



**Hudson Valley Office**

21 Fox St., Poughkeepsie, NY 12601  
P: (845) 454-3980 F: (845) 454-4026  
[www.chazencompanies.com](http://www.chazencompanies.com)

Capital District Office (518) 273-0055  
North Country Office (518) 812-0513  
Connecticut Office (860) 440-2690

December 8, 2009

Mr. Shalom Lamm  
Black Creek Holdings, LLC  
P.O. Box 1040  
Bloomingburg, NY 12721

*Re: Seven Peaks at Mountain Road Draft Environmental Impact Statement  
Job # 90920.00*

Dear Mr. Lamm:

The Chazen Companies (Chazen) is pleased to submit the following responses to comments received on the preliminary Draft Environmental Impact Statement (DEIS) for the Seven Peaks at Mountain Road project, which was submitted to the Town of Mamakating Planning Board on August 25, 2009. Specifically, this letter responds to items identified in the correspondence of:

- Lanc and Tully dated October 12, 2009 and October 20, 2009;
- Leggette, Brashears & Graham dated October 9, 2009;
- John Collins Engineers dated October 7, 2009;
- Planit Main Street dated September 29, 2009; and
- NYS Department of Environmental Conservation (NYSDEC) dated November 4, 2009.

We have provided a response to each comment and incorporated the response, where appropriate, in the enclosed revised DEIS, which has been prepared in track changes mode.

Comments from Lanc & Tully Engineering and Surveying, P.C. (October 12, 2009):

1. **Page 7 of the Scope Section 2: Description of Proposed Action, Sub-paragraph D "Schedule and construction summary", Response in DEIS should be expanded to fully describe construction sequence, sedimentation controls, construction activities, rock blasting, rock removal and all items as described in sub-paragraphs 1-4.**

**Response:** Relative to all items in scope sub-paragraph 1-4:

1. The phasing of the project and construction sequence is described in Section 2.4 of the DEIS. Regarding construction schedules, the project sponsor hopes to sell and build 8 to 10 homes per year. Therefore, it is anticipated that build out of the project may occur over a 5 to 6 year period. The main loop road and associated stormwater features will be constructed within the first year. The Welcome Center and horse stable will also be constructed in the first year. The cul-de-sacs and their associated stormwater features will be constructed during the subsequent build out.
  2. Erosion and sediment control measures to be employed during construction activities are described in Section 3.1.3 of the DEIS and included in the Preliminary Stormwater Pollution Prevention Plan Report in Appendix C.
  3. (a) The limits of construction activities are indicated on the revised Erosion and Sediment Control Plans and labeled "Limits of Disturbance". These limits have been shown to minimize vegetation removal and site disturbance.
  - (b) The hours of operation are described in Section 3.10.2 of the DEIS.
  - (c) Construction practices will be employed to minimize temporary construction noise impacts. These practices are discussed in Section 3.10.2 of the DEIS.
  - (d) Construction activities associated with potential site blasting and rock removal are presented in Section 3.1.2 of the DEIS.
  4. The operations and maintenance of common areas are described in the DEIS Section 3.12, "Open Space Plan" and the Open Space Management Plan included as Appendix O of the DEIS.
2. **Page 8 of the Scope Section 3: Existing Environmental Settings Anticipated Impacts and Mitigation; Sub-paragraph 3 "...and a discussion regarding disposal of unsuitable materials will be provided. Unsuitable materials will be defined" - Response is missing in DEIS. Sub-paragraph 4 discussion of earth/rock removed and excavation methods proposed should be expanded.**

**Response:** The following text has been added to the second paragraph on page 3.1-6 of the DEIS:

"While it appears that excavated soils from the project development will be suitable for use in road construction, the potential does exist to encounter some materials that are "unsuitable" for use within roadway limits. These materials could consist of soils with a high moisture content that does not permit proper compaction, soils with a high organic content, and organic material.

Soils encountered which have a high moisture content will be stockpiled and allowed to dry until they are able to be properly placed. This material will then be placed in a fill section that is not subjected to vehicle loads and stabilized in accordance with the project erosion control plan.

Soils with a high organic content will be screened on site to remove large organic matter. They will then be utilized to restore disturbed areas outside of the road right-of-way. Soil supplements will be added and the areas stabilized in accordance with the project erosion and sedimentation control plan. Organic material encountered during excavation, such as stumps, will be chipped and utilized as mulch material during site stabilization.

If, however, blasting is required, it shall be performed by a licensed blasting contractor in accordance with the requirements of Industrial Code 39 of the New York State Department of Labor, Industrial Board of Appeals, and the applicable sections of the New York State Labor Law, which provide for the possession of handling, storage and transportation of all explosives. Any blasting shall occur during normal business hours (8:00 am – 5:00 pm) on normal working days. The impacts associated with the blasting shall be mitigated through the preparation of a blasting plan, which shall be prepared and submitted to the Town Building Department. The blasting plan will contain, at a minimum, the following precautions:

- Preparation of thorough pre-blasting survey
- Notification of neighboring properties
- Controlled access of site
- Sounding of audible alarm
- Placement of seismic monitors to deflect vibration and air blasts
- Placement of muting and stemming

Blasting will be limited only to those areas of roadway construction where absolutely necessary. Blasting to increase production, or site homes, should be prohibited.”

- 3. Page 9 of the Scope Paragraph C: Surface Water/Stormwater Resources; Item 1 "requires" potential impacts to such surface waters and wetlands will be described including sedimentation and siltation and streambed and bank erosion due to increased concentrated run-off to such surface waters as well as indirect impacts to**

**the Bashakill WMA and Shawangunk. This discussion appears to be missing or discussed in other portions of the document.**

**Response:** Potential impacts to surface water and wetlands relative to sedimentation and siltation will be controlled and minimized by the preparation and implementation of the Stormwater Pollution Prevention Plan (SWPPP). Specifically the Erosion and Sedimentation Control Plan (E&S Plan), which is a component of the SWPPP, will mitigate these potential impacts. The E&S Plan will be prepared to the standards and requirements of the NYSDEC and General Permit (GP) numbers GP-0-08-001 effective 1 May 2008. The E&S Plan also includes monitoring during construction to facilitate the proper implementation of the E&S Plan.

Potential impacts to streambed and bank erosion will also be mitigated by the preparation and implementation of the SWPPP. The channel protection volumes (CPv) are required by the NYSDEC regulations to protect existing stream channels from erosion and are a required component of the SWPPP. They will be calculated and included in the final site design. This is accomplished by providing the extended detention of the one year, 24 hour storm event.

**4. Although a stormwater management plan was submitted it is somewhat generic in nature and prior to any approvals (subdivision), a specific report will be required once final road configuration and grading is established. However general requirements as noted in the scope has been provided with the exception of individual E & S controls which was required and should be included.**

**Response:** The project plans have been revised to include the individual E&S controls to be implemented on each of the lots (see Appendix N). A stormwater report including the design of stormwater facilities will be provided during technical review of the subdivision application.

**5. Alternatives for waste disposal should be expanded in the body of the DEIS. This section is somewhat addressed in Section 5.8, however a summary should be provided in the Infrastructure and utilities section (Scope Page 13).**

**Response:** The text in Section 3.9.2 under "Wastewater Disposal" has been revised to include the following:

Alternatives available for wastewater disposal at the Seven Peaks project site include the following:

- Individual on lot sewage disposal systems
- Community on lot disposal

- Centralized collection and treatment will surface water disposal

These alternatives are evaluated in Section 5.8 of the DEIS. The community on lot disposal system is not considered feasible due to the large area requirement for this type of system, which is not available on the site. The centralized collection and treatment with surface water discharge is also not considered feasible due to the loss of groundwater recharge and technical operating difficulties.

