Plan reduces the overall impacts of the project, as described further, below. A discussion of the proposed residential project, compared to the original office use and residential project is provided in Section 1.2, below.

1.1 Summary of Proposed Action

The Project Sponsor, BBJ Associates, LLC, is proposing to construct a total of 150 units of senior housing in nine buildings on a 107.76 acre site. In addition, the DEIS addressed a potential 10,000 square foot expansion, and 50 new parking spaces for the existing ShopRite supermarket, located adjacent to the proposed residential development, although no plans have been developed at this time for the expansion.

Access to the residential development will be from a new Town road connection to Route 52. The 107.76 acre site includes 99.38 acres in the Town of Carmel and 8.38 acres in the Town of Kent. A location map is shown in Figure 1-1 Location Map and a modified proposed site layout

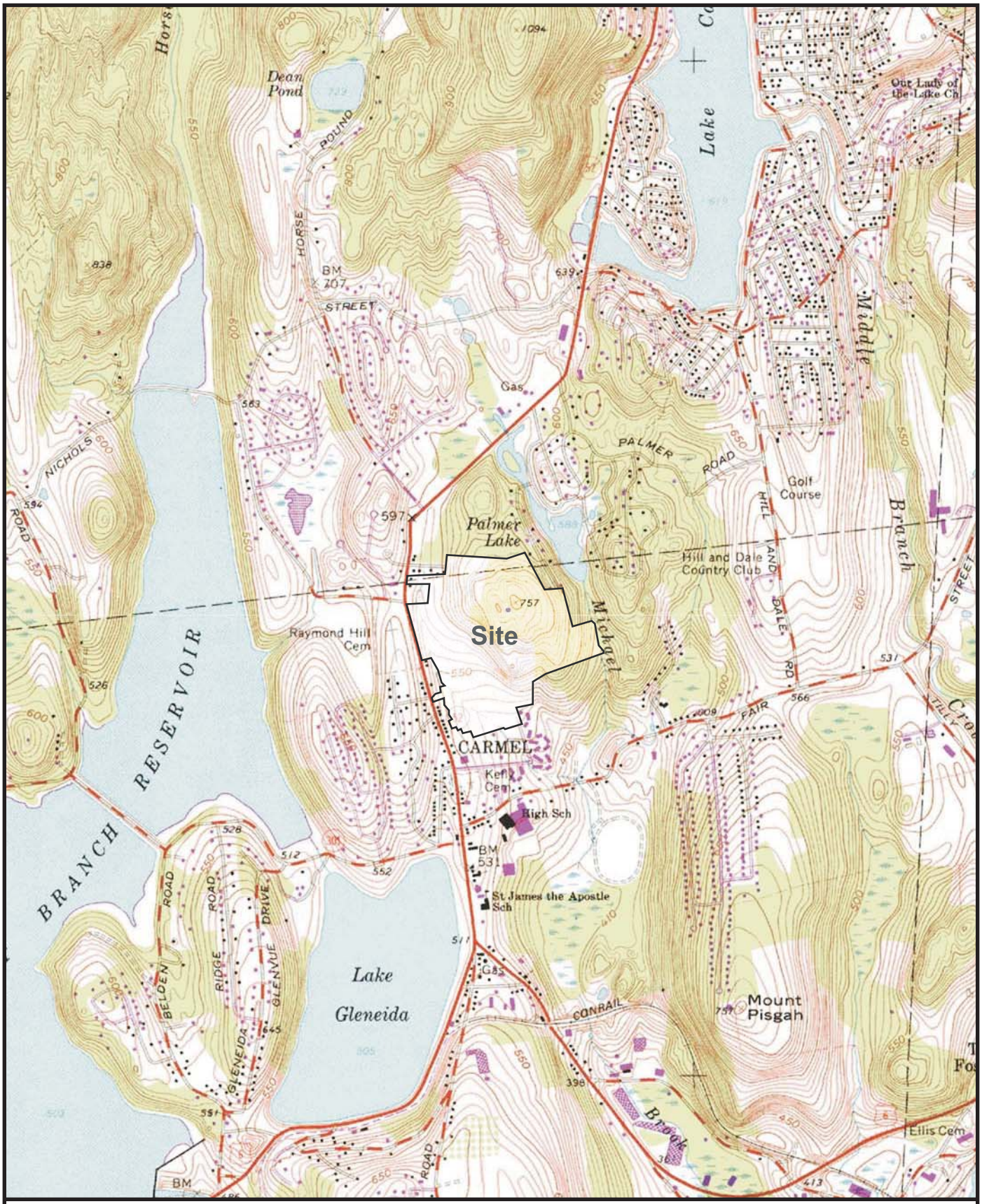

Figure 1-1: Location Map
Hillcrest Commons
Towns of Carmel & Kent
Putnam County, New York
Source: USGS 7.5-minute Topographic Map, Lake Carmel Quad
Approx. Scale: 1" = 2,000'

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Tim Miller Associates, Inc.,10 North Street, Cold Spring, New York 10516 (845) 265-4400 Fax (845) 265-4418

Figure 1-2: Revised Site Plan
Hillcrest Commons
Town of Carmel, Putnam County, New York
Source: In-Site Engineering

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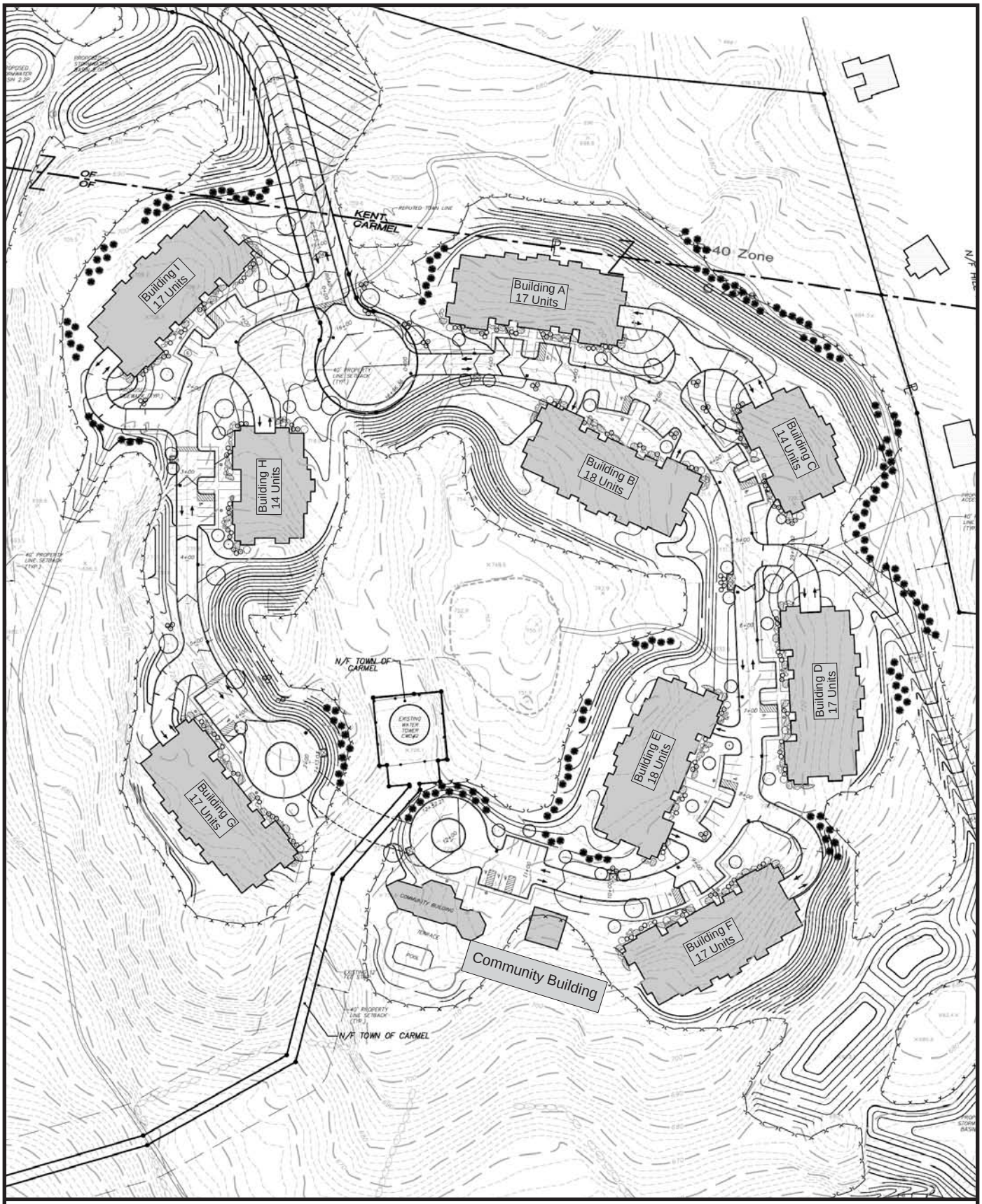

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Figure 1-3: Revised Building Layout
Hillcrest Commons
Towns of Carmel & Kent, Putnam County, New York
Source: In-Site Engineering

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Tim Miller Associates, Inc.,10 North Street, Cold Spring, New York 10516 (845) 265-4400 Fax (845) 265-4418

is provided as Figure 1-2 Revised Proposed Site Plan. For comparative purposes, described below, the former Proposed Site Plan is provided as Figure 1-4.

According the Applicant, the 150 senior housing units are proposed to help meet a growing demand for senior housing in the Town of Carmel and in Putnam County. Under the current proposal, all of the 150 units will be sold at market rates.

The primary concerns that generated comments to the DEIS included the overall amount of grading and disturbance on the site, the amount of proposed impervious surface, development on steep slopes, and traffic resulting from the project and potential traffic impacts to Route 52. The revised site plan addresses all of the concerns listed above, particularly traffic, since under the former plan, the majority of traffic generated by the project was associated with the proposed office uses.

1.2 Proposed Modifications to the Site Plan

Revised Project Layout

The revised Site Plan consists of nine multi-family residential buildings located at the end of a cul-de-sac entrance road from Route 52 (see Figure 1-2). The entrance road and cul-de-sac design have not been modified from the original Site Plan. The proposed residential buildings are located on two private driveways that extend to the west and the east of the cul-de-sac. The existing Town of Carmel water tower and the wooded hilltop will separate the two clusters of buildings. Six buildings will be located on the eastern side of the hilltop, with the buildings and driveway located and graded to fit into the sloping hillside. Three buildings will be located on the western side of the hilltop, also positioned parallel to the contours on the slope.

A major difference between the revised layout and the former site plan is that an area at the prominent hilltop will remain undisturbed and the existing tree cover and vegetation located there will also be preserved. This area measures approximately 300 feet by 360 feet, or 2.5 acres at the top of the hill. This preserved green space will be available to project residents for passive recreation. In the Applicant's opinion, this modification will soften the visual changes to the project site, especially from Route 52 and viewpoints west and south of the site.

Parking is now provided under the nine residential buildings. Access to the at grade parking will be from single driveways to the sides of the buildings. The provision of 252 parking spaces under the buildings substantially reduces the area of pavement or impervious surface needed for residential parking. The area of impervious surface has been reduced by 2.1 acres, compared to the former plan. The reduced impervious surface allows two stormwater management facilities to be reduced in size by approximately 25 percent, resulting is less grading and site disturbance, as described below.

The revised plan will reduce project impacts in several areas, including overall disturbance and site grading, impervious surface, and particularly a reduction in the traffic entering and exiting the project site. A comparison of potential impacts, between the former residential/ office project and the revised residential only project, is provided in Table 1-1, below.

Table 1-1 Alternative Impact Comparisons		
Area of Concern	***Currently Proposed Action (Senior Residential - 150 units)***	***Former Proposed Action (Office and Senior Residential)***
Developed Area		
Office Space (sq. feet)	0	69,000
Residential Units	150	150
Impervious Surfaces (acres)	6.95	9.1
Lawn/ Landscaping (acres) **	16.95	18.8
Open Space Resources (acres)		
Wetlands	13.2	13.2
Woods (uplands)	70.7	66.7
Natural Resource Impacts (acres)		
Total Construction Disturbance	23.9	27.9
Total Woodland Disturbance	23.5	27.5
Wetland Disturbance	0.39	0.39
Wetland Buffer Disturbance	0.9	0.9
Disturbance to slopes > 15 percent	10.1	12.7
Community Resources		
Population	270	270
Water Demand/Sewage Flow (gpd)	45,000	49,720
Revenues to School District	$256,048	$337,853
Revenues to County	$26,583	$35,076
Revenues to Town of Carmel	$192,236	$248,376
Revenues to Town of Kent	$2,320	$2,320
Traffic		
Traffic Generation * (Total AM Peak Hour Trips/ Total PM Peak Hour Trips/ Total Saturday Peak Hour Trips)	40/ 46/ 46	163/ 191/ 70
Source: Tim Miller Associates, Inc., Insite Engineering, Surveying & Landscape Architecture, LLC. ** Includes areas of stormwater management basins. * Traffic generation numbers at proposed access drive.		

As shown above, the revised project would reduce grading by approximately four acres, which would result in the preservation of existing woods. Grading is primarily reduced at the most visible portion of the site, the hilltop in the vicinity of the existing Town water tower. As described above, approximately 2.5 acres of existing mature trees and vegetation would be preserved, under the revised Site Plan. Impervious surface would be reduced by greater than two acres, or approximately 25 percent, compared to the original site plan.

The revised project plan would have the same population and somewhat reduced community service impacts as the former site plan, since the number of proposed residential units has not changed. Water and sewer demand for the revised project would be less than the former site

plan, due to the elimination of the office component. Revised Water Engineering and Wastewater Engineering Reports are provided in Appendix D and E, respectively.

Tax revenues generated are estimated to be in excess of $475,000 per year under the modified project. The Applicant notes that the project will not add any fiscal burden to the school district since no school age children will reside at Hillcrest Commons.

The Stormwater Management Plan has been updated for this FEIS based upon comments to the DEIS, as well as revisions to the Site Plan (see Appendix H). The overall stormwater management practices (basins, swales), and their locations have not changed substantially from the DEIS. Stormwater practices have been modified to meet the requirements of the New York State Department of Environmental Conservation (NYSDEC). A description of the modifications are provided in the attached Stormwater Management Plan (Appendix H, p.5).

In the Applicant's opinion, a major benefit of the proposed senior residential project, compared to the original office / residential project is the reduction of traffic. The number of traffic trips generated by the proposed senior residential project will be 46 trips during the PM peak hour and 46 trips during the Saturday peak hour. These traffic numbers are substantially lower than the estimated 191 trips in the PM peak hour and 70 trips in the Saturday peak hour, for the original project. The DEIS discussed the fact that the office component of the former project was projected to generate the majority of project traffic during peak commuter hours. Therefore, the proposed project would result in a reduction of PM peak traffic by approximately 75 percent, compared to the original project. The reduction in project generated traffic would provide the greatest improvement to level-of-service (LOS) to the intersection of the site access road and Route 52. The delays at Route 52 and the access road are estimated to be considerably shorter. Therefore, delays for residents exiting the site would be substantially reduced.

The significant reduction of site generated traffic would reduce traffic on Route 52 and nearby streets and highways, which would improve the Levels-of-Service at other intersections in the vicinity of the project site.

Relocated Emergency Access Road

The emergency access road at the south side of the site has been relocated out of the wetland buffer for the southern wetland (Wetland B). According to the Applicant, this relocation is proposed partly in response to comments on the DEIS, and concerns about the potential impacts of the access road within the wetland buffer. The access road has been shifted approximately 100 feet to the east beyond the edge of the 100 foot wetland buffer. This relocation results in the reduced potential for soil erosion and sedimentation to impact the southern wetland (Wetland B)(see Figure 1-2 Proposed Site Plan).

1.3 Request for Preparation of a Supplemental EIS

In 1a letter dated August 5, 2005, attorney James Bacon sets forth "outstanding issues" that he claims will be significantly impacted by the project but have "not been identified nor [sic] mitigated" and therefore a Supplemental Environmental Impact Statement ("SEIS") is necessary. Mr. Bacon's comments focus on four areas of alleged general deficiencies in the Draft Environmental Impact Statement ("DEIS"), identified under the broad topics of Water Quality Impacts/Wetlands, Wildlife/Flora and Fauna, Archaeology, and Traffic. However, since

a SEIS is not authorized by law under these circumstances, and because these topics have all been addressed in the DEIS and are extensively addressed in the corresponding sections of the Final Environmental Impact Statement ("FEIS"), Mr. Bacon's request for an SEIS has no merit.

The New York State Department of Environmental Conservation ("DEC") has provided specific regulatory guidance on the need for an SEIS under SEQRA. An SEIS for a specific project will only be required to address "...the specific significant adverse environmental impacts not addressed or adequately addressed in the EIS." 6 N.Y.C.R.R. 617.9(7)(i). These environmental impacts must arise from either "(a) changes proposed for the project; (b) newly discovered information; or (c) a change in circumstances related to the project," 617.9(7)(i)(a)-(c), which must potentially cause a significant adverse environmental effect. Gerrard ET. AL., Environmental Impact Review in New York 3.13[2][a] (2004).

It should be noted that the purpose of the DEIS is to inform the public and other public agencies of the proposed project and solicit comments to assist the lead agency in determining the project's environmental impacts. ECL 8-0109(4). The DEIS is only a preliminary statement of the proposal prepared in the early stages of the SEQRA review process. The FEIS reflects the incorporation of responses or revisions to the DEIS as a result of the consideration of these public and other public agency comments. As described above, the project has been modified from that described in the DEIS, in part, due to comments from the Lead Agency, other agencies and the public. Therefore, the SEQRA regulations contemplate that the FEIS will include a more detailed and extensive analysis, including discussion of issues that were not discussed or addressed in the DEIS.

Mr. Bacon contends that an SEIS should be required for the following reasons:

1. Water Quality Impacts/Wetlands. The omission of the 50 year storm event from the storm water drainage analysis in the Water Resource section of the DEIS, notwithstanding that the analysis was performed for the 2, 10, 25, and 100 year storm events. However, the 50 year storm event analysis has now been performed and the results have been included in the Water Resource section of this FEIS.

2. Wildlife/Flora and Fauna. The potential presence of Shining Bedstraw on the Hillcrest Commons site, based upon an investigation allegedly conducted by Erik Kiviat, the Director of Hudsonia, who entered onto the Hillcrest site and "discovered several areas appearing to contain the endangered plant."

However, the presence of Shining Bedstraw has already been identified and discussed on page 3.3-4 of the DEIS. Furthermore, Shining Bedstraw is located on portions of the site that will not be disturbed by the project and according to the Applicant, its growth will not be adversely impacted. Finally, Dr. Kiviat's "discovery" was made by his entering the Hillcrest Commons site, without the permission or consent of the Applicant, or any of the Applicant's consultants.

In addition, Mr. Bacon challenges the adequacy of the Phase 1 archeology report, the calculation of phosphorus levels used for the analysis of the stormwater design system, and further suggests that a common entry to the site through Shop-Rite should be required to avoid traffic "grid-lock." However, these issues have all been discussed in the DEIS in accordance with the Scope, and are further addressed in this FEIS.

Furthermore, the issues put forth by Mr. Bacon in his Letter do not meet the regulatory criteria for the Lead Agency to request an SEIS pursuant to 617.9(7)(i)(a)-(c), as discussed above, and taking into account "(a) the importance and relevance of the information; and (b) the present state of the information in the EIS." 617.9(7)(ii).

The first circumstance under which the lead agency can require an SEIS is where changes are proposed for the project that will cause a potentially significant adverse effect. Mere changes in the proposal will not automatically trigger the need for an SEIS. *See, e.g.*, *Glen Head-Glenwood Landing Civic Council, Inc. v. Town of Oyster Bay*, 453 N.Y.S.2d 732 (2d Dept. 1982). Notably, an SEIS has not been required for such project changes as the use of different access routes to the site, *Town of Clarkston v. Montgomery, Otsego, Schoharie Solid Waste Management Authority*, 651 N.Y.S.2d 708 (3d Dept. 1997) or omission of a development alternative. *See Webster Assocs. v. Town of Webster*, 59 N.Y.2d 220 (1983). Here, there are no proposed changes to the Hillcrest Commons proposal that would allow a lead agency to require an SEIS. As described above, the proposed modifications to the project result in either a reduction or no change in environmental impacts and do not create any new impacts.

The second circumstance under which a lead agency could require an SEIS is where there is "newly discovered information." Under the SEQRA regulations, this "newly discovered information" must be considered in light of the relevance of the information and the current information in the EIS section 2617.9(7)(ii). There must be a substantial omission that cannot be cured by addressing the issue in the FEIS. Here, Mr. Bacon's letter does not present any "newly discovered information." The Shining Bedstraw has already been identified and discussed in the Hillcrest Commons DEIS. The omission of the 50 year storm analysis, only one of several storm events considered in the design of the stormwater drainage system, has since been performed and is included in the FEIS. All of the remaining issues have been addressed in the DEIS are addressed in the FEIS.

The third circumstance where an SEIS could be required is where there is a change in circumstances related to the project. These "changed circumstances" must result in a significant adverse environmental effect, such as the unavailability of the neighboring municipality's sewage treatment facility to service the project. *See Glen Head-Glenwood Landing Civic Council, Inc.,* 453 N.Y.S.2d 732. Here, there are not any "changed circumstances" to the Hillcrest Commons project that would result in a significant adverse environmental impact.

None of the issues put forth in Mr. Bacon's letter satisfies the regulatory criteria that would necessitate an SEIS. The alleged "outstanding issues" that have not been "identified" or "mitigated" are broad topical generalizations. The only specific issues presented by the letter have already been addressed in the DEIS, or are addressed in the FEIS. There is no informational need or legal basis for the lead agency to require an SEIS.

1.5 SEQRA Background

In accordance with SEQRA, this FEIS provides written responses to substantive and relevant comments on the DEIS received by the lead agency during the public review period, including oral comments made at the July 6, 2005 Public Hearing. Complete copies of all written comments received on the DEIS are included in Appendix A. A transcript of the Public Hearing is provided in Appendix B.

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

Letter #	Table 1-1: List of Letters Received on DGEIS Author	Date
1	James D. Benson, AICP Director, The City of New York Department of Environmental Protection, Watershed Management Programs	8-5-05
2	Michael W. Soyka, P.E., Rohde, Soyka, & Andrews Consulting Engineers	7-28-05
3	Marian H. Rose, Ph.D., President, Croton Watershed Clean Water Coalition	8-5-05
4	Virginia Villegas, Resident, Lake Carmel, New York	8-5-05
5	James Bryan Bacon, Attorney & Counsellor at Law, Croton Watershed Clean Water Coalition, Inc.	8-5-05
6	Ann Fanizzi, Chair, Putnam County Coalition to Preserve Open Space	8-5-04
7	James Bryan Bacon, Attorney & Counsellor at Law, Croton Watershed Clean Water Coalition, Inc.	8-4-05
8	Erik Kiviat, PhD, Tanessa Hatwig, MS, Hudsonia Ltd.	7-29-05
9	Eugene J. Boesch Ph.D, R.P.A., Archaeological Consulting	7-27-05
10	Arthur Singer, Chairman, Town of Kent Planning Board	8-11-05
11	Christopher M. Wilde, Watershed Attorney, RiverKeeper	8-12-05
12	John Canning, P.E., PTOE, Senior Associate, Adler Consulting Transportation Planning and Traffic Engineering, PLLC	8-19-05

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 FEIS comment/response numbers in the margins of Appendix A and B.

2.0 PROJECT DESCRIPTION COMMENTS AND RESPONSES

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

Comment 2-1 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): Page 1-13 of the DEIS, seriously mischaracterizes our senior housing law. It says, "due to the age restricted nature of the project, no one under 18 -- under 19 years of age may live in the housing [indiscernible] under the special exemption. In fact, what the law says is it's for people 55 and older, their spouses, and then there's an amendment allowing disabled adult children to also live in the houses, but that's it. There is not this younger age threshold that the applicant suggests. The applicant also says this restriction will be included in condominium homeowner's agreement. Well, it's going to be a deed restriction. It's not going to be, of course, on the homeowner's agreement. It will be a restriction on the deed.

> ***Response 2-1:*** *Comment noted. Local Law 9, in 1998, replaced Section §63-10Y, Note 25 in its entirety and states that "all units must be occupied exclusively by persons and fifty-five (55) years of age or older and spouse of any such person." Local Law #2 of 2002 revised the wording of this law to say, "all units must be occupied exclusively by persons fifty-five (55) years of age or older, the spouse of any such person and/or the adult dependent handicapped or disabled child of any such person." The proposed Hillcrest Commons development does not require a deed restriction to enforce the age restrictions outlined in the Special Exception Use Permit for Multifamily Housing for the Elderly. The development will be governed by applicable law, which includes local zoning laws that, in this case, contains the required age restrictions. The condominium offering plan and all applicable condominium documents will contain the age restrictions as well.*

Comment 2-2 (Hillcrest Public Hearing, John McGiveny, July 6, 2005): I see that you put neighboring projects in there from the Town of Carmel. You went as far as Southeast, you went into Kent, but you never went into Patterson. And you did go into Patterson on one project that is all in Patterson -- three quarters in Patterson and one quarter in the Town of Kent.

> ***Response 2-2:*** *Based upon project specific studies, most of the trips originating in the Patterson, including pending and approved projects, are expected to utilize exits 18 (Route 311) and 19 (Route 312) off of Interstate 84 and the Route 22 corridor. From a traffic point of view, Patterson is not considered to be located in the immediate vicinity of the proposed site. Therefore, pending and approved projects located in Patterson were not included in this DEIS of Hillcrest Commons.*

Comment 2-3 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): What's the benefit of this project to our community?...And if people are going to (move) over here, where are they going to come from; are they going to come from Carmel or are they going to come from outside our community and overbear our community? What's the benefit to us and the Village of Carmel?

> ***Response 2-3:*** *The proposed development would provide, in the Applicant's opinion, many benefits to the community. First, the building of Hillcrest Commons will satisfy the growing need for senior housing in the Town of Carmel and in Putnam County, which was shown in the Market Study conducted for this project. The project is designed to*

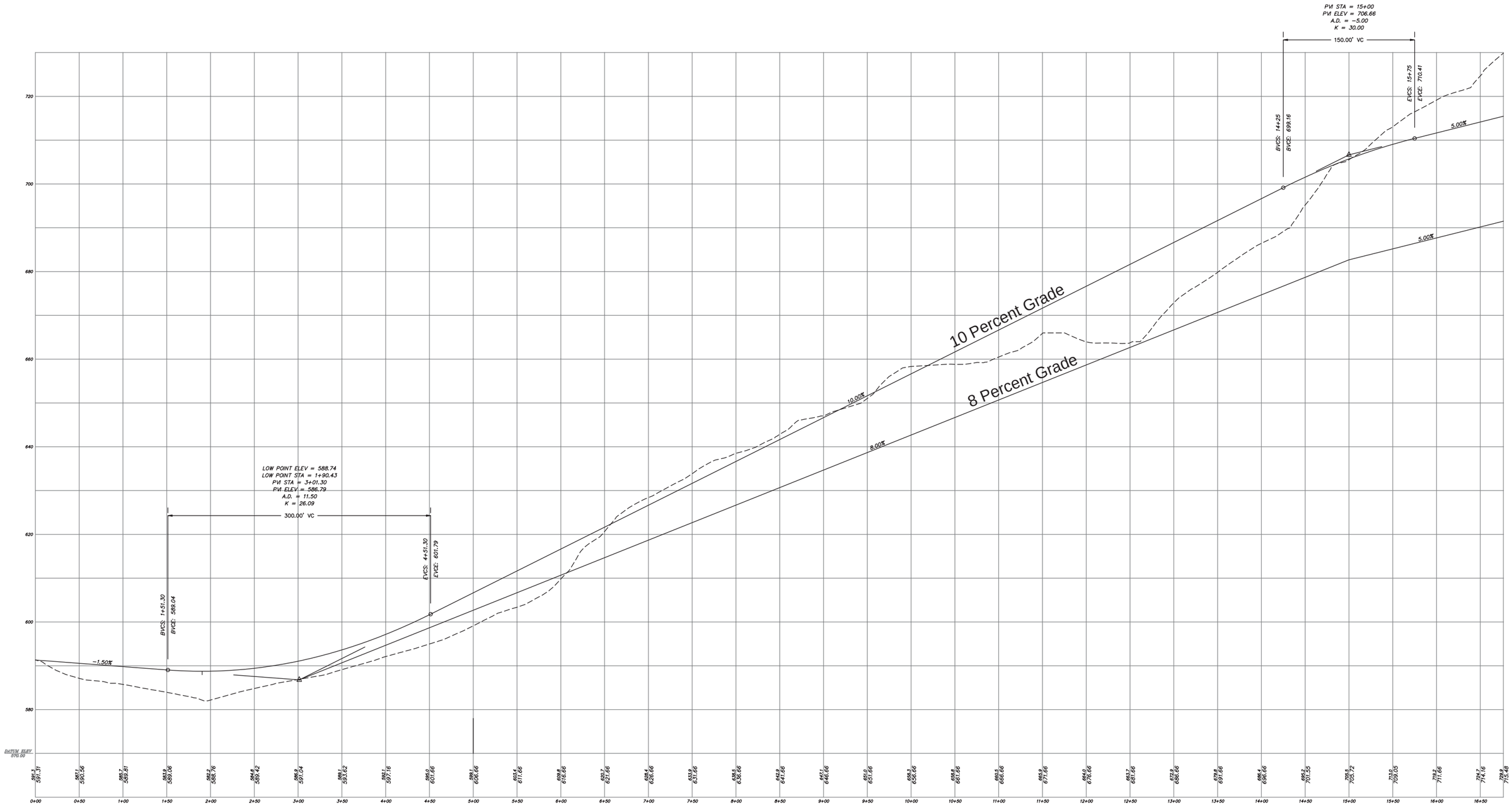

Fig 2-1: Road Comparison Profile
Hillcrest Commons
Towns of Carmel and Kent
Putnam County, New York
Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
Date: 11/05

File 0373 11/14/05
JS/0373

satisfy the growing demand for high quality, attractive, low maintenance housing in the Town and in Putnam County. It is the applicant's experience that the residents of its senior communities primarily come from the local senior resident population or are related to adult residents from the local area. In addition, the DEIS addresses a potential 10,000 foot expansion for the existing Shop-rite supermarket, which includes additional parking. This expansion will help the Shop-rite supermarket remain competitive with the newer local supermarkets that have opened recently. Finally, the development will result in an increase in tax rateables for the Town of Carmel and Putnam County.

Comment 2-4a (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): a.) Portions of 'the proposed road pass through the Town of Kent from approximately STA 0+00 to STA 2+00, and from STA 6+00 to about STA 14+50. The latter portion is shown at a grade of 10%. Reference is made to §A80-13. The maximum grade listed for a town road is 8%. Grades over 8% require approval of the Town Superintendent of Highways and a town-designated engineer.

Response 2-4a: *The proposed access road grade of 10% will require approval from the Town of Kent Superintendent of Highways and a town-designated engineer, consistent with the Town of Kent Code (see page 3.5-17 of the DEIS).*

Comment 2-4b (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): b.) The applicant should submit a plan showing the road at the maximum permitted slope of 8% so that the impacts of a road at this slope can be evaluated. The applicant should submit a summary of the advantages and disadvantages of each proposal for consideration by the Planning Board.

Response 2-4b: *The attached road profile, Figure 2-1 Road Profile Comparison, illustrates the differences between an 8% centerline grade and the proposed 10% centerline grade. The overwhelming advantage to allowing a centerline grade of 10% is reducing the amount of required grading and disturbance. As shown in the attached figure, a 10% centerline grade is advantageous for the following reasons:*

- *Follows the existing topography more closely.*
- *Reduces overall disturbance and excavation.*
- *Allows a higher elevation at the cul-de-sac to be achieved (approx. 25'), thus allowing the proposed development pads to be at higher elevations, thus reducing overall disturbance and excavation.*

As shown in the attached road profile (Figure 2-1), the required grading needed to achieve an 8% road grade compared to a 10% grade is significant. Reducing overall disturbance and unnecessary excavation, the Applicant notes, reduces a number of grading related impacts including: tree removal, potential soil erosion, blasting, material export from the site and the number of required truck trips during construction. Reducing the number of construction vehicles on local roads lessens the overall impact to traffic during construction.

Comment 2-4c (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
c.) Refer to § 56-6.G.6 of the recently adopted Steep Slope and Erosion Control statute. The maximum exposed slope will be 33% unless otherwise recommended by the Planning Board Engineer and approved by the Planning Board.

Response 2-4c: *The plans show a 2:1 slope on the north side of the proposed access road. This slope was utilized to reduce the disturbance limit on this side of the proposed road to maximize the existing vegetation to remain between the proposed road and the adjacent residential properties. This side slope can be constructed to a 3:1 slope as suggested; however, this would increase the disturbance limit to the property corner of the closest neighboring property to the north, essentially removing all trees between the proposed disturbance and the adjacent neighbor's yard. The grading plan has been developed to balance the construction slopes that reduce erosion potential but also limit the required area of grading and tree removal.*

Comment 2-5 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Application for a Steep Slope Permit and Erosion Control Permit should be made in accordance with the recently amended Chapter 66 of the Town Code.

Response 2-5*: Please refer to* Response *2-4c.*

Comment 2-6 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
The application indicates there are two (2) tax parcels within the Town of Kent. The mapping that was presented does not show these two (2) individual parcels.

Response 2-6: *The two (2) tax parcels of concern were included in the application maps submitted. According to the proposed plan, the parcels to be subdivided include two (2) parcels in the Town of Carmel, one (1) tax lot (44.10-2-1) in the Town of Kent and one (1) lot (44.09-2-27) located along the Town line between Kent and Carmel. This property, known as the Carter Parcel, is approximately fifty percent in the Town of Kent and fifty percent in the Town of Carmel.*

Comment 2-7 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Drawings 8, 9, 10 and 11 of 14 were missing from the set presented for review.

Response 2-7: *Comment noted. The above drawings were included in the proposed application submitted to the Lead Agency and distributed to Involved and Interested Agencies. The referenced Drawings are included in the revised FEIS project plans, attached to this document, which will be sent to the Town of Kent for review.*

Comment 2-8 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 1-20: Revise the address for the Town of Kent Planning Board to reflect its new mailing address. The same comment applies to page 2-1.

Response 2-8: *Comment noted.*

Comment 2-9 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 3.4-6: Reference to Table 3.4-5 in the third and fifth paragraphs should refer to Table 3.4-6.

Response 2-9: *Comment noted.*

Comment 2-10 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 3.4-7: Reference to Table 3.4-5 in the second paragraph of Stormwater runoff quality control measures should read "Table 3.4-5".

Response 2-10: *Comment noted.*

Comment 2-11 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 3.5-17: a.) The end of this paragraph states that the applicant will be seeking a waiver to provide a slope of 10% on the access road. The applicant is advised that any waiver will have to demonstrate why the action being waived is more acceptable than the required action.

Response 2-11: *Please refer to Response 2-4 for justification for the 10% proposed road grade.*

Comment 2-12 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Figures: Figure 4 is missing from this submittal.

