

## **A. COMMENTERS ON THE DEIS**

Below is a list of all persons or agencies who provided comments on the DEIS:

### **Designated Comment/Response numbers shown in Red:**

1. Ruth Pierpont, New York State Office of Parks, Recreation and Historic Preservation (OPRHP), letter dated 4/14/11

5-1 to 5-5

2. Claudine Jones Rafferty, New York State Department of Health (NYSDOH), letter dated 4/27/11

7-3, 16-1 to 16-3

3. Michael B. Kaplowitz, Westchester County Board of Legislators, letter dated 4/28/11

8-1

4. Joseph M. Wilson (Safe Flight Instrument Corporation), letter dated 4/29/11

13-1

5. Peter Tesei (First Selectman, Town of Greenwich, CT), Public Hearing, 5/2/11

2-1 to 2-3

6. Kate Hudson (Riverkeeper), Public Hearing, 5/2/11

2-11, 8-2 to 8-4, 9-1

7. Michael Zarin (Zarin and Steinmetz Attorneys at Law), Public Hearing, 5/2/11

2-4, 3-1 to 3-6, 4-1, 8-5 to 8-9, 13-2 to 13-4, 18-1, 22-1

8. Greg Fleischer (Carpenter Environmental Associates), Public Hearing, 5/2/11

8-10, 8-11, 9-2, 9-3

9. Bernard Adler, Public Hearing, 5/2/11

13-5 to 13-13, 13-81

10. Tania Vernon, Public Hearing, 5/2/11

8-12

11. Julius Shultz (Sierra Club), 5/2/11

2-5 to 2-7, 8-13, 9-4, 10-1, 13-14

12. Peter Dermody (Dermody Consulting), Public Hearing, 5/2/11

8-14, 9-5, 13-15, 22-2

13. Ed Glassman, Public Hearing, 5/2/11

22-3

14. Robert A. Porto, Public Hearing, 5/2/11

8-15

15. Karen Shultz (Sierra Club), Public Hearing, 5/2/11

22-4

16. Cynthia Garcia, New York City Department of Environmental Protection (NYCDEP), Public Hearing, 5/2/11

8-16 to 8-19

17. Doug Manconelli, Public Hearing, 5/2/11

13-16

18. Lucille Held, Public Hearing, 5/2/11

2-52, P. 47-48 of Public Hearing Transcript – comments not directly applicable to the proposed project. No Response Required.

19. Ingrid McMenamin, Public Hearing, 5/2/11

2-8 to 2-10, 13-17

20. Jeffrey S. Morgan (Morgan & Brother Manhattan Storage Co., Inc.), letter dated 5/2/11

2-12

21. Carol De Angelo (Sisters of Charity), letter dated 5/4/11

8-20

22. Steve Hopkins, letter dated 5/5/11

2-13, 9-6

23. James W. Ford (BETA Group, Inc.), letter dated 5/10/11

13-18 to 13-39

24. James W. Ford (BETA Group, Inc.), letter dated 5/13/11

13-40, 13-41

25. Thomas Felix, Federal Aviation Administration (FAA), letter dated 5/19/11

3-7 to 3-9, 13-42

26. Peter J. Tesei (First Selectman, Town of Greenwich, CT), letter dated 5/23/11

13-43, 13-44

27. New York City Department of Environmental Protection (NYCDEP), letter dated 5/23/11

6-1 to 6-3, 7-1, 7-2, 8-21 to 8-24, 9-7 to 9-16, 11-1, 13-45, 17-1 to 17-5, 18-2 to 18-6

28. Greg M. Fleischer (Carpenter Environmental Associates, Inc.), letter dated 5/24/11

8-25 to 8-33, 9-53 to 9-56

29. Peter Dermody (Dermody Consulting), letter dated 5/27/11

2-14, 8-34, 8-35, 8-53, 9-17, 9-18, 13-46 to 13-48

30. Marian H. Rose, Croton Watershed Clean Water Coalition, Inc. (CWCWC), letter dated 5/31/11

9-19 to 9-22

31. Richard J. Lippes (Richard J. Lippes & Associates, on behalf of the Sierra Club), letter dated 5/31/11

2-15 to 2-25, 3-13 to 3-24, 4-2 to 4-7, 4-9, 4-11, 4-13, 8-36 to 8-52, 8-54 to 8-56, 13-63 to 13-66, 18-7 to 18-11, 22-5 to 22-8