- 6. Both the solid waste and other utilities section noted on page 13 of the Scope appears to be lacking sufficient detail for any determination to be made. Specific details should be discussed including coordination of installation and discussion of propane and whether this is to be governed by the HOA.**

**Response:** The following text has been added to DEIS Section 3.9.2 under "Solid Waste Disposal":

"Yard waste, such as leaves, grass, brush and twigs, will remain onsite and will be removed from the offsite disposal stream. Homeowners will dispose of these materials on their individual lots utilizing a composting plan developed by the Homeowners Association's Naturalist.

Any garbage debris from work performed in, on or around a residence by an outside Contractor shall be removed by that Contractor. These items will be delivered to the appropriate recycling or disposal facility.

Bulk materials shall be the responsibility of the individual homeowner. Bulk materials consist of large items that are not normally placed in the weekly pickup, such as appliances and furniture. The homeowner shall be responsible for the transfer of these items to the County disposal facility.

There are no significant impacts anticipated relating to solid waste disposal."

The following text has also been added to the second paragraph under "Other Utilities" of DEIS Section 3.9.2:

"Orange and Rockland has reviewed the proposed project plan and has indicated that they will provide service to the project. The Orange and Rockland service will enter the project site from Upper Road and be installed underground along the project roads."

The following text has also been added to the third paragraph under "Other Utilities" of DEIS Section 3.9.2:

“Telephone and cable lines will be installed underground. They will enter the project site from Upper Road and follow the project roadways.”

**7. Executive summary:**

- a. There are three species of Special concern. Not two. Box turtle was not Included. Should probably also Include hognosed snake even though it was not observed during the site investigations. That would make It four species that either utilize or potentially utilize the property.**

**Response:** Changes to the text and table in the Executive Summary were made to include eastern box turtle. This section of the executive summary addresses those special concern species observed on site or with a good potential to occur there. Eastern hog-nosed snake, which is known from the Bashakill WMA and has limited potential to occur onsite, was not observed on the site, and therefore was not included in this section. Additional discussion of this species was added to Section 3.4, “Vegetation and Wildlife,” of the DEIS.

**8. Surface Water:**

- a. On the site plan set, show the town buffers on both town regulated streams not just the one.**

**Response:** Stream buffers have been shown on the site plans for both regulated streams.

- b. The wetland, watercourses streams and ponds need be depicted distinctly for clarity on the site plan. Also any vernal pools or vernal pool pockets In the larger wetlands should be shown as per scope or document the fact that there are no vernal pools or pockets clearly in the section.**

**Response:** TES has prepared an updated figure depicting the boundaries of the wetlands/waters on the site, which is provided in the DEIS as Figure 3.3-1. The changes in the wetlands/waters requested by the USACOE are reflected in this figure. No vernal pools were identified on the site during the vernal pool survey performed in the spring of 2009 and presented in the Supplemental Report included in Appendix K. Because portions of the larger wetlands remained inundated throughout much of the growing the season, these areas were not considered to contain vernal pool pockets.

The following text has been added to Section 3.3.1 Existing Conditions - On-Site Intermittent and Perennial Streams, Wetlands, and Vernal Pools, before Figure 3.3 1:

“TES thoroughly covered the entire site with a wetland delineation performed on multiple days. All wetlands and waters, regardless of size, were delineated. Additional surveys by TES were conducted to determine if wetland areas known as vernal pools occur on the site. These surveys are discussed in the Supplemental Report in Appendix K. The forested portions of the site were examined for the presence of vernal pools. No vernal pools were recorded during these field efforts. Species known to breed in vernal pool habitats were recorded on the site during the wildlife investigations. These species were found to be breeding in Wetlands A and C (Figure 3.4-1A). However, these areas in Wetlands A and C remained inundated throughout much of the growing season, and therefore, were not considered vernal pools.”

- c. The ACOE approved wetland survey and JD should be submitted as soon as possible.**

**Response:** The JD has been received and is included as Appendix J of the DEIS.

- d. Wetland (A) is currently depicted as being over 12.4 acres. 12.4 Acres is the cut off for NYSDEC wetlands. Since the NYSDEC is also reviewing this and the streams and water courses have not been broken out. This can be commented on by NYSDEC.**

**Response:** The wetlands delineation survey map for the site was modified to separate out the stream reaches from the wetland complexes and this revised figure is included in the DEIS revision. This figure clearly shows that there is no contiguous area of wetland over 12.4 acres on the site.

- e. The wetland report needs to be more clearly summarized and referenced in the section. As it is somewhat confusing between the wetland report and the section in the DEIS.**

**Response:** The DEIS text has been revised to include additional information about the wetlands from the wetlands appendix. Information in the appendix on soils is found in Section 3.1 of the DEIS and information on flora and fauna is found in Section 3.4 of the DEIS, which are the appropriate sections for presentation of this information.

## **9. Vegetation and Wildlife:**

- a. In the wildlife report and DEIS section, a spotted salamander egg mass was found. The location of the egg mass should be clearly depicted on one of the**

**graphics. Wood frogs were also observed on site as well. It is unclear if wood frog eggs masses were observed. Both of these species are indicator species of vernal pools. As vernal pools and the species identified with them is listed as one of the focuses of this section, as per the scope, it should be more clearly discussed and documented.**

**Response:** Two locations where spotted salamander egg masses were located have been added to a new Figure, which is identified as Figure 3.4-1A in the DEIS. The text on page 3.4-6 in the section entitled “Amphibians and Reptiles” has been updated to indicate that no wood frog egg masses were found on the site:

“Even though wood frogs, another species that typically breeds in vernal pools, were found on the site, no wood frog egg masses were observed.”

Results of the survey for vernal pools on the site are presented in the Supplemental Report in Appendix K. In addition to serving as breeding habitat for certain amphibian species, vernal pools are also characterized by seasonal wet/dry cycles. Wetlands A and C were not considered to be vernal pools because they remained inundated throughout much of the year. In each of these wetlands, there was only one observation of one spotted salamander egg mass. If these areas had been highly suitable for salamander breeding, it is likely that dozens of egg masses would have been present. Spotted salamanders and wood frogs, which are referred to as obligate vernal pool breeders, can on occasion lay eggs in wetlands or waterbodies other than vernal pools. For example, spotted salamanders will also breed in flooded swamps, beaver ponds, and gravel pit ponds.

**b. Wildlife species that potentially utilize the property on a regular basis, but were not observed were not discussed adequately; specifically Box turtles and Hognosed snakes. During the Site visit with the applicant's team, a shell from a box turtle was Observed, therefore they utilize the site. Species such as box turtles and hognosed snakes as well as other similar species go regularly undetected, but need to be better accounted for In the section and mitigation measures.**

**Response:** The original text did include a variety of species that potentially utilize the property; however, text was added to further discuss eastern box turtle, eastern hog-nosed snake, long-tailed salamander, cerulean warbler, whip-poor-will, and eastern small-footed myotis (bat), all of which are special concern species with potential to use the site. Specific mitigation measures are not considered for these species because of limited potential impact. Potential impact is limited not only by the limited potential for these species to occur, but the limited area of habitat on the site to be impacted relative to the amount of on-site habitat to be preserved.

- c. There is a note that two species of special concern were observed on site, please update to three, as the box turtle shell was found during the site walk.**

**Response:** The text on page 3.4-10 has been updated to include this observation.

- d. The overall wildlife reports were not summarized or referenced adequately, in the DEIS section. This makes it difficult to distinguish if the mitigation measures proposed are adequate or not.**

**Response:** Additional references to Appendix K were inserted into the text, and a paragraph was added under the Wildlife heading on page 3.4-5 to summarize the wildlife reports:

“During wildlife surveys on the site, a variety of common amphibians, reptiles, birds, and mammals were observed. Additional species with potential to occur on the site were inferred based on geographic range and habitat use. Data obtained from the New York Herpetological Atlas Project and the New York Breeding Bird Atlas Projects provided insight into which species have the potential to occur on the project site. Additional efforts focused on bog turtle, timber rattlesnake, breeding birds, dragonflies and damselflies, and barrens buckmoth were conducted. No threatened or endangered species were observed; however, three special concern species were observed on the site. These were box turtle, cerulean warbler, and barrens buckmoth. Detailed descriptions of these efforts, as well as lists of the species observed on the site or documented in the vicinity of the site, are included in Appendix K.”