Response 2-12: *Comment noted. Figure 4 was included in the proposed application submitted for approval.*

Comment 2-13 (Letter #4, Letter from Virginia Villegas, August 5, 2005): I have many other concerns that are shared by many in Carmel and Kent: traffic, noise, pollution, light pollution, and forest preservation.

Response 2-13: *Issues pertaining to traffic, noise, pollution, light pollution and forest preservation in the Town of Carmel and Kent have been analyzed in the DEIS and are further addressed in the appropriate sections of the FEIS.*

Comment 2-14 (Letter #4, Letter from Virginia Villegas, August 5, 2005): I know that Pace University is doing a study on the need for senior citizen housing in Putnam County. Wouldn't it be prudent to put a moratorium on building until the needs is determined?

Response 2-14: *A Market Study was conducted for this application to determine the need for senior housing in the Town of Carmel and Putnam County. According the Market Study, there is growing demand and need for this type of housing in the above areas. The Planning Board is not empowered to enact moratoria.*

Comment 2-15 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Because many of the project's significant impacts have not been identified nor mitigated, a Supplemental EIS (SEIS) should be prepared to address these outstanding issues pursuant to 6 NYCRR §617.9.

Response 2-15: *Please refer to Section 1.0 Introduction of this document regarding the request for the preparation of a Supplemental EIS. An SEIS is not warranted as further*

described in Section 1.0, Introduction. The applicant has prepared a comprehensive DEIS and following detailed review and revisions, the Lead Agency determined that the DEIS was complete and addressed the approved Scoping Document, pursuant to SEQR requirements. The commenter indicates that the project's significant impacts have not been identified or mitigated, but is not specific as what those impacts are. A technical basis for requiring a supplemental DEIS has not been identified. New York State Environmental Quality Review Act (SEQRA) is very specific regarding thresholds that would mandate a supplemental EIS. An SEIS for a specific project will only be required to address"...the specific significant adverse environmental impacts not addressed or adequately addressed in the EIS. These significant adverse impacts must arise from 1) changes proposed to the project; 2) newly discovered information; or, 3) a change in circumstances related to the project. These criteria do not apply to the proposed Hillcrest Commons project.

Comment 2-16 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): This should occur in an SEIS - during the SEQRA process-in order to allow the public has an opportunity to comment on the stormwater design system.

Response 2-16: *Please refer to Section 1.0, Introduction, of this document and Response 2-15, above.*

Comment 2-17 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): In sum, the deficiencies in the DEIS with respect to information concerning the site's flora and fauna and species preliminarily identified as endangered, archaeological resources, stormwater calculations and stormwater management designs, wetlands and traffic impacts along with examination of alternatives, indicates that a Supplement EIS is required in order to examine the project's potentially significant environmental impacts.

Response 2-17: *Each of the issues identified in the above comment have been analyzed in greater detail in this FEIS, as a result of comments from the Lead Agency, its consultants, involved and interested agencies and the public. In addition, the project plan has been modified and improved as described in Section 1.0, Introduction, as a result of comments. The SEQR process provides for further analysis of specific issues and modifications to the proposed project based upon comments on the DEIS. Please refer to Response 2-15 and Section 1.0, Introduction, of this document.*

Comment 2-18 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): In all respects, Hillcrest Commons poses innumerable and, we believe, insurmountable problems affecting the quality of life of residents; the landscape, steep slopes, ridges and vistas that make Putnam County the county where the country begins.

Response 2-18: *Issues concerning the impacts of Hillcrest Commons on quality of life of residents, the landscape, steep slopes, ridges and vistas were analyzed in the DEIS and are further addressed in the following sections of this document.*

Comment 2-19 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): As the Board is aware, the Coalition has written an ad campaign urging a moratorium on all senior housing development in the Hamlet of Carmel, amounting to 1,000 units. And we have litigated another senior housing development of 388 units. We have done so because as I commented during the Public Hearing, a tipping point- a saturation point is on the

horizon where additional development will neither provide the quality of life expected by present residents nor that hoped for by prospective purchasers of these units.

Response 2-19: *Please refer to Comment 2-14.*

Comment 2-20 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): The Coalition supports a diversity of housing options for all of its citizens - housing options which are truly affordable - and which recognize that development must meet the criteria of sustainability - infrastructure, wildlife and historical resources, town character, landscape and water quality. Hillcrest Commons as presently proposed, is the very antithesis of sustainability and must be drastically modified.

Response 2-20: *The need for this type of housing was demonstrated in the Market Study conducted for the proposed project. In the Applicant's opinion, Hillcrest Commons is designed to meet the growing demand for high quality, attractive, low maintenance housing in the Town of Carmel, and Putnam County. The average sale price of the units in Hillcrest Commons are expected to be $300,000, which is anticipated to be affordable based on the strength of demographics of the age 55 and above households in this market area. In order to address the concerns of sustainability, the Proposed Action is presently being reviewed under the State Environmental Quality Review Act (SEQRA). Analysis of project impacts including infrastructure, wildlife, historic and cultural resources, land use, and water quality are all addressed in the DEIS and in this FEIS.*

Comment 2-21 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D, and Tanessa Hartwig, MS, July 29, 2005): There has been considerable dumping off the edges of the shopping plaza parking areas (north and south of the plaza). Cursory inspection revealed furniture, mattresses, household garbage, shopping carts, and construction and demolition debris adjoining the margins of the parking areas. In addition, there are some piles of construction and demolition debris on the site perhaps 30-50 meters off the southeastern corner of the shopping plaza parking area. This dumping has created a hazard to wildlife and a source of pollution to Wetlands A and B. Furthermore, refuse that collects standing water (e.g., containers) is likely to provide breeding habitat for mosquitoes that are potential vectors of West Nile virus. The dumps should be investigated for possible hazardous substances (e.g., asbestos, pesticides, petroleum hydrocarbons, metals) that might contaminate ground or surface water or generate airborne contaminants. Following this investigation, the dumps should be cleaned up appropriately and further dumping prevented.

Response 2-21: *TMA staff, with experience in conducting environmental assessments have inspected the illicit household dumping at the edges of the plaza parking lot. As described by the commenter, the dumped material appears to be mostly household refuse as well as construction and demolition debris. The Applicant notes that the material observed does not appear to have the potential to impact the property. As part of the site development process, any dumped material on the Hillcrest site will be excavated and properly disposed of, off-site. In addition, signs will be posted to prevent dumping. If, during the removal, there are any indications of the release of petroleum or hazardous materials such as tanks, drums or stained soil, then further investigation of soil and/or groundwater will be conducted, in accordance with NYS DEC requirements.*

Comment 2-22 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 2.2: This section should identify the specific waivers the applicant will request from the Town of Kent road specifications.

Response 2-22: *Please refer to Response 2-4c.*

Comment 2-23 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 2.4.1: The approved Scoping Document expressly required that the analysis of senior citizen demand and market include the Town of Kent. This has not been done.

Response 2-23: *A Market Study was conducted to determine the demand for senior housing in the Town of Carmel and in Putnam County. The Market Study focused on the demographics for seniors in Putnam County, which includes the Town of Kent and then specifically analyzed the demographics for the Town of Carmel.*

Comment 2-24 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 2.4.1: The analysis states that senior family income is adequate to support the assumed purchase price of $300,000 per unit and goes on to state in several sections that the project would not impact local schools since there would be no new school-age children as residents of the project. However, the report fails to acknowledge that area residents selling their homes to move to the project would place existing homes on the market for sale to families with school age children. The sale of "empty nest" homes to families with children hold the potential to place additional strain on scarce educational resources. This secondary impact, or "growth inducing" effect, is not analyzed anywhere in the document and must be addressed.

Response 2-24: *The project will result in no proposed school age children nor added costs to the Carmel Central School District due to the age restriction for the proposed Hillcrest Commons development. The analysis used is based on the construction of the proposed development and what impacts that development would place on the community and its services.*

Since the general occupancy in the Town of Carmel and the Town of Kent is not age restricted, the potential purchasers of the "empty nest" homes may or may not have school age children. However, it is acknowledged that every household in Carmel and Kent, eventually turns over. Every household is vacated and occupied by another party at some point in time, based on the needs and wishes of the occupant. This being the case, in the Applicant's opinion, it is not unreasonable to expect that as people age in place in their home, they will eventually choose to move to alternative housing, where less maintenance is required, taxes are lower and other amenities are offered. The provision of senior housing at Hillcrest allows people in the Carmel-Kent area to have better and more housing choices, and allows these seniors to stay within the community in which many have lived most of their lives.

Comment 2-25 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 2.4.1.2: The analysis of office vacancy rates does not include an assessment of local vacancy rates. The FEIS needs to include an analysis of commercial vacancy rates within the

market the project seeks to serve, and not just the aggregate vacancy rates for the Hudson Valley as a whole.

Response 2-25: *The project has been modified to eliminate the proposed office space. Please refer to Chapter 1.0, Introduction, for a description of the revised project.*

Comment 2-26 (Letter #11, Letter from Riverkeeper, August 12, 2005): SEQRA requires that an EIS contain a detailed discussion of "the growth-inducing aspects of the proposed action, where applicable and significant." ECL §8-0109(2)(g). See also 6 NYCRR §617.9(b)(5)(iii). The limited discussion in this DEIS certainly does not satisfy that requirement.

Response 2-26: *The DEIS discussion of growth-inducing impacts (Section 7.0 Growth Inducing Impacts of the Proposed Action), describes the key issues that pertain to the Hillcrest Commons project and its setting in the Town of Carmel. The growth inducing aspects of the project do not meet the threshold of significant.*

Population in the Town of Carmel grew by 16 percent over the period 1990 through 2000, and the Putnam County population grew by approximately 16 percent over the same period. It is expected that this modest population growth in the Town and County will continue through the foreseeable future. In the Applicant's opinion, the Hillcrest Commons project, adding 150 residential units is consistent with and insignificant in relation to this growth trend and provides needed housing. The project will not involve the extension of water and sewer service into undeveloped portions of the Town, an action that has the potential to result in secondary growth. The Town of Carmel and nearby communities provide a range of existing retail and services, and therefore the addition of approximately 270 persons will not result in significant new construction or development to serve the new residents in this area of the Town.

The project has been modified to eliminate the proposed office space. Please refer to Chapter 1.0, Introduction, for a description of the revised project.

Comment 2-27 (Letter #11, Letter from Riverkeeper, August 12, 2005): Although the DEIS states that there will be virtually no growth-inducing impacts to the project, it fails to sufficiently address why such a project will not induce growth. After all, it is delivering much needed office space to the town of Carmel, where already there is a vacancy rate in office space. It is not entirely unimaginable that people occupying the office space would choose as well to live in the area. Further, the DEIS admits that there is already an undercurrent of development near by, and perpetuation of that trend would only serve to induce more growth, as the construction alongside Route 52 has obviously inspired the applicant.

Response 2-27: *See Response 2-26, above.*

Comment 2-28 (Letter #11, Letter from Riverkeeper, August 12, 2005): Despite confident declarations by the applicant that no adverse effects will occur as a result of the proposed construction, there exists no evidence to support this conclusion. An analysis consisting of more than a half page of unsupported statements is necessary in order to meet standard elucidated by SEQRA above. In order to properly assess the impacts of secondary growth potentially induced by the proposed project, the applicant should model build-out projections for developable portions of the surrounding community. These projections, along with corresponding water quality

impacts and mitigation measures, must then be discussed and supported in great detail, rather than with mere conclusory statement.

Response 2-28: *See Response 2-26, above. The scale and setting of the project does not warrant modeling build-out projections for developable land in the surrounding community. This type of effort, relating to a community's Comprehensive Plan, is best left in the hands of the Town Planning Department or even the County, rather than a single applicant. Moreover, such an effort goes well beyond the Scoping outline adopted by the Planning Board, as well as the intentions of SEQRA which calls for EIS's to be analytic, not encyclopedic, and to address impacts based on the likelihood of their occurrence.*

3.0 SOILS AND TOPOGRAPHY COMMENTS AND RESPONSES

As described in the Introduction, the proposed Hillcrest Commons project has been modified with the elimination of the office component of the project. Revisions to the Site Plan involve a modified building layout, preservation of an area at the crest of the hilltop and the provision of parking under the residential buildings. These proposed project changes would result in a reduction in the area of required grading and disturbance to slopes of 15 percent or greater. In the currently proposed plan, total construction disturbance would be reduced from 27.9 acres to 23.9 acres, compared to the original Site Plan. Disturbance to slopes 15 percent or greater would be reduced from 12.7 to 10.1 acres, with the revised Site Plan.

Comments to the DEIS related to soils and topography, as well as responses to those comments, are as follows:

Comment 3-1 (Hillcrest Public Hearing, Virginia Villegas, July 6, 2005): From what I know behind Shop Rite there's a hill. Can I ask how much land you think will be displaced by this project? Is any of the hill coming down?

> ***Response 3-1:*** *The DEIS for the Hillcrest Commons project describes the grading and site disturbance required for the project. Approximately 23.9 acres of the 107.76 acre property is proposing to be disturbed including portions of the "hill" behind the ShopRite, although the revised plan eliminates grading at the top of the hill. This portion of the site is now proposed to remain undisturbed with the existing tree cover and will be available to the residents of the senior housing for passive recreation..*

Comment 3-2 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): There isn't a lot of property up there before you start cutting into the Hill and Dale Golf Course area or what the Hill and Dale Country Club area is.

> ***Response 3-2:*** *The Hill and Dale Country Club area is located at the eastern edge of the site. The closest grading to the eastern property border will be approximately 150 feet from the property line for the emergency access road. The nearest proposed parking lot location is approximately 350 feet from the eastern property line. Existing vegetation will be preserved along this property border to provide a buffer between the existing homes and the proposed Hillcrest Commons residential buildings.*

Comment 3-3 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): They [DEC] also had suggested that deep pool (pH) tests be scheduled to test soils and depths of bedrock in areas where the applicant chose to site the detention pond. I didn't see any of that information in the DEIS, so it was difficult to know whether or not those basins would be sited correctly.

> ***Response 3-3:*** *The NYC DEP requested deep hole tests in the proposed locations of the stormwater basins. On September 8, 2005, representatives from NYC DEP and the project engineer observed the deep hole tests conducted at the Hillcrest Commons property. According to the project engineer, the deep hole test investigation did not reveal any threshold issues relative to constructing basins in their proposed locations.*

Comment 3-4 (Hillcrest Public Hearing, Ann Fanizzi, July 6, 2005): How much can our environment bear before something happens. How many slopes are going to be destroyed?

We have here, again, and it's very instructive that you get this and certainly the planning board will be most accommodating; 45 percent of this property is on slopes 15 percent or greater and you just heard our attorney, the DEC, the CEP, there was a court ruling on slopes -- on building on slopes and yet because now our valleys are fully built out, we have nowhere else to go but to the slopes and that means our vistas, our landscape, what we call our rural life. In our comprehensive plan in Carmel, master plan, they say that we will protect our slopes, we will protect our ridges, and we want to hold people's feet to the fire on that. That's what we want to protect. If there is no further land then we cannot build to the extent.

Response 3-4: *A total of 23.9 acres of the 107.8 acre site is proposed to be disturbed during the construction of the proposed buildings. Although certain areas of slopes will be disturbed for project construction, the project was designed to utilize the most level portions of the site and minimize impacts to slopes.*

Approximately 10.1 acres of the site containing slopes greater than 15 percent will be disturbed for project construction, in the revised Site Plan. This area is 2.6 acres less disturbance to steep slopes compared to the original plan. The DEIS describes mitigation measures designed to minimize the proposed disturbance to steep slopes.

Mitigation includes a stormwater management plan and a construction sequencing plan. The stormwater management plan is intended to reduce the potential for soil erosion and the Applicant notes, to protect slopes on the property during construction and after the proposed development has been completed.

Comment 3-5 (Letter #1, Letter from NYC DEP, August 5, 2005): According to the DEIS, ±27.9 acres (25.9%) of the site will be disturbed during construction. Approximately 12.7 acres of this disturbance will occur on slopes of 15% or greater. Given the extent of disturbance, the erodibility steep slopes of the soils to be disturbed, DEP believes there is a great likelihood that overland flow of stormwater during construction will result in accelerated erosion, and sedimentation of surface waters on and off the site, as well as sedimentation of the watercourses receiving the runoff as a result of the erosion of their beds and banks.

Response 3-5: *Any construction on slopes has the potential to result in erosion and sedimentation. This potential for erosion can be greatly reduced by 1) the development and implementation of a detailed soil erosion control plan, best management practices (BMPs), and a construction sequencing plan for site development, and 2) strict adherence to the erosion control plan during construction. As described in the Introduction (Section 1.0), the proposed modifications to the Site Plan result in the reduction of overall site disturbance from 27.9 acres to 23.9 acres, and disturbance to areas of slopes of 15% or greater, would be reduced from 12.7 acres to 10.1 acres.*

The potential for soil erosion and sedimentation is related to the area of disturbance and the slopes on which the construction occurs, but is most influenced by how the project construction is managed and how the erosion measures are implemented during the construction period.

The applicant has developed a detailed soil erosion control plan and construction sequencing plan that are under review by the Lead Agency, the NYS DEC and the NYC DEP. It is expected that the erosion control plan and construction sequencing plans will be modified as needed, based upon agency comments and prior to final approvals.

The plans will be implemented during construction by the applicant and construction manager, and construction will be inspected the Town Building Inspector and construction inspectors representing the Town. According to the Applicant, appropriate construction and erosion control practices will reduce the potential for soil erosion during construction.

Comment 3-6a (Letter #1, Letter from NYC DEP, August 5, 2005): a.) The applicant has proposed the implementation of an erosion and sediment control plan in order to mitigate the potential water quality impacts associated with the proposed site disturbance. While the applicant has included a preliminary plan in the DEIS, DEP does not believe that the plan provides sufficient detail to evaluate its adequacy to mitigate potential water quality impacts resulting from erosion and sedimentation. Instead, DEP believes that the plan should be supplemented in accordance with the comments that follow.

Phasing & Construction Sequence**:** While individual, erosion control practices are important to prevent erosion of steep slopes, a detailed phasing and sequencing plan is critical to effective mitigation of potential water quality impacts resulting from the proposed construction. Given the importance of construction phasing and sequencing to the effectiveness of the erosion and sediment control plan, additional details should be provided within the context of SEQRA in order to evaluate if potential water quality impacts will be adequately mitigated.

Response 3-6a: *Comment noted. The project engineer has developed a Construction Phasing and Sequencing Plan for the site development, which is included with the drawing set SP-5 Overall Phasing Plan.*

Comment 3-6b (Letter #1, Letter from NYC DEP, August 5, 2005): b.) Conveyance of Stormwater Flows**:** While erosion control practices may be located on slopes of less than 15%, it appears that the conveyance system and maintenance access roads are located on steeper slopes, which could lead to both short and long term erosion and resulting environmental impacts. Potential erosion hazards and resulting water quality impacts stemming from stormwater conveyance to erosion control practices should be more fully explored within the SEQRA process to ensure that all potential impacts have been identified and fully avoided or mitigated.

Response 3-6b: *The natural topography of the site limits the availability of locations to place both erosion control features and conveyance systems. Conveyance systems such as manmade channels can be stabilized with rip-rap, tiered or otherwise constructed to minimize erosion. In order to avoid potential erosion in the long term, the conveyance systems will require routine maintenance, similar to the stormwater detention basins in order that the entire stormwater management system functions as designed. Maintenance of the stormwater system will be the responsibility of the condominium association established for the property.*

Comment 3-6c (Letter #1, Letter from NYC DEP, August 5, 2005): c.) Cut and Fill Balance: The cut and fill balance presented in the DEIS indicates an excess of 86,000 cubic yards of materials. However, the method of calculating the number of trips generated does not reflect actual construction activities. Moreover, the applicant must demonstrate that an adequate stockpiling area exists on-site.

Response 3-6c: *The number of truck trips resulting from earth removal were calculated as follows: Construction conversion factors were used to convert cubic yards to tons of*

material. The material removed will be a combination of soil and rock. It is estimated that approximately 70% of the material will be soil and 30% rock, based upon site conditions and required grading. This estimate may be conservative, since native rock will be utilized on the site to the extent possible for road subgrade and the emergency access road. Therefore, material weight was estimated, as follows:

Soil; 60,200 cy x 1.3 cy/ ton = 78,260 tons
Rock: 25,800 cy x 1.9 cy/ ton = 49,020 tons
Total = 127,280 tons

A typical tri-axle dump truck can hold between 25 to 30 tons. If an average of 28 tons per truckload is used, then the project is estimated to generate approximately 4,546 truck trips. The above estimates were comprised from the former proposal. The revised plan will have lower amounts of cut and fill, which would therefore result in fewer truck trips. Since major excavation and grading will occur over a period of 6 months, material will be excavated, stockpiled and removed from the site as construction progresses over that period. As grading for the building foundations and parking lots will occur on more level portions of the site, material will be stockpiled in stages in these areas, as shown on the Overall Phasing Plan SP-5.

Comment 3-6d (Letter #1, Letter from NYC DEP, August 5, 2005): d.) Rock Outcrops and Blasting: In the DEIS, the applicant indicates that rock blasting is anticipated in three areas near the center of the property, and that soil borings or other geotechnical investigations have not yet been completed. The applicant should include a description of how proposed grading and blasting will impact overall drainage patterns, and what environmental impacts are likely to result as a consequence of those changes. Moreover, the potential water quality impacts associated with blasting, rock hammering, excavation, and stockpiling should be fully analyzed and mitigated in the FEIS.

Response 3-6d: *Blasting and the resultant rock removal will affect drainage patterns in the same manner as the grading for soil removal. Soil and rock removal and the construction of roadways, buildings and parking lots will result in long term changes to the existing drainage patterns as shown in the Stormwater Management Report (Appendix D, DEIS). The Stormwater Management Report has been revised as the Revised Water Engineering Report, based upon comments contained herein and meetings with the NYSDEC. An updated Revised Water Engineering Report is provided in Appendix D.*

The potential water quality impacts of blasting, excavation and material stockpiling are mitigated by the site specific Soil Erosion Control plan and a Construction Phasing and Sequencing Plan designed for the project. The Overall Phasing Plan is included with the drawing set.

Comment 3-7 (Letter #1, Letter from NYC DEP, August 5, 2005): Given the extent of steep slope disturbance, and the erosion hazards of the soils on-site, and the need for effective erosion and sediment control to avoid impacts during construction, DEP recommends the project sponsor to meet with DEP representatives to discuss erosion and sediment control and stormwater management alternatives. To arrange a meeting, the applicant or applicant's representative may contact Ms. Jannine McColgan at 914-742-2068, or me.

Response 3-7: *The Applicant's representatives, Chris Robbins of Tim Miller Associates Inc. and Peter Karis of Insite Engineering, Surveying & Landscape Architecture, met Ms. Margaret O'Connor and Ms. Jannine McColgan of the New York City Department of Environmental Protection (NYC DEP) on the project site on September 8, 2005. Plans have been modified based on the results of that meeting.*

Comment 3-8 (Letter #4, Letter from Virginia Villegas, August 5, 2005): As a Lake Carmel resident I am concerned about the blasting that might be required during the construct of Hillcrest Commons. As you know the proposed site is on a slope and Wilder Balter has said that they will blast away the hillside in order to 'tier' the buildings along this slope. I live on Brayton Road on the other side of the hilltop behind ShopRite and this blasting could have a very deleterious effect upon our wells and water table.

Response 3-8: *Prior to any blasting on the Hillcrest Commons site, the applicant will identify all residences and other structures located within 500 feet of the proposed blasting sites. A qualified blasting contractor will inspect building foundations within 500 feet of each blasting site. The potential for damage to foundations or wells is low, if current techniques and blasting technology are used. However, any documented impact to foundations or wells will be remedied by the applicant. If it is required by the Town, the applicant will develop a well monitoring plan to obtain water level data on local wells within 500 feel of blasting sites, before, during, and after the blasting.*

Comment 3-9 (Letter #11, Letter from Riverkeeper, August 11, 2005): When steep slopes, especially slopes in excess of 25 percent, are disturbed during construction activities, the amount of disturbance should be limited to well below five acres at any one time to protect against the significant increase in erosion potential. For this reason, the applicant should be required to propose a construction phasing and sequencing plan that limits the disturbance of steep slopes to one acre at any one time.

Response 3-9: *The project engineer has developed an Overall Phasing Plan attached as drawing SP-5. See Response 3.5 and 3.6a, above.*

Comment 3-10 (Letter #11, Letter from Riverkeeper, August 11, 2005): In addition, the Erosion and Sediment Control Plan should provide details of the specific BMPs selected for use in specific areas. The applicant proposes the use of silt fences, hay bale check dams, filter strips, ponds, sediment traps and filters to control erosion during construction. [20] However, Erosion and Sediment Control Drawings SP-4.1, SP- 4.2, and SP-4.3 show only the placement of silt fences. Other details, such as the location of topsoil stockpiles, are also missing from the plan. Therefore, the public and the Planning Board cannot properly assess whether the proposed erosion control practices are adequate to prevent erosion and sedimentation during construction. The applicant therefore should be required to show exactly how erosion and sediment controls will be applied in each area of the project site.

Response 3-10: *The Erosion and Sediment Control Drawings SP-4.1 and SP-4.3 have been revised and show the locations of silt fencing, soil stockpiles and other BMPs. These drawings are included in the drawing set. These plans may be modified based upon specific comments during the site plan review and permitting process by the Town of Carmel, NYC DEP and NYS DEC.*

Comment 3-11 (Letter #11, Letter from Riverkeeper, August 11, 2005): Due to the preponderance of steep slopes on the site and the associated risks of erosion during construction, the applicant also should provide Erosion and Sediment Control Plan drawings for each proposed phase of construction on areas with slopes exceeding 15 percent. This is especially important considering that the dominant soil types on the project site have moderate-to-severe erosion potential and are moderately-to-severely limited for the construction of roads, parking lots, and buildings.[21]

Response 3-11: *See Response 3-6a. The project engineer has developed an Overall Phasing Plan attached as drawing SP-5.*

Comment 3-12 (Letter #11, Letter from Riverkeeper, August 11, 2005): Erosion and Sediment Control Drawing SP-4.3 illustrates that the applicant proposes to install a double silt fence within approximately 25 feet of Wetland B during construction of the emergency access road. Activities in the buffer zone and in such close proximity to a valuable wetland require redundant stormwater controls to protect the wetland from sedimentation should the silt fences fail. The applicant should be required to add redundant erosion and sediment control practices in areas close to or within wetlands and their buffers.

Response 3-12: *The Applicant has responded to comments regarding the location of the emergency access road in the Wetland B buffer, and in order to mitigate potential impacts to the wetland or buffer, the Applicant has relocated the emergency access road out of the wetland buffer. The access road is now located at the edge of the wetland buffer, approximately 100 feet east of the former access location. For any grading located 100 feet upgradient from a wetland or wetland buffer, a double silt fence will be installed. These changes are reflected in the revised Site Plan submitted to the Planning Board.*

4.0 WETLANDS COMMENTS AND RESPONSES

The proposed modifications to the Site Plan, as described in Section 1.0 Introduction, would have essentially no affect upon the project's impacts to wetlands. The location of the proposed project access on Route 52 would not change, under the modified plan and therefore, the impact to Wetland A described in the DEIS (0.39 acres), would not change. A wetland mitigation plan has been prepared and is provided in Appendix F of this document. The goal of this plan is to expand Wetland B (southern wetland) by 0.65 acres, providing a 1.5 to 1.0 mitigation ratio for wetland lost at the proposed site access. The mitigation wetland would be expanded in an area that is contiguous to an existing wetland.

Comments to the DEIS related to wetlands, and appropriate responses, are as follows:

Comment 4-1 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): With regard to wetlands, I notice that the access road intends to disturb at least a third of an acre of wetlands. That's going to require a federal wetlands permit. It's important for the board to remember the Army Corps of Engineer requirements.

> ***Response 4-1:*** *The Applicant is in the process of obtaining a jurisdictional determination from the Army Corps of Engineers (ACOE). A request was made early in 2005. The ACOE will determine if a nationwide permit is applicable to this project, or if the applicant must obtain an individual permit.*

Comment 4-2 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): In the CFR, Section 230.10 specifically says that if you're going to disturb any wetlands, but it's not a water dependent activity, it's presumed that alternatives are available for you to use where you will not impact wetlands, it says it right there in black and white. This is not a water dependent activity; it's not located on a coastal zone or something like that. And I notice that they said well, we're going to go through this wetland because we can't use the access from the ShopRite parking lot because of the steepness on either side of the building. But the problem is that there's no - in the federal code, there's no requirement about an economic weighing of whether something's more expensive to blast out the side of a mountain or pave over wetlands. It's very clear that you avoid wetlands, basically it's presuming you can avoid the wetlands, and you have to show that there's absolutely no way to do it otherwise. So they should present to the planning board what the plan would look like if they accessed the property through this existing ShopRite parking lot.

> ***Response 4-2:*** *The Applicant and the project engineer have explored alternative access routes into the property to avoid or reduce wetland impacts. This analysis was described in the DEIS Section 4.0, Alternatives, and is further described in Section 14.0, Alternatives, in this FEIS (see Response 14-5). In summary, the Applicant notes, the proposed site access, although it results in 0.39 acres of wetland impact, results in the least overall environmental impacts.*
>
> *The three alternative access points were: A) At the north side of the ShopRite parking lot, B) near the southern limits of the ShopRite parking lot, in the location of the proposed emergency access road, and C) through a residential parcel with access onto Route 52, near the southern edge of the site.*
>
> *A) The northern access is not buildable since it would require land not owned or under control of the Applicant, a parcel north of the ShopRite plaza. If this plan could be*

implemented at some future time, this alternative would result in the approximate same area of wetland impact to the southern edge of Wetland A (0.4 acres), as the proposed access.

B) A main access utilizing the proposed emergency access route would reduce direct wetland impacts by approximately one-half (approximately 0.2 acres total). The main access route in the south would require a 12-foot wide emergency access road constructed in the current access location, through Wetland A. This alternative would require filling approximately 10,000 square feet of wetland buffer in Wetland B, a roadway 1000 feet longer and involving approximately one-half acre of additional impervious surface compared to the current roadway. Grading on steep slopes, tree removal, and overall site disturbance, would increase proportionately with the length of the roadway.

C) The alternative access through a residential parcel at the southern edge of the site would involve the most wetland impacts of the three alternatives. Based upon preliminary estimates, this alternative would involve approximately 0.8 acres of direct wetland impact. The wetland impact would, according to the Applicant, be significant since the access route involves bisecting a large contiguous wetland (Wetland B). Approximately 2 acres of wetland would be isolated from the larger wetland south of the access road. Therefore the impacts to wetland functions and values would be more significant than the 0.8 acres of wetland filling.

In summary, each of the alternatives analyzed involves wetland impacts. Compared to the two feasible alternatives (B and C), the proposed access provides the least overall impacts.

Comment 4-3 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): And another reason they should do that is because ShopRite is receiving a benefit. They're going to be able to expand their building by 10,000 square feet and add 50 parking spaces, so they're going to receive a benefit from this project and in the same way, they should allow the applicant access to their site through the parking lot.

Response 4-3: *The Applicant has analyzed two alternatives involving bringing the project access through the ShopRite site (see Response 4-2, above).*

Comment 4-4 (Letter #1, Letter from NYC DEP, August 5, 2005): According to the DEIS, approximately 0.39 acres of Wetland "A" will be disturbed during construction of the main access road and a stormwater basin. In addition, a total of 1.01 acres of wetland buffer will be disturbed during construction of the proposed access roads and stormwater management basins (0.72 and 0.29 acres of buffer in Wetland A and Wetland B respectively). As mitigation for wetland disturbance, the applicant has proposed the creation of new wetland areas at a replacement ratio of-no less than 2 to 1. The applicant has also considered alternate access points to reduce or avoid wetland buffer impacts (i.e. Alternative 4).

Given that both Wetland A and Wetland B, and their associated buffers, are already impacted by residential and commercial development, additional impacts resulting from the proposed action are likely to have a greater effect than currently stated. For example, the DEIS states that only 10% of the buffer for Wetland B will be impacted, however, this does not take into account that

most of the buffer to the north has already been developed as a parking lot, and the buffer in the south, east, and west was previously developed for commercial and residential uses. DEP recommends that the FEIS include a thorough assessment of the function(s) of the wetlands, and their buffers, and a comprehensive assessment of the cumulative impacts on those functions.

Response 4-4: *As was noted in the DEIS, Wetland A occupies 0.7 acres in the northwestern portion of the site. The northern 0.47 acres (20,700 sf) of Wetland A are located within the Town of Kent and the southern 0.23 acres (10,000 sf) are located within the Town of Carmel.*

The eastern side of Wetland A is wooded with seasonally saturated soils and second growth woodland vegetation. The western side of Wetland A is disturbed by development, access ways and lawn in association with an existing single-family residence. A shallow channel with unconsolidated stream bottom materials (ie. mud) passes through the lawn area in this portion of Wetland A. An intermittent stream flows through this channel during seasonally wet periods of the year as well as during and following rain events throughout the year.

Immediately south of the lawn area, the stream channel is crossed by a dirt driveway with a two-foot diameter corrugated metal culvert to accommodate the intermittent stream flows. This culvert is approximately 15 feet long beneath the dirt driveway. The stream channel remains open through the off-site parcel to the south. At the northern edge of the supermarket parking lot on the project site, the stream channel is directed into a four foot diameter corrugated metal pipe that conveys the intermittent stream flows under the parking lot for more than 800 linear feet to Wetland B located on the southern portion of the project site.

The dominant vegetative species in the wooded portion of Wetland A includes red maples, black cherry, white birch, multi-flora rose, jewelweed, sensitive fern and poison ivy. As noted above, the eastern portion of Wetland A has been converted to lawn and developed areas and does not contain hydrophytic vegetation. Most of the buffer area to the north has been developed as single-family residential lots, whereas, most of the buffer area to the south remains undeveloped woodlands.

Wetland A is a disturbed remnant of the larger wetland that is described in the DEIS as Wetland B. This portion of the wetland was isolated from the rest of the system following construction of the ShopRite plaza and its associated parking area. A four-foot diameter culvert under the parking area continues to make the hydrologic connection between the two. However, the isolation of Wetland A, along with the construction of residences to the north and ShopRite to the south, has compromised the function and values this wetland may have had.

The wetland still conveys stream flows and runoff from north to south, and the storage of excess stormwater immediately following rain events. The proximity to Route 52, absence of open water hydrology and the intense development on three sides precludes the wetland from being a significant habitat for wetland dependent species.

The Applicant notes that the presence of former structures, foundations and rubbish within this wetland are an indication that this area was previously used for residential and other purposes and has not been a highly functioning wetland for some time.

The project engineer has redesigned the emergency access road by shifting it 100 feet to the east in the area of Wetland B, and the now the access road no longer intrudes into the buffer of Wetland B. Therefore, the impact of the project on the buffer of Wetland B has been eliminated.

Moreover, if wetland A must be partially filled in order to secure access, the Applicant has identified an area of 0.65 acres that could be added to Wetland B, to mitigate the impact of the access road construction.

Comment 4-5 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS indicates that the wetland mitigation plans are not yet available, and that copies will be provided to the Towns and US Army Corps of Engineers (USACE) when completed. In order to demonstrate to DEP that potential impacts can be adequately mitigated, copies of the mitigation plan must be included in the FEIS. Moreover, given that forested wetlands have experienced the greatest decline in the East of Hudson Watershed, DEP recommends that the applicant strive to replicate the wetland in kind.