32. Edward Buroughs, Westchester County Planning Board (WCPB), letter dated 5/31/11

2-26, 2-27, 3-10 to 3-12, 6-4, 8-57, 9-23

33. Bernie Adler and Michael P. O'Rourke, Adler Consulting –Transportation Planning & Traffic Engineering, PLLC (on behalf of Westchester Airport Associates, L.P.), letter dated 5/31/11

13-49 to 13-62

34. Adam Kaufman, Town of North Castle Director of Planning, letter dated 6/1/11

2-28 to 2-33, 3-25, 3-26, 4-15 to 4-17, 8-58 to 8-62, 9-24, 11-2 to 11-4, 13-67, 18-12

35. Ryan Coyne and David Sessions, Kellard Sessions Consulting, P.C. (Kellard Sessions), Town of North Castle Engineering and Wetlands Consultants, letter dated 6/1/11

2-34, 2-35, 3-27, 3-28, 4-18, 5-6, 6-5 to 6-7, 7-4, 8-63 to 8-71, 9-25 to 9-49, 10-2, 11-5, 11-6, 13-68, 16-4 to 16-8, 17-6 to 17-14, D-1 to D-20

36. John F. Fava, Town of North Castle Conservation Board, letter dated 6/1/11

2-36 to 2-38, 8-72, 8-73, 9-50 to 9-52, 13-69, D-21, D-22

37. Eric A. Goldstein, Natural Resources Defense Council (NRDC), letter dated 6/1/11

2-39 to 2-41

38. Kate Hudson and William Wegner (Riverkeeper), letter dated 6/1/11

2-51, 7-5, 7-6, 7-7, 7-8, 7-9, 8-108, 8-109, 8-110, 8-111, 8-112, 8-113, 8-114, 8-115, 8-116, 9-57, 9-58, 9-59, 9-60, 9-61, 9-62, 18-17, 18-18, 18-19, 18-20, 18-21, 18-24

39. Michael D. Zarin and Daniel M. Richmond, Steinmetz and Steinmetz (on behalf of Westchester Airport Associates, L.P.), letter dated 6/1/11

2-42 to 2-50, 3-29 to 3-33, 4-6, 4-8, 4-10, 4-12, 4-14, 8-74 to 8-107, 13-70 to 13-78, 18-13 to 18-16, 22-9 to 22-13

40. NYS Office of Watershed Inspector General (WIG), letter dated 6/1/11

8-117, 8-118, 8-119, 9-63, 9-64, 9-65, 9-66, 9-67, 9-68, 9-69, 9-70, 9-71, 9-73, 9-74, 9-75, 9-76, 9-77, 9-78, 9-79, 9-80, 9-81, 17-15, 17-16, 18-22, 18-23, D-23, D-24, D-25, D-26, D-27, D-28, D-29, D-30, D-31, D-32, D-33, D-34, D-35

41. Peter J. Tesei (First Selectman, Town of Greenwich, CT), letter dated 5/31/11

3-33, 13-79, 17-17, 17-18, 17-19, 13-80



## New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

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www.nysparks.com

Andrew M. Cuomo  
Governor

Rose Harvey  
Commissioner

April 14, 2011

Adam R. Kaufman  
Town of North Castle  
17 Bedford Rd  
Armonk, New York 10504

APR 25 2011

Re: FAA  
11 King Street, Parking Structure at Westchester  
Co Airport  
11 New King Street/NORTH CASTLE,  
Westchester County  
11PR02501

Dear Mr. Kaufman:

[ Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP) concerning your project's potential impact/effect upon historic and/or prehistoric cultural resources. Our staff has reviewed the documentation that you provided on your project. Preliminary comments and/or requests for additional information are noted on separate enclosures accompanying this letter. A determination of impact/effect will be provided only after ALL documentation requirements noted on any enclosures have been met. Any questions concerning our preliminary comments and/or requests for additional information should be directed to the appropriate staff person identified on each enclosure. ]

comment  
5-1

[ In cases where a state agency is involved in this undertaking, it is appropriate for that agency to determine whether consultation should take place with OPRHP under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. In addition, if there is any federal agency involvement, Advisory Council on Historic Preservation's regulations, "Protection of Historic and Cultural Properties" 36 CFR 800 requires that agency to initiate Section 106 consultation with the State Historic Preservation Officer (SHPO). ]

comment  
5-2

When responding, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

*Ruth L. Pierpont*

Ruth L. Pierpont  
Acting Deputy Commissioner for Historic Preservation

Enclosure

**ARCHEOLOGY COMMENTS**  
**11PR02501**

[ Based on reported resources, there is an archeological site in or adjacent to your project area. Therefore the Office of Parks, Recreation and Historic Preservation (OPRHP) recommends that a Phase 1 archeological survey is warranted for all portions of the project to involve ground disturbance, unless substantial prior ground disturbance can be documented. If you consider the project area to be disturbed, documentation of the disturbance will need to be reviewed by OPRHP. Examples of disturbance include mining activities and multiple episodes of building construction and demolition.]

comment  
5-3

[ A Phase 1 survey is designed to determine the presence or absence of archeological sites or other cultural resources in the project's area of potential effect. The OPRHP can provide standards for conducting cultural resource investigations upon request. Cultural resource surveys and survey reports that meet these standards will be accepted and approved by the OPRHP.

Our office does not conduct cultural resources surveys. A 36 CFR 61 qualified archeologist should be retained to conduct the Phase 1 survey. Many archeological consulting firms advertise their availability in the yellow pages. The services of qualified archeologists can also be obtained by contacting local, regional, or statewide professional archeological organizations. Phase 1 surveys can be expected to vary in cost per mile of right-of-way or by the number of acres impacted. We encourage you to contact a number of consulting firms and compare examples of each firm's work to obtain the best product.

comment  
5-4

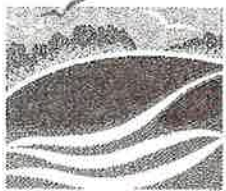
Documentation of ground disturbance should include a description of the disturbance with confirming evidence. Confirmation can include current photographs and/or older photographs of the project area which illustrate the disturbance (approximately keyed to a project area map), past maps or site plans that accurately record previous disturbances, or current soil borings that verify past disruptions to the land. Agricultural activity is not considered to be substantial ground disturbance and many sites have been identified in previously cultivated land.]

[ Please also be aware that a Section 233 permit from the New York State Education Department (SED) may be necessary before any archeological survey activities are conducted on State-owned land. If any portion of the project includes the lands of New York State you should contact the SED before initiating survey activities. The SED contact is Christina B. Rieth and she can be reached at (518) 402-5975. Section 233 permits are not required for projects on private lands.]

comment  
5-5

If you have any questions concerning archeology, please contact Daniel A. Bagrow at 518-237-8643. ext 3254

APR 25 2011



**TOWN OF  
NORTH CASTLE  
CONSERVATION  
BOARD**

17 BEDFORD ROAD  
ARMONK, NY 10504  
TEL: 914 273 0346  
FAX: 914 273 3554  
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RECEIVED

JUN 01 2011

TOWN OF NORTH CASTLE  
PLANNING BOARD

June 1, 2011

Mr. John Delano, Chairman  
And Planning Board Members  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504

Attention: Adam Kaufman  
Planning Director

RE: Comment on Draft EIS  
Proposed Parking Structure  
11 New King Street, LLC

[ It is obvious to anyone who has flown out of Westchester County Airport that additional parking is sorely needed, and there are doubtless many people in North Castle and nearby communities who would find additional parking at the proposed location a great convenience. However, the Town of North Castle must carefully weigh the potential negative consequences of allowing 1,450-space building with its 51,000-square foot footprint to be built. Foremost among the concerns of the North Castle Conservation Board are protection of water quality in the Rye Lake/Kensico Reservoir from degradation, loss of natural wetlands and open space due to construction, and the potential of demand for increased flights and resultant noise.]