- e. The use of the site by "bats" is another item in the scope that is not clearly discussed. There are discussions of both the Indian bat and eastern small footed bat. The common bats should be discussed as well, as per the scoping document.**

**Response:** Common bats are discussed in the Supplemental Report and Vegetation and Wildlife Resources Report in Appendix K. An additional paragraph discussing common bats, including the eastern small footed myotis (bat), was added to the Mammals section of the DEIS (see page 3.4-9):

“A number of common bat species such as little brown bat, northern myotis, eastern pipistrelle, and big brown bat could roost on the site or forage over the area. Eastern small-footed myotis, a special concern species, could also roost on or forage over the project area. Some migratory species, such as the eastern red bat, silver-haired bat, and hoary bat, might also make transient

use of the project area during migration. A lack of caves or mines on the project area eliminates the possibility that bats use the area for hibernation during the winter months. Although few shagbark hickory trees were found on the site, it is most likely that some bats roost in crevices and under exfoliating bark on the trees existing on the site. Indiana bat was not considered as a species with potential to use the site because the elevation of the site is considerably higher than elevations reported in association with this species.”

Eastern small-footed myotis was also addressed in the E&T section for Mammals (see page 3.4-12):

“The range of eastern small-footed myotis (special concern) encompasses the vicinity of the site. Eastern small-footed myotis occasionally hibernates with Indiana bat, but it is unknown whether this is the case in the Ulster County caves. Little is known of summer habitat for the species. There are no caves on the site; therefore the eastern small-footed myotis does not hibernate on the site. Because of the limited information regarding summer habitat requirements, the site could conceivably represent suitable habitat, as could much of the eastern United States.”

Bats were also addressed in the section on Potential Impacts (see page 3.4-16):

“The proposed action will have no negative effect on use of the site by bats. In fact, the creation of openings and forest edges can enhance foraging opportunities for bats. Such enhancements will result from road construction and openings in forested areas for new houses. The human activity associated with such areas will have no effect on bat foraging behavior.”

There is a cave in the Bashakill WMA area that serves as a hibernaculum for several common species of bats in New York. Indiana bats do not occur there. With the proximity of this hibernacula to the site, it is likely that bats may use the site for foraging and roosting during the active season. However, as explained in Section 3.4-16 and the Supplemental Report in Appendix K, the project is not expected to have any negative impacts on bats using the site.

**f. There was also no mention or evaluation in the section of potential for nuisance conditions common wildlife species as per page 10 of the scoping document.**

**Response:** Sections on Nuisance Wildlife were added to Sections 3.4.2 (Potential Impacts) and 3.4.3 (Proposed Mitigation Measures):

### (3.4.2) Nuisance Wildlife

“Increased human presence and influence on the landscape may lead to certain wildlife species creating nuisance situations. Nuisance situations include property damage and threats to human health and welfare. Examples of common animal species with the potential to become nuisances on the site are Canada goose, white-tailed deer, raccoon, coyote, and black bear. Proactive measures to keep trash inside and limiting the use of birdfeeders to winter months will limit the potential for conflicts with raccoons, coyotes, and black bears.”

### (3.4.3) Nuisance Wildlife

“Proactive measures will reduce the potential for nuisance wildlife situations. Keeping pet food and trash inside (or using bear-proof dumpsters and garbage cans), and restricting the use of bird feeders to winter months will limit conflicts with raccoons, coyotes, and black bears. Fencing around ornamental vegetation can limit damage by white-tailed deer.”

- g. A tree survey was prepared as requested in the scoping document, however It is not summarized or referred to in the vegetation section of the DEIS. This needs to be done.**

**Response:** A survey of the forest inventory is included in the Supplemental Report in JI. A section heading and two paragraphs referencing and summarizing the tree survey/forest inventory were added to the section on existing vegetation conditions in the DEIS (see page 3.4-5):

#### “Forest Inventory

A forest inventory of the site was performed by Forecon, Inc. during June 2009. Complete results of the inventory are provided in their June 2009 report. Portions of the forest inventory report, including a stand map and the basal area of the dominant trees in each stand, are provided in the Supplemental Report in Appendix K. The forest stand map identified approximately 69 acres of chestnut oak forest on the site, which is somewhat less than indicated on the vegetation cover map, which shows approximately 120 acres.

Two general observations made in the forest inventory report are of note. First, is the defoliation of the oaks as a result of gypsy moth caterpillars. This stresses the trees and has especially affected chestnut oak in places. The

second general observation relates to prior timber harvesting, which has affected the value of the timber as well as the nature of the forests for habitat quality. In this regard, the forest inventory report states that the property has suffered from many years of heavy timber harvesting that removed most of the high quality stems. This is not uncommon in this region, but it has affected the property by leaving inferior trees and removing the more high value trees.”

**10. Public Lands and Resources:**

- a. **As the type of resort hotel is not discussed in depth In the DEIS, the potential usage by the guests to the public land could be substantial. It should be stated what type of activities and recreation the hotel would focus on for its guests. As something like the Mohonk Mountain House is clearly marketing to a different group then say the Raleigh Hotel. Therefore the guests will be partaking in different uses of the public lands and the Impacts will be completely different.**

**Response:** Although the Applicant will not be developing the hotel site directly, the Applicant envisions that the hotel would be developed with the same low environmental impact as is being pursued for the residential development. Amenities such as hiking, cross county skiing, biking, horseback riding, running, etc. would be strongly endorsed. However, the trail system proposed on the Seven Peaks site is separated by private property from any public land, so access to the public land is not currently available from the resort hotel. Hotel guests may drive around to enjoy the Bashakill Wildlife Management Area from established parking areas and passive recreational trails. As the Management Area focuses on passive uses, such as hiking and wildlife viewing, and small craft boating, it is not expected that the use of the area by guests from the hotel would have any negative effect on the area. The Applicant would also expect some kind of pool and spa amenities within the complex as well.

**11. Wildfire: No comment for completion with adding 10/8/09 supplement.**

No response necessary.

**12. Open Space:**

- a. **There is mention in this section of the use of the hotel guess (sic) and what access they have to the open [space] on the property.**

**Response:** The hotel guests will have access to the 63± acres. The development area of the homes is not open to the hotel guests, except, of course, for the public access trail.

- 13. Page 2 line items 5 of the 10/08/09 supplement states that the "The Homeowners' Association shall maintain these areas following development, including a duty to supervise, manage, operate, examine, inspect, care for, remove litter and debris and, when required, to restore the wetland, upland and/or meadow area. Meadow, but not upland or wetland areas shall be mowed at least twice each year....." If you are not mowing the upland or wetland areas, what are you mowing?**

**Response:** The text in Section 5 on page 2 of the Open Space Management Plan (Appendix N) has been revised for clarity as follows:

"Meadow areas shall be mowed at least twice each year, once on or before June 15 and once on or after August 15. Wetland areas shall not be mowed."

Comments from Lanc & Tully Engineering and Surveying, P.C. (October 20, 2009):

- 1. The submitted SWPPP is preliminary in nature and shows only the anticipated stormwater volumes to be detailed. The stormwater management design has not yet been designed, generic areas have graded and set aside for stormwater practice use.**

**Response:** A specific stormwater report, including design of stormwater facilities will be provided during technical review of the subdivision application.