Response 4-5: *A wetland mitigation plan is provided in Appendix F of this document. This goal of this plan is to expand Wetland B by 0.65 acres, providing a 1.5 to 1.0 mitigation ratio for wetland lost at the proposed site access. The mitigation wetland would be expanded in an area that is contiguous to an existing Wetland, not in an isolated area like Wetland A, and would be planted with similar vegetation as to that which exists in Wetland B.*

The Applicant states that due to the previous disturbance at Wetland A, the area of wetland replacement will provide higher function than the existing area to be disturbed, and will have the advantage of being part of a larger wetland system.

Hydrology will be provided by the interception of shallow lateral flow from the adjacent hillside as well as overflow from the ShopRite stormwater basins.

Comment 4-6 (Letter #1, Letter from NYC DEP, August 5, 2005): Alternative 4 in the DEIS mentions potential impacts on wetlands and wetland buffers, but fails to quantify those potential impacts. Moreover, Table 4-1, Alternative Impact Comparisons, does not include Alternative 4. The impacts associated with Alternative 4, particularly those impacts related to existing and post construction wetland functions and values, must be included in the DEIS to facilitate a thorough comparison of impacts between all alternatives.

Response 4-6: *A response to this specific comment is provided in Section 14.0, Alternatives, Response 14-5.*

Comment 4-7 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS states that Wetland "A" only functions to provide water conveyance. However, Wetland A also functions to support base flow and collect and detain storm flows. In order to fully comply with SEQRA, DEP again recommends that a comprehensive evaluation of the existing function(s) of the subject wetlands, and their buffers, be included in the FEIS with an assessment that clearly identifies

how the proposed action may impact these functions, and how potential impacts will be avoided or mitigated.

Response 4-7: *Please see the response to Comment 4-4.*

Comment 4-8 (Letter #1, Letter from NYC DEP, August 5, 2005): There is a typographical error on page 3.2-6 which states that Wetland B will be, instead of will not be, disturbed by the development. This error should be corrected in the FEIS to avoid confusion.

Response 4-8*: Comment noted. The proposed development, as designed, will not disturb Wetland B or its buffer (see Response 4-4 above), except for the wetland mitigation plan, which would be accomplished adjacent to Wetland B (0.65 acres) within its buffer.*

Comment 4-9 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Figure 3.2-4: Detail- Northern Wetland "A": a.) This figure depicts the wetland boundary of the small wetland located within the Town of Kent. The wetland boundary should be confirmed by the Town's Wetland Inspector.

Response 4-9: *While the Town of Kent has not specifically requested confirmation of the wetland boundary to date, a copy of the wetland delineation has been forwarded to Mike Nowicki, who is a consulting wetland specialist for the Town. The Applicant awaits a determination confirming the wetland line.*

Comment 4-10 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Concerning wetlands, the Applicant intends to permanently disturb .339 acres of wetlands. The Federal Regulations at CFR §230.10 provide that wetlands impacts should be avoided. The law provides that alternatives to disturbing are presumed to be available if the project is not a water dependent activity, e.g. coastal wetland project, etc. In examining the project, it appears that a reasonable alternative would be to use the existing parking lot for accessing the site. Shop-Rite should allow this to occur, as they are essentially a partner in this project being allowed to expand their building by 10,000 square feet, add 50 additional parking spaces, and obtain additional property behind their building from the Applicant. While the DEIS claimed this access would not be feasible, the reasons were not explained. The Planning Board should bear in mind its primary obligation under the State Environmental Quality Review Act (SEQRA) is to ensure that the project's impacts are mitigated to the maximum extent practicable. (6 N.Y.C.R.R. §617.12) In this regard, requiring that the Applicant avoid impacting wetlands will be the best mechanism for mitigating impacts to same.

Response 4-10: *CFR 40 230.10 states that a permit cannot be issued if there is a less environmentally damaging practicable alternative for the fill. Alternatives involving access through the ShopRite parking lot are described in Response 4-2, above and in Response 14.5. Considering wetland impacts, as well as grading and site disturbance impacts, the proposed site access is the least environmentally damaging alternative, according to the Applicant.*

Comment 4-11, (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D, and Tanessa Hartwig, MS, July 29, 2005): We are aware of two wetlands: Wetland A on the northwestern corner of the site, and Wetland B in the southwestern areas of the site. A large portion of Wetland A lies between the north end of the shopping plaza parking area and the proposed entrance

road location at the northwestern comer of the site; maps in the DEIS show that portions of this wetland are offsite. However, the offsite portions of the wetland are currently subject to impacts from the shopping plaza and will be subject to impacts from the proposed Hillcrest Commons entrance road, thus need to be considered in the SEQRA review.

> ***Response 4-11:*** *Wetland A was separated from Wetland B by the construction of the ShopRite shopping plaza. As stated in the comment, the offsite portion of Wetland A will be similarly impacted by the proposed construction. This was discussed in detail in the DEIS. According to the Applicant, the location for the proposed access road is the only location that the Applicant owns with frontage on the State Highway. A mitigation plan has been developed that is provided in the Appendix to this document.*

Comment 4-12 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D, and Tanessa Hartwig, MS, July 29, 2005): Numbered flags indicate that wetlands A and B were delineated by the applicant. Portions of Wetland B may have been omitted from the delineation. If not already done, the applicant's wetland delineations should be checked by the U.S. Army Corps of Engineers, corrected as necessary, then surveyed onto a map. This will allow the Planning Board and the public to understand the extent and locations of the wetlands and the impacts of the proposed development project.

> ***Response 4-12:*** *The Applicant has requested a jurisdictional determination from the Army Corps of Engineers (ACOE), however, the applicant's consultants are confident, due to the clear topographic features that form the wetland, that the ACOE will prepare the Jurisdictional Determination (JD) with little or no change to the wetland line.*

Comment 4-13 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005): [Section] 3.2.3: The DEIS needs to include the wetland mitigation plans for evaluation at this stage of review. Leaving the presentation of the wetland mitigation plan until the FEIS stage is in derogation of the express terms of SEQRA. The wetland mitigation plans, including the details of the compensatory mitigation plan, must be presented in a Supplemental DEIS since there is no additional comment opportunity at the FEIS stage.

> ***Response 4-13:*** *The wetland mitigation plan is located in Appendix F of this document. The wetland mitigation plan will be submitted to and reviewed by the Town of Carmel (Town Wetlands Permit) the Town of Kent (Town Wetlands Permit) and the US Army Corps of Engineers. These permit approving agencies will have ample opportunity to review and comment on the wetland mitigation plan. A Supplemental DEIS is not warranted and a review of the criteria pursuant to NYCRR Part 617, would in fact suggest that there is no legal basis for doing a Supplemental DEIS. See Section 1.3 of the Introduction of this FEIS.*

Comment 4-14 (Letter #11, Letter from Riverkeeper, August 12, 2005): The applicant proposes to site an extended detention basin in the middle of an onsite wetland.[9] This is a particularly bad idea-not only because it supplants part of the wetland in order to contain the structural practice, but also because the existing wetland hydrology may prevent the basin from ever dewatering and functioning as intended. Although the applicant asserts that this wetland (Wetland A) is degraded and low functioning,[10] its further degradation by the applicant's siting of roadways and stormwater facilities in its center is not justified- Both Wetland A and Wetland B are headwaters to an unnamed tributary of Michael Brook in the Croton palls watershed. The Water Resources section of the DEIS does not provide the DEC stream classification of Michael

Brook. This deficiency must be remedied so that reviewers can assess any potential impacts to trout habitat, spawning areas, and/or existing water quality in Michael Brook.

> ***Response 4-14:*** *Detention basins should be sited at locations where they are most effective in accomplishing the goal of enhancing water quality. Generally, this needs to occur at a low point on the site. Water invariably goes downhill and the shape of the land owned by the Applicant site along with the location of the proposed access road results in siting the detention basis at the location shown on the plan. Moreover, a functional evaluation of the small and isolated Wetland A, indicates that it is stressed, previously disturbed, proximate to a residential area that is using it for dumping organic debris and in general requiring attention. In the Applicant's opinion, uing a portion of Wetland A for stormwater management is believed to be, in fact, an intelligent application, and replacing this stressed wetland with new, higher quality wetland adjacent to Wetland B, at a 1.5 to 1.0 ratio really good sense from a planning and wetland function point of view, in the applicant's opinion.*
>
> *The emergency access road has been redesigned to avoid the buffer zone of Wetland B and will no longer disturb the Wetland B buffer zone. Alternative plans for site access have been assessed by the project engineer and can be found in Chapter 14, Alternatives.*
>
> *The DEC stream classification of Michael Brook was included in the DEIS Water Resources Section, contrary to the above commenter's assertion. Michael Brook is classified as a Class B/Standard B stream, as noted on Page 3.4-1 of the DEIS. The site development is more than 300 feet from Michael's Brook, and no impact from runoff or other site development has been projected to the Brook.*

Comment 4-15 (Letter #11, Letter from Riverkeeper, August 12, 2005): In addition, wetlands positioned at the head of surface waters provide the greatest water quality benefits because their functions occur prior to stormwater runoff entering any mainstream surface water channels." The further degradation of Wetland A can only result in additional water quality impacts to Michael Brook. The applicant therefore should be required to present an alternative design that sites the proposed stormwater basin outside of the wetland and its buffer.

> ***Response 4-15:*** *Comment noted. Please refer to Response 4-13. An alternative location for the basin would put it upgradient of the wetland, making it impossible to capture and treat runoff from a portion of the proposed road. In the Applicant's opinion, the solution proposed works best in view of the shape, grades and characteristics of the site.*

Comment 4-16 (Letter #11, Letter from Riverkeeper, August 12, 2005): Similarly, the applicant proposes to encroach on the 100-foot regulated buffer zone of Wetland B in order to site an emergency access road, but states that avoidance of the Wetland B buffer is possible with realignment of the proposed road[12]. Wetland B is high functioning and provides benefits to downstream surface waters, sediment and toxic retention, nutrient uptake, flood control, wildlife habitat and open space[13]. The primary reason for encroaching on this wetland buffer is to straighten that portion of the road so that "it is easier for emergency vehicles to negotiate."[14] According to the Grading & Utilities Plan Drawing SP-3.3, however, approximately 350 ft before reaching the wetland buffer, emergency vehicles will be required to negotiate what is virtually a 90-degree turn in the road before it straightens again. At this point, emergency vehicles will

have slowed enough during the sharp turn to negotiate the very mild S-curve ahead that would be required to avoid the wetland buffer.

Response 4-16: *Comment noted. The project engineer has redesigned the emergency access road by shifting it 100 feet to the east in the area of Wetland B, and the now the access road no longer intrudes into the buffer of Wetland B.*

Comment 4-17 (Letter #11, Letter from Riverkeeper, August 12, 2005): Wetland buffers provide transitional areas that intercept stormwater from upland habitat before it reaches wetlands or other aquatic habitat Buffers "maintain or improve water quality by trapping and removing various nonpoint source pollutants."[15] Other water quality benefits of buffer zones include reducing thermal impacts (shade), nutrient uptake, providing infiltration, reducing erosion, and restoring and maintaining the chemical, physical and biological integrity of water resources.[16] For all of the above reasons, the applicant should be required to realign the emergency access road to avoid encroachment on the buffer of Wetland B.

Response 4-17: *Comment noted. The emergency access road has been realigned in the current Proposed Plan; therefore the buffer of Wetland B would no longer be disturbed.*

5.0 TERRESTRIAL AND AQUATIC ECOLOGY COMMENTS AND RESPONSES

The modified Site Plan will result in an overall reduction of grading and site disturbance of approximately 4.0 acres, compared to the Site Plan analyzed in the DEIS. This reduction of site disturbance will allow the preservation of an additional 4.0 acres of existing vegetation and habitat on the Hillcrest Commons property. Overall, 23.9 acres of the 107.76 acre property would be disturbed under the revised plan or approximately 22 percent of the site. Existing vegetation and habitat would be preserved on the remaining approximately 84 acres of the site.

The applicant intends to provide formal development restrictions on portions of the site that are not proposed for disturbance for the Hillcrest Commons project. Restrictions may include a conservation easement. Such restrictions will be finalized with the Lead Agency as part of the SEQR and Site Plan review process.

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

Comment 5-1 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): With regard to wildlife, I notice that there is no indication about the times of year or the time on the site that was spent in looking for the species that they came up with in the list and that needs to be identified so that it can be determined whether or not that was an accurate list or something that -- you know, where did that come from.

> ***Response 5-1:*** *Site visits were conducted on numerous occasions and at various lengths. Andrew Mavian, a senior environmental planner at Tim Miller Associates, conducted each of the site investigations. Mr. Mavian is a member of the Society of Wetland Scientists and has extensive experience in wetland delineation and in ecological studies and evaluations including the identification of all types of plant and animal species. Mr. Mavian completed on-site investigations during the following weeks: June 25, July 9, July 30, August 20 and September 24, 2004, where the investigations on-site lasted five hours or more. In addition, visits were made during other seasons of the year, including spring and fall, by Steve Marino, a professional wetland scientist from Tim Miller Associates.*

Comment 5-2 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): It has to be identified where that came from and who created that list. We have always said you should have a certified biologist out on the site to check for rare or endangered or threatened species.

> ***Response 5-2:*** *Please refer to Response 5-1. The wildlife list presented in the DEIS was developed by Andrew Mavian of Tim Miller Associates, based on site visits and identification of species which are known to utilize the site, and species that are likely to use the site but have not been observed to date. According to the Applicant, this is a comprehensive list, and is believed to accurately represent site conditions.*

Comment 5-3 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): So we would recommend that the applicant comply with Hudsonia -- Hudsonia's biodiversity manual and there's a specific regimen in that document that directs an applicant and/or planning board on how best to proceed with analyzing a project and what the wildlife resources on the site may be.

Response 5-3: *Comment noted. However, according to the final scope accepted on April 28, 2004, the existing conditions, potential impacts, and mitigation methods were to be identified for the Project Site and the Proposed Action in regards to the terrestrial and aquatic ecology. These requests, which included the project's impacts and the identification of wildlife resources, were completed in compliance with the scope. Methodology developed by a private concern relating to investigation of biodiversity does not represent a standard for completeness pursuant to SEQRA. The DEIS work complied with the scoping outline adopted by the Lead Agency.*

Comment 5-4 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): Given the presence of wetlands, there may be important amphibians or reptiles or presence of vernal pools that should be examined and we are going to present some comments in writing about that.

Response 5-4*: Comment noted. There are no vernal pools on the subject site. The site wetlands are generally described as slope wetlands. A detailed list of plant and animal species that were observed on the site are included in the Project Site Vegetation Table and the Wildlife List located on pages 3.3-3 and 3.3-5, respectively of the DEIS. Amphibians and reptiles that were observed on the site, including the box turtle, are identified on that list.*

Comment 5-5 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): Also, although they include in that a letter from the Natural Heritage Program from the DEC, that letter is dated November 4th, 2003. It's good for only a year, so that would need to be updated as well.

Response 5-5: *Comment noted. A letter to the Natural Heritage Program requesting a review of records regarding the presence of any rare or endangered plant or animal species or significant wildlife habitat communities on the project site or vicinity was resubmitted on September 26, 2005. A response from Natural Heritage was received on November 7, 2005. It was similar to the prior letter excepting an additional plant was identified, the Slender Spikerush.*

This plant was identified some 50 years ago, two miles north of Carmel. It is a wetland plant whose habitat requirements generally require standing water. It was not observed in Wetland A during numerous site visits and the likelihood that it exists in any other area of disturbance on the subject site is extremely low. Prior to site construction, Wetland A will be resurveyed to determine if any Slender Spikerush is present in this wetland, in conjunction with a resurvey for Crawford Sedge (see Response 5-24, below).

Comment 5-6 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): And also, that letter [from the Natural Heritage Program from the DEC] specifically says we should not substitute for on-site investigation. So they're really the last step in refuge for wildlife and amphibians and that's why the planning board should insist that an accurate wildlife survey be done.

Response 5-6: *On-site investigations to provide accurate plant and wildlife surveys of the property were conducted during the following weeks ending: June 25, July 9, July 30, August 20 and September 24, 2004.*

Comment 5-7 (Letter #1, Letter from NYC DEP, August 5, 2005): The Water Resources section in the Executive Summary refers to rerouting flow from Michael Brook to an unnamed

watercourse in the western portion of the site. However, this issue is not discussed with regards to ecological impacts elsewhere in the document. Changes in quantities of water may result in reduced areas of wetland in one area or increase stream bank scouring in another, and may impact plant and wildlife species dependent on these habitats. While these changes may not be specifically quantifiable, reasonable attempts could be made to evaluate potential impacts using hydrologic calculations.

Response 5-7: *As a point of clarification, no direct flow from Michael Brook will be diverted. Rather the DEIS describes a shift of the watershed boundary that drains towards Michael's Brook.*

Page 3.4-4 for the DEIS describes the diversion of stormwater runoff from 17 acres that currently flow toward the east and to Michael Brook. In the post-development conditions, water from this area will flow towards the west and the western unnamed watercourse. Ecological impacts of this diversion were not considered significant in the DEIS analysis since, according to the Applicant, the 17 acres of wooded hillside represents only a small portion of the larger drainage basin that flows through the two water courses.

In addition, Michael Brook and the unnamed western watercourse join to form a single stream approximately 1500 to 2000 feet south of the site at Fair Street. Therefore, the diversion of water only affects a very small, local portion of the watershed. Specifically, the potential area of impact is Wetland B, which will be receiving slightly more runoff than in the existing condition.

The diversion of water for stormwater management would result in minor increases in the volume of water flowing to the western wetland and stream corridor (Wetland B). The existing watershed to Wetland B is approximately 138 acres; in the proposed condition, this will be expanded to 151 acres. The extra volume associated with this diversion will drain to the 15+/- acres of Wetland B, and will not cause a perceivable change in the periodic inundations of the wetland. In addition, this runoff will be filtered through the new proposed wetland mitigation area adjacent to Wetland B, which will further absorb some of this added volume. This increase in flow is not expected to alter the characteristics, function or habitat of the wetland.

As described in Section 1.0 Introduction, following an on-site meeting with the NYS DEC, the Applicant is exploring the possibility of utilizing another small water course at the southern edge of the site to discharge stormwater at the southeast portion of the site. If this alternative stormwater management scenario is implemented, current drainage patterns will largely be maintained and stormwater will not be diverted to different watercourses.

Comment 5-8 (Letter #1, Letter from NYC DEP, August 5, 2005): While other sections of the DEIS acknowledge that the Croton Watershed is designated as a Critical Resource Water, and as such requires individual permits from the USACE, Section 3.3.2 states that the impacts to Wetland A can be authorized under Nationwide General Permit #39 (page 3.3-7). This section of the DEIS should be revised to ensure consistency on this point.

Response 5-8: *The Applicant and the Town of Carmel Planning Board as Lead Agency will ensure that all required permits will be obtained before the commencement of the proposed action. The Army Corps of Engineers has been contacted to conduct a review*

of the wetland delineation, and depending on which access alternative is ultimately proposed for final approval, the Corps will determine the level of permit review that will be required.

Comment 5-9 (Letter #1, Letter from NYC DEP, August 5, 2005): The methodology for determining tree ages is not clear but appears to be based on tree diameters only. Using tree diameters to determine age may not be a reliable method, as variation in environmental conditions within and across sites can have a significant influence on tree growth. The most reliable method would be to collect increment cores from a randomly selected sample of trees.

Response 5-9: *The approved final scope required that existing vegetation types including: species, age, size, distribution, communities, unique or endangered species, and value as wildlife habitat, be identified onsite. The approximate age of the trees on site was determined by the diameter breast height (dbh) of the tree. This methodology is an effective and efficient way to estimate the age of individual trees as well as the overall maturity of the forest located on the project site for purposes of SEQRA evaluation.*

The collection of randomly selected core samples of trees would be a more accurate method to determine the age of the trees located on the property. However, for the purpose of the DEIS ecological assessment and in meeting the requirements of the Scope, the use of the diameter method for age determination, according to the Applicant, is sufficiently accurate. Additional resources, including historic aerial photos and land use records, were also utilized in estimating the age of the trees on the property.

Comment 5-10 (Letter #1, Letter from NYC DEP, August 5, 2005): The proposed revegetation and landscaping plan lacks the necessary information to determine its adequacy. In order to facilitate review of the plan, the project sponsor should submit a listing of proposed species, providing both common and scientific names, as well as total numbers of each in the FEIS. In developing the plan, the project sponsor should consider the use of native species, or species not known to escape in the wild, in order to retain the existing woodlands in a healthy condition for the long term. There should also be a long-term plan for landscaping maintenance that minimizes soil compaction and the use of chemicals as well as a forest management plan to ensure continuous forest cover and watershed protection in the areas designated to remain as forest.

Response 5-10: *The landscape plan in the DEIS (Drawing SP-2.1 though SP-2.3 Layout and Landscape Plan) provides the overall aspects of the landscaping layout and proposed planting. The landscaping plan in the DEIS provides details of the layout and visual landscaping buffers of the trees, bushes and shrubs for the residential buildings as well as the pedestrian paths for the project. A modified detailed landscaping plan will be submitted prior to site plan approval. Native species will be emphasized, although certain ornamental will certainly be considered for their seasonal color and beauty. The landscape maintenance will be handled by a professional landscaper under contract to the condo or tenants association. No forest management plan is proposed, however the homeowner documents will prohibit tree cutting or habitat alteration of the lands to be retained as forest.*

Comment 5-11 (Letter #1, Letter from NYC DEP, August 5, 2005): The landscaping drawings depict a large area around the buildings and parking areas as cleared, open lawn following grading and construction. Large open areas of turfgrass, combined with the open water conditions that are found in stormwater basins, provides excellent habitat for Canada geese. Goose droppings are known to impact water quality and prove an annoyance to people who might otherwise like to make use of these open spaces. The use of native grasses and wildflowers in a meadow mix that is left to grow tall not only deters geese but also provides good habitat and cover for other species. Once established, wildflower meadows are fairly easy to maintain and exercise paths can be created simply by mowing a swath to allow access. Further planting of trees and shrubs would be even more desirable to more closely restore the hydrological functioning of the former forested area.

> ***Response 5-11:*** *Comment noted. As described in Response 5-10, when the detailed, species specific landscaping plan for the Hillcrest Commons project is developed this goal will be included in the planting scheme. The project sponsor has used meadow grasses and wildflowers on similar projects in other areas, and has no objection to incorporating such measures on this site.*

Comment 5-12a (Letter #1, Letter from NYC DEP, August 5, 2005): a.) According to the DEIS, an occurrence of a Shining bedstraw, a protected plant species, was noted by New York State Department of Environmental Conservation (NYSDEC) Natural Heritage Program. While the applicant indicates that several occurrences of bedstraw were noted on-site, the DEIS also indicates that these plants were not identified to the species level. More effort should be made to determine if Shining bedstraw occurs on the site, preferably by revisiting the site at specific times when flowering and fruiting occur.

> ***Response 5-12a:*** *Five site visits were completed by TMA in order to identify the animal and plant species on the project site (see Response 5-1). The typical flowering period of the shining bedstraw is April through July. As noted previously in this section, site investigations were conducted from June through September to allow ample opportunity for the identification of plant and animal species located on the Property, including the shining bedstraw.*
>
> *Shining bedstraw is difficult to identify to the specific species level, so any areas where the Gallium species were observed were identified. This species prefers waste areas and "dry sandy roadsides", as identified in the last known report of this plant in the Carmel area in 1935.*
>
> *The bedstraw specimens at the site are located on the hillside near the unpaved 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. More importantly, no bedstraw specimens were located in portions of the site where development activity is proposed.*

Comment 5-12b (Letter #1, Letter from NYC DEP, August 5, 2005): b.) As mitigation, the DEIS indicates that a 50-foot exclusion buffer will be used to protect bedstraw specimens/habitat from disturbance during construction. It is not clear from the information provided if a 50-foot buffer would be adequate to ensure continued protection, or how such a determination was made. Site requirements of the species should be evaluated and used to devise an adequate

buffer and the NYSDEC should be contacted to provide guidance regarding this and other suitable protection strategies.

Response 5-12b: *There are no legal requirements for protection of plant species such as shining bedstraw on private lands, nor provision for regulatory buffers or avoidance of sites known to have this species. Through the SEQRA process, the Applicant has voluntarily chosen not to disturb the areas of the site where Gallium species were found. No further measures are proposed.*

Comment 5-12c (Letter #1, Letter from NYC DEP, August 5, 2005): c.) Lastly, Shining bedstraw was not included in the discussion of potential impacts to rare or endangered species (Section 3.3.2), despite the fact that mitigation is proposed in Section 3.3.3. The DEIS should clearly state the potential impacts to rare or endangered plant species in Section 3.3.2 of the report.

Response 5-12c: *Section 3.3.1, Existing Conditions, of the DEIS addresses the potential impacts of the proposed development on the bedstraw identified on site. It is important to note, that no bedstraw specimens were located in portions of the project site where development was proposed to occur.*

The section states that the project will not disturb any of the observed bedstraw locations, therefore the proposed action will not adversely impact the bedstraw. The Existing Conditions sections also notes that the existing dirt road where bedstraw was identified will no longer be utilized by the Town of Carmel and in the Applicant's opinion, the abandonment of this access road will likely benefit the bedstraw at this location.

Comment 5-13a (Letter #1, Letter from NYC DEP, August 5, 2005): a.) The Executive Summary indicates that wildlife habitat loss from this development will be offset by the existence of similar habitat on adjacent lands. However, there are no guarantees that these adjacent lands will provide habitat in perpetuity since they may also be subject to development. It is also not clear what restrictions exist for future development on the remaining 74% of this property that is not currently slated for development.

Response 5-13a: *There is no guarantee that future off-site lands will remain undeveloped. However, wetlands and areas not developed as part of this project on the subject site will remain as open space. The habitat type available on this site is not unique or rare either in the Town of Carmel or regionally. According to the Applicant, there will be a minor cumulative loss of wildlife habitat as a result of this project.*

The applicant intends to provide formal development restrictions on portions of the site that are not proposed for disturbance for the Hillcrest Commons project. Restrictions may include a conservation easement. Such restrictions will be finalized with the Lead Agency as part of the SEQR and Site Plan review process.

Comment 5-13b (Letter #1, Letter from NYC DEP, August 5, 2005): b.) Moreover, the eastern box turtle, which is listed by the NYSDEC as a species of special concern, was found on-site. Although pesticide poisoning and collection as pets were noted as potential threats to the population on-site, no mitigation measures were offered to limit these threats. NYS DEC

should be contacted for further advice concerning protection of box turtle habitat, and measures to avoid or mitigate potential impacts should be included in the DEIS.

Response 5-13b: *As noted in the DEIS, the eastern box turtle, which is listed as a State species of concern, was identified on the project site. The box turtle is a highly mobile turtle that is found throughout the area, and as suggested above is State listed due to its susceptibility to capture as a pet, not for its rarity. In order to protect the species from the impacts from collection and possible poisoning, signage will be provided along the maintained perimeters of the site.*

Warning and informational signs will be placed educating pedestrians about the box turtle and the potential threats to the species. Bylaws of the condominium association will prohibit the collecting of box turtles on the subject site, or keeping one as a pet.

During construction, filter fabric will be installed around the perimeter of the site at the limit of disturbance so that turtles cannot enter the construction area, and any turtles found within the construction area will be removed and placed beyond the area of disturbance. The final landscaping plan will also include provision for meadow grasses and wildflowers, reducing the areas of regular maintenance and the need for pesticide use. These methods have been used very successfully at other sites in the area.

Comment 5-14 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): The Board should require a Supplemental EIS because the endangered plant shining bedstraw has been located (but as yet unconfirmed by the State) in several areas on the site. Specifically, as explained in a report by Hudsonia, Ltd., a nationally recognized scientific organization based in the Hudson Valley. Erik Kiviat, Ph.D., Director of Hudsonia, discovered several areas appearing to contain the endangered plant.

Response 5-14: *Please see responses to Comments 5-12a, b and c and Section 1.0 Introduction of this document.*

Comment 5-15 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): A full examination of where the species (box turtle) is located on the site and a maintenance plan to insure that the species is protected should be established following all protocols and recommendations of DEC or the Natural Heritage Program and any other recommendations made by knowledgeable experts.

Response 5-15: *Comment noted. One (1) box turtle was located on the project site during the June 22, 2004 site investigation. The turtle was observed on a dirt road located on the northwestern portion of the site between the existing shopping center and the water tower. Please refer to Response 5-13b for the protection and mitigation measures that will be used on site to protect the eastern box turtle.*

Comment 5-16 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): The Board should also retain the services of a qualified biologist with experience in protecting endangered plants to ensure protective measures are implemented.

Response 5-16: *Please refer to Response 5-12a, b and c.*

Comment 5-17 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): The DEIS should have contained the identity of those searching the site, the times of year and the time spent on the site along with identification of the areas of the site claimed to be examined. Without this information, it is impossible to comment on the validity of the Applicant's data.

Response 5-17: *Please see the response to Comment 5-1.*

Comment 5-18 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Furthermore, the generic natural heritage letter obtained by the Applicant is no substitute for on-site investigation as proved by Hudsonia's findings. Also, because the letter is dated November 4, 2003, it must be updated as the letter itself states it is only valid for a period of one year.

Response 5-18: *Please refer to Response 5-5 and Response 5-1.*

Comment 5-19 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): There is an extensive area of high quality crest and ledge habitat with open-canopy hardwood forest on the west-facing slope above (east of) the ShopRite and west of the water tower. Chestnut oak, yellow birch, gray birch, black cherry, red cedar, blueberries, hay-scented fern, and other plants characterizes this area. Extensive rock ledges occur in the upper portions of this area, including a ledge that is about 150 meters long from north to south and ca. 2.5 meters high on the west (downhill) side. The ledges and intervening woodlands contain the largest stand of spotted wintergreen (Chimaphila maculata), a very attractive wildflower, that Kiviat has seen in 35 years of biological fieldwork in the Hudson Valley; many plants were in flower on 12 July. This area is a good example of non-carbonate crest and ledge habitat, which could support species of conservation concern including eastern box turtle (Special Concern), whip-poor-will, eastern bluebird, and small-footed bat (Special Concern). The DEIS (page 3.3-4) reported eastern box turtle on the site but did not state where, when, or how many individuals were observed. Additional biodiversity information for this type of habitat is in the habitat profile for non carbonate crest, ledge and talus in Kiviat and Stevens (2001).

Response 5-19: *Comments noted. During the site investigation on June 22, 2004, one (1) box turtle was identified on the project site. The turtle was observed along the dirt road on the northwestern portion of the site between the existing shopping center and the water tower.*

The spotted wintergreen is not on either the state rare plant list or watch list maintained by the Natural Heritage Program and is a common wildflower.

Comment 5-20 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Construction of roads, sewage systems, buildings, or other disturbances at or near the shining bedstraw occurrences could eliminate shining bedstraw from the site. Because this species is listed as Endangered and is known from very few localities in the state, it deserves special consideration. According to the NYNHP web site (accessed 29 July 2005), shining bedstraw has been confirmed during the last 20 years only in Dutchess and Putnam counties; it is listed as "Probable" (i.e., not confirmed by a specimen during the last 20 years) from four other counties, Cattaraugus, Monroe, Onondaga, and Ontario. Therefore Putnam and Dutchess counties may be the last extant range of this species in the state. We do not know if shining bedstraw has been documented recently at other localities in Putnam or Dutchess.

Response 5-20: *Please refer to Response 5-12c.*

Comment 5-21 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005*:* All locations on the site should be found and marked. Areas where shining bedstraw occurs, and a suitable buffer zone (perhaps 30 meters all around, but more if there are steep slopes above the location), should not be developed and should be off limits to construction equipment. Light disturbance may be necessary to maintain a viable population as this species does not occur in deep shade on the site and apparently requires canopy openings and possibly minor soil, disturbance to thrive. Until there is an opportunity to conduct a thorough literature search and consult experts, we urge a conservative approach, i.e., strong protection. It should not be assumed that leaving the plant alone will ensure its survival onsite. Small-scale experimentation may be necessary to determine the appropriate management regime.

Response 5-21: *Please refer to Response 5-12c. The establishment of a 30-meter buffer zone would be arbitrary, and considering the species is known to be found in "dry, sandy roadsides", it is unlikely to even exist on the subject site. The applicant has avoided these areas with this development plan.*

Comment 5-22 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): A stand (possibly 100 or more stems) occurs mingled with other vegetation around the edges of Wetland B in the southwestern portion of the site, roughly from wetland flag B-20 southwestward or westward along trails through wetland edges or "dry-end" wetlands (the accuracy of the location shown on Figure 1 is uncertain). There are two additional small occurrences (2-5 plants) elsewhere: 1. Ca. 110 meters south of water tower along a north south wood road; and 2. Between Wetland B and the subdivision on the southeastern edge of the site (Table 1, Figure 1). There may be additional occurrences of this plant, for example, at Wetland B. Development at or near the small-flowered agrimony occurrences could eliminate this species from the site.

Response 5-22: *The Small-flowering agrimony is located on the Natural Heritage Program Watch List. There are no federal, state or local regulations requiring the protection of small-flowering agrimony. Nevertheless, the proposed emergency access road has been moved to an alternative location, which is out of the buffer zone of Wetland B.*

This alternative location would therefore protect the existing population of small-flowering agrimony located in and within the buffer of Wetland B. Regarding the other two identified locations of small-flowering agrimony, there is no proposed development at either site, according to the site plan. Therefore, according to the Applicant, the small-flowering agrimony is not expected to be adversely impacted by the proposed action.

Comment 5-23 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Management (of small flowered agrimony) will require protection of the occurrences with a buffer zone, perhaps 30 meters all around, and occasional removal of tall plants such as shrubs or trees potentially shading the agrimony. Small-flowered agrimony needs sun, and should also be monitored for the effects of browsing by deer.

Response 5-23: *Please refer to Response 5-22.*

Comment 5-24 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Crawford sedge (Carex crawfordii). Regionally-rare. Distribution on site: One occurrence in the northwestern wetland (Wetland A). Construction of the entrance road at or near this occurrence could easily eliminate Crawford sedge from the site.

Response 5-24*: The occurrence of Crawford sedge within Wetland A has not been verified by the applicant's consultants. It was not observed during recent site visits. Prior site construction, Wetland A will be re-surveyed to determine if any Crawford sedge is present in this wetland. If Crawford sedge is found, and is located within the limits of disturbance, it will be transplanted to a protected area on the site with similar hydrologic and light characteristics.*

Comment 5-25 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): The applicant should consult the US Fish and Wildlife Service in Cortland, New York, concerning the methods and expertise required for an Indiana bat assessment. The site layout and removal of trees should be planned with consideration of Indiana bat habitat.

Response 5-25: *A site habitat assessment for Indiana bat was conducted on October 6, 2005, by Steve Marino, PWS of Tim Miller Associates. This assessment is consistent with the requirements of the USFWS.*

Indiana bats utilize caves for winter roosts and trees with snags or strongly exfoliating bark for roosts when not in hibernation. No suitable caves exist on or near to the site. The closest observation of Indiana bats roosting in caves are approximately 50 miles distant from the site. The closest observation of Indiana bat roosting in trees were approximately 30 miles from the site. The project site was evaluated for potential bat habitat during the site field surveys, as described below.