comment  
2-36

**DETERMINE NEED**

[ The existing parking structure at Westchester County Airport provides 1,200 parking spaces. An estimated 200 additional vehicles may be parked elsewhere on airport property, and an additional 500 parking spaces are available at nearby SUNY/Purchase University, with shuttle-bus service. Considering these facts, we question the need for such a large

comment  
13-69

parking project as the Applicant's propose. The Conservation Board suggests that the need for such a large facility should be substantiated prior to any consideration for the project.]

#### WETLANDS

[Wetland-A. The proposed 1,450-car facility would encroach upon Wetland-A by approximately 40 feet, and the required construction access would entail a far greater intrusion. The project should be revised to and reduced to avoid this use of wetlands.]

comment  
8-72

[Wetland-B, which includes the main stream channel surrounding this site, would be impacted by widening of the entrance road to the facility, clearing of woodland vegetation for detention basins and the outlet pipe to the stream channel from the proposed W-4 (Wetland #4 pocket wetland). The proposed project eliminates nearly all existing vegetation and natural storm water control function. The Conservation Board recommends that these intrusions be greatly reduced or rejected and be scrutinized by the New York City Department of Environmental Protection (NYCDEP) for impacts to Rye Lake/Kensico Reservoir.]

comment  
8-73

#### STEEP SLOPE SETBACK

[The North Castle Wetlands and Drainage Law, Paragraph 209-5c, amended in 2006, requires a 150-ft. setback for slopes over 25%. This additional setback as it concerns Wetland-A is not indicated on the Applicant's plan. The plan and calculations should be revised for accuracy.]

comment  
D-21

#### SEDIMENT & EROSION CONTROL

[Removal of substantial vegetation from the site and resultant soil disturbance would lead to erosion and sedimentation to Rye Lake/Kensico Reservoir unless properly controlled. Experience has shown that such control is typically problematic and 100% control of related pollution is unattainable.

comment  
9-50

The applicant proposes sophisticated measures to control pollution from the finished structure. But, if built, can the Town be sure that they can and will be properly maintained? What backup measures does the Applicant propose in case of failure?]

#### ENCROACHMENT

[The existing property usage at 11 New King Street encroaches on land of the Westchester County as a maintained lawn area off the east corner of the existing building and is likely to be used during construction. Any use of this property should be by agreement by Westchester County.]

comment  
2-37

#### RYE LAKE WATER SUPPLY

[While there is great concern with protection of water quality in the entire Kensico Reservoir system, an especially critical concern is the constricted Rye Lake area where the dilution of contaminants by inflow from the Delaware Aqueduct is reduced. It should be noted that the intake for the water supply of the Town of Harrison and other municipalities is located about 4000-feet from the project site where sediment and pollutants from construction and the finished structure would drain into Rye Lake. What would these pollutants from vehicles and the operation itself be?]

comment  
9-51

[There are drain pipes from Wetlands A & B that flow under Rte. 120 and Rte. I-684 to Louden's Cove. The plan in the DEIS shows only one drain from Wetland-B. The drain from Wetland-A located in the south corner of the property at 11King Street should be clearly shown on the plan. In addition, the intake pipe location for the Harrison Water Supply should also be shown on the Project Site (Figure #1) map.]

comment  
D-22

#### KING STREET CORRIDOR

[The Town of North Castle established the Kensico Watershed Improvement Committee (KWIC) to develop a plan to protect the Kensico Reservoir from operations at the corporate and municipal facilities in the Kensico watershed. The King Street Management Plan for portions of Routes 22 and 120 in the Town of North Castle was prepared and released in 2001. At the time it included five major corporations, however the southern limits of the King Street Corridor is the common municipal boundary with the Town of Harrison located about 3000 feet south of this project site. The report includes recommendations for Turf & Landscape Management, Storm-water, Waste Reduction, Hazardous Materials & Waste, Waterfowl Management, Material Storage, and Wastewater among other items. This report should be identified and included in the FEIS.]