- 2. Several of the proposed stormwater practice areas are located within stream buffers. The practice areas should be relocated to leave the stream buffer areas undisturbed.**

**Response:** Three of the proposed stormwater management basins are located within the 75-foot Town Stream buffer. They have been proposed in these locations as it permits the structures to capture as much storm water runoff from road surfaces as possible. It is our understanding that the planning board can permit and approve the placement of structures within the stream buffers. This approval may include provisions to restore existing vegetation upon completion of the structure. If the Board does not approve of the proposed structure locations, they will be relocated.

- 3 & 4. The watershed areas chosen do not coordinate well with the study points and the natural topography. Watersheds should include all areas that contribute to stormwater runoff at the chosen study points. The way certain areas are drawn allows runoff to bypass the study points. For example, drainage Area 4 includes a narrow area sticking out to the northeast, along the property line, that does not contribute**

**flow to the study point for Area 4. To be correct, this area should not include the narrow northeast portion, or the study point would be farther downstream to a location that receives flow from the entire area. Drainage Areas 1, 2, 3, 4 and 6 have similar issues in their layouts.**

**The post development drainage areas shown in the report don't account for proposed drainage swales or areas that contribute to the proposed ponds. Proposed drainage facilities have not been fully designed and discharge points from the roadside swales have not been indicated on the plans. Depending on the swale discharge points and pond drainage areas, the post development drainage areas may change significantly. The proposed drainage facilities should be further developed to create a more accurate drainage model.**

**Response:** The revised drainage area mapping includes proposed swales and stormwater structures to clarify study points and flows tributary to them. The drainage areas will continue to be reviewed with the Planning Board engineer as the project design develops.

**5. The SWPPP report states that 1.15 inches is used for the water quality rainfall in the water quality calculations, however, Appendix F uses 1.20 inches for the water quality calculations. These water quality volume calculations also do not account for the minimum Rv allowed of 0.20.**

**Response:** The 90% rainfall value will be reviewed for the site and the correct value will be used in the final SWPPP. Additionally, the appropriate Rv value will be used in the water quality volume calculations in the final SWPPP prepared for the project.

**6. Please provide pre- and post development drainage maps on drawings drawn to a larger standard scale.**

**Response:** The revised drainage area maps have been provided at a larger scale. Please see Appendix N.

**7. The stormwater report analyzes the 1 and 100 year design storms. The report should also analyze the site for the 10 year design storm.**

**Response:** The preliminary SWPPP used volume estimation methods that were performed for the one year and 100 year storms. It is acknowledged that the final SWPPP will also include an analysis for the 10 year storm.

**8. Several pages appear to be missing from Appendices D and E. The missing pages contain information on pre-development area 6 during the 1 year design storm and post development areas 3 and 4 during the 100 year design storm.**

**Response:** The missing pages have been included in Appendices D and E of the SWPPP.

- 9. The erosion control plan, sheet ER-1, covers only a portion of the proposed development. Please provide erosion control plans showing entire project area. The erosion control plans should indicate the planned limits of disturbance.**

**Response:** The plans have been revised to include erosion and sediment control sheets ER-1, ER-2, ER-3 and ER-4 to cover the entire project site. Please see Appendix N.

- 10. The NPDES stormwater discharge associated with construction activity permit allows 5 acres of soil disturbance at a time. The site plans should show how the project will be phased to comply with the 5 acre disturbance limit.**

**Response:** Soils disturbance will be limited to 5 acres at a time as required by the NPDES permit and as noted in the SWPPP. The site plans will be further developed to indicate phasing of the project to comply with the 5 acre disturbance limit during the subdivision review process.

Comments from Leggette, Brashears, & Graham, Inc:

- 1. The scoping document indicates a review of water usage should be completed for all proposed and potential future development of the project site to the extent it can be determine at this time (scoping document pg. 2). To this end, water demand estimates are missing or incomplete for the following facilities referenced in the scoping document, DEIS, and/or the attached Groundwater Availability Report:**

- **proposed horse barn;**
- **proposed Community/welcome center;**
- **future 200 room hotel, convention center, spa and restaurant;**
- **and future 13-lot development of single family homes.**

**These water usages should be incorporated in the groundwater resource adequacy analyses where appropriate. In addition, the source of the criteria for each aspect of the project (i.e., regulatory agency and/or publication) should be referenced (Scoping document pg. 9).**

**Response:** Table 1, attached, summarizes the proposed water usage for the site along with the required regulatory source criteria. Please note that the proposed future hotel has been reduced from 200 to 125 rooms. While the scoping document identifies a proposed 200

room future hotel, the applicant has elected to reduce the size of the hotel to 125 rooms. Overall this will reduce environmental impacts so such a change is not in conflict with the draft scoping document. Table 1, which defines the water usage for all proposed and future uses on the property, will be included in the DEIS Section 3.2, Groundwater. Please remember that currently the applicants are seeking approval of a 49 lot residential subdivision. The other potential uses of the property are being evaluated for SEQRA purposes only. This includes the 125 room hotel and potential additional residences shown in the table.

**TABLE 1 SUMMARY OF PROPOSED WATER USAGE SEVEN PEAKS AT MOUNTAIN ROAD**

| Proposed Activity                     | Regulatory Authority | Usage Assumptions                           | Water Usage (gal/day) | Water Usage gpm |
|---------------------------------------|----------------------|---|-----------------------|-----------------|
| 49 Single Family Units                | NYSDEC Design Stds.  | 130gal/day/bedroom<br>5 bedrooms/unit       | 31,850                | 22.11           |
| 13 Single Family Units <sup>(1)</sup> | NYSDEC Design Stds.  | 130gal/day/bedroom<br>4 bedrooms/unit       | 6,760                 | 4.69            |
| 125 Room Hotel <sup>(1)</sup>         | NYSDEC Design Stds.  | 2 people/room,<br>100 gal/day/person        | 25,000                | 17.36           |
| Welcome Center                        | NYSDEC Design Stds.  | 1000 ft2 building,<br>0.1 gal/day/ft2       | 100                   | 0.07            |
| Barn (20 horse maximum)               | None                 | 15 gal/day/horse,<br>50 gal/day maintenance | 350                   | 0.24            |
| <b>Total Maximum Daily Usage</b>      |                      |   | <b>64,060</b>         | <b>44.47</b>    |

(1) Proposed for Potential Future Expansion

**2. The calculation of peak water demand in the DEIS appears inconsistent with regulatory requirements;**

**Response:** Please see Table 1, above, for the appropriate regulatory requirements.

**3. Well testing standards have not been included in the groundwater section of the DEIS (scoping document pg. 9).**

**Response:** Under Section 3.2.3, Proposed Mitigations Measures, Well Construction Standards reference is made to the New York State Department of Health (NYSDOH) Administration Rules and Regulations, 10 NYCCR, Appendix 5-B which describes both individual well completions and well testing standards.

**4. The testing of the onsite wells which has been completed for the project has not demonstrated adequate well yield to meet the water demand of the proposed development;**

**Response:** DEC hydrogeologist Jim Garry has reviewed the Groundwater Availability Report and has indicated to Alec Ciesluk that it is sufficient to show groundwater availability. Additional well testing as provided in Appendix F of the DEIS will further confirm that there is adequate well yield to meet the proposed water demand.

Scope:

“b. Groundwater resources:

Project water demands shall be estimated based on New York State Department of Environmental Conservation and New York State Department of Health criteria.

A groundwater availability report will be prepared which will evaluate yields of existing and newly drilled onsite wells following characterization of the source/geologic formation. The DEIS evaluation will address the nature of the formation the wells will withdraw water from, the productivity of the formation, whether any interference among wells is likely and impacts, if any, to other nearby, if any, well users. A water budget analysis will be performed to evaluate project impacts on groundwater resource, interference between individual wells on and off the site, and potential impacts to on-site wetlands and stream flows due to well water withdrawals. Describe approach to well construction and testing standards to be established and enforced.