Multiple environmental/ecological surveys of the site have been conducted. Collectively, these assessments allow for reasonably detailed evaluation of the existing and proposed habitats on the site in relation to the Indiana bat.

The surveys have included the following:

- *observation of large trees (those greater than 18" diameter at breast height) on the border of the property, both on and off of the site, which would be representative of trees located within the project site. Trees with features such as scaling bark, broken snags, and open cavities were recorded as potential mammalian habitats.*
- *a wetland delineation identified stream bed, soil, and vegetative characteristics of the site wetlands and the tributary to Michael Brook as it traverses the property; and*
- *seasonal site visits by environmental scientists that have documented plants and animals observed on the project site.*

An additional on-site seasonal field survey was conducted in October 2005 within the areas of the property's upland, sloped and riparian forests and wetlands which resulted in additional observations related to the potential presence or absence of habitat that

could sustain populations of Indiana bats. The sloped forest lands were observed throughout the property. A majority of the forested land on and adjacent to the site will not be impacted by the current proposal.

Based on the results of the field surveys, and review of various data, the following narrative describes the potential for Indiana bat to be present on the project site:

- *Over wintering - According to the USFWS, the nearest over wintering locations for Indiana bat are approximately 50 miles distant from the project site. The property does not have any significant exposed rock caves or crevices which could be used as over wintering roosts for this species.*
- *Nursery/Summer roosting - According to the USFWS letter, the nearest summer roosting locations for Indiana bat is approximately 30 miles distant from the project site. Indiana bats have been reported to exploit several tree species for summer and nursery roosts, including deciduous trees with strongly exfoliating bark, coniferous trees providing dense shelter from wind and rain, and dead trees or branches which provide snags.*

The overall composition of the tree community in the areas observed during various surveys is not compatible with the reported summer and nursery roosting preferences reported for Indiana bat. The dominant tree species observed during the Tree Survey were red oak, red maple, sugar maple, black birch and white oak.

One tree species frequently, but not always, cited as generally useful for nursery roosts is the shagbark hickory (Carya ovata). The shagbark hickory is broadly endemic throughout most of New York State and its neighboring states. However, only one significant shagbark hickory was observed in the area that was greater than 12" dbh, and this was observed on the adjacent property to the west, which will not be disturbed by construction.

Dead or dying trees with snags also may provide roost sites, however the number of trees in such condition on this site was minimal. Stands of coniferous trees may provide shelter from inclement weather. However, few conifers are present on the site, and these are almost exclusively represented by Eastern red cedars (Juniperus virginiana), one of the smaller eastern conifers, and an occasional white pine (Pinus strobus).

- *Foraging - The forested tree canopy, riparian, open water and meadow areas associated with Wetland B could provide foraging habitat for bats. No disturbances are proposed to Wetland B or its buffer, and alternatives to minimize impacts to Wetland A are being discussed. Thus, the quality of this foraging habitat would be minimally impacted by the proposed project.*

Comment 5-26 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Small-footed bat could use ledges on the site, e.g., between the ShopRite and the water tower, for summer roosts or nurseries. The biology of this species is relatively poorly known, but it seems to have an affinity for rocks. Development of the ledgy areas of the site could have an impact on this species.

Response 5-26: *The small footed bat may use crevices in rocky outcrops as well as peeling tree bark for summer roosting, in a manner similar to that of the Indiana bat. As described*

above, a significant number of trees were not observed on the site that meets the necessary criteria, particularly the shagbark hickory.

For the most part, the rock outcroppings on this parcel are solid, without an abundance of deep crags or crevices that might be used by bats. While it is not possible to entirely rule out the possibility that some small number of bats of any species use this site, it does not appear to support the habitat required for use by either Indiana or small-footed bat.

Comment 5-27 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Onsite habitats, such as the west-facing crest and ledge complex described above, could serve as foraging areas for this species if there were a den within about 2-3 km (about 1-2 miles) of the site. There is no known timber rattlesnake den near the site (Al Breisch, New York State Department of Environmental Conservation, personal communication). Knowledge concerning the distribution of this species is constantly being revised, as exemplified by the confirmation a decade ago of the timber rattlesnake population on Fishkill Ridge. Therefore it is possible that rattlesnakes occur on the site but we consider the probability low.

Response 5-27: *Comment noted. A report was received from the Natural Heritage Program on November 4, 2003 and November 7, 2005 which listed the rare or state-listed animals and plants, significant natural communities, and other significant habitats, that occurs or may occur on the project site or in the immediate vicinity of the project site. The timber rattlesnake (threatened) was not listed among the known plant and animals species in the area. The probability of the timber rattlesnakes occurring on the site is low.*

Comment 5-28 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): The DEIS provides very little information on the biological resources of the Hillcrest Commons site. The examples we have given above show that much more detailed study and consideration are needed. There should be a habitat assessment for Indiana bat and small-footed bat, conducted by a bat expert.

Response 5-28: *The DEIS provided substantial information regarding site ecology. Significant field effort went into the evaluation that is provided in the DEIS, as well as review of available literature and other resources. Further discussion of Indiana bat and small-footed bat habitat are discussed above in Responses 5-26 and 5-27.*

Comment 5-29 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): A thorough survey for rare plants (at least those species listed as S1, S2, or S3 by NYNHP, and regionally-rare species) on the entire site, conducted by an experienced field botanists at the appropriate seasons, is also needed. The three rare plant species we report above could occur at the locations on the site, and additional rarities could also occur on the site.

Response 5-29: *Refer to Response 5-1. A hard look was taken at the plant and wildlife diversity on this site in accordance with the adopted scope and SEQRA. Based on the information provided and the amount of undisturbed area that will remain following development of this site, further studies are not warranted.*

Comment 5-30 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): We also recommend a breeding-season bird survey by an

experienced field ornithologist to detect birds of conservation concern. Rare animals and plants are disappearing from Putnam County in part because land use change is proceeding without thorough big diversity assessments and appropriate planning. Without surveys such as those we recommend, it will not be possible to avoid gratuitous impacts on the biological resources of the Hillcrest Commons site and neighboring areas.

Response 5-30: *A breeding bird survey was not required by the Lead Agency during the SEQR scoping process. In view of the lack of demonstrated uniqueness of the subject site, and the large areas to be retained as undisturbed open space, there is no ecological basis to carry out such work.*

A comprehensive list of known and expected bird species was included in the DEIS based on site observations and the consultant's experience in eastern Putnam County. The fact remains that more than 70 percent of the subject site will remain undisturbed, and that adjacent properties remain undeveloped and provide additional wildlife habitat. The Town or County could consider authorizing a regional biodiversity study for use as a planning tool in the future.

Comment 5-31 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): The large trees mentioned above, and any others like them (e.g., 50 cm or larger), should be protected.

Response 5-31: *During site visits, specific observations were made of larger trees on the site. Very few trees greater than 50 cm were observed within the area of the proposed development. Several large red oaks (36 to 42 inches dbh) were observed just to the west of the proposed limits of disturbance, and should be identified and protected with proper measures prior to the commencement of site work. A 36-inch chestnut oak was observed in the area of proposed stormwater basin 2.0P. This tree appears to be outside the grading limits for this basin and the adjacent road, but again protections should be in place prior to the commencement of excavation activities.*

Several larger trees were observed, particularly a 24-inch red oak and a 24-inch white oak, that are within the proposed limits of disturbance and would be removed based on the current site plan. However, based on this recent site visit, the Applicant's consultants maintain that the majority of trees on this site are less than 50 years old, and according to the Applicant, the removal of these trees from a portion of the property does not represent a significant environmental impact.

Comment 5-32 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Locations of rare plants should be protected with buffer zones.

Response 5-32: *Please see the responses to Comments 5-19 through 5-24.*

Comment 5-33 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Because the west-facing crest and ledge area between the water tower and the ShopRite is steep and contains exemplary habitat, development should be sited on topographically more gentle areas of the site and the west-facing slopes and ledges protected. This would effect protection of the spotted wintergreen population as well as some of the largest trees onsite.

Response 5-33: *The majority of the site development does occur on the areas of gentler slope. There is no information in the record to date that the area mentioned is exemplary habitat for any species that are listed as rare or endangered that is not otherwise being preserved elsewhere on the site.*

Comment 5-34 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): The applicant's consultants should refer to Biodiversity Assessment Manual for the Hudson River Estuary Corridor (Kiviat and Stevens 2001) for further considerations regarding habitat assessment.

Response 5-34: *Comment noted. Please refer to Response 5-3.*

6.0 WATER RESOURCES COMMENTS AND RESPONSES

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

Comment 6-1 (Hillcrest Public Hearing, Charlie Cole, July 6, 2005): My main concern is, with all the development that is going on in this town, or proposed development that's going on, is the water supply. And I would think that some kind of work would have to be done to upgrade it, it's so antiquated. To upgrade it, and I don't see how the water supply that we have now can supply all these areas of development unless we do something to modernize it, and I would think that modernizing the water system would come first before all of the development instead of coming after the fact and we all get into a bind where it's an emergency type situation.

> ***Response 6-1:*** *A revised Water Engineering Report (June, 19, 2006) has been prepared for the project. The report assesses the capacity of the existing water system to supply the subject project as well as the impacts on the existing system. According to the Applicant. the report demonstrates that there is adequate capacity in the existing water system to supply the project.*

Comment 6-2 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): We have issues with our water system in Carmel and this is going to tax it again. Lake Gleneida can only supply so much and that's where our water source comes from. Not only does it come from Lake Gleneida, but then we have to upgrade our water system.

> ***Response 6-2:*** *Please refer to Response 6-1. In addition, a review of the Town of Carmel Engineer's reports dated July 28, 1997 and July 21, 1998 confirmed that there is adequate water available in Lake Gleneida to service the subject project's proposed for Carmel Water District #2. The following summarizes the key issues in the reports:*
>
> - *Based on the limited drainage area to Lake Gleneida, it is only partially fed by surface water. The primary source of water is natural springs.*
> - *The NYCDEP has said that based on their monitoring studies, Lake Gleneida is primarily groundwater fed and has remained relatively constant.*
> - *The Town has been monitoring the lake level and based on this monitoring, they do not see any significant fluctuation in the levels of Lake Gleneida, which justifies the two previous statements.*
> - *The infrastructure in terms of pumping, filtration, distribution and storage have capacities close to 1.6 mgd.*
> - *The Town has a right to draw water from the West Branch Reservoir to supplement the Lake Gleneida water source should it ever be needed.*

Comment 6-3 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): For the Croton Falls Watershed what they've come up with is that the predevelopment runoff levels are .05 kilograms per hectare. Hectare is about 2.4 acres per year. When that's converted to pounds per acre, it comes out to .0446 pounds per acre per year. Now -- and that is identified in a report called, and it's from March 2002, it's called Implementation of the Phase Two Storm

Water Requirements for the TMDL. I'll submit that in writing. It's something that the engineer should know and certainly Insite should be aware of it.

Response 6-3: *The Applicant, and the project consultants involved in the proposed action are familiar with the cited report. The pre-development phosphorous loading rates utilized in the stormwater management report are standard loading rates utilized to assess pollutant loading in stormwater runoff at a project specific scale, rather than the reservoir watershed scale as applied in the TMDL program. According to the Applicant, utilizing project specific loading rates produces more realistic estimates of pre and post construction loading than does the use of watershed scale loading rates. The loading rates applied in this analysis have been used (since 1997) and continue to be accepted by the New York City Department of Environmental Protection (NYC DEP) for use in its Stormwater Pollution Prevention Plan (SWPPP) permitting program. The Applicant has concluded that the loading rates utilized are acceptable.*

Neither the New York State Department of Environmental Conservation's (NYS DEC) Stormwater Management Design Manual or SPDES Permit GP-02-01 require pre and post pollutant loading calculations. The stormwater management strategy for the project employs multiple NYSDEC practices in series, which, according to the Applicant, greatly exceed the minimum stormwater treatment requirements. Nonetheless, pre and post construction pollutant loading calculations have been included in the June 19, 2006 Preliminary Stormwater Management Report prepared for the proposed action. Based upon the application of accepted loading rates in these calculations, post construction pollutant loading is anticipated to be lower than pre construction levels.

Comment 6-4 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): Now, when you apply -- the problem is that Insite used the DEC publication of 1992 which pegged the predevelopment levels at 0.1; basically a tenth of a pound per acre per year. And that's off by a factor of about two and a quarter percent -- two and a quarter, what that does is it throws off the entire storm water management plan.

Response 6-4: *Please refer to Response 6-3.*

Comment 6-5 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): And I just wanted to give an example for a specific flood catchment area. There is one flood catchment area called 1.05. It's a twelve-acre flood catchment basin. If you apply the correct numerology, numbers, it comes-- for 12 acres per year, predevelopment levels is .53 pounds per acre per year. With the development and no storm water controls whatsoever, they say that post development the number of pounds will be 14.2 pounds per acre 22 per year runoff. In the best case scenario, if everything worked exactly as they say it should, they will reduce the post development runoff to .33 to point -- to 1.96 tons per acre per year. That's -- if you take the lower number, you're within the parameters. If you take the higher number, you're over three and a half times what it should be. So it's extremely important that the right numbers be used and that they be used as soon as possible.

Response 6-5: *Please refer to Response 6-3.*

Comment 6-6 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): Also, from what I could tell, they analyze what the impacts would be for a two year storm and the scoping document for

storm water quality specifically required information for the two, ten year storm, 25, 50 and 100 year storm. That's on page 7 of the scoping document from April 20th -- 28th, 2004.

Response 6-6: *The scoping document required the quantitative analysis for the 2, 10, 25, 50 and 100-year storms. The stormwater report in the DEIS analyzed the 1, 2, 10, 25 & 100-year design storms. The pre-development and post-development peak flows for the 50-year storm are as follows:*

Pre-Development = 194 cfs
Post-Development = 178 cfs

Comment 6-7 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): So the other place where they're going to run into trouble if they don't do that is in the DEC's regulation 601TRR, section 750. Basically says that DEC will not grant a storm water permit for this project if it's going to exacerbate conditions in water quality basins that are already restricted-or in violation of water quality standards. So this is something that will come to the floor in the future, but really should be included as part of the SEQRA process so that the public has an opportunity to comment on the storm water basin's design and the swales and whatever the regimen of the storm water designs are. Also, by doing that, they would comply - the planning board would be requiring the applicant to better comply with the Croton Plan.

Response 6-7: *Recognizing that the project site is located in the NYCDEP designated "phosphorous restricted" Croton Falls Reservoir watershed, the stormwater management plan for the project has been designed to reduce post construction pollutant loading to below pre construction levels. The Applicant notes that coverage under NYSDEC State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges (GP-02-0) will be sought to allow for the discharge of stormwater, and not authorization under a SPDES permit issued by the State.*

The greatest volume of stormwater runoff from the developed project site will pass through three (3) stormwater basins in series. These stormwater basins will treat the stormwater runoff to the maximum extent practicable. The NYS DEC SPDES General Permit GP-02-01 and NYCDEP regulations (GP-93-06) require that post-construction stormwater runoff not be significantly altered from pre-construction conditions. The June 2006 stormwater management plan for the project has been redesigned in accordance with the design manuals, which address qualitative and quantitative requirements. The analytical methodologies utilized within the reports are those set forth in the NYSDEC and NYCDEP permit requirements. As shown in the SWPPP for the project, the characteristics of post-development stormwater discharged from the project will be substantially equal to the pre-construction characteristics.

Neither the Town of Carmel Croton Plan, nor any of the municipal Croton Plans in Putnam County have been adopted by NYCDEP. Notwithstanding, the goal of Carmel's Draft Croton Plan is, in part, to reduce pollutant loading in New York City's drinking water supply watershed. According to the applicant, with the construction of the proposed stormwater treatment practices, the proposed action will result in a decrease in pollutant loading. See June 19, 2006 Preliminary Stormwater Management Report.

Comment 6-8 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): Specifically with regard to the storm water because it's from 1992, it's, in the words of Jim Tierney who's the watershed Inspector General, outdated and defunct material.

Response 6-8: *Please refer to Response 6-7.*

Comment 6-9 (Letter #1, Letter from NYC DEP, August 5, 2005): During the Scoping stage of the SEQRA process, DEP recommended that the applicant make arrangements with DEP to field locate all watercourses that may be impacted by the proposed action, and to have DEP staff witness deep hole tests in the areas proposed for stormwater management basins. These recommended field investigations were never conducted, and as such, any conclusions concerning the full extent of watercourses present on the site, and soil suitability, expressed in the DEIS are speculative. DEP strongly recommends that the project sponsor contact DEP to conduct the field investigations prior to the release of the FEIS.

Response 6-9: *On Wednesday September 28th, 2005, Insite, TMA and NYC DEP representatives performed watercourse delineation and witnessing of deep test holes in the areas of proposed stormwater management basins. Three (3) regulated watercourses were identified on the site. The first is located in the northwestern corner of the property in the vicinity of the proposed access road, and flows parallel to NYS Route 52. The second is located within the large wetland in the southwestern portion of the property. The third is located in the southeastern portion of the property, to the south of the proposed stormwater management basins. The apparent limit of this watercourse was flagged. The NYCDEP representatives wish to revisit this watercourse in the spring to determine if further delineation is necessary.*

Comment 6-10 (Letter #1, Letter from NYC DEP, August 5, 2005): During the Scoping stage of the SEQRA process, DEP recommended that the applicant make arrangements with DEP to field locate all watercourses that may be impacted by the proposed action, and to have DEP staff witness deep hole tests in the areas proposed for stormwater management basins. These recommended field investigations were never conducted, and as such, any conclusions concerning the full extent of watercourses present on the site, and soil suitability, expressed in the DEIS are speculative. DEP strongly recommends that the project sponsor contact DEP to conduct the field investigations prior to the release of the FEIS.

Response 6-10: *Please refer to Response 6-9.*

Comment 6-11 (Letter #1, Letter from NYC DEP, August 5, 2005): DEP is concerned that the location of stormwater management basins on relatively steep slopes will create issues related to their initial construction, effectiveness, maintenance, and safe conveyance of stormwater flows. Moreover, the proposed stormwater basins do not appear to have stabilized outlets, which are essential to ensure that erosion related impacts on water quality do not occur as stormwater flows are discharged from the management practices. To satisfy SEQRA, the applicant must explore the potential impacts associated with these issues in detail. The DEIS must also examine alternative site layouts, including those that would reduce the extent of new impervious surfaces, with those that would reduce the extent of new impervious surfaces, which would allow for siting of stormwater management practices on the most topographically suitable, and least impactive, portions of the site.

Response 6-11: *The DEIS describes how the stormwater basins have been designed on the most suitable, level, portions of the site, according to the Applicant. The DEIS Figure 3.1-4, Slopes Disturbance Map, depicts buildings, parking lots and stormwater detention basins located on slopes of 15 percent or less. Due to the topography of the site, limited impacts to slopes of 15 percent or greater are unavoidable. The Site Plans have been updated to show stabilized outlets at stormwater management facility discharge points. The modified site plans have reconfigured the number and location of parking spaces for the project. The current Site Plan provides a total of 252 parking spaced under the residential buildings, substantially reducing the impervious surface needed to provide adequate parking for the project. The current site plan minimizes areas of asphalt pavement to the extent possible, by limiting the impervious surfaces, including parking areas, to those required.*

Comment 6-12 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS indicates that approximately 17 acres currently draining to Michael Brook will be diverted through stormwater management basins into the unnamed watercourse along the western portion of the property. However, potential hydrological, chemical, and biological impacts resulting from that proposal are not fully explored. Changes in the volume of the diverted water may result in reduced areas of wetlands or increase stream bank scouring in another, which could impact plant and animal species dependent on these habitats. A thorough examination of potential impacts anticipated from the proposed diversion must be included in the FEIS with appropriate mitigation.

Response 6-12: *The DEIS disclosed that there would be no potential significant adverse hydrological, chemical, and biological impacts from the proposed diversion, according to the Applicant. All stormwater runoff from the site in both the existing and proposed conditions passes through the Fair Street crossing. The redirection of a portion of the stormwater runoff from the site to the wetlands and watercourse located along the western portion of the property may cause limited local impacts on the wetland and watercourse as a result of minor alterations in periodocity. However at the Fair Street crossing, the impacts will be mitigated as follows:*

- *While the wetlands and watercourse along the western property line will receive an increased volume of runoff the 1-year storm will be detained for 24 hours and the peak flows will not increase for larger storms. This area of the site was determined to be the most appropriate local receiving point on the site.*

  Redirecting a small volume of runoff from an area that currently discharges to Palmer Lake through the developed portion of the Hill & Dale development will not have any negative effects on Palmer Lake. Palmer Lake currently causes flooding problems on Route 52 during runoff events. Therefore, redirecting the runoff will lessen the flooding. In addition, no feasible stormwater discharge points exist into the existing Hill & Dale development.

- *Redirecting a small volume of runoff that currently discharges to the east down the steep slopes on the site to Michael Brook will not adversely impact Michael Brook, according to the Applicant. In order to maintain runoff in this direction the long steep slope adjacent to Michael Brook would need to be disturbed to create a stable discharge to Michael Brook. This disturbance would have greater impacts than the proposed redirection of runoff.*

- *Redirecting a small volume of runoff that currently discharges to the south through a NYC DEP delineated watercourse will not have any significant negative impacts on surface water, according to the Applicant, since the watercourse flows into the Michael's Glen Subdivision currently under construction. Review of the plans for Michael's Glen indicates that a house is proposed in the path of the delineated watercourse and that a drainage pipe is proposed to collect the flow/runoff and treat it in a stormwater basin. It was determined best to avoid this possible discharge point due to the potential negative impacts to the previously approved Michael's Glen Subdivision.*

Comment 6-13 (Letter #1, Letter from NYC DEP, August 5, 2005): The proposed action includes the expansion of the Shop Rite supermarket, which would involve 10,000 square feet of new retail space and 50 additional parking spaces. According to the DEIS, the retail space expansion would be built over the existing parking lot. However, the DEIS does not address the relocation of the displaced parking area, To satisfy SEQRA the DEIS must indicate the extent and location of new impervious surfaces that would result from additional parking, identify potential impacts on water resources from the impervious surfaces, and propose appropriate measures to avoid, or mitigate, those impacts.

Response 6-13: *From a zoning perspective, there are approximately 100 parking spaces on the ShopRite Plaza site that are unnecessary, and therefore, no additional parking spaces are needed to accommodate the proposed ShopRite expansion. Therefore, it is the Applicant's opinion that since there will be no increase in impervious surfaces, there is no need for additional stormwater management practices to mitigate potential impacts resulting from the expansion.*

Comment 6-14a (Letter #1, Letter from NYC DEP, August 5, 2005): a.) NYSDEC promulgated Phase II Phosphorus TMDLs for all the reservoir basins in 2000. Many of the reservoir basins, including Croton Falls Reservoir, require significant reductions in nonpoint sources of phosphorus. As part of the regional effort to reduce phosphorus loads to the reservoirs, individual towns will soon have phosphorus load reduction targets for existing sources.

Response 6-14a: *Recognizing that the project site is located in the phosphorous restricted Croton Falls Reservoir watershed, the stormwater management plan for the proposed action has been designed with 3 stormwater treatment practices in series that provide enhanced pollutant removal. These practices will treat stormwater to the extent that post construction levels of phosphorous will be below pre construction levels. This reduction in current nonpoint phosphorous loading from the site is consistent with the goals of the TMDL program.*

Comment 6-14b (Letter #1, Letter from NYC DEP, August 5, 2005): b.) Based on the pollutant loading calculations provided in the DEIS, the applicant has not demonstrated that potential water quality impacts resulting from increased phosphorous loading, in addition to other potential pollutants, have been avoided or mitigated. Given that the project is located in a basin that already does not meet its phosphorus TMDL, the burden for reducing the additional phosphorus loading would fall on the Town of Carmel. This obligation would likely need to be met through additional nonpoint source pollution reduction. The sponsor should propose

adequate mitigation so that the project would have a positive or neutral impact on the Town's ability to achieve its TMDL.

Response 6-14b: *The June 19, 2006 Preliminary Stormwater Management Report concludes that post construction levels of phosphorous in stormwater will be less than pre construction levels and includes calculations to support that conclusion. This information demonstrates that potential adverse impacts on water quality have been satisfactorily mitigated, according to the Applicant. The proposed action will have a positive impact on the TMDL program, in the Applicant's opinion. The NYS DEC Design Manual does not require a pre and post development pollutant assessment and only requires a single stormwater treatment practice. The subject projects propose 3 treatment measures in series for the majority of the project to provide enhanced pollutant removal due to the proposed project being located in a TMDL watershed.*

Comment 6-15 (Letter #1, Letter from NYC DEP, August 5, 2005): Given that the stormwater calculation provided in the DEIS include significant offsite drainage areas (approximately 113 of the 138 acre drainage area), they do not accurately identify potential water quality impacts resulting from the proposed action. By selecting a larger watershed, much of which is offsite, the applicant has diluted the stormwater impacts of the proposed action. This methodology influences pre- and post-construction estimates of stormwater volume, peak flows, and pollutant loading. The applicant should select a more appropriate drainage area for analysis, and include the results of pre- and post-construction volumes, peak flows, and pollutant loading in the FEIS.

Response 6-15: *The larger drainage area was analyzed to assess the quantitative impacts to the unnamed watercourse along the western property line. This unnamed watercourse converges with Michael Brook just prior to crossing Fair Street to the south. The qualitative analysis compares the pre-development pollutants now being discharged from the areas of the site that will be disturbed to the post-development pollutants being discharged from the areas of the site proposed that will be disturbed. The results of that analysis confirm that post construction loading of total nitrogen, total phosphorous, biological oxygen demand, and total suspended solids, will be less than pre construction loading after treatment by the proposed stormwater management practices.*

Comment 6-16 (Letter #1, Letter from NYC DEP, August 5, 2005): Based on Town regulations (Table 3.5-1 and 3.5-3), the residential and community center would be required to have approximately 195 total parking spaces. However, the project sponsor is proposing to build 227 parking spaces. The additional parking proposed by the project sponsor would create unnecessary impervious surfaces and result in stormwater runoff in excess of what would be expected from a facility constructed in accordance with applicable regulations. DEP urges the project sponsor to reduce the number of space proposed, and to utilize pervious alternatives to asphalt where feasible.

Response 6-16: *The modified site plans have reconfigured the number and location of parking spaces for the project. The current Site Plan provides a total of 252 parking spaced under the residential buildings, substantially reducing the impervious surface needed to provide adequate parking for the project. In addition, six at grade spaces will be provided for each of the residential buildings and 12 spaces for the community center. Therefore, a total of 318 parking spaces will be provided. The emergency access road will be unpaved with a gravel surface. The applicant will continue to explore*

opportunities to utilize pervious pavement, instead of asphalt, during the Site Plan review process.

Comment 6-17 (Letter #1, Letter from NYC DEP, August 5, 2005): Review of the Preliminary Stormwater Management Report (Appendix D) suggests that long term maintenance is critical to the success of the stormwater practices, as post-construction total phosphorous (TP) loading is predicted to be five times greater than pre-development conditions if the site was developed without stormwater management practices in place. While the proposed treatment is anticipated to reduce loading to between 2.13lbs/yr and 5 lbs/yr, it is evident that failure to properly maintain the stormwater facilities could result in a significant decline in water quality. As such, the party responsible for maintenance, and a preliminary maintenance protocol, should be included in the FEIS.

Response 6-17: *The project owner, BBJ Associates, LLC, or any future property owner will be responsible for the maintenance of the all components of the proposed stormwater management system as described in the June 19, 2006 Preliminary Stormwater Management Report and the Permanent Stormwater Facility Maintenance Schedule shown on the project plans.*

Comment 6-18 (Letter #1, Letter from NYC DEP, August 5, 2005): According to the traffic analysis presented in the DEIS, road widening may occur to mitigate potential traffic impacts resulting from the proposed action. As such, the DEIS should discuss the potential water quality impacts associated with road widening, and propose measures to avoid or mitigate those impacts.

Response 6-18: *The DEIS described potential traffic mitigation measures at certain intersections, among those, the widening of radii. Mitigation measures such as additional turning lanes described in this FEIS (Section 8.0 Traffic and Transportation), may involve roadway widening. Detailed engineering drawings have not yet been developed for these potential traffic mitigation measures. Specific water quality mitigation measures would be addressed in the engineering plans and drawings for those improvements, should they be required.*

Comment 6-19 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Proposed stormwater management practices shown on the drawings should be labeled in accordance with the names given to them in the Stormwater Management Report in the DEIS text.

Response 6-19: *The plans have been revised to coordinate stormwater management practice labels between the SWMR and the site plans.*

Comment 6-20 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005: Page: 1-1: The second paragraph states that the DEIS addresses a potential 10,000 square foot expansion, and 50 new parking spaces for the existing ShopRite supermarket. The management of stormwater due to this expansion, particularly stormwater treatment, is not adequately addressed in the DEIS.

Response 6-20: *Comment noted. No additional parking spaces are proposed as part of the Shoprite expansion and no additional post construction stormwater controls have*

been determined to be necessary to mitigate impacts from the expansion. Please also see response 6-13.

Comment 6-21 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005:
Page: 1-8: The second paragraph mentions that there are "seven (6) stormwater management basins." Seven (7) show on 'the plans. This error also occurs on page 3.4-5.

Response 6-21: *Comment noted. Revisions will be completed.*

Comment 6-22 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 2-14: The second paragraph refers to an anticipated intermunicipal agreement granting maintenance responsibility for 'the new road 'to the Town of Carmel. The agreement should also include maintenance responsibility for the stormwater management practices located within the Town of Kent. These too should be assigned to the Town of Carmel. The intermunicipal agreement should be formalized prior to final approval.

Response 6-22: *The project owner, BBJ Associates, LLC or any future property owner will be responsible for the maintenance of the stormwater management systems as described in the Permanent Stormwater Facility Maintenance Schedule shown on the project plans. Following construction, the primary access road will be dedicated to the Town of Carmel and the Town will be responsible for maintenance of the road. An appropriate maintenance agreement with the Town will be developed and executed as part of the project approval process, as needed.*

Comment 6-23 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 3.1-11: At the last paragraph, add the Stormwater Pollution Prevention Plan as a document that will also assign maintenance responsibility for the stormwater management program.

Response 6-23: *Comment noted. Please refer to Response 6-17.*

Comment 6-24 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 3.1-12: Refer to the last paragraph. It is recommended that the applicant develop a well monitoring plan to obtain water level data on wells within 500 feet of blasting sites, before, during and after blasting.

Response 6-24: *The applicant would be amenable to implementing a well monitoring plan for those residents with wells within 500 feet of blasting sites.*

Comment 6-25 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 3.4-8: The first paragraph should be expanded to show that maintenance during construction, in accordance with "Standards and Specifications for Sediment Basin", page 5A-47 and following in the New York Guidelines for Urban Erosion and Sediment Control will be conducted. Detail the activities that will be performed.

Response 6-25: *A temporary erosion control maintenance schedule has been added to the project plans to address the required maintenance of all erosion and sediment control measures during construction.*

Comment 6-26 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 3.4-9: paragraph beginning with "Temporary sediment..." This paragraph should be written so that it is in accordance with the reference mentioned in number 16 above. Specifically, there is no mention of maintenance practices during construction. The text implies that the sediment basins will not be cleaned out until only after construction is completed.

Response 6-26: *Comment noted. The June 19, 2006 Preliminary Stormwater Management Report specifies appropriate erosion and sediment control maintenance practices that will be performed during construction. Please also see response 6-25.*

Comment 6-27 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
Page: 3.5-10: paragraph 3.5.1.6 Other 'Town of Kent Laws..." This section should be expanded to show that the maximum grade in the Town of Kent is 8%. Grades over 8% require the approval of the Town Superintendent of Highways and a town-designated engineer.

Response 6-27: *The proposed access road grade of 10% will require "approval" from the Town of Kent Superintendent of Highways and a town-designated engineer (see page 3.5-17 of the DEIS).*

Comment 6-28 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
[In Appendix D]: Each stormwater management practice should be identified by name and its alpha/numeric identification (for example, a Pocket Pond is also identified as P-5) with a description of the stormwater management practice as shown in Chapter 6 of the August 2003 edition of the New York State Stormwater Management Design Manual.

Response 6-28: *The stormwater management report in appendix D proposes several stormwater management basins/ponds. The NYCDEP regulations refer to the basins with different terminology than the NYSDEC design manual. The following is a summary of the NYSDEC terminology for the various basins/ponds proposed:*

I.D. utilized in Stormwater Management Report and Plans	*NYSDEC terminology*
1.0	*Pre-treatment basin*
1.1	*Pre-treatment basin*
1.2	*Filtration Practice*
2.0	*Pre-treatment basin*
2.1	*Pre-treatment basin*
2.2	*Pre-treatment basin*
2.3	*Dry Swale*

During the permitting process, the designs will be further refined in accordance with the NYSDEC design manual. It is anticipated that Basin 1.2 will become a P-1 'Micro-Pool Extended Detention Pond' and that Basin 2.2 will become a W-4 'Pocket Wetland'. It is likely that further basin enhancements will occur during the permitting process, which will further mitigate any potential adverse stormwater impacts.

Comment 6-29 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005):
[Appendix D], Page 1, 2.0 Stormwater Management: The reference to the New York State

Stormwater Management Design Manual, October 2001 should be revised to reference the October 2003 edition.

Response 6-29: *The June 19, 2006 Preliminary Stormwater Management Report that accompanies this FEIS as Appendix H has been revised to reference the August 2003 New York State Stormwater Management Design Manual.*

Comment 6-30 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): [Appendix D], Page 4, last line: a.) Identify Stormwater Basin 1.22 on the plans; b.) Identify whether this is filtration practice an F-1, F-2, F-3, F-4 or F-5; c.) If this is an infiltration practice, note the testing requirements in Appendix D of the 2003 edition of the NYS Stormwater Management Design Manual. The suitability of the soils should be discussed if this is an infiltration basin.

Response 6-30: *Currently, Basin 1.2P is proposed as a surface sand filter (F1). During the permitting process, the design will be further detailed as deemed necessary by NYSDEC and NYCDEP. It is anticipated that this basin will be changed to a P-1 Micro-Pool Extended Detention Pond'. It is likely that further basin enhancements will occur during the permitting process, which will further reduce potential stormwater impacts. The Applicant notes that Infiltration is not proposed due to unsuitable soils.*

Comment 6-31 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Appendix B, Post-Development Computer Data: a.) Provide plans showing stormwater management practices locations; b.) Show the T_t and T_c for each subcatchment; c.) Provide the time of concentration calculations for each subcatchment; d.) Subcatchment 1S does not appear on the post-development drainage diagram; e.) Subcatchment 1.0S does not appear on Figure 3, Post Development Drainage Map.

Response 6-31: *A) The project plans show the proposed stormwater management practice locations. B) The time of concentration flow paths will be added to the stormwater management report during the permitting process. This will not effect the overall analysis nor the assessment of impacts in the DEIS. C) The detailed time of concentration calculations will be added to the stormwater management report during the permitting process. The time of concentration's currently included in the stormwater management report are based on hand calculations. D) Subcatchment 1S is included on the post-development drainage diagram. E) Subcatchment 1.0S is shown on Figure 3.*

Comment 6-32 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Preliminary Water and Wastewater Engineering Report: a.) Figure 1 is missing; b.) This report should have the details that were used to support the information provided section 3.7.5 Water Service and section, 3.7.6 Sewage Disposal, both of which are more detailed than this Preliminary Report.