comment  
9-52

Page 4 - CB Comment DEIS

CONCLUSION

The magnitude of the proposed project at 11 New King Street has the potential of causing severe environmental and water quality problems with extensive site disturbance during construction, and maintenance of the storm-water facilities in years to come. A Town policy to protect the long-term water quality related to the Rye Lake/Kensico Reservoir is of greatest concern.

Comment  
2-38

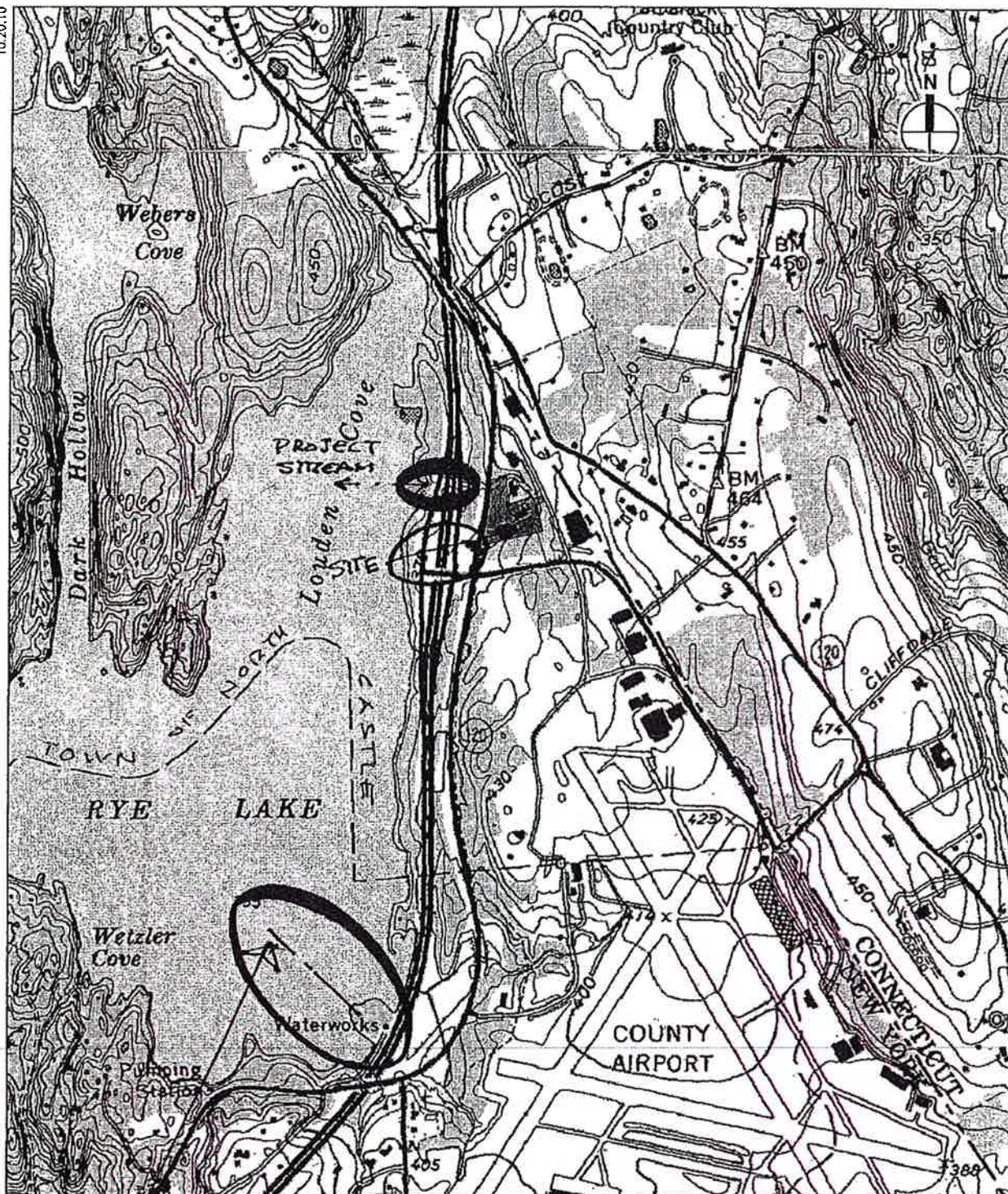
The Conservation Board therefore recommends that the North Castle Town Board, Planning Board, and the NYCDEP exercise particular caution in regard to potential environmental effects of this project as well as the possible negative growth inducing long range impacts in the area.]