Code requirements and the availability of water sources for fire suppression will be evaluated.”

As part of the technical review of the subdivision application, additional well testing will be undertaken with the objective of including these additional data in the Final Environmental Impact Statement (FEIS). the additional testing will follow the procedures set forth in the New York State Department of Health (NYSDOH) Administration Rules and Regulations, 10 NYCCR, Appendix 5-B which describes both individual well completions and well testing standards. In addition to monitoring water levels in the well being tested water levels will also be monitored in all other bedrock wells currently installed at the project site and any additional wells installed as part of the additional testing. Please refer to Sheet 4 of 14 for a location of all bedrock monitoring wells to be initially monitored with new wells to be added as required to meet the project demand. The purpose of the testing will be to show, using existing and/or new wells, that the potential proposed current and future demand of approximately 45 gpm can be met. The testing protocol is presented in Appendix F of the DEIS.

**5. Impact from groundwater withdrawal to onsite wetlands and stream flow has not been addressed in DEIS (Scoping document pg. 3 and 9);**

**Response:** Hydrologically, wetlands can serve as both source and sink areas for groundwater. Where groundwater discharges at land surface it is generally the source for a wetland to form or the headwaters to a local stream. The Seven Peaks project site is located at the topographically highest point in the landscape and as has been shown on Sheet 1 of 14 of the Hydrogeologic Report lies within a surface water divide for water discharging toward the Shawangunk Kill to the east and the Basher Kill to the west. The upper plateau area serves as a recharge area for groundwater. Field reconnaissance of the surface water discharge streams and wetland areas on the site indicate that the wetland areas all were formed in low depressions and are the result of surface water runoff from overland sheet flow and small intermittent streams. No locations of groundwater discharge were noted within any of the wetland areas. Similarly the small intermittent streams which drain the up slope areas flow as a result of rainfall runoff or as small streams from the collected waters in the wetland. Therefore, the wetlands within the site area serve mainly as recharge areas for groundwater. Any lowering of groundwater elevations due to pumping will not affect the functioning of the wetlands as they will still serve as areas for groundwater recharge with the recharge rate controlled by the hydraulic characteristics of the unconsolidated material underlying the wetlands.

Groundwater level data collected for the period June 5, 2009 for bedrock well supports the concept that the local wetlands serve as potential recharge areas for groundwater. The water level elevations above mean sea level recorded for well W-3 was 1240.45 feet as compared to the land surface elevations of 1241 to 1243 feet within the major wetland located just north of W-3. Since these topographic surface elevations represent the bottom of the wetland it would indicate that any surface water collected in this wetland area would originate at a higher elevation hydraulically than the underlying groundwater and the potential for discharge from the wetland would downward toward the bedrock. In addition the well testing to be conducted as described in Appendix F of the DEIS will include monitoring of water levels in wetlands to establish any connection between the wetland and groundwater.

**6. Data provided to address the potential of onsite and offsite well impact is not technically appropriate, additional support information should be included (Scoping document pg. 3 and 9). The drilling and testing of wells in accordance with the appropriate well testing standards is required to demonstrate adequate yield for the development. During this testing, onsite and offsite well impacts should be evaluated, as well as impacts to onsite wetlands and stream flow from proposed groundwater withdrawals for full build-out of the project;**

**Response:** The use of numerical modeling to gain a better understanding of the local groundwater flow system and approximate potential changes to the local groundwater flow system under hypothetical pumping scenarios is a technically sound tool for evaluation purposes. The Scoping document raised questions related to the potential for well

interference between the proposed individual pumping wells. The use of a model as a tool to evaluate potential well interference and effect on the local groundwater flow system is more than adequate to evaluate the potential effects from hypothetical pumping. All wells to date have been installed and tested according to the NYSDOH Part 5-B requirements.

- 7. In regard to the evaluation of newly drilled wells, only four of the well logs for the seven wells drilled onsite for this project are provided (Scoping document pg. 9). Please provide the remaining logs.**

**Response:** The missing well logs have been incorporated into the hydrogeology report appendix (see Appendix E).

- 8. Code requirements and availability of water resources for fire suppression are not presented (Scoping document pg. 9);**

**Response:** Direct withdrawal of groundwater at the site will not be used for fire suppression purposes. Text has been added to the DEIS on page 3.2-5 to express that fact. Groundwater may be stored in tanks or ponds for firefighting purposes.

- 9. Irrigation water demand eliminates have not been provided under Alternatives, Section 5 (Scoping document pg. 14);**

**Response:** There are no proposed additional irrigation demands for the site. The houses will not have installed irrigation systems. The goal of the landscaping plan for the 49 lot residential subdivision is to use native species of plants that are well acclimated to existing amounts of rainfall and which will be fire resistant. Please see section of the DEIS for additional details on the landscaping.

- 10. The discussion of the use of a central water system to supply water to the development under Alternatives Section is incomplete. The feasibility of the use of a central water system should be expanded upon;**

**Response:** The Final Scoping Document required a discussion of the feasibility of providing a centralized wastewater system, which is included in the Alternatives section of the DEIS and has been expanded in response to comments. The Final Scoping Document did not require the evaluation of a centralized water system.

- 11. Under Section 6, identification of any environmental resource consumed, converted or committed as a result of the proposed action, a discussion of groundwater resource should be included (scoping document pg. 14);**

**Response:** Because individual water systems are being proposed along with septic systems that discharge ultimately to groundwater within the same residential lot, the water balance is essentially preserved and the quantity of groundwater will not be adversely affected by the project. The only way for groundwater discharge to leave the site is through activities which would discharge it directly to the land surface. Here it can move as overland flow to collect in small depressions, drainage ways or streams. The majority of pumped water that would reach the surface would be through potential irrigation. As described in the response to comment 9 no irrigation systems will be installed and the goal of the individual home landscaping plan is to use native species of plants that are well acclimated to existing climatic conditions. Finally for any water that does survive as surface water flow the permanent storm water management best management practices as described in the DEIS promotes recharge of surface water to the local groundwater flow system. Therefore there will actually be very little actual consumption of groundwater resources at the site.

**12. Under Section 7, groundwater adequacy for the proposed project and potential future development should be revisited following review of additional water demand requirements (proposed and future facilities) versus available groundwater recharge and results from well yield tests and well impact monitoring (scoping document pg. 15).**

**Response:** No additional water demand requirements have been identified. The summary of water demands in Table 1 will be used to demonstrate available water resources based upon the additional well testing. The total water demand requirements given in Table 1 are less than the available recharge under drought conditions indicating that groundwater supplies based on potential groundwater recharge to the area are adequate.

**13. LBG recommends that the Applicant submit a written work plan for additional hydrologic testing for review and discussion prior to execution so that all aspects of information missing from the DEIS may be adequately addressed.**

**Response:** A work plan for additional confirmatory hydrologic testing for technical subdivision review has been prepared and is included as Appendix F of the DEIS.

Comments from John Collins Engineers, P.C.:

**1. The roadway descriptions in the traffic study and traffic section of the DEIS do not mention physical characteristics of the roadway (i.e. vertical and horizontal alignment, lane widths, pavement condition, etc.) as required by the scope. These should be added to each description. Also, the description of Mountain Road contained in the traffic section of the DEIS (Section 3.5) does not mention the speed limit of the roadway although it is included in the traffic study. The speed limit should be presented in Section 3.5 as well.**

**Response:** The roadway descriptions in Section 3.5 of the DEIS have been amended to address physical characteristics. Mountain Road has a posted speed of 40 mph, which has also been added to the DEIS text.