Response 6-32: *Revised Water and Wastewater Engineering Reports are included in the FEIS.*

Comment 6-33 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Appendix A, Pre-Development Computer Data: a.) Provide plans that show Travel Time

(Tt) routing to obtain the Time of Concentration (Tc) path; b.) Provide the time of concentration calculations.

Response 6-33: *A) The time of concentration flow paths will be added to the stormwater management report during the permitting process. This will not effect the overall analysis nor the assessment of impacts. B) The detailed time of concentration calculations will be added to the stormwater management report during the permitting process. The time of concentration's currently included in the stormwater management report are based on hand calculations.*

Comment 6-34 (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): Regarding the Hillcrest Commons proposal, CWCWC is of the opinion that the estimates for reduction in phosphorus and other stormwater pollutants subsequent to development, are seriously underestimated.

Response 6-34: *Comment noted. Please refer to Response 6-3.*

Comment 6-35 (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): Clearly, any development within the Town of Carmel. should be carefully designed so as to not increase the phosphorus load to the Croton Falls reservoir. However, the results from the applicant's submission are, at the very least, ambiguous. For example, the pre-development phosphorus load (P-load) from the site is given as 4.10 lbs/year. Summing up the post-development P-loads from the various sub-basins (1.OS; 1.1 S; 1.2S; 3S; 2.OS; 2.1 S; 2.2S; 2.3S), the applicant calculates the total phosphorus (TP) load as having a maximum of 5.00 lbs/year, and a minimum of 2.13 lbs/year. The final P-load could be anywhere within this large gap and be greater or less than the initial value.

Response 6-35: *Please refer to Response 6-3 regarding the pre-development phosphorus loading rates used to assess stormwater runoff and Response 6-36b regarding the removal efficiencies of the basins and the predicted post-development phosphorous loads.*

Comment 6-36a (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): After reviewing the figures on pollutant loads presented by the applicant, it is CWCWC's opinion that Hillcrest Commons is likely to increase the phosphorus load to the reservoir for the following reasons. a.) As pointed out by CWCWC attorney, James B. Bacon (and confirmed by David Clouser, P.E., in his comments on the Gateway/Fairways project) the more recent figures for the pre-development phosphorus loading rates (lbs/acre/year) are about half of those used by the applicant, that have now been superseded. Therefore, the applicant's estimate of the phosphorus emanating from the undeveloped land is too high, and the reduction needed will be too low.

Response 6-36a: *Comment noted. Please refer to Response 6-3.*

Comment 6-36b (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): b.) The applicant assumes that Best Management Practices (BMPs) placed sequentially (as is the case for various of the sub-basins) will each, in turn, remove pollutants to the same degree as if they were stand-alone devices. This is an incorrect assumption. The reasons are clearly explained in Watershed Management for Potable Water

Supply: Assessing the New York City Strategy, 2000 - The National Academy Press, pp 350351 - see Attachment A).

Response 6-36b: *The majority of stormwater runoff from the developed portion of the project will pass through three treatment basins in series. These basins will treat the proposed stormwater runoff to the maximum extent practicable. The removal efficiency for each treatment basin is expressed as a range to reflect the variability typical of the basins. Note that the removal efficiencies utilized are based on much smaller basins. The NYCDEP regulations require that the 2 year, 24-hour storm be captured and treated. Each basin has been sized to provide 24-hour detention of the 2 year, 24-hour storm. This results in very large basin volumes compared with the sizing requirements for the stated removal efficiencies. The over sizing of the basins will enhance particle settling such that the removal efficiencies are expected to be at the higher end of the range. The post-development pollutant loads have been expressed as a range in order to reflect the treatment variability. As previously stated the basin volumes are significantly larger than those associated with the applied pollutant removal efficiencies. Therefore, it is the Applicant's conclusion that the actual removals will be in the mid to upper removal ranges.*

Comment 6-36c (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): c.) It is customary, in an important watershed such as the Croton, to err on the side of caution and use the lowest pollutant removal value for any particular BMP. This procedure is further justified here because the applicant ignores the fact that the pollutant removal efficiencies of the BMPs diminishes, as explained in the preceding paragraph. If the lower removal values are used, the resulting P-load after development will exceed the pre-development load. CWCWC concludes that it is doubtful whether the final P-load is indeed below the original load, and recommends that the applicant be required to perform more accurate calculations. The same remark also applies to the results for Biological Oxygen Demand (BOD) and Total Nitrogen (TN).

Response 6-36c: *Please refer to Response 6-36b.*

Comment 6-36d (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): d.) The 12-acre 1.OS basin is largely, if not entirely, in the Michael Brook watershed. Ten acres out of the twelve are destined to be either commercial or townhouses. The result will be 83% imperviousness. According to Watershed Management for Potable Water Supply: Assessing the New York City Strategy, 2000 - The National Academy Press, Figure 9-3, page 419 (see Attachment B), beyond 45% imperviousness no combination of BMPs is capable of reducing the level of phosphorus below its initial level. Figure 9-3 shows that even the, most efficient (BMP-Hi curve) BMPs are incapable of reducing the P-load in stormwater runoff below its pre-development levels. With 83% imperviousness, CWCWC questions the applicant's conclusion that the P-load will be reduced. Again, we urge that the calculations be reformulated.

Response 6-36d: *While it is true that the Stormwater Management Report states that ten out of the twelve acres within post-development subcatchment 1.0S were proposed to be either commercial (3.5 acres) or townhouses (6.5 acres) the entire ten acres are not proposed to be impervious. The actual proposed imperviousness is 6.6 acres or 55 percent of the subcatchment. Note the 55% impervious is for subcatchment 1.0S and is not representative of the watershed for the "treatment train" of multiple basins, which*

includes subcatchments 1.1 Sand 1.2S. When these are considered the percent impervious is actually only 40%. The figure referenced by the CWCWC indicates that for a watershed 45% imperviousness, with a single BMP, with 60% removal efficiency, the post-development phosphorous levels would be reduced to approximately the undeveloped natural condition. The proposed project proposes less than 45% imperviousness and proposes multiple ponds in series, which will provide treatment to the maximum extent practicable. It is further noted that the CWCWC's position that no projects with greater than 45% imperviousness contributing to a stormwater basin are acceptable, would preclude any type of commercial, industrial, or high density residential projects which otherwise meet municipal land use plans and regulations.

Comment 6-37 (Letter #3, Letter from Croton Watershed Clean Water Coalition (CWCWC), August 5, 2005): As the operator of a small, regulated MS4 (Municipal Separate Storm Sewer System), the Town of Carmel must comply with the six MS4 "minimum control measures" (EPA Storm Water Phase II Final Rule, Fact Sheet 2.), in particular Measure #4- Construction Site Stormwater Runoff Control that applies to construction activities that result in land disturbance of one acre or more, and Measure #5- Post Construction Stormwater Management.

Response 6-37: *The proposed project has been designed in accordance with the NYSDEC Stormwater Design Manual, which will enable the Town of Carmel to comply with Measure #5 – Post-Construction Stormwater Management. A detailed Erosion and Sediment Control plan, including a construction phasing plan, will be developed during the permitting process. That plan will enable the Town of Carmel to comply with Measure #4 – Construction Site Stormwater Runoff Control.*

Comment 6-38 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Rather than using the 0.446 lbs. per acre per year, the Applicant's DEIS and stormwater calculations rely upon a 1992 DEC publication, which estimated predevelopment levels of phosphorus on forestland at .10 lbs. per acre per year. Consequently, the Applicant's calculations are off by a factor of 2.24. Therefore, less than half as much phosphorus is leaving the site currently as compared with estimates by the Applicant.

Response 6-38: *Please refer to Response 6-3 .*

Comment 6-39 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): The issue becomes clear when examining one of the Applicant's subcatchment areas - specifically 1.OS. That subcatchment area is 12 acres. When multiplied by correct pollutant loading coefficient of .0446, the result is 0.53 lbs/acre/yr. for predevelopment phosphorus levels. The Applicant states that with its development and no stormwater management, the I.OS area would produce 14.2 lbs/acre/yr of phosphorus. According to the Applicant's stormwater report, in a best case scenario post-development phosphorus levels would be .33 to 1.96 lbs/acre/yr. (See Stormwater Management Report in DEIS Appendix). Consequently, the post-development runoff levels may be up to 3.5 times pre-development levels for a 2-year storm This is simply unacceptable. The Applicant must apply the correct pre-development export coefficients and redesign the stormwater management accordingly. Rather than using the 0.446 lbs. per acre per year, the Applicant's DEIS and stormwater calculations rely upon a 1992 DEC publication, which estimated predevelopment levels of phosphorus on forestland at .10 lbs. per acre per year. Consequently, the Applicant's calculations are off by a factor of

2.24. Therefore, less than half as much phosphorus is leaving the site currently as compared with estimates by the Applicant.

Response 6-39: *Please refer to Response 6-3.*

Comment 6-40 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): In fact, 6 N.Y.C.R.R §750 indicates that DEC will grant no permit to a development, which would exacerbate conditions in water quality basins that are already violating State Water Quality Standards.

Response 6-40: *Please refer to Response 6-7.*

Comment 6-41 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Additionally, the scope for the DEIS sought information for not only 2 year storms, but also the 10, 25, 50 and 100 year storms. (See page 7 of Scoping Document 428-04). The Applicant's failure to produce this information in the DEIS is a further indication that an SEIS is needed.

Response 6-41: *Comment noted. Please refer to Response 6-6. An SEIS is not warranted as further described in Section 1.0 Introduction and in Response 2-16 of the Project Description section of this document.*

Comment 6-42 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): I would also note that compliance with the Carmel Croton Plan was in the Draft Scope dated December 5, 2003, but was omitted from the final draft scope.

Response 6-42: *The project Scope has been through extensive revision from representatives of the Town of Carmel and the Town of Kent and from public comments. A final Scoping document was accepted on April 28, 2004.*

Comment 6-43 (Letter #8, Preliminary Biodiversity Assessment, Erik Kiviat, Ph.D., and Tanessa Hartwig, MS, July 29, 2005): Portions of Wetland B close to the southeastern comer of the shopping plaza are degraded, apparently by stormwater drainage (via at least one pipe and possibly direct runoff) from the parking areas. The visual appearance of the vegetation and sediments indicates water quality degradation, probably from nutrients, organic matter (food wastes??), and petroleum hydrocarbons. Organically-polluted surface water provides potential breeding habitat for mosquitoes (e.g., Culex pipiens) believed to vector West Nile virus; unpolluted wetlands are less hazardous in that regard. Stormwater from the parking areas needs to be treated before being discharged into Wetland B.

Response 6-43: *Comment noted. All stormwater from the proposed project will be treated, in conformance with DEC and DEP regulations. The stormwater runoff from the ShopRite Plaza parking lot is not part of this application but an existing condition. The area described in the comment is in fact the stormwater detention basin for the ShopRite parking lot, and is not a federal, State, or municipally regulated wetland.*

Comment 6-44 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005): 3.7.5. and 3.7.3.: The assessment of potential impacts should include letters from the district(s) that adequate supply and treatment capacity exist, and that the district(s) is willing to allow connections to its systems.

Response 6-44: *The subject properties located within the Town of Carmel are already located within the Carmel Sewer District #2 and Carmel Water District #2 boundaries, and as owners of properties located within the CSD#2 and CWD#2 districts, taxes are paid annually to the Town for such services. Therefore, in the Applicant's opinion, since the owners of the subject properties have the right to connect to these utility systems, letters from the Town to allow connections to the district services is unwarranted.*

Comment 6-45 (Letter #11, Letter from Riverkeeper, August 12, 2005): Appendix D of the DEIS, titled Preliminary Stormwater Management Report, claims that the proposed. stormwater management practices have been designed to capture and treat 90% of the stormwater runoff from the 81.09-acre project site. However, the Project Description defines the project site as being 107.6 acres.[2] This 26.51-acre discrepancy in size makes it unclear whether the applicant has sized the proposed six stormwater basins to capture and treat 90% of the stormwater runoff from an 81.09-acre site or from a 107.6-acre site. The applicant must be required to resolve this discrepancy and demonstrate that the proposed stormwater management practices will in fact capture and treat 90% of the stormwater runoff from the larger site if the 107.6-acre figure is correct.

Response 6-45: *The proposed six-storm water basins have been sized to capture and treat 90% of the stormwater runoff from the disturbed areas of the site on the 81.09-acre project site. The areas draining to the proposed stormwater basins include all areas where disturbance associated with the project will take place.*

Comment 6-46 (Letter #11, Letter from Riverkeeper, August 12, 2005): In addition, the applicant proposes that "[a]ccumulated sediment will need to be removed from the swales and basins approximately every 10 to 20 years, or when 50 percent of their capacity has been reached.'. This requires the detention basins to be sized at twice their designed detention capacity in order to capture and treat 90% of the stormwater runoff from the project site and to detain the 2-year 24-hour storm when the basins are half-filled with sediment. The applicant should be required to demonstrate that the stormwater basins are in fact sized at 200% of their design capacity.

Response 6-46: *The size of the proposed stormwater basins are based on the New York City Department of Environmental Protection (NYCDEP) regulations, which incorporate by reference the NYSDEC manual, "Reducing the Impacts of Stormwater Runoff from New Development," (Impacts), and the New York State Department of Environmental Conservation (NYSDEC) regulations which incorporate by reference the "New York State Stormwater Management Design Manual." As stated in Impacts, "if properly designed, significant quantities of sediment can accumulate in an extended detention facility. This sediment should be removed periodically in order to preserve the available stormwater management capacity…" The proposed stormwater basins are designed to take into account the accumulated sediment in the basins over time. With proper maintenance, as outlined in the Preliminary Stormwater Management Report, the proposed stormwater basins will perform as intended to quantitatively and qualitatively treat stormwater runoff.*

Comment 6-47 (Letter #11, Letter from Riverkeeper, August 12, 2005): Further, proposed post-development annual pollutant loads are provided for BOD, TP, TN, and TSS.4 The applicant claims that the post-development pollutant loads are "approximately equal to or less than the pre-development loads as required by the NYCDEP regulations."[5] The values provided in the Annual Pollutant *Summary,* however, do not support this claim. While the proposed TSS

loading is reduced from pre-development conditions, BOD loading will increase by 272% (an increase of up to 253.7 lbs/yr), TP loading will increase by 149% (an increase of up to 1.83 lbs/yr), and TN loading will increase by 141 % (an increase of up to 24.4 lbs/yr).[6] Increased loadings of these magnitudes cannot be considered "approximately equal to or less than" predevelopment loads. The applicant must resolve these discrepancies so that the post development pollutant loads comply with NYCDEP regulations.

> ***Response 6-47***: *The pre-development and post-development annual pollutant loads for BOD, TP, TN and TSS are evaluated based on the NYCDEP's regulations and the NYSDEC manual, "Reducing the Impacts of Stormwater Runoff from New Development," (Impacts). The post-development annual pollutant loads were determined by using a range of pollutant removal efficiencies for each stormwater treatment practice. The pre-development annual pollutant loads are compared to the pollutant range for the post-development annual pollutants loads after stormwater treatment. The pre-development annual pollutant loads fall within the middle of the pollutant range for the post-development annual pollutant loads for BOD, TP and TN. Based on the pre-development pollutant loads being greater or falling in the approximate middle of the post-development pollutant load ranges, it is the Applicant's conclusion that the post-development pollutant loads are approximately equal to or less that the pre-development loads. See June 19, 2006 Preliminary Stormwater Management Report.*

Comment 6-48 (Letter #11, Letter from Riverkeeper, August 12, 2005): Additionally, it is unclear how the post-development peak runoff rates will decrease when the pollutant loads increase. The applicant claims that post-development peak rates for the 2-year, 10-year, 25-year and 100-year storms will be lower than the existing peak rates, despite the addition of 9.1 acres of imperviousness and increases in BOD, TP, and TN loads of more than 100 percent. The reduction of peak runoff rates should be associated with the reduction of pollutant loadings, yet the information provided in the DEIS does not appear to support this relationship.

> ***Response 6-48***: *There is no direct correlation between reducing peak flows and reducing pollutant loads. The proposed stormwater basins are designed to be large enough to attenuate increases in post-development peak discharge rates to below pre-development peak rates. Stormwater is slowly released from each basin after a minimum detention time of 24-hours for the 2-year design storm. By detaining the stormwater runoff for an extended period of time in the large basins, the post-development flows are reduced to below pre-development rates. Reductions in pollutant loadings are related to the proposed treatment methods such as stormwater basins and grass swales that are proposed on the site. The pre-development land-use conditions were are compared to the post-development land-use conditions on the site. Due to the number and designs, of stormwater treatment basins and grass swales proposed, the pre-development annual pollutant loads fall within the range of the post-development annual pollutant loads for BOD, TP and TN and a reduction is shown for TSS.*

7.0 ZONING AND SURROUNDING LAND USES COMMENTS AND RESPONSES

The proposed modification of the project and Site Plan, involving the elimination of commercial office space is not anticipated to result in adverse impacts to existing zoning and land use. The senior residential project consisting of multi-family dwellings for the elderly (55 years of age and older) is a use allowed by Special Permit in the Commercial District, and subject to the approval of the Planning Board.

According the Applicant, construction of the modified project would result in somewhat less land use impacts in the vicinity of the site, compared to the project described in the DEIS, including a reduction in traffic, and air quality and noise (related to traffic). Traffic was a primary land use impact resulting from the former office/ residential project. The elimination of the office uses would substantially reduce the volume of traffic entering and exiting the site during peak traffic periods. The reduction in traffic would improve the Level of Service and reduce delays at the site access and Route 52.

The potential visual impacts of the project to motorists on Route 52 and local residents would be reduced by the preservation of approximately 2.5 acres of existing mature woods and vegetation at the hilltop occupied by the residential project. While the grading, clearing and construction of residential buildings would alter views of the existing site, in the Applicant's opinion these impacts have been reduced by the reconfiguration of buildings, preservation of existing vegetation in key areas, and the overall reduction in amount of grading required to construct the project.

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

Comment 7-1 (Letter #1, Letter from NYC DEP, August 5, 2005): The project site is located within an area designated by the Town of Carmel Comprehensive Plan as suitable for low-density residential development. As such, it would appear inappropriate for the DEIS to conclude that the "proposed project generally conforms with existing policies of the Town of Carmel Comprehensive Plan" (p. 1-10), while also concluding that the "project conflicts with the underlying Comprehensive Plan designation" for the site.

> ***Response 7-1:*** *The Town of Carmel 2000 Draft Comprehensive Plan recommends only two categories of residential development in the Town on a generalized proposed land use map, with the project site falling within the Low Density Residential category. As stated in Chapter 8 of the Draft Comprehensive Plan, "Low Density Residential areas are existing developed neighborhoods within public water and sewer areas." The Draft Comprehensive Plan's two recommended residential categories (Rural Density Residential and Low Density Residential) do not address the issue of senior multi-family housing, which is a use permitted by Special Use Permit pursuant to the Town's "Multi-Family Dwellings for the Elderly" Local Law. The Draft Comprehensive Plan also recommends use of zoning techniques to encourage affordable housing and assisted care housing by Special Permit.*
>
> *From a land use perspective, the project site is considered to be an appropriate location for residential use given its location adjacent to shops and services along Route 52, the availability of municipal water and sewer infrastructure, and the site's proximity to Putnam County PART bus service. There is water service on the property, which falls*

within Sewer District #2. Visual buffers are provided between proposed buildings and adjacent single-family homes to north and east of the site, including preservation of existing trees along the edge of the property. In the Applicant's opinion and with this screening, the project is expected to be visually compatible with adjacent low-density residential uses. The proposed density falls within the density permitted under the Town's Senior Housing Law of 40 units per acre.

Furthermore, under New York law a special permit use is a permitted use in a zoning district and is thus a legislative finding by the Town Board that the use complies with the Comprehensive Plan.

8.0 TRAFFIC AND TRANSPORTATION COMMENTS AND RESPONSES

The proposed modification of the Site Plan includes the elimination of the formerly proposed 58,960 square feet of office space. This modification has reduced site trip generation of the BBJ site by 123 weekday a.m. peak hour trips, 145 weekday p.m. peak hour trips, and 24 Saturday peak hour trips. These are reductions of 75%, 76%, and 34% for the respective peak hours. Appendix C, Attachment E contains trip generation and level of service for the current proposal and commercial. This FEIS describes and analyzes potential mitigation measures for the proposed site access at NYS Route 52, in addition to those that were analyzed in the DEIS with the office and residential site use. These improvement measures include: 1) a second lane exiting the project site, and 2) a left turn lane on NYS Route 52 for southbound traffic to enter the site and a center turn lane between the site access and Dykeman Road. These mitigation measures are not proposed for the current plan but are evaluated for the former residential and office use proposal. Given the substantial reduction in peak hour traffic, it is the Applicant's opinion that the mitigation measures evaluated herein are no longer necessary. A diagram of the proposed turning lane is provided as Figure 8-1.

The current plan assumes no change in the speed limit on NYS Route 52 under the current plan. The applicant will relocate the 30 mph speed sign to the north of the site on NYS Route 52 if requested to do so, as part of the highway work permit. According to the Applicant, this action would lower speeds in the vicinity of the site entrance, increasing safety. A reduction in speed limit will require review and approval from the NYS DOT. See Response 8-37.

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

Comment 8-1 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): There are some other things of concern on page 112, Table 3.6-25, build condition level. We look at the bottom line, site access, weekend peak hour for the site access intersection, E; weekend peak -- weekday peak hour -- I'm sorry, weekday peak hour a.m., access point level E; weekday peak hour evening, access point level F; Saturday peak hours, access point level E. This is distressing that we're looking at a brand new development that hasn't even been built and we already had levels E and F service.

> ***Response 8-1:*** *Poor levels of service, such as levels E and F, occur at almost all side access points onto NYS Route 52 that are unsignalized, unless such access points are near a traffic signal that produces gaps in the main road traffic. The anticipated traffic volumes from the Hillcrest Commons project are not sufficient enough, by themselves, to warrant a traffic signal.*

Comment 8-2 (Hillcrest Public Hearing, John McGiveny, July 6, 2005): Most of the traffic data is generated from the state of New York, accidents and stuff, from what I see. My experience in Kent with different developments is people have come to us with stuff that was generated from the State and we told them to use their local police departments. The Town of Carmel has a police department. The Town of Kent has a police department. We've had applications come to us with zero accidents on State roads, and when we sent them to the Kent police department we came in with 13 of them. So it changed completely. So I don't know where it gets mixed up or whatever happens, but you got the facilities of your local police department, you have the sheriff's department, the Carmel police department and the Kent police department that will give you a lot of genuine things and they know the roads better than anybody.

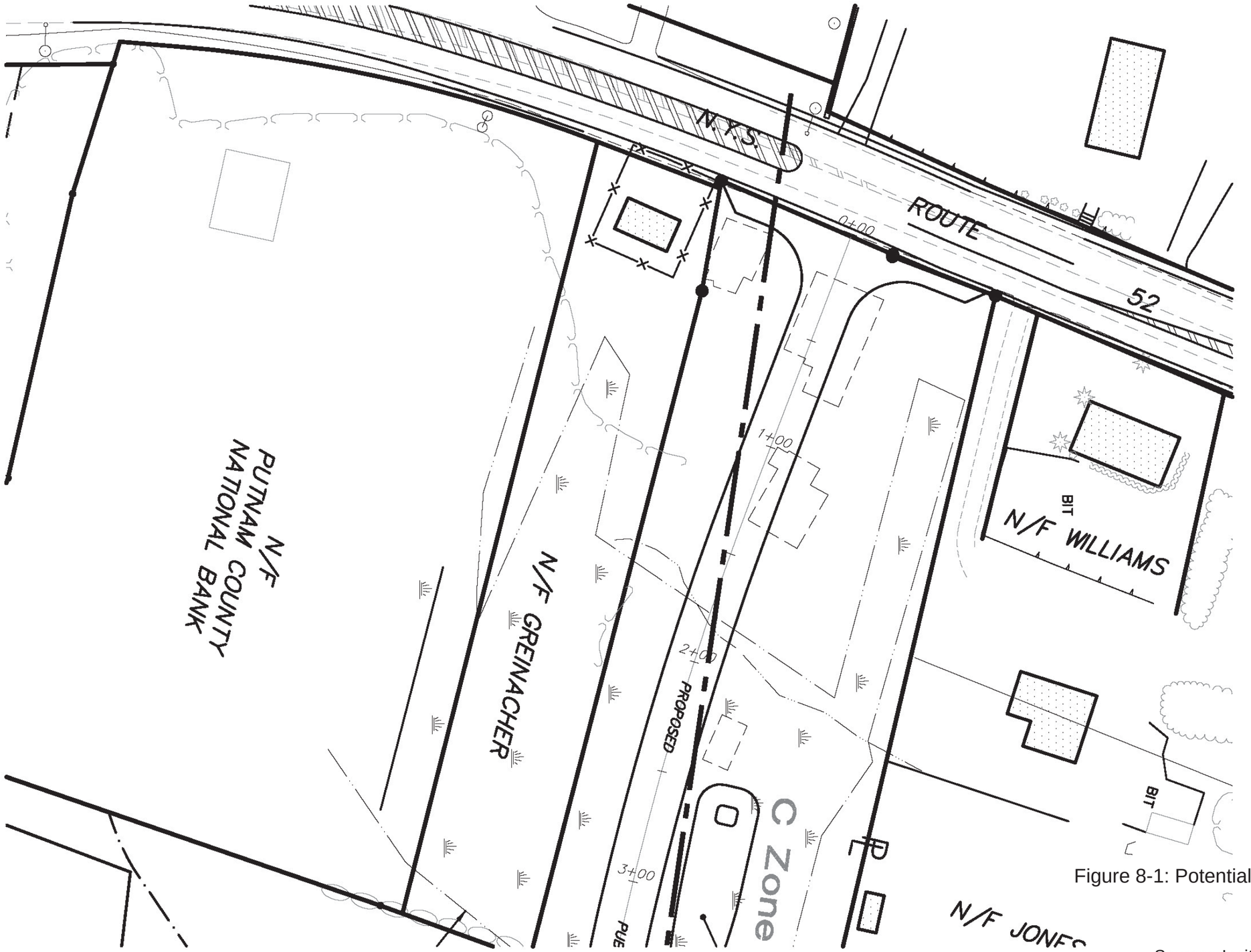

Figure 8-1: Potential Route 52 Turning Lane
Hillcrest Commons
Towns of Carmel and Kent
Putnam County, New York
Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
Date: 03/06

File 0373 11/14/05
JS/0373

Response 8-2: *The Town of Kent and Town of Carmel police departments and the County sheriff's department were contacted regarding collisions. The Sheriff's Department organizes records by driver names, for all practical purposes, making it impossible to ascertain accidents by location without searching through all of the accident records to identify accidents on a portion of NYS Route 52, according to the Applicant. Similarly, the Carmel Police Department and Kent Police Department have accidents listed chronologically also requiring all accident reports in the years in question to be searched through.*

The State is in the process of implementing a new reporting system "TraCs", which would process data from the scene and permit up-to-date searches of the records. Special equipment for the implementation of TraCs has been installed in Sheriff's department and Town Police vehicles in Putnam County. Bar codes on driver's licenses and registrations have already been implemented. Until the new systems are on-line for a few years, the current State system remains the most effective system in organizing collision data.

Comment 8-3 (Hillcrest Public Hearing, John McGiveny, July 6, 2005): The Patterson Crossing is on the Patterson planning board right now, and that's going to generate a lot of traffic. If you look at the Costco's warehouse that's planned to go in there, you're looking at peak hours Saturday, 600 cars per hour. And you could do that traffic study yourself just by going onto the computer, look at the Costco warehouse and just see what each warehouse does. And then you look at their basket of what goes out of that store, everybody walks out with $75, you divide that, you multiply it, you figure out your hourly peak hours, et cetera, and you can come down to the number that you can deal with and the number's going to be a true number.

Response 8-3: *Based upon site specific traffic studies, the majority of the traffic from the Patterson Crossing project would utilize the interstate system and not passing through the study area. The Hillcrest DEIS traffic study used Institute of Transportation Engineers Trip Generation (Institute of Transportation Engineers, 7th Edition, 2003) to generate traffic projections. Trip Generation summarizes data based on actual traffic counts taken for existing land uses. Trip Generation is widely used and the data and traffic based upon Trip Generation are generally accepted by the New York State Department of Transportation (NYS DOT).*

Comment 8-4 (Hillcrest Public Hearing, John McGiveny, July 6, 2005): Some of the traffic studies that come before us are not accurate; they have to be looked at, they have to be looked at carefully.

Response 8-4: *The Town of Carmel has hired an independent consultant to review the traffic study prepared for the Hillcrest Commons project and the consultant comments on the traffic study are addressed in this FEIS. In addition the New York State Department of Transportation (NYS DOT) has been provided copies of the DEIS with the Traffic study for their review. The applicant has met with the NYS DOT to discuss the traffic study.*

The New York State Department of Transportation has approval authority for any work done in the state right-of-way including granting permits for construction of the access road connection to NYS Route 52.

Comment 8-5 (Hillcrest Public Hearing, John McGiveny, July 6, 2005): Route 52 is a two-lane highway and you know it yourself, Mr. Gary, that your highway [indiscernible] county, that that's not going to change to a four-lane highway, not in the future. And that's going to impact that it's going to really be a lot more accidents on other roads.

Response 8-5: *As noted there are no plans on the Transportation Improvement Program to widen NYS Route 52 to four lanes in this area. Adding additional traffic onto any road can potentially increase the potential for collisions.*

Comment 8-6 (Hillcrest Public Hearing, Susan Alm, July 6, 2005): I live on Route 52. I have a small business there called Gucci Dog Grooming, and my customers have a hard time just getting in and out of the driveway. The school buses also come to Fair Street. And if you go outside you can see it from the corner, that all the way up past the Getty station during the wintertime when the schools are running the buses and from Route 6 down to the plaza at 5:00, it's just packed with traffic. It takes me ten minutes sometimes just to get in and out of my own driveway, that's how bad the traffic is in that area. So if they have an alternative route or something else I'm not all that familiar with everything. I will look more into it also, but I just wanted to give you my feedback that I can't even take it now.

Response 8-6: *Comment noted. NYS* Route *52 is the only possible road on which to access the proposed Hillcrest Commons development. There is an emergency access route, which ultimately sends the site traffic to NYS Route 52. Design measures proposed for the former office and residential use include: two lanes exiting the project site onto NYS Route 52. As a potential mitigation measure, a left turn lane on NYS Route 52 for southbound traffic to enter the site had been proposed (for the former office/ residential project). These improvements are not included in the current residential plan. The Applicant may be required as part of the highway work permit to make other changes on NYS Route 52 such as the relocation of a 30 mph speed sign to the north of the site. Any changes in the NYS Route 52 right of way will require review and approval from the NYS DOT.*

Comment 8-7 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): The traffic that goes from Carmel on Route 52 is a disaster and a nightmare. We continue to develop undeveloped land in Carmel and it impacts Route 52 each and every time we do this. And I, for one, living here 50 years, am extremely tired of it. It seems that there isn't much concern given to that.

Response 8-7: *The Planning Board, when it adopted the scope for the DEIS, specifically required the applicant to review a large number of intersections along NYS Route 52, in order to make sure that from a planning perspective, the town and the public could ascertain existing and future traffic conditions along this New York State arterial road. NY State Environmental Quality Review Act (SEQR) and the Town of Carmel Planning Board require detailed traffic studies of all major projects proposed in the Town. In the current proposal, the applicant has reduced the traffic impact of the project by eliminating the office component.*

Comment 8-8 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): Is this going to require additional traffic lights on Route 52 after several accidents occur, maybe fatal accidents? I mean, we've got enough traffic lights on Route 52 right now. We don't need anymore.

Response 8-8: *The proposed Hillcrest project would not generate enough traffic to meet the requirements of the NYS DOT for an additional traffic signal on NYS Route 52.*

Comment 8-9 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): With regard to traffic, if you look, even a cursory look at that traffic analysis shows that the roads are in very distressed shape. Horse Pond Road is at a level F. They plan to put a signal at least 600 feet away from the existing signal at ShopRite. I can't imagine how that's not going to just be a recipe for gridlock. That's another reason why if they shared an entrance at the access and allowed access through the ShopRite parking lot, then it would at least only have one signal that I have mentioned instead of two in that short of space.

Response 8-9: *The Hillcrest Commons project cannot use the existing signalized access to ShopRite Plaza, since establishing access up the side of the hill through the parking lot is not feasible to implement from a design and grading perspective, according to the Applicant. This alternative has undergone a detailed review, which is presented in the alternatives section of this document (see Section 14 Alternatives).*

Comment 8-10 (Hillcrest Public Hearing, Ann Fanizzi, July 6, 2005): Do we need 150 units? I saw the same exact study in another development, in the Fairway, the same study; traffic, the same thing. And we have to remember on 52 that we have had several accidents, serious accidents on that road. This is not an easy road and now we have more development taking place.

Response 8-10: *There appears to be a substantial and growing demand for market rate senior housing in the region, according to the Applicant. No market rate senior housing communities have been completed in the Town of Carmel to date. Many seniors are not eligible for the low income housing that has been built because of income restrictions. It is the Applicant's opinion that the Hillcrest Commons and other projects will respond to that unserved demand.*

Comment 8-11 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 1-1: None of the plans presented in the DEIS show where the possible expansion of ShopRite and the parking lot might occur.

Response 8-11: *The expansion of ShopRite Plaza is not proposed as part of the Hillcrest Commons project, although the potential impacts of expansion were examined in the DEIS. The expansion of the ShopRite would be subject to its own site plan review.*

Comment 8-13 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 3.1-9: The applicant should prepare an estimate of the maximum number of truck trips that could be generated on any given day during the construction of the road or any other major period of excavation.

Response 8-13: *The number of truck trips resulting from earth removal were calculated as follows: Construction conversion factors were used to convert cubic yards to tons of material. The material removed will be a combination of soil and rock. It is estimated that approximately 70% of the material will be soil and 30% rock, based upon site conditions and required grading. This estimate may be conservative, since native rock will be utilized on the site to the extent possible for road subgrade and the emergency access road. Therefore, material weight was estimated, as follows:*

Soil; 60,200 cy x 1.3 cy/ ton = 78,260 tons
Rock: 25,800 cy x 1.9 cy/ ton = 49,020 tons
Total = 127,280 tons

A typical tri-axle dump truck can hold between 25 to 30 tons. If an average of 28 tons per truckload is used, then the project is estimated to generate approximately 4,546 truck trips. Based upon the construction sequencing plan, major grading for the site will occur over a one year period. If weekends and holidays are excluded, the majority of truck trips will occur over a period of approximately 250 days. Therefore, it is estimated that the project will generate an average of 18 truck trips per day or slightly more than 2 trucks per hour over an eight hour workday. This volume may be somewhat higher during periods of major excavation. If the average rate were doubled, a maximum of 36 trucks per day could be expected or four to five trucks per hour. Note that the above estimates were comprised from the former proposal. The revised plan will have lower amounts of cut and fill and would therefore result in fewer truck trips.