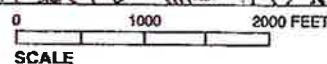
John F. Fava, Chairman  
Conservation Board

Cc: Cynthia Garcia, NYCDEP  
Conservation Board

10.20.10



APE Boundary




CB - APPROX.  
WATER INTAKE LOCATION  
FOR TOWN OF HARRISON


PARK PLACE at Westchester Airport

Project Site  
Figure 1

**MEMORANDUM**

TO: North Castle Planning Board

FROM: Ryan Coyne, P.E.   
Kellard Sessions Consulting, P.C.  
Consulting Town Engineers


David J. Sessions, RLA, AICP   
Kellard Sessions Consulting, P.C.  
Town Wetland Consultant

DATE: June 1, 2011

RE: Draft Environmental Impact Statement (DEIS) Review  
11 New King Street, LLC  
11 New King Street  
Block 4, Lot 14B & 13A

As requested, Kellard Sessions Consulting, P.C. has reviewed the March 28, 2011 Draft Environmental Impact Statement (DEIS) and associated site plans submitted in conjunction with the above-referenced application. The applicant is proposing to construct an approximately 267,000 s.f. multi-story parking garage with the capacity for 1,450 cars. In order to construct the new garage facility, the existing 9,700 s.f. structure and on-grade parking area will be razed.

**Comments**

1.  This office conducted a site visit on December 23, 2010 for the purposes of verifying the wetland boundary, as delineated by the applicant. At that time, and as outlined in our December 29, 2010 memorandum to the Board, this office questioned certain segments of the wetland boundary line. As the growing season had ended and the majority of the vegetation was not present during our December site visit, the wetland boundary could not be confirmed at that time. However, in an effort to allow the applicant to proceed through DEIS completeness, our office had provided a sketch illustrating the approximate location of the revised wetland boundary line.

Comment  
8-63

Our office conducted a second site visit on May 24, 2011 and confirmed that the wetland boundary, as illustrated on our December 29, 2010 sketch, is accurately represented. All future submissions should illustrate the wetland boundary line, as depicted on our previously submitted sketch. In order to have the wetland boundary properly demarcated in the field, it is recommended that the applicant have the revised wetland boundary line survey-located and that fluorescent ribbon be hung along the revised wetland boundary line. The document (plans, text and exhibits) should be revised to reflect the local wetland boundary confirmation of May 24, 2011. Further impact analysis of the direct wetland disturbance and mitigation should be provided.]