- 2. The manual traffic counts for intersections of Mountain Road & Upper Road (C.R. 65) and Winterton Road (C.R. 62) and Upper Road (C.R. 65) were conducted on June 18, 2008 and June 21, 2008. It should be verified that school was in session during these traffic counts to ensure a "typical" time period was counted.**

**Response:** According to the Minisink Valley Central School District 2008-2009 calendar, school was in session on the 18th. The 21<sup>st</sup> was a Saturday count.

- 3. The Saturday Peak Hour traffic volumes for the intersection of Upper Road and Mountain Road were estimated using ATR Machine, volumes from other study area intersections and AM and PM traffic distributions. The ATR machine count data used for this estimation should be provided as part of the traffic study for the further technical review.**

**Response:** ATR data was included in the original submission in Appendix A of the TIS; however, was obscured by Appendices I & J during assembly. The order has been corrected. Please refer to Appendix A of the TIS for this information.

- 4. In Table 4 of the Traffic Study (Table 3.5-6 of the DEIS) the Levels of Service for the intersection of Mountain Road and Upper Road are reversed.**

**Response:** Table 4 of the TIS and Table 3.5-6 of the DEIS have been revised accordingly.

- 5. The traffic study and traffic section of the DEIS each discuss that public transportation, although available, is not widely used in the area and is not expected to be used by residents of the proposed development. Regardless of this, existing available public transportation should be discussed as required by the scoping document (i.e. bus routes, trains schedules, etc.).**

**Response:** Available public transportation discussions have been added to the TIS and Section 3.5 of the DEIS.

- 6. The scoping document requires an analysis of Simpson Road at the site. This was not studied as part of DEIS. We were unable to locate Simpson Road although South Road is located west of the site area. Is this what is being referred to in the scope? If so does the site use this roadway for access? If not please identify to location of Simpson Road and whether or not the site uses this roadway for access.**

**Response:** "Simpson Road" is a private access which currently serves 2 homes. It has multiple horizontal switch-backs and steep vertical grades. It intersects with Mountain Road approximately 350' north of the Mountain/Upper Road intersection. Site traffic is not expected to use this road. Future development of the frontage outparcel, which is not considered as part of this project, is anticipated to use this road for access. South Road is not included in the study area.

- 7. All traffic volume figures should be revised for consistency to show the traffic volumes on the eastbound Upper Road approach to Winterton Road on the right side of Upper Road (left side in figure view). Figure 4 from the traffic study has been marked up and attached to show this change.**

**Response:** All figures have been revised to show volumes on the right-side of approach for consistency.

- 8. The trip generation estimates for the proposed site were completed using the ITE Trip Generation, 7th Edition, dated 2003. The scope required the use of "ITE's Trip Generation Manual, year of latest revision." Therefore the trip generation estimates should be recomputed based on the 8th Edition, dated 2008 and the capacity analysis for the build conditions should be completed using the updated trip generation numbers.**

**Response:** It was verified that trip generation estimates provided were based upon the latest edition and the text has been revised to note that the 8<sup>th</sup> Edition was utilized.

- 9. The traffic study and traffic section of the DEIS (Section 3.5) each mention that traffic for the proposed Villages at Chestnut Ridge project has been included in the traffic analysis. However, neither section discusses what is proposed for this development or the exact location of the access for this development except that it is to be accessed via Winterton Road. Each of these should be clarified. Also, on Figures 28, 29, and 30 of the traffic study shows the breakdown of traffic volumes for the Villages at Chestnut Ridge Development at the study area intersections but it is unclear why the intersection of Upper Road & Winterton Road is circled on these figures. Please clarify.**

**Response:** The intersection of Upper Road & Winterton Road was circled on these figures in an effort to indicate that this was the only overlapping intersection previously studied as part of the *Villages of Chestnut Ridge* project. Section 3.5 and the traffic study have been revised to give further detail regarding the *Villages of Chestnut Ridge* project. The circles have been eliminated.

- 10. Parking for the proposed site is discussed on Page 3.5-17 of the DEIS. This discussion only mentions parking for the residential portion of the site and a small parking area**

**to be provided for public use for the hiking trails. There is no mention of whether parking is to be provided at the horse barn/riding trails or parking for the proposed Hotel and Restaurant. This should be included in this section of the report.**

**Response:** Parking at the horse barn/welcome center would be limited to approximately 10 or 12 parking spaces. Parking for the resort hotel will be provided in accordance with the Town's zoning code, which specifies 1.25 spaces/room.

**11. Stage Coach Trail intersects Upper Road approximately 50 FT. north of Spruce Road. While it can be assumed that the traffic volumes on Stage Coach Trail are light we will determine during our technical review if this intersection should be analyzed as a full movement intersection due to the proximity.**

**Response:** Stage Coach Trail serves 3 or 4 residential properties and does not provide connection with any other roadways in the area (i.e. it is a cul-de-sac street). Based on the minimal expected traffic volumes on Stage Coach Lane and a review of the traffic on Upper Road, one would expect minimal delay to Stage Coach Lane with little chance for significant increases in delay due to development traffic.

If required, this intersection will be analyzed as part of the technical subdivision review.

**12. No improvements were recommended for any of the study area intersections. Based on an initial review of the existing intersections and the analysis results this appears reasonable. However, the westbound Spruce Road approach to New Vernon Road (C.R. 62) currently does not have a stop bar which would improve traffic control at this intersection. Also, due to the alignment of Upper Road at its intersection with Winterton Road and vegetation on the south side of Upper Road it should be confirmed that adequate sight distance exists at this intersection. We will advise during our technical review if improvements should be recommended.**

**Response:** Installation of a stop bar at Spruce Road/New Vernon Road may be brought to the attention of the County DPW and installed as part of routine maintenance efforts. The Sight Distance at the existing Upper Road approach to Winterton Road has been field investigated and determined to be 187' Left and 550' Right. Available sight distance was measured at the stop bar. Vegetation on the south side did not impede sight to the right. Sight to the left was restricted by the horizontal curvature of Winterton Road. Required sight distance is 445' left and 385' right. At the intersection of Upper Road with Winterton Road, the sight distance on Upper Road looking to the left along Winterton Road is obstructed due to the horizontal and vertical geometry of Winterton Road to the north of the intersection. There is a cut slope on the inside of the curve which impedes the sight distance. Cutting this slope back would allow the sight distance to be improved to the required 445 feet. However, this may involve slope removal on private property.

Comments from Planit Main Street, Inc:

- a. **Visibility and Visual Impact Assessment.** The Visibility and Visual Impact Assessment prepared by Environmental Design & Research (EDR) dated June 2009 is very thorough and comprehensive. The DEIS includes a visual analysis of the "study points" outlined in the Scoping Document along with a description of existing visual character, change in visual character and mitigation measures proposed to minimize the impacts of the proposed project. The mitigation measures proposed include locating houses below the ridgeline, limiting clearing on individual lots to one acre, the use of appropriate screening, lighting restrictions and the use of natural building materials and colors. The DEIS does not include a Visual Analysis of the Resort Hotel. However, the applicant is not seeking approval for the resort hotel at this time. *It should be made clear that the future development of the Resort Hotel, will itself be the subject to a Visual Impact Assessment at such time that a proposal is brought forth by the Project Sponsor.*

**Response:** Additional text has been provided on page 3.6-2 of the DEIS making note that the resort hotel will be the subject of a visual impact assessment when a proposal is brought forth from the Project Sponsor.

- b. **As discussed on Page 2.0-11 of the DEIS, the Project Parcel is partially located within the Shawangunk Ridge View Protection Area that is regulated under the provisions of Section 199-42 of the Town of Mamakating Zoning Law. The follow is a summary of the provisions of Section 199-42, followed by the applicant's response. Our response and comments follow in italics.**

- (1) *Building sites.* Building sites are to be sited away from ridgetops and ridgelines.