Comment 8-15 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): To the extent that the Applicant can propose a project with a common entryway to Shop-Rite, this should be pursued. There are several reasons including the fact that Horse Pound Road currently is at an F level of service at the intersection of Route 52. Secondly, placing a traffic light at the location proposed by the Applicant would result in two traffic lights being situated within 600 feet. The close proximity of the two signals will form gridlock between the traffic lights and further congestion on Route 52.

Response 8-15: *See Response 8-9. Further, the proposed Hillcrest project would not generate enough traffic to meet the requirements of the NYS DOT for an additional traffic signal on NYS Route 52. A second traffic light, therefore, is not proposed.*

Comment 8-16 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): Notwithstanding the optimistic appraisal of the traffic study (traffic studies have been notoriously inaccurate), this development will only exacerbate an already intolerable traffic situation no longer limited to a couple of hours but expanding throughout the entire day.

Response 8-16: *Traffic studies tend to be overly conservative in assuming all no build projects get completed, all traffic is peaking at the same time, and peak hour factors are constant. Trip Generation rates tend to be conservative in the New York Metropolitan area as peak travel times are more spread out than in the rest of the country. Traffic will grow over the day, however the traffic during the peak hours is likely to remain above off peak traffic. Off peak traffic is highly unlikely to approach the volumes of peak hour traffic.*

Comment 8-17 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005): [Section] 3.6.3: The collision data only presents information obtained from the New York State Department of Transportation (NYS DOT). Experience has shown that not all traffic accident data is reported to the NYS DOT. Information must also be collected from the Putnam County Sheriff and the Town of Kent Police Department. The FEIS must include an updated accident assessment using additional information from additional sources.

Response 8-17: *Please see Response 8.2, above. The applicant has contacted the Putnam County Sheriffs Department as well as the Town of Carmel and Town of Kent Police Departments. As described above, accident data from the local police and sheriffs departments was not readily accessible, due to data storage procedures. The NYS DOT maintains the most effective system in organizing collision data.*

Comment 8-18 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.6.8: The discussion of construction related traffic impacts understates the number of truck trips since the applicant has not undertaken a geological assessment of the amount of rock that may need to be removed from the site, and has not presented a cut and fill analysis to quantify whether there would be a balance of fill and excavated material. This section does not provide any information as to the impact of construction traffic on local roads during the morning and afternoon peak hours. The FEIS must identify the number of truck trips related to delivery of materials and the removal of excavated material, and must analyze the impact of truck movement on the LOS of the identified intersections. This would include an analysis of direction of travel, and the potential impact to traffic queuing on Route 52.

> ***Response 8-18:*** *An analysis of projected truck trips is provided in Response 8-12. The estimated two to five truck trips per hour is not expected to impact Levels of Service at any specific intersection, according to the Applicant. Most construction truck traffic is already off the roads by afternoon peak hours. The construction truck traffic would be anticipated to be spread throughout the rest of the workday. Construction truck traffic in the a.m. peak hour should be less than projected site traffic. Since a location for the removal of excess material from the site, has not been identified, it can be assumed that truck traffic will travel both north-bound and south-bound from the project site. Given the estimated maximum of five truck trips per hour, it is the Applicant's opinion that this volume of truck traffic entering the site is not expected to impact traffic queuing on NYS Route 52.*

Comment 8-19 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.6.9: The second "Build Scenario" that includes a 10,000 square foot expansion to the ShopRite should be deleted from the DEIS since none of the other section of the document contain any reference to this scenario. Alternatively, each of the other sections of the DEIS can be revised to include this build scenario as part of the proposed project, and an analyses of cumulative impacts to storm water, water supply, sewage disposal, cultural resources, zoning compliance, community services, visual, etc. provided. Inclusion of the retail expansion in the manner presented in the DEIS raises issues of segmentation, and calls into question the true plans of the applicant.

> ***Response 8-19:*** *The potential expansion of the ShopRite was discussed during public scoping meetings, included in the base description of the project and the adopted scoping outline and included in the Description of the Project in the adopted scoping outline.*
>
> *Cumulative impacts of the ShopRite expansion were discussed in the DEIS. Water and sewer demand estimates included the ShopRite expansion. The expansion would occur in an area that is currently paved parking lot and therefore the disturbance and stormwater impacts from the expansion would be minima, according to the Applicant. The proposed area of ShopRite expansion is shown in Figure 14-1 Northern Alternative Access Plan. Parking and the driveway on the north side of the ShopRite building would be expanded approximately 100 to 150 feet to the north in a previously disturbed and cleared area.*

Comment 8-20 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.6.9: None of the "Build Scenarios" include a warrant analysis to determine whether a signal is needed at the new site driveway. The left turn movement out of the site is shown by the analysis to be constricted due to the length of the queue for southbound traffic on Route

52 at the existing light at the ShopRite plaza driveway. Although the stacking of the queue for the left turn movement from the site would be internal to the project, driver impatience will likely lead to accidents on Route 52. The FEIS needs to include a complete analysis of each traffic scenario as to whether a signal is required in order to create safe turning movements and breaks in the traffic queue to accommodate project related volume.

Response 8-20: *The Applicant has analyzed the need for a traffic light for each traffic scenario. Based on NYS DOT criteria, sufficient side street traffic at the proposed Hillcrest driveway does not exist to meet signal warrants under any development scenario anticipated for the Hillcrest site. A second lane exiting the project site has been proposed as a mitigation measure to reduce the delays for drivers exiting the site under the office and residential uses but not under the proposed residential plan.*

Comment 8-21 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.6.9: The DEIS indicates that the applicant will request a waiver from the Town of Kent to allow the access roadway to be constructed to a grade of 10 percent as opposed to 8 percent maximum grade. An analysis is required to determine traffic related impacts if the requested waiver is not granted. The FEIS need to include a plan showing the road at the maximum permitted slope of 8% and evaluate the impacts of a road at this slope. The FEIS needs to include a summary of the advantages and disadvantages of each proposal.

Response 8-21: *The project engineer has prepared a road profile, which compares the maximum permitted slope (Town of Kent Code) of 8 percent to the proposed slope of 10 percent. The profile is provided as Figure 8-2. The primary advantage of the proposed 10 percent road grade is that it would result in substantially less grading, excavation and earth material removal. As illustrated by the Figure, at the approximate middle of the access drive (Station 10+00), the 8 percent profile would require the removal of an additional 14 feet of earth and rock, resulting in major excavation, grading and the cutting back of side slopes to create suitable slopes to meet the road grade. Near the crest of the access road (Station 15+00), an 8 percent slope would require an additional 23 feet of excavation and earth removal compared to the 10 percent road grade proposal.*

Obviously, 23 vertical feet of excavation would result in considerably more additional excavation, a much larger area of disturbance, a greater amount of blasting, and an increase in the volume of soil and rock that would require removal from the site. Material removal would add construction truck traffic to local roads. The applicant believes that a 10 percent slope for the access road provides a safe, easily maintained road while minimizing the grading and earth removal required to construct the road.

Comment 8-22 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.6.10: The discussion of mitigation consists of suggestions only and fails to commit the applicant to any particular course of action to mitigate the various declines in the LOS as identified in the traffic study. SEQRA, requires that specific measures be identified to address project related impacts. The FEIS needs to identify the specific mitigation that will be incorporated into the project design as mitigation.

Response 8-22: *The New York Environmental Quality Review Act states, "An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation" (6 NYCRR Part 617 State Environmental Quality Review NYS DEC). The applicant has*

proposed specific mitigation measures in earlier plans, however the applicant's current plan reduces the generated site traffic by eliminating the office component rather than provide roadway improvement measures. Any mitigation measures also require approval from the NYS DOT.

The project generated traffic would result in declines to levels of service, below levels acceptable by NYS DOT at one single intersection; US Route 6 and NYS Route 52. The DEIS identified signal timing adjustment for the NYS Route 52/US Route 6 intersection, by the New York State Department of Transportation as an appropriate mitigation, when conditions warrant. The NYS DOT is also conducting a corridor Study of US Route 6 from NYS Route 52 to the Taconic State Parkway. According to the Applicant, this would be a more appropriate venue for investigating major long term improvements to the intersection.

Comment 8-23a (Letter #12, Letter from Adler Consulting, August 19, 2005): As an overview, it is noted that the traffic evaluation of the Project was performed in accordance with accepted engineering practice.

Response 8-23a: *Comment noted.*

Comment 8-23b (Letter #12, Letter from Adler Consulting, August 19, 2005): This evaluation identified that both NY Route 52 and, even more so, Fair Street have sections that have experienced a considerable number of accidents in recent years, but did not discuss how the project might impact this pre-existing condition or whether there were any measures that could be undertaken as part of the Project to improve traffic safety.

Response 8-23b: *To the extent the project will add additional traffic to intersections with a history of accidents, the number of conflicts in these areas may potentially increase. Delay and lower levels of service is a factor in driver frustration, which may result in higher accident rates, in the Applicant's opinion.*

As shown in Table 3.6-10 (DEIS) the delays at John Simpson Road/Fair Street can be related to intersection collisions in Table 3.6-5. Other intersections not proposed for major improvement, such as Horse Pound Road /NYS Route 52 and U.S. Route 6/NYS Route 52 have levels of service E or F, and have the potential to experience increase collisions over time, unless improvements are made to those intersections. U.S. Route 6/NYS Route 52 is under study by the NYS DOT as part of a broader corridor review and retiming has been suggested to improve movements at the intersection. See Response 8-24a and 8-36 for discussion of Horse Pound Road.

Comment 8-23c (Letter #12, Letter from Adler Consulting, August 19, 2005): The DEIS analysis generally indicated that the Project would have a minimal impact at most locations, although additional analyses should be performed at some locations to confirm this.

Response 8-23c: *Comment noted. See also Responses 8-24a and 8-24b, below.*

Comment 8-24a (Letter #12, Letter from Adler Consulting, August 19, 2005): Two areas of impact were, however, identified. The intersection of NY Route 52 with Horse Pound Road is projected to operate poorly in the future and the addition of Site traffic is calculated to considerably worsen that condition. The FEIS should reconsider whether additional mitigation measures (other than possible larger turning radii) should be considered at this location.

***Response 8-24a**: The Horse Pound Road/NYS Route 52 traffic analysis shows that between the existing and the No Build condition, level of service goes from D to F in the PM peak hour and Saturday peak hour level of service goes from E to F, with delays more than doubling. These are projected future conditions <u>without</u> the Hillcrest Commons project traffic added.*

The project traffic is estimated to increase delays at this intersection, somewhat. The DEIS Scenario 1 project traffic will result in delay increases of approximately 5 seconds in the weekday a.m. peak hour, 23 seconds in the weekday p.m. peak hour and 10 seconds in the Saturday peak hour. The current plan would reduce site traffic in the Build Condition by eliminating the office component. This would reduce site traffic through the Horse Pound Road/NYS Route 52 intersection from 90 vehicle to 22 vehicles in the weekday a.m. peak hour, from 104 vehicles to 18 vehicles in the weekday p.m. peak hour and from 35 vehicles to 17 vehicles in the Saturday peak hour. Below is a discussion of improvements that could decrease delays at the intersection.

Three other potential mitigation measures could be considered at NYS Route 52 and Horse Pound Road to improve levels of service at the intersection. These measures are 1) installation of a traffic signal, 2) separating left and right turn vehicles into separate lanes on Horse Pound Road, and 3) providing a center turn lane on NYS Route 52 to receive traffic.

Based upon the anticipated traffic volumes out of Horse Pound Road, it is unlikely this intersection would warrant a traffic signal. Current peak hour traffic is under 100 vehicles per hour. The warrant most likely to be met by the intersection is the "interruption of continuous flow" warrant. Horse Pound Road primarily serves residences, which are unlikely to generate the 75 vehicles per hour for each of eight hours needed.

Since the left-turn traffic volumes are relatively low (under 35 vehicles per hour), a wide curb radius was considered, rather than a separation of lanes. Given relatively low left turn volumes, a wide curb radius functions similar to an extra lane. Furthermore, if a full additional turn lane was installed, the criteria (warrant) for a signal at this location would increase from 75 to 100 vehicles an hour. While adding a separate approach lane may provide modest traffic improvement, it may delay the installation of a signal at this location, according to the Applicant.

Center turn lanes can improve level of service conditions when used properly by drivers. Much of the benefit of a center turn lane may already be utilized since a striped area is located beyond the northbound left turn lane, in the Applicant's opinion.

<u>Comment 8-24b (Letter #12, Letter from Adler consulting, August 19, 2005):</u> Two areas of impact were, however, identified... In addition, the DEIS indicated that it will be very difficult to get out of the Site onto NY Route 52 during the peak commuter hour in the evening. Furthermore, additional information is required to determine that the driveway can be constructed to accepted engineering standards (with regard to sight distance), whether a left-turn lane should be provided on NY Route 52 at the Site driveway, or whether more consideration should be given to the alternative locations where the Site could be accessed.

***Response 8-24b:** Alternative access locations were examined through the ShopRite parking lot. They are not deemed feasible, according to the Applicant. See Alternatives Section of this document (Section 14) for more detail. Sight distance, and turn lanes are*

discussed in responses 8-50 to 8-52, and 8-37. The current proposal reduces the number of vehicles entering and exiting the site compared to the DEIS proposal.

Comment 8-24c (Letter #12, Letter from Adler consulting, August 19, 2005): Finally, the FEIS should clarify whether adequate on-site parking will be provided for the office and residential components of the development.

Response 8-24c: *Site parking has been revised as a result of the modification of the project and the elimination of the office use. The parking provided for the residential development meets zoning requirements.*

Comment 8-25 (Letter #12, Letter from Adler consulting, August 19, 2005): It appears that the southbound through movement on NY Route 52 at Horse Pound Road is low by about 150 vehicles during the Peak AM Hour. However, the PM and Saturday conditions are considerably more critical than the AM hour at this intersection and so no additional analyses need be performed for the FEIS.

Response 8-25: *Comment noted. The NYS Route 52 / Horse Pond Road intersection had two small peaks in the a.m. It cannot be determined from the turning movement counts if traffic was stopping off at locations in between intersections or being diverted to Palmer Road and other intersections.*

Comment 8-26 (Letter #12, Letter from Adler consulting, August 19, 2005): Figure 3.6.4 indicates that 77 more vehicles leave the intersection on NY Route 52 with NY Route 301 traveling southbound than arrive at the subsequent intersection of NY Route 52 with US Route 6, 1500 feet to the south during the Peak AM Hour. The FEIS should indicate the reason for this or correct the analyses (existing, No-Build and Build) accordingly.

Response 8-26: *St. James the Apostle School, with over 300 students, opens between 7:30 and 8:00 a.m., which is within the a.m. peak hour of these intersections. This school traffic likely affects traffic volumes at the respective intersection. All a.m. peak hour traffic counts were taken May 5, 2004.*

Comment 8-27 (Letter #12, Letter from Adler consulting, August 19, 2005): Figure 3.6.5 indicates that 31 fewer vehicles leave the intersection of NY Route 52 with the signalized ShopRite driveway traveling southbound than arrive at the unsignalized ShopRite driveway a few hundred feet to the south during the Peak PM Hour. The FEIS should indicate the reason for this or correct the analyses accordingly.

Response 8-27: *Peak traffic was analyzed at both the signalized and unsignalized driveways, but the peak hours differ by 30 minutes for these locations. The peak hour at each driveway is determined by the traffic volumes at each location, which are independent of each other. Therefore, at different times the pass by traffic volumes on NYS Route 52 will be slightly different, even if the traffic was counted on the same day at similar periods.*

Comment 8-28 (Letter #12, Letter from Adler consulting, August 19, 2005): Figure 3.6.5 indicates that 150 fewer vehicles leave the intersection of NY Route 52 with Fair Street traveling northbound than arrive at the intersection of NY Route 52 with the unsignalized ShopRite driveway traveling northbound during the Peak PM Hour. The FEIS should indicate the reason for this or correct the analyses accordingly.

Response 8-28: *Peak hour traffic differs by 15 minutes for the two identified intersections (NYS Route 52/ Fair Street and NYS Route 52/ ShopRite Driveway). Vink Street and other areas with commercial uses are likely contributing additional northbound traffic toward I-84 during the p.m. peak hour.*

Comment 8-29 (Letter #12, Letter from Adler consulting, August 19, 2005): Figure 3.6.6 indicates that 183 more vehicles leave the intersection of NY Route 52 with the unsignalized ShopRite driveway traveling southbound than arrive at the intersection of NY Route 52 with Fair Street traveling southbound during the Peak Saturday Hour. The FEIS should indicate the reason for this or correct the analyses accordingly.

Response 8-29: *The peak hours are offset by 15 minutes for the two identified intersections. Between the two intersections there are several residential areas, which may be final destinations for p.m. peak hour traffic, removing those vehicles from NYS Route 52. In addition, numerous commercial businesses may collect pass-by traffic during this time period and result in different vehicle counts at the two intersections.*

Comment 8-30 (Letter #12, Letter from Adler consulting, August 19, 2005): A review of the No-Build traffic volumes revealed them to be acceptable for analysis purposes, provided the discrepancies in the existing volumes are appropriately addressed.

Response 8-30: *Comment noted.*

Comment 8-31 (Letter #12, Letter from Adler consulting, August 19, 2005): The Trip generation and assignment presented in the DEIS are acceptable. However, this statement is conditioned upon the assumption that the senior residences will remain in the ownership of qualified seniors. If not already detailed in the DEIS, the FEIS should indicate that the for-sale senior units will not pass into the ownership of non-Seniors and should specify the mechanism that will prevent such transfers.

Response 8-31: *Comment noted. The DEIS describes the fact that Town of Carmel Special Permit requirements restrict the age of residents in the proposed development. The Hillcrest Commons development will be governed by applicable law, which includes local zoning laws that, in this case, contains the required age restrictions. The condominium offering plan and all applicable condominium documents will contain the age restrictions as well, according to the Applicant.*

Comment 8-32 (Letter #12, Letter from Adler consulting, August 19, 2005): The NY Route 311 approach to NY Route 52 has only one lane. Analysis of this intersection should be revised for the AM and PM periods with a single lane approach and the results presented in the FEIS.

Response 8-32: *Although the NYS Route 311 approach NYS Route 52 is striped as one lane, it functions as though it were two lanes due to the wide radius. Thus, the one lane function presented in Appendix C Attachment B Table C-1, would tend to over estimate delay, yet still indicates level of service D or better.*

Comment 8-33 (Letter #12, Letter from Adler consulting, August 19, 2005): At the intersection of the Site driveway with NY Route 52, the use of a 0.99 Peak Hour Factor during the Peak PM Hour for the northbound through movement is not supported by the Peak Hour Factors at the upstream and downstream intersections (0.92 and 0.96, respectively). Furthermore, considering that the majority of the exiting traffic is office-generated, the use of the 0.95 Peak Hour factor for the Site Driveway approach is optimistic (0.85 would be more realistic

during the PM peak hour). Finally, it appears that the acceptable gap for the exiting left-turn movement was reduced from 6.4 seconds to 6.0 seconds without justification or explanation in the Scenario 2 Build analysis of this time frame. The analyses should be revised to reflect these comments and the results presented in the FEIS.

Response 8-33: *A separate count was conducted at the site access location. A review of the peak hour factor (PHF) indicates that the actual factor was 0.984 and should have been evaluated as 0.98 northbound and southbound PHF should be 0.94. It is likely that an intervening road (Dykeman Road) and a gas station are filling in the volume gaps to increase the PHF over the adjacent ShopRite intersection.*

The acceptable gap was not reduced as shown in the attached level of service calculations in Appendix C Attachment D. These calculations are more detailed than provided in the DEIS.

As described above, the current Site Plan proposal involves the elimination of the office uses, thereby substantially reducing the traffic generated at the site, improving level of service and reducing delays.

Comment 8-34 (Letter #12, Letter from Adler consulting, August 19, 2005): FEIS should include a table that provides a comparison of the No-Build and Build Levels-of-Service for each of the studied intersections.

Response 8-34: *A level of service table is provided in FEIS Appendix C Attachment B Tables C-2 to C-4. This provides a worse case of the office and residential development. The current plan with only residential development, the delays would more closely correspond to the No Build Condition than the Build Condition in the a.m. and p.m. weekday peak hours.*

Comment 8-35 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at Towners Road - The Project is projected to result in a deterioration in operating conditions from Level-of-Service "C" to Level-of Service "D" (due to a 20-second increase in delay) during the critical PM Hour. The Project's impact could be reduced by retiming the signal slightly, which would be the responsibility of the New York State Department of Transportation (NYSDOT). The FEIS should indicate the benefits of this measure.

Response 8-35: *A level of service Table C-5 is provided in Appendix C Attachment B and worksheets are provided in Appendix C Attachment C. A retiming could retain the northbound level of service C with increases in the eastbound and westbound delays.*

Comment 8-36 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at Horse Pound Road - The analyses indicate that this intersection will be failing in the future, without the addition of Project traffic and that the Project will increase delays by approximately 30 seconds during the Peak PM Hour. The DEIS, suggests that operating conditions could be improved by increasing the turn radii, however, a more practical approach would be to reconfigure the existing 38-foot wide Horse Pound Road approach to the intersection to provide separate left and right turn lanes. While it will still be difficult to make a left turn onto NY Route 52, this measure could effectively mitigate for the Project's impact at this location, but only if the Horse Pound Road approach is not already being used as two lanes.

Response 8-36: *The existing wide turning radius at Horse Pound Road currently allows right and left turns to occur simultaneously, and therefore the approach, with its current*

low volumes is functioning as if it had two lanes. Widening the approach and providing two full lanes would only provide modest improvements to traffic flow, according to analysis and the Applicant's opinion. In addition, if two lanes were provided for this approach, the side street volume required to meet a traffic signal warrant would be higher. While adding a separate approach lane may provide modest traffic improvement, the applicant believes it may delay the installation of a signal at this location.

Comment 8-37 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at the Site driveway - Based on a review of the analyses, it is expected that demand will exceed capacity at the Site exit during the busiest 15 minutes of the Peak PM Hour and that it will be very difficult to exit the Site during this time period. The DEIS suggests that operating conditions at this intersection could be significantly improved by constructing large turning radii at the Site driveway, however, it would take a very large radius to provide storage for two right-turning vehicles, as assumed by the analyses. A more practical solution would be to construct separate left and right turn lanes as the driveway approaches NY Route 52. The FEIS should consider this alternative and discuss in more detail how vehicles will be able to exit the Site during this, the critical time period.

Response 8-37: *The current proposal reduces the site generated traffic by eliminating the office component. It is the Applicant's opinion that based upon the substantial reduction in site generated traffic additional turn lanes will not be required. A level of service analysis for the alternative noted in Comment 8-37 with the residential and office components is provided in Appendix C and summarized in the Appendix C, Attachment C Table C-6.This analysis shows level of service based on three changes; a) a second lane exiting the site; b) a southbound left turn lane from NYS Route 52 into the project site; and, 3) a center turning lane between Dykeman Road and the site access, and a center turning lane expanding the existing transition from the northbound NYS Route 52 left turn lane at Dykeman Road (see Figure 8-1).*

A center turn lane on Route 52 would allow left turning vehicles exiting the site to use northbound and southbound gaps separately rather than needing the gaps to occur simultaneously. The center turn lane would also be utilized by the existing gas station traffic. Any and all these measures require approval of the NYS DOT. With this measure, a level of service E or better could be obtained for the Buildout Scenario.

Comment 8-38 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at the ShopRite Driveways - Provided that the PM base traffic volumes used in the analysis of these intersections are confirmed to be representative of typical conditions as previously requested, the capacity analyses indicate that the Project will have a modest impact at these intersections. Because overall operating conditions are projected to remain acceptable (Level-of-Service "C" or better), mitigation would not be required.

Response 8-38: *Comment noted.*

Comment 8-39 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at Fair Street - Provided that the base traffic volumes used in the analysis of this intersection are confirmed to be representative of typical conditions as previously requested, the capacity analyses indicate that the Project will only have a minimal impact at this intersection.

Response 8-39: *Comment noted.*

Comment 8-40 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at NY Route 301 - Provided that the base traffic volumes used in the analysis of this intersection are confirmed to be representative of typical conditions as previously requested, the capacity analyses indicate that the Project will only have a minimal impact at this intersection.

Response 8-40: *Comment noted.*

Comment 8-41 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52 at US Route 6 - Provided that the AM base traffic volumes used in the analysis of this intersection are confirmed to be representative of typical conditions as previously requested, the capacity analyses indicate that the Project will have a modest impact at this intersection. The Applicant proposes to mitigate for this impact by having the NYSDOT modify the signal timings slightly. With these timing improvements, projected changes in Levels-of Service at this intersection will be restored to No-Build levels and the incremental increase in delay on any movement will be approximately ten seconds or less.

Response 8-41: *Comment noted. See Response 8-26.*

Comment 8-42 (Letter #12, Letter from Adler consulting, August 19, 2005): Fair Street at John Simpson Road - The County is in the process of substantially upgrading this intersection with a traffic signal and turn lanes. These improvements will be adequate to accommodate any traffic generated through this intersection by the subject Project.

Response 8-42: *Comment noted. Construction is in progress on the Fair Street/ John Simpson Road intersection.*

Comment 8-43 (Letter #12, Letter from Adler consulting, August 19, 2005): Additional information is required for the intersection of NY Route 52 at NY Route 311 to determine whether the Project might have an impact at that location.

Response 8-43: *See Response 8-32.*

Comment 8-43 (Letter #12, Letter from Adler consulting, August 19, 2005): Finally, A review of the analyses indicated that the addition of 10,000 sf. of retail space to the existing ShopRite shopping center, contemplated under Scenario 2, would have only a minimal impact above that associated with the residential and office components of the Project considered under Scenario 1.

Response 8-43: *Comment noted.*

Comment 8-44 (Letter #12, Letter from Adler consulting, August 19, 2005): On page 1-1 the DEIS states that the office component of the development will consist of 60,000 sf. On page 1-4, it is stated that the 123-space parking lot for the north office buildings and the 155-space parking lot for the south office buildings will satisfy the Town code requirement of 1 space for each 200 sf. However, by our calculations, the proposed 278 spaces are slightly less than the 300 required and the FEIS should address this issue.

Response 8-44: *The current Site Plan eliminates the office component and therefore, this comment is not applicable to the current plan.*

Comment 8-45 (Letter #12, Letter from Adler consulting, August 19, 2005): A review of accident analyses revealed a relatively high accident frequency at certain locations on NY Route

52 and an even higher frequency, relative to the level of traffic, on Fair Street. It is noted, however, that the Project is provided access to NY Route 52 and not to Fair Street, so the majority of Site traffic will not be impacting Fair Street.

Response 8-45: *Comment noted. An intersection with the highest accident rates, Fair Street /John Simpson Road is being reconstructed with turning lanes and a traffic signal. See also Response 8-48.*

Comment 8-46 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52, just south of NY Route 311 (ref 1035 to 1038) - Half of the 18 reported accidents were rear end accidents and following too closely was listed as a contributory factor.

Response 8-46: *Comment noted.*

Comment 8-47 (Letter #12, Letter from Adler consulting, August 19, 2005): NY Route 52, from the ShopRite driveways to US Route 6 (ref 1061 to 1070) - One third of the midblock accidents for which the roadway conditions were recorded indicated that the roadway was wet, as opposed to dry, when the accidents occurred;

Response 8-47: *Comment noted.*

Comment 8-48 (Letter #12, Letter from Adler consulting, August 19, 2005): Fair Street from NY Route 52 to Everett Drive - More than half of the midblock accidents for which the roadway conditions were recorded indicated that the roadway was wet, as opposed to dry, when the accidents occurred and a slippery pavement was cited as a contributing factor in more than one third of the reported accidents. Furthermore, three quarters of the accidents reported on Fair Street between Vink Drive and Glenna Drive were left-turn accidents and failure to yield right-of way was listed as a contributing factor in more than one third of the reported accidents.

Response 8-48: *Comment Noted. An S-curve, likely contributes to the wet pavement collisions between NYS Route 52 and Everett Drive. This curve already has warning signs with flashing lights.*

Comment 8-49 (Letter #12, Letter from Adler consulting, August 19, 2005): The addition of Hillcrest Commons traffic may not dramatically change traffic safety along NY Route 52 and Fair Street, largely because the added traffic will be indistinguishable from existing traffic. However, no reference was found in the DEIS as to how Project traffic may or may not impact traffic safety. The FEIS should discuss the Project's potential impact with respect to current accident history on the surrounding roadways. Furthermore, since the DEIS has identified significant existing traffic safety concerns, as part of the FEIS, it is suggested that the Applicant conduct a sign inventory for the above roadway segments and recommend additional signing measures that could specifically address the identified contributing factors.

Response 8-49: *The DEIS has identified some collision patterns that are not necessarily significant. Appendix C provides a sign inventory for Fair Street prior to the new construction at John Simpson Road. Additionally a sign inventory is shown for portions of NYS Route 52. Fair Street already has numerous warning signs including a variable speed signing for the Fair Street S Curve that appears to be rather distinct and driver informative. The Fair Street/ Simpson Road intersection improvement is the County's first step toward improving Fair Street.*

As can be seen from Figure C-2 Appendix C Attachment A there are numerous speed and warning signs throughout the area. Given the 25 mile per hour recommended speed for the curve south of Horse Pound Road, the Applicant believes consideration should be given to extending the 30 mile per hour zone past north of Horse Pound Road.

Comment 8-50 (Letter #12, Letter from Adler consulting, August 19, 2005): The DEIS appropriately discusses the intent of both the Intersection Sight Distance and Stopping Sight Distance requirements that are prescribed by the New York State Department of Transportation, from which approval will be required for *construction* of the proposed driveway. However, intersection and stopping sight distance requirements are typically based on the operating speed of the roadway (typically the 85th percentile speed) not the posted speed limit. The FEIS should provide an indication of the operating speed of the roadway in either direction, along with the respective stopping and intersection sight distances for such speeds as well as a comparison with the noted available sight distance (particularly to the south/left).

Response 8-50: *The applicant's traffic engineer recently collected measurements of operating speeds on NYS Route 52 in the vicinity of the proposed access drive. The 85th percentile speeds are 40 miles per hour northbound and 38 miles per hour southbound as shown in Appendix C Attachment A Figure C-1. Stopping sight distances and intersection sight distances for 30 to 40 mile per hour speeds were discussed in the DEIS. The actual sight distances will be refined as the site access design is finalized.*

Comment 8-51 (Letter #12, Letter from Adler consulting, August 19, 2005): An inspection of the proposed driveway location confirmed the DEIS statement that the existing Town of Kent sign obstructs sight distance to the left. However, the DEIS failed to note that the *fence and* signs for Hillside Memorials also obstruct sight distances and whether there are appropriate setback requirements for this property and the adjacent property (N/F Putnam County National *Bank),* which would prevent the erection of structures that would further obstruct sight distances. The proposed driveway will form a significant intersection on the inside of a curve on NY Route 52. It is recommended that the Site Plan be revised and included in the FEIS to demonstrate whether/how the intersection and stopping sight distances for the operating speed of the roadway will be provided to the satisfaction of the NYS DOT Traffic and Safety Division, from whom approval to construct the driveway will be sought.

Response 8-51: *Potential mitigation measures and the final design of such measures will influence sight lines. The Applicant, through the work permit process, will seek to improve sight distances to acceptable levels, as would be established by the NYS DOT. This may involve a combination of measures including the relocation of signage, sight line easements or the removal of vegetation.*

Comment 8-52 (Letter #12, Letter from Adler consulting, August 19, 2005): Furthermore, the Site Plans do not show a dedicated southbound left-turn lane on NY Route 52 to accommodate vehicles turning left into the Site without obstructing southbound through-moving vehicles. A comparison of the DEIS Build traffic volumes with the information provided in Exhibit 9-75 of the American Association of State Highway and Transportation Officials' (AASHTO) *Policy on the Geometric Design of Highways and Streets, 2004* indicates that a left turn lane should be considered on NY Route 52 at this location. The construction of such a lane may further impact sight distances. The FEIS should discuss the need for and feasability of constructing a left-turn lane and whether it will have any impact on intersection sight distances.

Response 8-52: *The project site would meet AASHTO guide for construction of a left turn lane based on 40 mile per hour operating speeding for each of the peak hour periods with the former office and residential development. Response 8-37 discusses the potential capacity improvements associated with adding a left turn lane on NYS Route 52 for southbound traffic entering the site and a center turning lane between the project entrance and Dykeman Road. Both of these measures could improve sight distance.*

There appears to be sufficient right of way to accommodate such improvements, according to the Applicant, however, the turn lane design needs to be reviewed and approved by NYS DOT. The current plan reduces the traffic turning left into the site and a left turn lane is no longer proposed into the site access.

Comment 8-53 (Letter #12, Letter from Adler consulting, August 19, 2005): Page 1-19 *of the DEIS provides a* discussion of alternative access locations considered. Relative to this discussion, it is noted that grades at north end of the ShopRite parking lot are no more excessive than on the proposed driveway and that the wetland issues at the residential parcel on Route 52 at the south end of the Site are similar to those at the proposed driveway. Given the issues that we have raised regarding the design of the Site driveway at NY Route 52 and the traffic analysis indicating that it will be difficult to exit the Site at this location during the evening commuter peak hour, the Planning Board may wish to request that the Applicant reconsider the possibility that a safer and more efficient access might be feasible at an alternative location.

Response 8-53: *The Applicant has analyzed the possibility of gaining access to the Hillcrest Commons site through the ShopRite Shopping Center, as more fully described in the Alternatives section of this document. The steepness of the slope at the north end of the shopping center, combined with the extremely narrow area that does not contain existing building structures, makes this alternative infeasible, according to the Applicant. The southern access alternative would involve much more extensive grading and site disturbance than the proposed access road. (See Section 14.0 Alternatives).*

9.0 COMMUNITY SERVICES/SOCIOECONOMIC COMMENTS AND RESPONSES

The modified project and Site Plan would involve the elimination of the 69,000 square feet of office uses analyzed in the DEIS. This modification of land uses and reduction in the scale of the project would result in the same population for the project site, but somewhat reduced community service impacts, compared to the former site plan.

Water and sewer demand for the project would be reduced by approximately 4,720 gallons per day. The tax revenues generated are estimated to be in excess of $475,000 per year under the modified project. The project will not add any fiscal burden to the school district since no school age children will reside at Hillcrest Commons. The employment opportunities for the Town would be reduced with the elimination of the office uses. According to the Applicant, the project impacts to the local police, fire and emergency medical services would be somewhat reduced, with the elimination of office uses.

Comments to the project related to Town water and sewer capacity and infrastructure were provided in a letter dated July 14, 2006, from Dolph Rotfeld Engineering, P.C., the Town's consulting engineer (see Appendix I). These issues have been addressed by the applicant and supplemental information and correspondence is provided in an *Addendum to the FEIS,* provided in the front pocket of this FEIS document. The project engineer has prepared a *Revised Water Engineering Report* and a *Revised Wastewater Engineering Report*, responsive to Town comments and concerns regarding water and sewer issues. These reports are provided in Appendix D and Appendix E, respectively.

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

Comment 9-1 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): First of all, and I think most importantly because we see essentially the same housing market analysis a lot. We have yet to see, and we do not see in this particular submission, any suggestion that there is any market whatsoever for this housing. What we see is that there are people that would qualify for this housing both by age and by earning power, but it's specious to conclude from that that there's any market for this stuff...Just because there is a potential market, just because people can buy something, doesn't mean they will.