*DEIS Response.* "No future buildings are proposed located above the ridgeline."  
*Planit Comment.* *There are buildings that will be situated beyond the ridgeline within the center of the site but these home sites will not be visible from "study points" due to topography and vegetation.*

**Response:** The DEIS has been revised in response to this comment to note that buildings are being proposed beyond the ridgeline, but they will not be visible from study viewpoints due to intervening topography and vegetation. Section 2.3.1 of the DEIS reflects this change.

- (2) *Structure design.* Structures shall blend in with natural surroundings through preferred use of stone or natural wood siding and use of roofing materials with earthtone colors.

DEIS Response. "The use of natural materials and colors will be required by the HOA covenants."

Planit Comment. *The model home that is under construction incorporates these principles, as does the "Rendered Model of Typical Luxury Home" that is shown in Figure 3 of 3 in the Visibility and Visual Impact Assessment. Article VIII of the Draft HOA Covenants and Restrictions establishes a process for Architectural Control. However, it does not refer to specific design standards such as "the use of natural materials and colors. " We recommend that some specific standards be include in the covenants & restrictions and/or companion HOA building code to provide a mechanism to enforce the mitigation measures.*

**Response:** Article IX, "Covenants and Restrictions," of the Draft HOA document has been revised to include a section on minimum design standards, which requires that natural materials and colors that are designed to blend with the natural landscape be used on the exteriors of all buildings.

(3) Lighting. Exterior lighting shall be controlled in both height and intensity. Screening or shielding of luminaries may be required.

DEIS Response. "Lighting restrictions will be required in the HOA covenants."

Planit Comment. *While there is a reference to a requirement for the review of a lighting plan by the HOA [e.g. Section 8.01J of the Draft HOA Covenants & Restrictions - no standards are provided. We recommend that specific standards be put in place to reduce the potential for light pollution and to keep lighting from trespassing into the night sky.*

*Specifically, we recommend that all exterior lighting fixtures [including wall and pole mounted units] use a horizontal cut-off lens/shield to direct lighting downward. We further recommend that the height of lighting poles be limited to no more than fifteen (15) feet. Finally, we recommend that the applicant employ the use of low level lighting to accent areas where it is needed [e.g. such as along sidewalks] rather than over lighting an entire yard. These techniques will help to further reduce potential impacts related to exterior lighting associated with the proposed development on the Project Site.*

**Response:** The discussion of outside lighting in Article IX, "Covenants and Restrictions," of the Draft HOA document has been revised to state the following:

"Outside Lighting. Floodlighting or any other outside lighting with high intensity, bright lamps is prohibited. Only low-level lighting designed to accent the areas where it is needed shall be used. All exterior lighting fixtures (including, without limitation, wall and pole mounted units) shall use a

horizontal cut-off lens/shield (or similar device) to divert lighting downward. The height of lighting poles shall not exceed fifteen (15) feet.”

- (4) Structure screening. As a condition of approval, an applicant may be required to preserve existing vegetation or provide new plantings of native vegetation to screen structures. Additionally, a conservation easement pursuant to § 247 of the General Municipal Law and §§ 49-0301 through 49-0311 of the New York Environmental Conservation Law shall be the preferred means to protect or buffer views.

DEIS Response. "Landscaping will be used where appropriate to screen views."  
Planit Comment. *This Section of the DEIS should describe the steps that are proposed to be taken to preserve vegetation and screening on the Project Site.*

**Response:** Clearing of existing vegetation will be limited to the area of disturbance indicated in the approved project subdivision plans. The limits of disturbance will be staked by a licensed land surveyor prior to construction activities on individual lots. Existing trees and vegetation will be protected utilizing construction fencing. Section 2.3.1 has been revised to include this language.

- (5) Existing vegetation. Existing vegetation shall be preserved to the maximum extent possible. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site in order to maintain native vegetation as an effective screen for structures that may be visible from public roads or parks and other public views.

DEIS Response. "Approximately 80% of the site's vegetation will be preserved."  
Planit Comment. *While true, approximately 20% of the site will involve the removal of vegetation to construct roads, driveways and home sites. The DEIS should describe steps being taken to reduce clearing.*

**Response:** Steps taken to reduce clearing limits include the use of narrow driveways to dwelling units that will be located to avoid mature trees. Limits of clearing will be indicated on approved subdivision plans and staked in the field prior to commencement of construction activities. Sewage disposal systems and water supply wells are located as close to dwellings as practical to minimize clearing associated with their construction. Section 2.3.1 of the DEIS has been revised to include this language.

- (6) Tree cutting. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) except for harvests of less than 15 cords or less than 10,000 board feet on anyone parcel shall take place except in accordance with an approved building permit, site plan, subdivision or timber harvesting plan. Cutting

of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

DEIS Response. "The Project Sponsor is proposing a one-acre clearing area for each building envelope, including associated structures, plus the necessary amount of clearing required to satisfy fire department requirements for access along driveways. The driveways are proposed to follow the natural contours of the land to minimize grading and associated impacts. All restrictions will be enforced by the HOA."

Planit Comment. *Section 199-42 of the Town Code also restricts clear cutting. It states "Cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited." The DEIS should describe whether the proposed home sites comply with this provision of the Town Code or whether the applicant is proposing to allow the clearing of one (1) acre that is a single contiguous area for home sites. We recommend that, where feasible, the cutting of all trees in a single contiguous area be limited to no more than 20,000 square feet and that such clearings be created in a manner that avoids distinct boundary edges between natural vegetation and developed sites [e.g. avoid rectangular clearings]. To the greatest extent possible, tree clearing to open views should involve selective clearing and trimming and not the involve clear-cutting of open areas in front of proposed home sites. These mitigating measures should be further discussed in the DEIS.*

**Response:** The project will be comply with this requirement by limiting clearing of a single contiguous area within the one-acre building envelope to 20,000 square feet. A new figure (Figure 2-4a) has been included in the DEIS to illustrate how this will be accomplished. The clearing limits and figure are also included in Article IX, "Covenants and Restrictions," of the Draft HOA document (included as Appendix M of the DEIS).

- (7) Trail access and setback. The Town, consistent with §§ 277 and 281(d) of the New York Town Law, shall seek trail corridor access and setback of development away from trails where documentation exists that the subject parcel includes an existing or potential public trail, such as the Long Path.

Planit Comment. *The Project Site does not abut the Long Path nor the Shawangunk Ridge Trail. However, it lies within an area that is described as the "Preferred Route" of the Shawangunk Ridge Trail. The DEIS describes an easement that will be reserved on the western side of the project for the future creation of a "Hiking Trail" in the vicinity of the Shawangunk Ridge Trail "Preferred Route." The proposed development sites are appropriately set back from the proposed route of the "Hiking Trail." The Project Sponsor's offer to provide an easement for a hiking trail on the western side*

*of the Project Site will afford an opportunity for State, regional and local agencies to pursue the creation of the "Preferred Route" of the Shawangunk Ridge Trail.*

No response necessary.

- (8) Underground utilities. All electric, telephone, television and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

Planit Comment. As described in the DEIS, the applicant is proposing to install underground utilities, consistent with this provision of Section 199-42 of the Town Code.

No response necessary.

- c. Open Space and Recreation Features. The Project Sponsor is proposing to include an easement for a "Hiking Trail" along the western slope of the Project Site. The DEIS states that the trail will be accessible to the public as shown on the Project Site plans. However, it is not clear how the public will access the trail or where they will park to access the 1 ½ mile trail on the western slope. These issues should be clarified in the DEIS. The Project Sponsor is also proposing approximately seven (7) miles of natural trails provided within the HOA Common open space for hiking and horseback riding. There may also be an opportunity to create a public trail along the eastern slope of the Project Site.