> ***Response 9-1:*** *The increase in the demand for senior housing throughout the United States is well documented. As the Senior Housing Market Survey included with the DEIS indicates, the senior population is seeing significant growth as "Baby Boomers" turn 55 years and older. At the same time, there is a national trend towards people remaining in their own community as they reach retirement age, choosing to remain close to family and friends.*
>
> *According to the Applicant, many seniors are opting to move to senior communities, such as Hillcrest Commons, that are designed specifically to serve the unique housing needs of the senior population. Senior communities allow seniors to down-size to a more manageable home and, at the same time, maintain their independence.*
>
> *Financially, a senior household will pay lower annual taxes, utilities, and maintenance costs in a new, generally maintenance-free, energy-efficient condominium community, as opposed to those costs a senior homeowner is faced with in a larger and older*

single-family home. In addition, there is no individual responsibility for the upkeep of grounds, building exterior, snow plowing, major systems repair, etc., in a senior condominium community.

Further, in the applicant's senior communities, such as Hillcrest Commons, a 24-hour emergency response call system in every unit, as well as elevator accessibility to all units, enables seniors to "age in place" for a longer period of time.

In the Applicant's opinion, it is reasonable to assume that the senior housing trends in Putnam County will be the same or similar to national housing trends. Based on the Claritas, Inc. Senior Life Report 2000 - 2008, there will be an estimated 9,737 senior households in Putnam County that will be able to afford a home at Hillcrest Commons, and it is reasonable to assume that a significant portion of these households will follow the national trend of down-sizing to a new home in an age-restricted housing community locally – in this case, Putnam County.

Hillcrest Commons proposes to capture just 1.5% of the potential eligible senior household market in Putnam County, or just 4.45% of the Town of Carmel market, which is estimated to have 3,374 senior households in 2008 that could afford a home at Hillcrest Commons. The Applicant has no doubt regarding the marketability of its proposed senior community at Hillcrest Commons. It is noted that while there are other senior development projects being proposed in the Town of Carmel, the Applicant is the only for-profit development company to build any senior housing in Putnam County and the only Applicant with empirical data that proves the marketability of its own senior communities.

The Applicant has built two senior communities comprised of 229 homes in Putnam County alone, all of which are fully occupied. In fact, the Applicant has completed over 1,100 senior housing units in New York State, all of which maintain full occupancy.

Based on over 25 years of experience in the field of single-family, multi-family, and senior housing development, the Applicant believes its choice of site, thoughtful planning, high quality and attention to detail in combination with moderate pricing, has resulted in its senior homes being some of the most coveted housing in the communities in which they have been built.

Comment 9-2 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): We have never seen any evidence in any senior housing study and certainly not in this one that that's the case. And, of course, that is a prerequisite for granting the senior housing permit and until we do see some evidence that somebody is actually going to buy these things, I don't thing we can seriously consider the permit.

Response 9-2: *The conditions of granting a special permit are not tied or linked to evidence that someone is going to buy a residential unit. For all practical purposes such evidence would require "presales" of a unit before it is approved or constructed, which is prohibited by law. Rather, the conditions of the special permit require the submission of a survey that documents that there are a sufficient number of senior households to occupy the proposed housing units. The Market Study included in the DEIS provides this documentation. Please refer to Response 9-1.*

Comment 9-3 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): Now, assuming that people from the Town of Carmel do buy these things, which is what--as nearly as I can tell the applicant does indeed assume, we have to look at the tax impacts to the town from these purchases. Based on the DEIS, the new senior units will pay about $1,600 per unit per year in new taxes, assuming that these units are bought by people who currently live in the community and assuming that their houses are, in turn, bought by people with two children in schools, we would be looking at a net deficit in school revenues of $2.4 million a year fro these 150 units. There are potentially very negative impacts to the taxes in the Town of Carmel for our school taxes from this senior housing.

Response 9-3: *The Hillcrest Commons development is estimated to generate $256,048 in additional revenues to the Carmel School District. Because the development is limited to seniors, no additional school children will be entering the school district as a result of the development. Thus, there is a $256,048 gain in revenues to the school district. In the Applicant's opinion, with or without Hillcrest Commons, senior households in Carmel will make the decision to sell their homes when they are no longer willing or able to keep up with the demands (financial and otherwise) of owning a single family home. Hillcrest Commons is contributing to the community by providing an alternative for these seniors to stay in their community, and not insignificantly, to continue to contribute to the tax base.*

Comment 9-4 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): How's it going to impact our sewage treatment plant?

Response 9-4: *According to the Applicant, the proposed plan is not expected to adversely impact the sewage treatment plant. There are eight sewer districts located in the Town of Carmel. The proposed action is located in Carmel Sewer District #2. According to the Project Engineer's and Town's evaluation of the capacity of Carmel Sewer District #2, there is sufficient capacity available in District #2 for the Hillcrest project as well as the future demand of other proposed projects.*

New sewer mains will be installed and improvements conducted in accordance with the standards and specifications of the Town of Carmel and the Putnam County Health Department. No further mitigation is proposed to the sewer system from the proposed Hillcrest Commons.

Comment 9-5 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): We also have fire department and police department issues that have to be addressed; access into it for the fire department, access into it for the police department.

Response 9-5: *Existing conditions, potential impacts and mitigation measures regarding Police and Fire Protection, Emergency Medical Services and Hospital Services are described in Section 3.7, Community Services/Socioeconomic of the DEIS.*

Regarding site access for both police and fire protection, there are two access routes into the site. The primary access into the site is along the northern edge of the property, adjacent to Route 52. The main access crosses the border between the Town of Carmel and the Town of Kent. There is also an emergency access into the site. This access, a gravel road, is proposed from the southeast edge of the shopping center parking lot. The primary access road will be built to the standards of both the Town of Kent and the

Town of Carmel. The primary access and emergency access roads will be suitable to handle emergency vehicles.

Comment 9-6 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): I don't know who's going to take care of roads and whatnot there. I presume it's privately owned.

***Response 9-6**: The access road will be built to Town specifications and offered for dedication to the Town. Assuming the road is accepted by the Town, the access road for the Hillcrest Commons project, once constructed will be owned and maintained by the Town of Carmel as a public road.*

Maintenance of Hillcrest Commons common areas such as parking lots and internal drives will be handled by the condominium owners association, where maintenance fees will be collected from tenants. This fee will be utilized by the property management company, to maintain the landscaping, buildings, and property infrastructure of the site.

Comment 9-7 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): What about the taxation on this property. Is there going to be a reduced tax rate for property and the school tax? The taxpayers of Carmel have to absorb this once again.

***Response 9-7:** The units of the proposed project will be sold at market rate and the owners will pay full taxes. No tax abatements specific to this development are contemplated. Annual taxes will be paid to Carmel Schools, which will be an additional benefit for the Carmel School District since school age children will not reside in the proposed development. A complete discussion of the fiscal impacts of the project is provided in Section 3.7-1, Property Taxes, of the DEIS.*

Comment 9-8 (Hillcrest Public Hearing, Virginia Villegas, July 6, 2005): I would like to stay in Putnam, but I am not selling my house and taking $300,000 and plopping it in this development and having ShopRite, eight cinemas where it's just packed with teenagers, a Laundromat, a dollar store, a Subway and a Chinese take out as my neighbors in my $300,000 home. I'm not going for it, and I don't think that you'll get a lot of people in Putnam County going for it.

***Response 9-8:** Comment noted. Please refer to Response 9-1.*

Comment 9-9 (Hillcrest Public Hearing, Tom Boyce, July 6, 2005): And if people are going to over here, where are they going to come from; are they going to come from Carmel or are they going to come from outside our community and overbear our community? What's the benefit to us and the Village of Carmel?

***Response 9-9:** The Applicant plans to advertise and market to Carmel residents before extending its marketing efforts outside the Town. In the Applicant's experience, the majority of residents in its senior communities tend to be from the local area or are directly related to someone from the area, such as a parent of an adult child who lives in the area.*

In the Applicant's opinion, the proposed development offers numerous benefits. First, the construction of the proposed project is designed to satisfy the increasing demand for suitable senior housing in the Town of Carmel and in Putnam County. This demand was

demonstrated in the Market Study conducted for Hillcrest Commons. Local seniors who would like to stay in their community, but need to downsize, will now have an option to stay and continue to be a part of the community and will pay taxes in the community. The DEIS examined a potential 10,000 foot expansion for the existing ShopRite supermarket, which if pursued by the supermarket, will help the ShopRite supermarket remain competitive with the newer local supermarkets that have opened recently.

As described in the DEIS, (Section 3.7-1 - Property Taxes), the project is projected to generate an annual surplus in taxes to the Town of Carmel and substantial tax revenue to the Carmel Central School District.

Comment 9-10 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS claims that the project would not generate additional school age children (Page 2-4, Section 2.4.1.1), and therefore, would not result in additional costs to the school district (Page 1-13). However, it is possible that families with school age children would occupy the homes vacated by seniors moving into Hillcrest Commons, and as such, increase demand on the school district. Such increased demand could result in pressure to expand schools, create additional impervious surfaces, and place further demand on Town amenities.

Response 9-10: *According to the Applicant, with or without Hillcrest Commons, senior households in Carmel will make the decision to sell their homes when they are no longer willing or able to keep up with the demands (financial and otherwise) of owning a single family home. Hillcrest Commons is contributing to the community by providing an alternative for these seniors to stay in their community, and not insignificantly, to continue to contribute to the tax base. Increases in demands on the school district will or will not occur regardless of whether Hillcrest Commons is built.*

Comment 9-11 (Letter #1, Letter from NYC DEP, August 5, 2005): Moreover, not only will the 150 newly vacated homes be occupied by new families, the sponsor also projects that 180 new workers will be generated by the proposal. The increased population, possibly with additional school age children, may also result in pressure to expand schools or other Town amenities. The potential impacts of such scenarios should be fully evaluated within the context of SEQRA.

Response 9-11: *Comment noted. In view of existing unemployment rates in the Town, and its already growing residential population, speculative office space development is more likely to represent a response to growth, rather than a growth inducement. More typical growth inducing actions involve extension of infrastructure such as water, sewers or highways to vacant lands not presently serviced by such infrastructure. That is not the case here. Please refer to Response 9-3.*

Comment 9-12 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS indicates that several other residential and commercial projects are proposed in Carmel (Page 1-15). Further, the DEIS contends that, taken in total, the projects would increase the Carmel population by less than 200 people. This conclusion does not appear accurate given that the project sponsor projected up to 270 seniors will live at Hillcrest Commons alone and the overall project will generate 180 new jobs (see p. 7-1).

Response 9-12: *Comment noted. The sentence in question on Page 1-15 of the DEIS should have read, "increase the population of the Town of Carmel by less than 2000*

people", not 200 people. According to Table 3.7-7 of the DEIS (Page 3-7-18), the projected cumulative population increase from Hillcrest Commons and the other proposed developments in the vicinity of project site is 1,805 persons.

Comment 9-13 (Letter #1, Letter from NYC DEP, August 5, 2005): In Section 7, the DEIS states that 180 new jobs will be created. Given that Putnam's unemployment rate is a low 3.3%; it is unclear how these new jobs will be filled unless there is further residential development in the area. Based on the already low housing stock in the area, the DEIS fails to address the growth inducing impact of the new workers and their families. Currently, the DEIS lacks any information to support the claim that the increase in worker population would not induce further development.

Response 9-13: *Please refer to Response 2-26 and 9-11 regarding growth inducing impacts in the Project Description section of this document.*

Comment 9-14 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): Nowhere does the study connect the dots between demographics and actual polling data that would lend credence to their assertion that a majority of Putnam County/Carmel residents would move laterally from their homes into this development, braving high taxes and maintenance charges. As a matter of fact, a June 3rd Journal News article suggests otherwise, noting that in all age categories beginning with 60 until 79, Putnam County experienced a net loss in population; the only increase (38) in the frailest of age populations (80-84), requiring the most care and health services.

Response 9-14: *Comment noted. Please refer to Response 9-1. In addition, please note that the Claritas Senior Life Report, 2000–2008 indicates that the senior population aged 55 and older is estimated to have increased by some 13.6% in Putnam County between 2000 and 2003.*

That age cohort is projected to increase by 39.1% by 2008. The U.S. Census data shows that the over 55 senior population in Putnam County increased by 29.4% between 1990 and 2000. There was no decrease in any category of ages 55 or older in Putnam County.

Comment 9-15 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): The Coalition has been joined in its concern by Town officials who have raised grave reservations concerning the present Multi-Family "Affordable" Senior Housing law and most importantly, the tax implications of a population requiring emergency and intensive medical services on all residents, seniors and family.

Response 9-15: *Tax implications for the project were thoroughly analyzed in the DEIS of Hillcrest Commons in Section 3.7, Community Services/Socioeconomic. The additional tax revenue collected by the Town from property taxes of the proposed development could be used to improve the facilities and/or increase staff of the Carmel Police and Fire Department, and to the Carmel and Kent Ambulance Corps should the need arise.*

Comment 9-16 (Letter #6, Letter from Putnam County Coalition to Preserve Open Space, Ann Fanizzi, August 5, 2005): The assertion that this population may have significant additional assets and excellent credit to cover medical costs has been examined and debunked in a recent NY

Times article wherein middle-class seniors confronted with unanticipated illness and attendant exorbitant costs, have sought ways to attain Medicaid eligibility, funded by tax payer dollars. An added ingredient has been the recent phenomenon of parents subsidizing adult children and their families. Again, the assertion that seniors have all this disposable income simply to spend on moving expenses either from one side of the county or town to the other or from different counties, must be vigorously examined and the senior housing study neglects to include these very significant cultural variables.

Response 9-16: *Comment noted. An article in a newspaper hardly debunks the well-established census data and demographics of Putnam County. There are of course, always exceptions and cultural variables in any of these matters.*

See Response 9-1, above. A Market Study was conducted in Putnam County of the proposed action. According to the Applicant, the study analyzed and demonstrated "that there is a sufficient number of senior households in the area that would occupy the proposed number of housing units in the proposed price range." The Market Study noted that the units are expected to be affordable based on the strength of demographics of the 55 and older age group.

10.0 VISUAL QUALITY COMMENTS AND RESPONSES

No comments on the DEIS were received relating to potential visual quality impacts.

11.0 CULTURAL RESOURCES COMMENTS AND RESPONSES

The comments on the DEIS Cultural Resources section, provided below, relate to a Phase 1A report, completed at the time of DEIS submittal (June 1, 2005). Subsequent to the Phase 1A report, fieldwork was completed as part of the Phase 1B evaluation.

In December 2005, the consulting archeologist completed a geologic and archeological mapping investigation (Phase 1B) to map potential archeological deposits. Following this initial fieldwork, the consulting archeologist recommended a Phase 2 evaluation be conducted on the property. The findings were discussed with Ms. Cynthia Blakemore of the Office of Parks, Recreation and Historic Preservation (OPRHP) and a plan was developed for a Phase 2 evaluation. The Applicant intends to complete the Phase 2 work in the months of June and July 2006.

Several of the comments on the DEIS relate to the adequacy of the archeological studies or the procedures for submissions and coordination with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP). The archeological studies completed for the project, to date, have been completed according to the requirements of OPRHP. The Principal Investigator for the project, Mr. Stephen Oberon, of Columbia Heritage, Inc. is a highly respected professional, who has completed over 450 cultural resource surveys in the New England states. A resume for Mr. Oberon is provided in Appendix G. All reports submitted to OPRHP have been and will be completed to OPRHP requirements and will be submitted to the Lead Agency. The Lead Agency will require that the applicant secure a letter from OPRHP stating that this project will not adversely affect cultural resources.

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

Comment 11-1 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Dr. Boesch's findings indicate that the Applicant's archeological studies are flawed in several aspects. For example, the New York Office of Parks, Recreation and Historic Preservation (OPRHP) recently modified their guidelines in the spring 2005. (OPRHP Archaeological Report Format Requirements 2005). The Applicant's report was dated November 2004 and included only a Phase IA report. As Mr. Boesch indicates, the Phase IA report is deficient as it fails to conform with current OPRHP requirements.

> ***Response 11-1:*** *See Introduction, above. The Phase IA study was completed in November 2004. However, the completed report was not submitted to OPRHP for it was pending the completion of the recommended Phase IB. The Phase IA portion of the study was prepared in compliance with the OPRHP guidelines that were in place at the time of its completion.*
>
> *All reports submitted to OPRHP will comply with the standards set forth by OPRHP and will be submitted to the Lead Agency.*

Comment 11-2 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): Moreover, Dr. Boesch spoke with OPRHP and determined that that Applicant's report was not shared with the OPRHP. Because the site has evidence of archaeological significance, SEQRA requires that other interested agencies be given the opportunity to comment upon issues relevant to their expertise. This has not occurred. OPRHP must be allowed to comment on the project during the SEQRA process. The lead agency should require the Applicant to conduct studies

conforming with current OPRHP requirements and that this information be made available to the OPRHP and the public.

Response 11-2: *As noted in Response 11-1, the Phase IA was not submitted to OPRHP since the recommended Phase IB study of the report was not completed at the time the DEIS was submitted. A completed Phase I report includes both a Phase IA and IB and is otherwise considered incomplete by OPRHP if submitted separately.*

Subsequent site investigations were conducted in 2005, and are ongoing as described in the Introduction above. A completed report will be submitted to OPRHP as soon as fieldwork is complete.

Comment 11-3 (Letter #5, Letter from James Bryan Bacon, August 5, 2005): While the DEIS claims the Applicant intends to complete a Phase Ib report this should not occur until a proper Phase IA report is completed which conforms in all respects with OPRHP requirements as identified by Dr. Boesch.

Response 11-3: *See Introduction and Response 11-2. Cultural resource reports are not submitted to OPRHP until they are fully complete.*

Comment 11-4 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): It is unfortunate, however, that the Phase la study does not provide a property survey map that clearly delineates the areas of sensitivity within the property relative to the project's Area of Potential Effect as is mandated by current OPRHP requirements for conducting archaeological investigations.

Response 11-4: *Comment noted. The grading plan, as provided with the Draft and Final EIS, shows the area of potential effect.*

Comment 11-5 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): A project's APE consists of areas directly impacted by construction including the building of access roads, installation of utilities, establishment of staging and storage areas, and property landscaping. Indirect impacts of a construction project also must be considered when assessing impacts to an archaeological site or area of sensitivity. Indirect impacts include increased access, increased erosion, increased run-off and soil deposition, etc. to sites or areas of sensitivity.

Response 11-5: *The Area of Potential Effect for this project includes the construction limits of disturbance. The Area of Potential Effect is shown on the grading plan and that drawing will be included in the report to be submitted to OPRHP.*

Comment 11-6 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): A review of topographic maps and my examination of the Hillcrest Commons property confirmed that such areas of sensitivity exist. A number of terraces and other interruptions of the parcel's slopes, and hilltop areas were identified that would have been attractive locations for Native Americans engaged in hunting or other subsistence related activities. This is particularly the case for such locations near Michael's Brook, its tributary, and local wetlands, which currently or formerly were in proximity to the property. In addition, numerous rock shelters that are part of rock ledges, other areas of exposed bedrock, and large glacial erratics are present on the property, particularly along its western portion. Some of the shelters may contain evidence of Native American activity.

Response 11-6: *Comment noted. Extensive reconnaissance and physical testing conducted by a New York State certified archaeologist has been carried out in conformance with OPRHP standards. The results and findings of these studies, which*

are not yet completed, will be provided to OPRHP and the Lead Agency and a finding of no impact will be secured from OPRHP.

Comment 11-7 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): The 2004 Oberon report indicates that the western portion of the property overlooking Route 52 is sensitive for the presence of Historic period archaeological sites dating from the eighteenth to mid-nineteenth century period. The conclusion may be reasonable given the pattern of development in Carmel during that period. A review of late eighteenth century maps in the possession of the Putnam County Historian's Office and other local repositories may have clarified this development relative to the project area. However, statements in the report that mid nineteenth to early twentieth century residences, the former locations of which could constitute archaeological sites, are not located on the property should have been supported by the inclusion of relevant Historic period maps in the document. This would conform to current New York State Office of Parks, Recreation, and Historic Preservation requirements.

Response 11-7: *European American cultural resources were not encountered on the project site. This was confirmed by standard field-testing techniques used for the Phase IB study.*

Comment 11-8 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): The Oberon report recommends that Phase Ib, level subsurface testing be conducted within archaeologically sensitive portions of the property. The recommendation is appropriate. The DEIS for the Hillcrest Commons development project indicates that such testing will be undertaken to determine if archaeological sites are present on the property. Although indications for limited testing were noted in the western portion of the property in proximity to two rock ledges and within some areas of relatively level ground, many other areas of apparent sensitivity do not appear to have been investigated. If they were, indications for that work were not noted on the property.

Response 11-8: *According to the current OPRHP guidelines, areas with slopes of 12% or greater are to be eliminated from the test area, therefore eliminating much of the project area. However, rock ledges and small caves were investigated regardless of the surrounding slope. See Introduction and above responses.*

Comment 11-9 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): Current OPRHP guidelines for conducting archaeological investigations are very specific concerning the extent of sub-surface testing required within archaeologically sensitive areas in order to adequately evaluate those locations. It does not appear that such requirements were met. However, if appropriate sub-surface testing of the property has been completed, a report should be produced detailing the methodology used to conduct the study, presenting the results of the work, and providing conclusions as to the presence of absence of archaeological sites there and the need for any warranted further investigations. The report should be submitted to the OPRHP and other relevant agencies for review.

Response 11-9: *At the time the DEIS was submitted, the field-testing for the Phase IB work had not been fully completed. That work was done in accordance with OPRHP guidelines for subsurface testing, which were approximately 16 holes per acre. The areas were sampled by means of screened hand-dug shovel test holes systematically placed in a grid pattern at intervals considered appropriate by state reviewers.*

Comment 11-10 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005): A conversation with Ms. Cynthia Blakemore, the OPRHP Historic Preservation Program Specialist responsible for reviewing archaeological projects undertaken in Putnam County, indicated that

no archaeological reports for the Hillcrest Commons project have been submitted to her office to date. Such documents should be submitted to her in a timely fashion in order to ensure that no potentially significant archaeological sites will be destroyed by the proposed construction. It must be stated, however, that the Phase la report for the Hillcrest Commons property does not meet the current report preparation requirements currently adopted by OPRHP.

> ***Response 11-10:*** *Comment noted. Please refer to Introduction and Response 11-1. Only OPRHP can render a determination as to the conformance with its requirements.*

Comment 11-11 (Letter #9, Letter from Eugene J. Boesch Ph.D., R.P.A., July 27, 2005):
The Hillcrest Commons project area does contain locations that would have been attractive for Native Americans engaged in hunting and gathering. It is possible that small campsites oriented towards such activities are located there. Other types of sites also may be present. With increased development throughout Putnam County, Native American and Historic sites usually are lost without being investigated and recorded. This constitutes a great lose to Putnam County's heritage and to our knowledge and understanding of past culture's and life ways. It is urged that the Town of Carmel Planning Board insure that proper archaeological evaluation of the Hillcrest Commons project area is completed prior to the commencement of project construction and that all completed studies by submitted to OPRHP for review. Commitment to complete some level of Phase Ib investigation of the project area is indicated in the DEIS for the project. In addition, other State agencies that may have a regulatory role in the Hillcrest Commons project, such as the New York State Department of Environmental Conservation, frequently require archaeological evaluations and OPRHP review before issuing project approvals or permits.

> ***Response 11-11:*** *Comments noted. The Lead Agency will require that the Applicant secure a letter from OPRHP stating that the Hillcrest Commons project will not adversely affect cultural resources.*

Comment 11-12 (Letter #10, Letter from Town of Kent Planning Board, August 11, 2005):
[Section] 3.9: The DEIS does not include a Phase IB Cultural Resource Investigation despite the conclusion in the Phase IA report that additional work is required. Similar to comments above regarding the wetland mitigation plans, the DEIS needs to include a complete assessment of impacts to cultural resources at this stage of review. Leaving the Phase IB analysis until the FEIS stage is in derogation of the express terms of SEQRA.

> ***Response 11-12:*** *Comment noted. The Applicant's archaeologist has completed fieldwork in accordance with NYS OPRHP guidelines. As noted above, the Lead Agency will require that the Applicant secure a letter from OPRHP confirming that this project will not adversely affect cultural resources. This is no different than conditioning an approval on receipt of other permits from reviewing agencies such as the NYC DEP, the ACOE or the NYS DEC. The compliance with agency standards assures that no adverse impact will occur.*

12.0 AIR QUALITY COMMENTS AND RESPONSES

No comments on the DEIS were received relating to potential air quality impacts.

13.0 NOISE COMMENTS AND RESPONSES

No comments on the DEIS were received relating to potential noise impacts.

14.0 ALTERNATIVES COMMENTS AND RESPONSES

Comments made on the DEIS related to those alternatives considered in the DEIS, which included:

1) No Action
2) Uses consistent with Current Zoning (commercial retail development)
3) Alternative Residential Layout (reconfigured building and parking layout)
4) Reduced Density Alternative (elimination of office and replacement with 100 additional senior residential condominium units).
5) Alternative Access (through the commercial site)

The current proposed project is an alternative to the project that was analyzed in the DEIS. The current project involves the elimination of the office uses, similar to the Reduced Density Alternative considered in the DEIS (Alternative 4), with the exception that the residential unit count remains 150. The layout of buildings, access driveways and parking has been reconfigured with the current Site Plan. The impacts of this proposed alternative have been compared to the project considered in the DEIS, in Section 1.0 - Introduction. A table comparing the impacts of the currently proposed project to the former plan is provided as Table 1-1 (see Section 1.0). The table and narrative provided in Section 1.0 describe the overall reduction in impacts of the currently proposed alternative. Reduced impacts include: traffic, site grading and disturbance, impervious surface, water and sewer demand.

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

Comment 14-1 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): If the applicant is still proposing a big box store as one of the SEQRA mandated alternatives for analysis, well, if you can't have an access point beyond grade E and F with the level of use that they propose now, you're not going to be able to support the kind of traffic you need for a big box that is not a credible alternative.

> ***Response 14-1:*** *In the Applicant's opinion, the retail alternative presented in the DEIS is reasonable and credible alternative and is consistent with zoning and local land uses. A retail alternative would generate higher traffic volumes than the currently proposed residential only project. The higher traffic volumes would likely require additional improvements to the proposed site access, which may include additional turning lanes or a traffic signal.*

Comment 14-2 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): The applicant also subsequent to the creation of the DEIS, gave us another proposed alternative calling for another 150 units of senior housing. Well, that's not permitted by the senior housing law. They're maxed out at 150 units per development.

> ***Response 14-2:*** *The additional 100 units proposed under Alternative 3, would be located on a separate tax lot (Lot E-2), from the original residential development. The Town Code Enforcement Officer reviewed plans for the Carmel Corporate Center project in July, 2004. Senior housing is proposed for the Carmel Corporate Center project pursuant to zoning provisions and the Town Senior Housing Law, as they apply to the Hillcrest Commons project. The Town Code Enforcement Officer determined that*

the proposed housing conformed with the Town Code with respect to its senior housing provisions. As long as separate tax lots existed, each lot was treated on its own merits.

The New York State Supreme Court confirmed this determination relative to the Carmel Zoning Code in a decision made in 2005 relative to an Article 78 action filed against Carmel Center.

Comment 14-3 (Hillcrest Public Hearing, Matthew Bennett, July 6, 2005): On page 4 and 5, the applicant says that they don't need to produce a reduced density alternative. If they haven't done so subsequent to creation of the original DEIS, they need to do so because that is in the outline of things they have to do; the DEIS will not be complete without it.

Response 14-3: *Alternative 3, Section 4.4 in the DEIS, provides a reduced density alternative that would involve the elimination of the office component of the project and replace that development with 100 additional senior residential units.*

The primary benefit of this alternative would be to reduce the traffic generated by the project in the am and pm peak periods. A further discussion of the potential alternative impacts and comparison of impacts is provided in Section 4.0, Alternatives, of the DEIS. Refer to Response 14-10 in this section as well.

Note that the Applicant has provided a further reduced alternative that elimates the commercial component of the project and keeps the residential density at 150 units.

Comment 14-4 (Hillcrest Public Hearing, Jim Bacon, July 6, 2005): And I also notice that in the DEP'S correspondence, they suggested an alternative that would avoid slopes of 15 percent and higher. I think that's a reasonable alternative to ask for. And really, that's what SEQRA is looking for, reasonable alternatives; something that will basically accomplish the objectives of the applicant but something that's reasonable given the mountain size and the topography and the traffic and the existing conditions in the context of this project. And the Board needs to have its input into what it believes is reasonable and then choose amongst those reasonable alternatives.

Response 14-4: *The DEIS describes the fact that the project has been designed to minimize impacts to steep slopes and that the development has been located on the most level portions of the site. Figure 3.1-4 Slopes Disturbance Map illustrates that buildings, parking lots and stormwater detention basins are specifically located in areas of slopes of 15 percent or less.*

Due to the naturally hilly topography of the site, impacts to slopes of 15 percent or greater are unavoidable for any development. Such a project would, in essence, be a no-action alternative.

The construction of an access road into the site requires impacts to steep slopes, since such slopes are found on the eastern slopes of the hillside (see Figure 3.1-4, DEIS). An alternative that totally avoids slopes of 15 percent or greater would prohibit development on the site and, in the Applicant's opinion is not practical.

Comment 14-5 (Letter #1, Letter from NYC DEP, August 5, 2005): Alternative 4 in the DEIS mentions potential impacts on wetlands and wetland buffers, but fails to quantify those potential

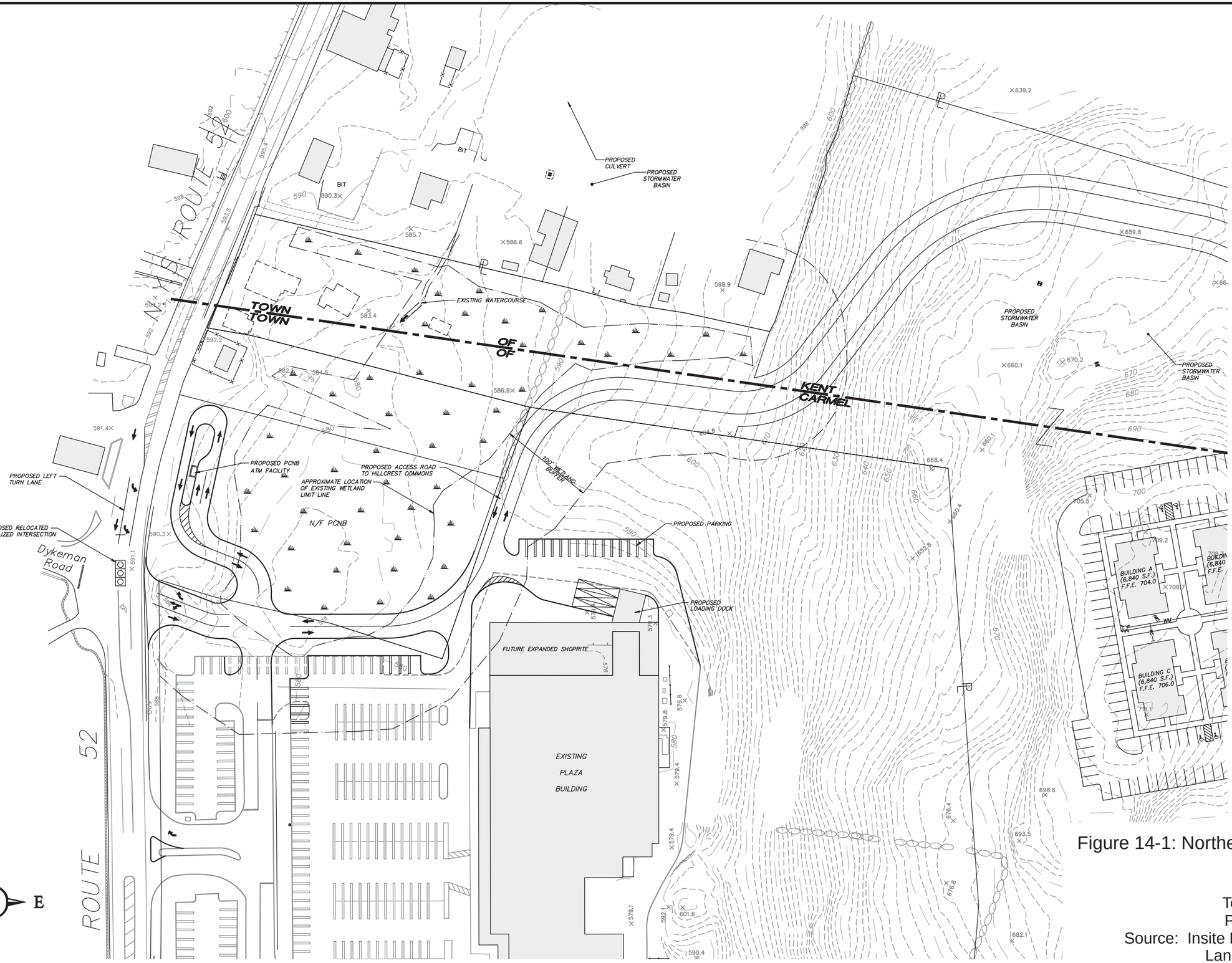

Figure 14-1: Northern Access Alternative
Road Access Plan
Hillcrest Commons
Towns of Carmel and Kent
Putnam County, New York
Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
Date: 11/05

File 0373 11/14/05
JS/0373

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impacts. Moreover, Table 4-1, Alternative Impact Comparisons, does not include Alternative 4. The impacts associated with Alternative 4, particularly those impacts related to existing and post construction wetland functions and values, must be included in the DEIS to facilitate a thorough comparison of impacts between all alternatives.

Response 14-5: *In the DEIS Alternative 4 discussion, three alternative access locations were reviewed and compared with regard to overall potential impacts and feasibility of construction.*

The three alternative access points were; A) at the north side of the ShopRite parking lot, opposite Dykeman Road, B) near the southern limits of the ShopRite parking lot, in the current location of the emergency access road, and C) through a residential parcel with access onto Route 52, near the southern edge of the site. Overall traffic and site disturbance impacts for these alternatives are further described in Response 14-9, below.

A) This access alternative is shown on Figure 14-1 and requires land that is not owned or under the control of the Applicant. Nonetheless, it is reviewed herein in the event that is can be implemented at some future time.

Based upon engineering review of required cuts and fills, the northern access alternative would require approximately the same amount of wetland filling (approximately 0.4 acres) as the proposed site plan (see Figure 1-2). This filling would occur on the southern edge of Wetland A, on a parcel now owned by a third party. According to the Applicant, this alternative would have less wetland impacts, since the edges of Wetland A would be disturbed, instead of bisecting the northern portion of the wetland, as would occur for the proposed plan.

B). An alternative main access at the southern edge of the ShopRite parking lot would not result in any direct wetland impacts. Emergency access would need to be provided at the site access location shown on the site plan, (Figure 1-2), but would have slightly less disturbance because it would be a narrower road at 12 feet or so.

(The current Site Plan has been modified by the engineer to move the emergency access road out of the wetland buffer.)