In 2006, the Planning Board - in its review of the proposed "Stoneleigh Woods" subdivision - requested that the applicant provide a conservation easement along the 1010' to 1020' contour that traversed the site. While that application was withdrawn, it did include a provision for a trail easement. The Stoneleigh Woods site is surrounded on three sides by Seven Peaks. We should discuss whether a easement for a "Hiking Trail" should also be reserved for the eastern slope of the Project Site.

**Response:** The hiking trail will be accessed via a small parking area at the end of the cul-de-sac on the northeastern side of the property. Section 2.3.4 of the DEIS has been amended to clarify this. No response to the remainder of this comment is necessary at this time. If the Town requires it, the project sponsor will explore the potential for providing an easement for a hiking trail on the eastern slope of the project site.

- d. Public Lands & Resources of Statewide Significance. The DEIS should describe the proximity of the Project Site to the proposed Shawangunk Ridge Trail/Long Path and the

"Preferred Route" of the Shawangunk Ridge Trail that is being proposed. The DEIS simply states that "The Shawangunk Ridge Trail is only a planning concept at this time. No actual path currently exists." The Project Sponsor's provision of an easement for a 1 ½ mile hiking trail on the western slope will help to further the proposed plans for the Shawangunk Ridge Trail by reserving an area on the Project Site where the proposed trail can continue without interruption. This fact is worth stating in the DEIS and should be stated as a positive impact.

**Response:** Section 3.8 of the DEIS has been revised to note the proximity of the Shawangunk Ridge Trail and the positive impacts of the project.

- e. Community Services. We recommend that the DEIS include a broader discussion regarding existing police, fire and ambulance services and potential impacts and mitigation measures. Input from the local fire districts with respect to whether the Proposed Project may affect their needs for additional or special fire apparatus should be included in the DEIS analysis.

**Response:** Additional information regarding police, fire, and ambulance services has been provided in Section 3.7 of the DEIS in response to this comment.

- f. Cultural Resources. The DEIS includes a Phase I Archeological Reconnaissance Survey that was conducted on the Project Site by Pan Cultural Associates, Inc. in 2008. The Phase I A study included Shovel Test Pits (STP) throughout the Project Site. The results of the Phase IA Report reveal the presence of several Precontact Sites and Historic Sites on the Project Site. The Proposed Project will not disturb any of the resources found on the site that are eligible for listing on the National Register of Historic Places. The avoidance of these sites - as proposed by the Project Sponsor - is an appropriate mitigation measure.

No response necessary.

Comments from NYSDEC:

- 1. The bulleted list of factors that attempt to explain the greater fire frequency, intensity, and potential damage is inaccurate. Increased fire behavior is caused by two factors existing in the area:**

**1. Fire adapted ecosystems- most of the cover types listed in the DEIS are fire adapted ecosystems. The vegetation has adapted to the existence of wildfire and uses it as both a means of propagation and species competition. Species such as chestnut oak, hickory, blueberry, pitch pine, scrub oak, cedar, and mountain laurel support aggressive fire behavior.**

**2. Local weather patterns- the characteristics of local winds, precipitation, and snowmelt/green up cycle support a vigorous spring wildfire cycle. When drought conditions exist, a summer and fall wildfire season creates the potential for rapid spread of wildfire as well as increased intensity.**

**Response:** The three bulleted items in this section came directly from the NYSDEC Firewise New York web page, although there was an error in the first bulleted item, which has been corrected. A footnote has also been added to cite the source of the information. Additional text has also been provided to incorporate the above 2 factors as causes of increased fire behavior. See page 3.11-1 of the DEIS.

**2. Interior sprinklers in structures are not proven to have any impact on structure vulnerability during a wildfire. Firewise New York provides for sound and reasonable construction standards that will have a lasting impact on a structures potential to survive a wildfire. It is the reviewers opinion that the Seven Peaks Development should incorporate Firewise construction standards during the building phase of the project.**

**Response:** The section about building code requirements has been removed. The Draft HOA document contains a number of fire suppression and mitigation measures, which are intended to mitigate the potential for wildfire in the community and for adverse impacts to the community from wildfires.

**3. The DEIS tends to focus on fire occurrence, and not on construction and maintenance of structures that will be able to withstand a large and intense wildfire. Fire occurrence can be significantly reduced within the development boundaries and the development as a whole would still be at risk of wildfire from outside the project area. During recent wildfires in the region ember showers from wildfires in similar fuel types and weather patterns have ignited spot fires up to ½ mile from the main fire.**

**Response:** The Draft HOA document contains a number of fire suppression and mitigation measures, which are intended to mitigate the potential for wildfire in the community and for adverse impacts to the community from wildfires.

**4. Upon reviewing the draft HOA document provided in Appendix K, no mention of wildfire mitigation measures was noted. The bullets listed in this section will help in reducing fire starts within the development. As noted above, they will not reduce the communities vulnerability to wildfire should one occur. No provision for retaining a Naturalist is mentioned in the HOA document provided.**

**Response:** The draft HOA document has been revised to include a section on wildfire suppression and mitigation measures (Paragraph gg in Article IX, "Covenants and Restrictions") and to state that the HOA shall retain a naturalist to assist the Board in fulfilling its duty to

suppress and mitigate the wildfire potential in the Community (Paragraph b in Article VI, "Maintenance, Replacement, and Repair").

- 5. Provide potential homebuyers with information about the ecosystem in which the development exists, including the unique role of wildfire in it. Residents who understand the issue will be better equipped to maintain their homes in the manner which will keep them safe from wildfire.**

**Response:** This has been incorporated into the Draft HOA Document as a requirement in Paragraph gg of Article IX, and as a mitigation measure in Section 3.11 of the DEIS.

- 6. The HOA should mandate that a Seven Peaks Firewise community be established, with a multi member Firewise board. The Firewise community should perform at least the minimum actions needed for Seven Peaks to be a recognized Firewise community.**

**Response:** The Draft HOA document contains a number of fire suppression and mitigation measures, which are intended to mitigate the potential for wildfire in the community.

- 7. Should the developer be involved in designing landscaping before the sale of a lot, Firewise landscaping should be used a base design model.**

**Response:** The Draft HOA Document indicates that Firewise landscaping will be used. Both as the developer and as a member of the HOA, the developer is very involved in every aspect of the management of the project, including the design of the homes and the landscaping.

- 8. A review of the "natural screening" to prevent visual impacts should be performed to make sure it conforms to Firewise concepts. The use of native plants for landscaping is strongly encouraged, but planting volatile fuels within 35' of the structure should be discouraged.**

**Response:** This has been incorporated into the Draft HOA Document as a requirement in Paragraph gg of Article IX, and as a mitigation measure in Section 3.11 of the DEIS.

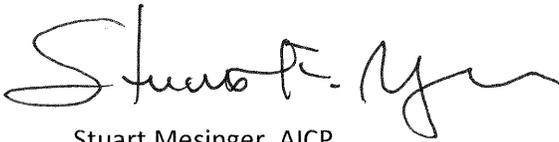
- 9. In order to make the fire departments job of wildfire suppression and structure protection safer and easier, the following recommendations should be followed:**

- **Driveways should conform to NFPA 1180 standards in width, length, bridge load limits, and turnarounds.**
- **Vegetation alongside development roads should be kept below three feet for a distance of five feet beyond the roadway width. This will ensure safe ingress and egress for wildland firefighters to access individual residences.**

- **911 addresses should be posted on non combustibile material at the end of every driveway.**
- **Two methods of egress from the development should be in place, in order to facilitate public evacuation.**

**Response:** The above recommendations have been incorporated into the Draft HOA Document in Article IX, and as mitigation measures in Section 3.11 of the DEIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Mesinger". The signature is fluid and cursive, with the first name "Stuart" being larger and more prominent than the last name "Mesinger".

Stuart Mesinger, AICP  
Project Manager

cc: Terresa Bakner, Esq. – Whiteman, Osterman, & Hanna