Providing the primary access route on the alignment of the emergency access road may require impacting approximately 10,000 square feet of the wetland buffer. Fill would be required on the down slope side of the access road to provide the 24-foot roadway width and shoulders.

C) The alternative access through a residential parcel at the southern edge of the site would involve the most wetland impacts of the three alternatives. This access route is shown in Figure 14-2 Southern Alternative Access. Based upon preliminary estimates, this alternative would involve approximately 0.8 acres of direct wetland impact. The wetland impact would be significant since the access route involves bisecting a large contiguous wetland. Approximately 2 acres of wetland would be isolated from the larger wetland south of the access road. Therefore the impacts to wetland functions and values would be more significant than the 0.8 acres of wetland filling.

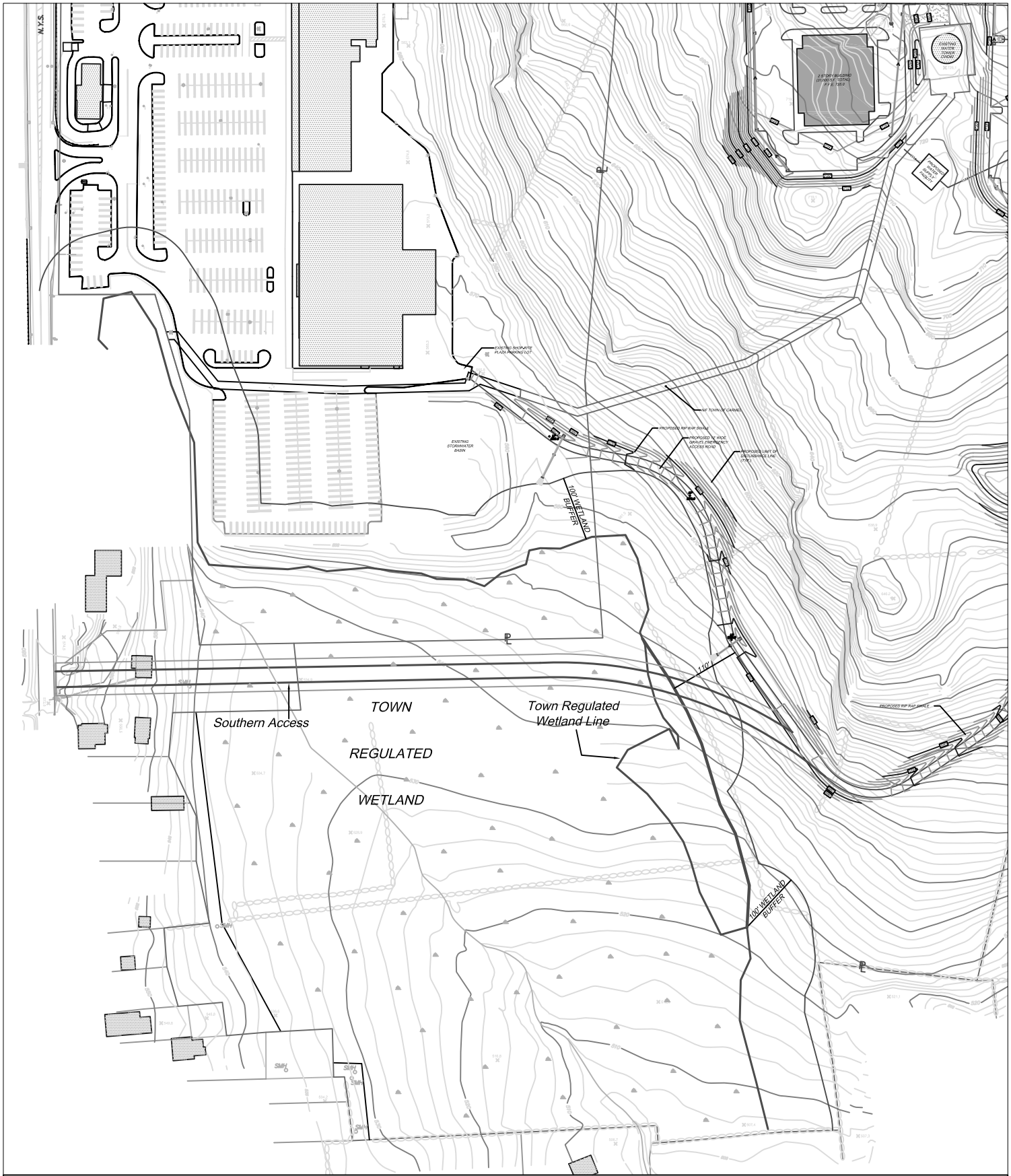

Figure 14-2: Southern Access Alternative

Hillcrest Commons
Towns of Carmel & Kent
Putnam County, New York
Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
Scale: 1" = 200'

North

FS EQ: 0373_Hillcrest\wetland_mitigation.dwg

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Comment 14-6 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS fails to consider alternatives to the proposed emergency access road, as alternate site layouts can significantly reduce overall site disturbance, and must include that analysis to satisfy SEQRA. For example, the applicant could consider a loop road at the top of the site and keeping a maintenance area at this location to handle tree removal if fallen trees are the main concern.

Response 14-6: *The Applicant and project engineer have explored alternative layouts for the emergency access road and in fact, the plans have been revised to show an alternative access that is out of the buffer of local wetlands.*

Wetlands and steep slopes along the eastern portion of the site limit alternative access routes and options for the emergency access road. The emergency access road is required due to the single access road into the site and an emergency access is needed for emergency service providers to quickly enter the property, should the entrance be blocked by trees, vehicles or weather damage.

Comment 14-7 (Letter #1, Letter from NYC DEP, August 5, 2005): Given the conclusion in Section 3.5.2.3 that the "project conflicts with the underlying Comprehensive Plan designation" for the site, the proposed development will likely result in greater disturbance, and more impacts on traffic, air, and water quality than would be expected with uses that conform to the Comprehensive Plan. Therefore, the DEIS should include an alternative that would not conflict with the Comprehensive Plan's site designation. Currently, none of the alternatives presented in Section 4 are consistent with the underlying Comprehensive Plan designation.

Response 14-7: *The DEIS explains that the project "generally conforms with the existing policies of the Town of Carmel Comprehensive Plan". The phrase indicating that the project conflicts with the underlying Comprehensive plan designation is misleading.*

The project has been modified to eliminate the proposed office space. Please refer to Chapter 1.0, Introduction, for a description of the revised project. The previously proposed commercial use extended approximately 700 feet beyond the area identified in the Comprehensive Plan for commercial use.

The proposed residential development is consistent with existing residential development located east and north of the site and the zoning designation of the site. In the Applicant's opinion, it is consistent with the Comprehensive Plan designation.

Comment 14-8 (Letter #1, Letter from NYC DEP, August 5, 2005): Given the information provided in Table 4-1, it appears that Alternative 2 would provide the same fiscal benefits to the School District, County, and Towns while reducing the extent of impervious surfaces, landscaped areas, overall site disturbance, and disturbance on steep slopes. Based on the opportunity to reduce overall impacts while maintaining the fiscal benefits to the local municipalities, it would appear that Alternative 2 would be the preferred alternative.

Response 14-8: *The DEIS discusses the fact that the alternative building and parking lot layout would provide a moderate reduction in the area of disturbance by approximately 4.5 acres compared to the proposed plan. While Alternative 2 would result in somewhat less overall impacts, the Applicant notes that the plan results in a less safe, and a less attractive and desirable plan for future residents, in terms of aesthetics, landscaping and layout. A project design that is attractive and well designed*

is important for the long-term benefit of the development and residential community. The proposed plan is the Applicant's preferred alternative. See Response 14-16, below.

Comment 14-9 (Letter #1, Letter from NYC DEP, August 5, 2005): The DEIS provides little detail for Alternative 4, and does not include this option in Table 4-1. The impacts associated with Alternative 4, particularly the extent of site disturbance, impervious surfaces, and wetland/wetland buffer disturbance, should be explicitly stated in the DEIS in order to facilitate a thorough comparison of impacts between all alternatives.

Response 14-9: *See Response 14-5, above, regarding wetland impacts. In the DEIS Alternative 4 discussion, three alternative access locations were reviewed and compared with regard to overall potential impacts and feasibility of construction.*

The three alternative access points were; A) at the north side of the ShopRite parking lot, opposite Dykeman Road, B) near the southern limits of the ShopRite parking lot, in the current location of the emergency access road, and C) through a residential parcel with access onto Route 52, near the southern edge of the site. Overall traffic and site disturbance impacts for these alternatives are further described in Response 4-9, below.

Potential impacts and benefits of these access routes are further described below.

A) North side of ShopRite Plaza

It should be noted that this alternative cannot be implemented without the consent of a third party willing to participate in its implementation as it involves land owned by someone not affiliated with the Applicant. The owner of the subject property (Putnam County National Bank) has been approached by the Applicant; however, the owner has not consented to participate in this alternative. It also would require a strip of land at the northern edge of the ShopRite Plaza lot, which the Applicant may be able to use by permission from the ShopRite Plaza owners. Nonetheless, it is reviewed herein in the event that is can be implemented at some future time.

This alternative location for the project access would be at the northern edge of the ShopRite Plaza parking lot, directly opposite Dykeman Road. A diagram of the access is provided in Figure 14-1. In terms of natural resource impacts, including site disturbance and wetland impacts, the Applicant notes that this alternative has the least impacts, and would provide traffic benefits, as described below.

This alternative would require the acquisition of a strip of land from a third party property owner. Currently, a Bank Automated Teller Machine (ATM) is proposed for this property. Access for the ATM would be provided from the proposed access road, thereby avoiding driveways from the ATM onto Route 52.

Under this alternative, the access intersection with Route 52 could be signalized, providing better control of movements entering and exiting the Hillcrest Commons site as well as the ShopRite Plaza. The existing ShopRite entrance traffic signal would be relocated approximately 300 feet to the north. Due to the proximity of the two entrances, both the existing ShopRite entrance and the proposed entrance could not be signalized.

This access would have two egress lanes; a left turn lane onto Route 52 southbound and a combination eastbound, through-lane to Dykeman Road and a right turn onto Route 52 northbound. A left turn lane would be provided from Route 52 southbound, into the ShopRite Plaza/ Hillcrest Commons site. This alternative has the benefit of not adding an additional signal onto Route 52, but combining traffic from several sources to one signal.

The signalized access would improve the Level of Service for the Hillcrest Commons existing traffic during the Peak Hour period.

The site access analyzed in the DEIS was not proposed to be signalized, since the traffic from the project was not at a sufficient volume to warrant a signal. Combining the traffic from Hillcrest Commons, ShopRite Plaza, the Bank ATM and Dykeman Road would warrant a signal, and provide controlled movements for this traffic.

This access option would be consistent with the New York State Department of Transportation (NYS DOT) arterial management strategy to reduce the number of access points to the highway by eliminating a new access point for Hillcrest Commons, and proposed access point(s) for the ATM. Furthermore, it allows Dykeman Road traffic to be controlled by a traffic signal, improving access onto Route 52 for Dykeman Road traffic.

Existing peak traffic volumes on Route 52 produce delays for drivers making left turns onto Route 52 at unsignalized access points. This alternative, which includes a traffic signal, will create gaps on Route 52, allowing minor approach traffic to enter the traffic stream more easily. The alternative would allow movement between the project site, the ATM site and ShopRite Plaza without utilizing NYS Route 52. Lastly, the alternative provides the benefit of relocating the delivery truck traffic for the ShopRite Plaza to the outer edge of the parking lot, improving pedestrian and vehicular safety in the ShopRite Plaza parking lot.

Based upon engineering review of required cuts and fills, the northern access alternative would require approximately the same amount of wetland filling (approximately 0.4 acres) as the proposed site plan (see Figure 14-1). This filling would occur on the southern edge of Wetland A, on a parcel now owned by a third party. According to the Applicant, this alternative would be preferable in terms of wetland impacts, since the edges of Wetland A would be disturbed, instead of bisecting the northern portion of the wetland, as would occur for the proposed plan.

<u>B) South Side of ShopRite Parking Lot</u>

This alternative access would utilize the route currently proposed for the emergency access road. As proposed, the emergency access road is 12 feet wide, and approximately 2,765 feet in length. The current proposed roadway is approximately 1700 feet long and 24 feet wide.

Locating the main site access road to the route of the emergency access road would involve substantially greater site disturbance and impervious surface than the current proposal. The current access road requires approximately 40,800 square feet of impervious surface, while the alternative route would result in approximately 66,360

square feet of impervious surface. Required grading would increase proportionately for this alternative.

This alternative access would not result in any direct wetland impacts. Providing the primary access route on the alignment of the emergency access road may require impacting approximately 10,000 square feet of the wetland buffer. Fill would be required on the down slope side of the access road to provide the 24-foot roadway width and shoulders. Also, an emergency access would be needed at the location of the proposed existing main access. Wetland disturbance would still occur, but would be less than that which occurs under present conditions, as the road would be narrower.

According to the Applicant, this alternative is not viable for several reasons: The project requires a subdivision action for the office and the residential lots and therefore a 50-foot right of way, per town road specifications, is needed under the proposed base plan to provide frontage for the proposed lots. The act of building a road through the ShopRite would result in a non-conforming subdivision of land and a fragmentation of parking lots that would not be viable for the retail facility.

The 50-foot right of way would interfere with the existing parking lot and access aisles and would place a trafficked road in the middle of a privately held retail project. Setbacks from the new road would create a non-conforming condition for the existing buildings, and place unacceptable constraints on the operation of the ShopRite and other retail tenants.

Moreover, a secondary emergency access would still be needed and would follow the alignment of the currently proposed right of way. Wetland impacts would be slightly less, but not significantly so.

The access road would be excessively long and require 40 percent more disturbance than the proposed road as it is presently configured. Finally, the Applicant does not currently have the right to use this as a primary access to its facilities.

C) Southern Edge of the Project Site

This access alternative involves a residential parcel with frontage on Route 52. The access would cross the large Town wetland at the southern edge of the site (Wetland B) and meet the alignment of the proposed emergency access road, accessing the proposed residential development at east side of the site. Similar to Alternative 2, listed above, this alternative would involve substantially greater impervious surface and grading impacts, since the southern access route into the site is much longer. Based on preliminary estimates, this alternative would involve a roadway approximately, 3,165 feet in length and 75,960 square feet of impervious surface.

This southern alternative is impractical due to its required impact to wetlands. Directly east of the residential parcel fronting onto Route 52, is a large contiguous wetland, described in the DEIS, and this document as Wetland B. This access route is shown in Figure 14-2 Southern Alternative Access. Based upon preliminary estimates, this alternative would involve approximately 0.8 acres of direct wetland impact. The Applicant notes that the wetland impact would be significant since the access route involves bisecting a large contiguous wetland. Approximately 2 acres of wetland would

be isolated from the larger wetland south of the access road. Therefore the impacts to wetland functions and values would be more significant than the 0.8 acres of wetland filling.

Under this alternative, access onto Route 52 would not involve any impact to the ShopRite plaza or land owned by a third party. The access would be a single unsignalized driveway with two lanes. The traffic impacts of this alternative have not been examined in detail since the wetland impacts make this alternative impractical.

Comment 14-10 (Letter #1, Letter from NYC DEP, August 5, 2005): According to the DEIS, the final scoping outline called for the consideration of a Reduced Density Alternative. This alternative, as presented in the DEIS, involves the elimination of the commercial component of the project, and addition of 100 senior residential condominium units. Based upon the information provided, this alternative would involve an identical level of disturbance when compared to the proposed action, and therefore, does not represent a reduced density alternative with respect to potential water quality impacts. The DEIS must be supplemented with such an alternative to satisfy SEQRA.

Response 14-10: *Alternative 3- Reduced Density Alternative would result in similar development and site disturbance impacts as the proposed project, but would substantially reduce weekday traffic compared to the project. Alternative 2 in the DEIS presents another reduced density alternative with a smaller footprint and somewhat less site disturbance. In the Applicant's opinion, the alternatives analyzed in the DEIS meet the goals and requirements of SEQRA.*

The currently proposed project is a Reduced Density Alternative which includes the elimination of the office uses and reduces the project's physical footprint, and therefore the amount of site grading required for the development. A comparison of the currently proposed project to the project analyzed in the DEIS is provided in Section 1.0 Introduction.

Comment 14-11 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 4-4, 4.3 Alternative 2: Alternative Residential Layout: The plan for this alternative was missing from the DEIS that was submitted for review.

Response 14-11: *The plan for this alternative was provided to Rhode, Soyka and Andrews.*

Comment 14-12 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page: 4-5, 4.4 Alternative 3: Reduced Density Alternative: The plan for this alternative was missing from the DEIS that was submitted for review.

Response 14-12: *The plan for this alternative was provided to Rhode, Soyka and Andrews.*

Comment 14-13 (Letter #2, Memorandum from Rohde, Soyka, and Andrews, July 28, 2005): Page 4-8: a.) A review of Table 4-1, Alternative Impact Comparisons shows the following: 1.) The Developed Area, Open Space Resources (acres) and Natural Resource

Impacts (acres) are the same for both the Proposed Action and Alternative 3 Reduced Density Alternative; 2.) Under Community Resources, both population and water demand/sewage flow are greater under Alternative 3 than the Proposed Action; 3.) Under Community Resources, all tax revenues generated are greater under Alternative 3 than under the Proposed Action; 4.) Traffic generation is less under Alternative 3 than under the Proposed Action; 5.) Explain why Alternative 3 should not become the preferred alternative.

Response 14-13: *As described in the Introduction (Section 1.0), the project has been modified to eliminate the office uses resulting in a strictly residential project. According to the Applicant, the elimination of the office uses would result in significantly less traffic generation as described in Section 8.0 Traffic.*

Comment 14-14 (Letter #2, Letter from James Bryan Bacon, August 5, 2005): With regard to alternatives, the Applicant should present alternative access routes, a plan which preserves and protects endangered plant species and sensitive archeological areas and present a stormwater management plan which conforms to the applicable regulations and guidelines. Further, SEQRA specifically allows a lead agency to require examination of "scale or magnitude" alternatives. (6 N.Y.C.RR §617.9(b)(5Xv)(c)).

Response 14-14: *The Applicant has evaluated alternative access routes in the DEIS (See Section 4-4) and has further explored access alternatives in this FEIS, as described in Response 14-9 above.*

The Site Plan has been developed to minimize impacts on flora and fauna by preserving much of the forested land on the sloping hillsides as open space. Any archaeological resources will be avoided or otherwise documented prior to disturbance in accordance with OPRHP protocol. (See Sections 5.0 Ecology and Section 12.0 Cultural Resources). The stormwater management plan has been designed to meet applicable regulations and guidelines (See Section 6.0 Water Resources). A reduced density alternative was presented and analyzed in the DEIS as Alternative 3 (see Section 4-4).

Comment 14-15 (Letter #2, Letter from James Bryan Bacon, August 5, 2005): In addition to a smaller scaled plan avoiding sensitive resources, the Applicant should also present a proposal which avoids 15% and higher and slopes as DEP suggested in its January 9, 2003 correspondence. The Applicant should also disclose the results of any deep hole tests, which DEP indicated should be conducted.

Response 14-15: *See Response 14-4, above for a discussion of a proposal avoiding slopes 15 percent or higher. Deep hole tests were conducted on September 28, 2005 by the applicant's engineer, with a NYC DEP representative present during the testing. According to the project engineer, the deep hole testing was done to determine the depth to bedrock and groundwater.*

The engineer will prepare a final design for the stormwater basin based upon the results of the testing during the permitting process. The deep hole testing did not reveal any significant constraints relative to constructing the basins in their proposed locations.

Comment 14-16 (Letter #2, Letter from James Bryan Bacon, August 5, 2005): The analysis of alternatives presents different scenarios for development but draws no conclusions from the analyses. In fact, the DEIS fails to draw any conclusion as to whether one scenario is preferred over another based on the assessment of impacts, and fails to make a case that the proposed project is the only one among the alternatives considered that reduces impacts to the maximum extent practicable. The information contained in the table on page 4-8 indicates that either Alternative 2 or Alternative 3 would diminish the severity of potential impacts, and therefore indicating that further analysis is required to assess the potential effects of the project in light of the inference that the proposed project is the least desirable among the alternatives discussed.

Response 14-16: *The purpose of the DEIS is to provide information to decision makers to allow for informed decisions. It is not the intent of the DEIS to draw conclusions beyond pointing out the impacts and positive benefits of the alternatives examined, compared to the proposed action. A summary and comparison of the proposed project and of the build alternatives described in the DEIS is provided, as follows:*

The proposed project described in the Introduction, involves a residential project with 150 units of senior multi-family residences. This modified project would eliminate the office uses evaluated in the DEIS. This alternative is similar to Alternative 4 examined in the DEIS (residential only project), but the number of residential units would remain at 150, and the building configuration and layout has been modified.

According to the Applicant, the proposed alternative would reduce impacts in several areas compared to the project analyzed in the DEIS. Grading and site disturbance would be reduced by approximately 4.0 acres, including a 2.5 acre reduction in disturbance to slopes of 15 percent or greater, compared to the original Site Plan. Impervious surface would be reduced by approximately 2.1 acres, compared to previous plan since 252 parking spaces are provided under the residential buildings. Wetlands impacts would remain the same, under the proposed project, since the site access near Route 52 would remain unchanged.

The proposed project would reduce water and sewer demand by an estimated 4,720 gallons per day, compared to the previous project. The total amount of taxes generated by the project to all jurisdictions would be reduced under the current project by $143,000 compared to the previous project.

Traffic generated by the residential only project would be reduced substantially, compared to the previous office/ residential project. Total PM peak hour trips would be reduced from 250 trips for the previous project to 105 trips for the current project. Total AM peak hour trips would be reduced from 204 trips to 81 trips.

The following is a summary comparison of the build alternatives evaluated in the DEIS:

1) Uses Consistent with Current Zoning The commercial development alternative would be consistent with existing zoning and compatible with commercial development existing on Route 52, specifically the ShopRite Plaza. The alternative would introduce commercial development closer to existing residences north and east of the site, and a new residential development south of the site. This alternative would have somewhat less site disturbance (23.5 acres vs. 27.9 acres for the originally proposed project) and

slightly more impervious surface than the proposed action. Wetland impacts for this alternative would be the same as for the originally proposed project. The commercial alternative would generate substantially less tax revenue for the Town compared to the proposed action; approximately $290,470 annually compared to the projected $629,000 for the proposed project. Traffic generation would be substantially higher for the commercial alternative; 582 peak hour pm trips compared to 250 trips for the proposed project. The difference during the Saturday peak hour would be higher with 872 Saturday trips for the commercial alternative compared to 130 trips for the proposed project. While the site disturbance numbers are slightly less for this alternative, the Applicant notes that the traffic impacts would be much greater, while providing the Town with less than one-half of the tax benefits compared to the proposed project.

2) Alternative Residential Layout Alternative 2 involves a reconfiguration of the residential development with a linear, rather than a circular main access through the residential development in order to reduce the footprint of the project and reduce site disturbance. The number of residential units and the size of the office development would remain the same as the proposed project and therefore the traffic and tax generation would remain the same as for the project. Overall site disturbance for this alternative would be reduced by approximately 4.4 acres, compared to the proposed project and wetland impacts would be the same for both proposals.

Although Alternative would result in marginally less development impacts in some areas of review, in the Applicant's opinion, these do not outweigh the safety benefits lost to achieve this. The circular drive provides safer traffic flow for senior residents as this layout provides dual ingress and egress options from each residential building. In addition, a circular driveway provides easier ingress and egress for emergency services vehicles.

Further, as described in the DEIS, in the Applicant's opinion, the plan results in a less attractive and desirable plan for future residents, in terms of aesthetics, landscaping and layout. The proposed development provides an internal courtyard, walkways and landscaping opportunities. While site disturbance numbers can be directly compared, aesthetics and project layout and design is more difficult to compare and contrast. Design features such as a central courtyard, walkways, benches and opportunities for resident interaction and community space can greatly enhance a residential development and are integral to a well designed plan. The Applicant is committed to developing a quality residential development that is a desirable place to live, now and well into the future. The Applicant notes that, the Town Planning Department specifically requested that a circular road configuration be implemented in the residential portion of the development for the reasons noted above.

3) Reduced Density Alternative The third build alternative examined in the DEIS was a reduced density alternative that would replace the proposed office component with 100 additional senior residential units. This alternative would result in approximately the same site disturbance and wetland impacts at the proposed project. Traffic generated by this alternative would be less during weekday peak hours; 30 trips for the pm peak hour compared to 138 trips for the proposed project. During the weekend peak hours traffic would increase under this proposal; 76 trips for the alternative compared to 70 trips for the proposed project. This alternative would generate greater tax revenue to the Town than the proposed project; approximately $774,170 annually compared to the projected

$629,000 for the proposed project. Impacts to community services would be greater for this alternative since 180 additional residents would occupy the project, compared to the proposed project.

Comment 14-17 (Letter #11, Letter from Riverkeeper, August 12, 2005): SEQRA mandates that agencies shall "choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact process." ECL § 8-0109(1). The statute requires that an EIS include a "detailed statement" to "describe the proposed action and reasonable alternatives to the action" to aid in making the "decision whether or not to undertake or approve ... action." Id. § 8-0109(2),(4).

Response 14-17: *See Response 14-16, above. According to the Applicant, the DEIS for the project documented how the Site Plan minimized or avoided, to the extent practicable, adverse environmental impacts. This FEIS documents and describes a modified project which further reduces the impact of the residential development of the site, to the extent practicable. The DEIS and this FEIS provides detailed discussion of the proposed action, analysis of impacts, and comparison of impacts to assist the lead agency in making its determination and Findings.*

Comment 14-18 (Letter #11, Letter from Riverkeeper, August 12, 2005): Recall that as the lead agency, your ultimate findings must "certify that consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable." 6 N.Y.C.R.R. § 617.11(d)(5).

Response 14-18: *Comment noted.*

Comment 14-19 (Letter #11, Letter from Riverkeeper, August 12, 2005): The regulations suggest that the range of alternatives may include: "alternative (a) sites; (b) technology; (c) scale or magnitude; (d) design; (e) timing; (f) use; and (g) types of action." 6 NYCRR § 617.9(b)(5)(v). "The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of alternatives discussed." 6 NYCRR § 617.9(b)(5)(v). The range of alternatives considered must include the no action alternative.

Response 14-19: *The alternatives described in the DEIS were described and evaluated at a level of detail sufficient for a comparative assessment of each of the alternatives described consistent with SEQRA. This FEIS provides a further evaluation of alternatives, including a modified project with reduced impacts. A No Action alternative was described in Section 4.1 of the DEIS.*

Comment 14-20 (Letter #11, Letter from Riverkeeper, August 12, 2005): BBJ Associates presented four different alternatives, however, looking to the chart provided in the DEIS[22], the range of alternatives is slim, offering little differences in overall impact. "Reasonable" alternatives to the proposed activity include the threat of maximum build out, which is essentially a bolster for the proposed activity, as the effects of the proposed activity pale in comparison to the environmental impact and traffic generation of the big box stores; the replacement of a loop driveway with a cul de sac, rendering the environmental impacts roughly the same as the proposed activity, yet showing a lower economic benefit for the developer; and finally, an entire

community devoted to the senior housing needs determined by a study loosely linked to a general need.

> ***Response 14-20:*** *Please see Response 14-16, above. In the Applicant's opinion, Alternative 1 or the commercial development proposal, does not present a maximum build-out scenario, but rather a commercial development that would meet zoning requirements and would be consistent with nearby land uses, specifically the adjacent ShopRite Plaza shopping center.*
>
> *In the Applicant's opinion, the alternatives presented in the DEIS are all reasonable and buildable alternatives that differ modestly in scale and impacts and do not overstate the development potential of the site.*
>
> *Alternative 2 Alternative Residential layout reduces the footprint of the project and decreases land disturbance somewhat, but is a less desirable plan in terms of layout and aesthetics. Alternative 3 Reduced Density Alternative eliminates the office component and thereby reduces traffic, but has relatively similar site disturbance impacts.*
>
> *The Applicant has proposed a modified project that is similar to Alternative 3, evaluated in the DEIS and provides an analysis of this proposed project in this FEIS. The alternatives analyzed in the DEIS and in this FEIS are reasonable and meet the goals and requirements of SEQRA.*

Comment 14-21 (Letter #11, Letter from Riverkeeper, August 12, 2005): The societal value of the proposal contained in the DEIS rests on two basic assumptions: (1) the Town of Carmel needs senior housing; and (2) The Town of Carmel needs office space. It is therefore critical that the alternatives presented include lower-impact alternatives, including some that do not eliminate these purportedly desirable elements. However, excluding the no action alternative, the only alternative that lowers the environmental impact to both woodland disturbance and steep slopes eliminates altogether activity that serves the identified needs of the town, specifically senior housing and office space.

> ***Response 14-21:*** *See Responses 14-16 and 14-20, above. The DEIS describes a range of alternatives, both with the desired components of the project (Alternative 2) and with one or more components removed (residential/ office development) (Alternative 1 and 3). In the Applicant's opinion, the alternatives described in the DEIS and further evaluated in this FEIS are reasonable and meet the requirements of SEQR.*

Comment 14-22 (Letter #11, Letter from Riverkeeper, August 12, 2005): In addition, the amount of such housing and office space may or may not be equivalent to the amount indicated in the DEIS. While the statistics included in the DEIS relating to the amount of persons age 55 and older in the Town of Carmel are indicative of a need for senior housing, there fails to be a correlation drawn between those numbers and the need for two bedroom senior housing units in the $300,000 price range. Simply because a large group of citizens will qualify for senior housing, it does not rationally follow that such an overwhelming number will uproot themselves and purchase senior housing units. Further, it is all too common a phenomenon that once senior housing developments such as this fail to meet the expectations of the developers, such developments are subject to a request for a change in use, and are then sold to non-seniors at market rates.

Response 14-22: *The Applicant has extensive experience in the development, marketing and sales of senior housing, as described in the DEIS (see Section 2.4.3 Prior Projects of Applicant). While the planning and construction of any residential development carries some risk, the Applicant is confident that there is demand for the senior residential development proposed and that the development will be successful (see Response 9-1). The development will remain a senior development through the strict application of the requirements of the Special Exception Use Permit for multifamily housing for the elderly under which this development would be constructed. The condominium offering plan and all applicable condominium documents will contain age restrictions as well.*

Comment 14-23 (Letter #11, Letter from Riverkeeper, August 12, 2005): The need for office space in Carmel is also identified within the Project Purpose Overview section of the DEIS. However, although the DEIS features statistics containing the total square footage of office space currently in Camel, and states a vacancy rate of roughly 9%, there is no mention of a desirable vacancy rate. The proposed action would raise the vacancy rate to roughly 19%, which may or may not be beneficial to the public. In addition, there is no mention of the affordability of such office space, and no indication that there is a need for this type of office space. The DEIS itself points out that the current nature of office space in Carmel is a mix of residential and mixed commercial spaces. Perhaps the current office space situation is a reflection of the character of Carmel, rather than a problem within the town that must be addressed by large office complexes or the influx of commercial development.

Response 14-23: *The Applicant is an experienced real estate developer with a lengthy track record of successful projects. The project described in the DEIS proposed a mid-sized office development with five moderate to small sized buildings, in the Applicant's opinion is not a "large office complex".*

The Applicant has proposed a modified project which eliminates the office uses and results in a strictly residential project (see Section 1.0 - Introduction).

Comment 14-24 (Letter #11, Letter from Riverkeeper, August 12, 2005): Since no standards are put forth by which the agency might gauge the actual needs of Carmel, there is no clear answer as to whether the proposed action is the option which will best suit those needs. Further, there is no alternative indicating a different combination of housing and office space. Rather, the alternatives swing from extremes, either in the form of a commercial big box maximum build-out with no relevance to the stated urgent needs for senior housing or office space in the town, or in the form of 100% senior housing, eliminating the supposedly needed office space altogether. A preferable range of alternatives would put forth an array of options with recognizable differences in impacts while still addressing the needs which the DEIS made seem so pressing. Beyond no action and a commercial maximum build out option featuring a big box store, each alternative provides roughly the same environmental impact. For example, the range of impact on the steep slope areas falls between 10.4 acres in only one alternative, and 12.1 to 12.7 acres in the other three. No alternative has been provided that offers a reduction in impact to the steep slope areas, such as reducing the footprint of the proposal by raising residential buildings to three stories high, or reducing the amount of housing and office space, or simply reducing office space without increasing housing area. Apparent from the DEIS, what stands before the agency is a range of

alternatives, each offering essentially the same thing: stabilized levels of detrimental environmental effects with varied revenues generated within the community.

Response 14-24: *The Applicant is investing considerable time, effort, and engineering and planning costs to realize a viable project that fills a need in the County while providing a return on the investment. As stated earlier, totally eliminating disturbance to slopes greater than 15 percent would not produce a viable project.*

While there is an infinite combination for the commercial and residential mix of uses, the DEIS focused on a viable mix of uses in a straightforward manner, each of which has a reasonable degree of implementation by a private applicant. The alternatives presented were proposed and amended during the scoping process, which involved input from the public and Lead Agency and final acceptance by the Lead Agency as comprehensive and appropriate.

The alternatives examined in this SEQRA process provide the lead agency with reasonable and practical alternatives. A comparison of the benefits and impacts of the alternatives is provided in Response 14-16, above.

The Applicant and the engineer have developed a project that minimizes, to the extent practical, impacts to steep slopes, wetlands and overall grading and site disturbance. The project has been modified to eliminate the office uses and reduce the footprint and site disturbance required to construct the project (see Section 1.0 Introduction). The residential development has been located on the most level and buildable portions of the site, allowing 78 percent of the site to remain undisturbed. The buildings driveways and parking areas have been designed and engineered to fit the topography of the site, while meeting zoning requirements for building height.

Comment 14-25 (Letter #11, Letter from Riverkeeper, August 12, 2005): The necessary balancing of costs and benefits cannot be performed here, because the DEIS fails to provide the lead agency with reasonable alternatives to the proposed action that both reduce impact and provide the high quality, affordable senior housing and office space that the Town of Carmel arguably needs. As presented, the range of options for Hillcrest Commons includes a mildly reduced environmental impact alternative without the beneficial housing and office space, and two other alternatives with the same impact that amount essentially to rearrangements of building space. These alternatives together serve to steer the lead agency to the applicant's preferred activity. Essentially, by depriving the lead agency of alternatives which are truly reasonable-alternatives which offer reduced impacts yet also benefit the community - the applicant is depriving the lead agency of any real choice at all.

Response 14-25: *Comment noted. See Response 14-24 above.*

Comment 14-26 (Letter #11, Letter from Riverkeeper, August 12, 2005): The applicant must present at least one lower impact alternative that also provides the community with senior housing and office space, which, as proffered by the applicant, the Town of Carmel so desperately needs. If some of the more profitable elements needs to be eliminated or scaled down to achieve this, SEQRA requires no less.

Response 14-26: *As described above, SEQRA requires "a description and evaluation of a range of alternatives to the action that are feasible, considering the objectives and*

capabilities of the project sponsor." In addition to the "no action" alternative, "the range of alternatives may also include, as appropriate, alternative sites, technology, scale or magnitude, design, timing, and types of action". The DEIS and this FEIS have analyzed a range of reasonable and "feasible" alternatives, that meet the goals and requirements of SEQRA.