2. [The "project site" should be revised on the plans and throughout the document (plans, text and exhibits) to include, at a minimum, all areas of disturbance on the adjacent Lot 13A parcel. Impacts (text/discussion) throughout the document should be updated accordingly.] *comment 2-34*
3. [The status of the Office of Parks Recreation and Historic Preservation (OPRHP) Phase I Archaeological Survey review should be updated and the document updated as necessary.] *comment 5-6*
4. [The need for an ACOE Nationwide Permit and/or Water Quality certification should be determined. The applicant should address whether the project location within Designated Critical Resource Waters would require an individual ACOE Permit. The extent of ACOE jurisdiction should be described in the text and identified on the plans and exhibits.] *comment 8-64*
5. [The mapping and jurisdiction of on and off-site wetlands and watercourses and related regulated areas should be confirmed by the New York City Department of Environmental Protection (NYCDEP) and the plans and document updated accordingly. Based upon the NYCDEP's review memorandum dated May 23, 2011, it appears that their jurisdiction has not been fully confirmed.] *comment 8-65*
6. [An itemized list of activities proposed within each NYCDEP regulated area should be provided. The text should be revised to expand the discussion of proposed extent of new impervious surfaces within the NYCDEP regulated areas for reservoir stems. The extent of proposed disturbances/improvements (i.e., disturbance, tree removal, permanent improvements, impervious surface) within the regulated 300' reservoir stem area should be identified and quantified in the text.] *comment 8-66*
7. [On and/or off-site wetland mitigation plans in compliance with Chapter 209 of the Town Code should be provided at this time. As the proposed pocket wetlands for stormwater control are] *comment 8-67*

not an accepted practice for mitigation, the project should be revised to provide other alternatives for on-site mitigation. The document should be expanded to address the potential to modify the project site and/or revise the project to provide on-site mitigation.]

8. [The Final Environmental Impact Statement (FEIS) should discuss the potential impacts to Wetland A and associated wildlife, vegetation and habitat created by the proposed decreased flows to DP-1 in the post-development condition.] *comment 8-68*
9. [The locally-regulated wetland buffer should be expanded to include slopes 25% or greater, as required by Section 209-5C of the Town Code.] *comment 8-69*
10. [The FEIS should discuss the engineering design measures implemented to substantiate the comment on Page 1-5 related to preserving groundwater quality and promoting sustainable groundwater.] *comment 8-70*
11. [The FEIS should provide the pre- and post-development acreages (drainage area) contributing to each drainage point.] *comment 9-25*
12. [Details of the 24' driveway expansion and its relationship to the existing stream and crossing should be provided on the plans and discussed in the main document, as well as the Stormwater Pollution Prevention Plan (SWPPP) text.] *comment 9-26*
13. [The FEIS should provide a discussion of mitigation practices which would address the current or future use of sand and salt de-icing practices and fertilizers, pesticides and chemicals on lawns, roadways and other impervious surfaces on Lot 13A.] *comment 9-27*
14. [The FEIS should identify tree removal within the regulated wetland/wetland buffer area and overall tree removal.] *comment 6-5*
15. [A conceptual plant list should be provided for each zone illustrated on Figure 6-2 and the landscape plans. Figure 6-2 appears to have planting zones conflicting with Sheet C-8.] *comment 6-6*
16. [The DEIS text and Sheet C-3 are inconsistent and should indicate significant tree removal. A summary of significant tree removal should be provided on Sheet C-3. All trees on Sheet C-3 should be labeled. The text and plans should be expanded to describe mitigation for tree removal.] *comment 6-7*

17. [The landscaping represented on the Perspective Views (T-1), Demolition Plan (C-3) and Landscape Plan (C-8) do not appear accurate and should be revised accordingly. Similarly, the landscaping shown on the proposed condition Figure 48A does not appear consistent with that on Figure 48B.] *comment 4-18*
18. [Table 7-5 totals should be revised to coordinate with text total disturbance (122,078 vs. 120,846). The area of 35% disturbance should be corrected.] *comment 7-4*
19. [The on-site areas available for staging material storage appear limited. The Sediment and Erosion Plan should be expanded to identify the features, as well as expand the detail of construction sequencing, soil testing and stock pile locations. Will the adjacent property be used for staging/access of material storage or parking?] *comment 17-6*
20. [When will pump test occur/water budget analysis to confirm adequate quantity of water/potential impacts to waterbodies adjacent properties occur?] *comment 11-5*
21. [Discuss the potential of de-icing practices and identify potential groundwater impacts.] *comment 8-71*
22. [The FEIS should address why all contaminated soils would not be removed from the site. A discussion of the potential impacts of contaminated soils remaining should be provided. The FEIS and exhibits should be revised to indicate areas where contaminated fill would be expected to remain.] *comment 16-4*
23. [The FEIS should discuss the potential for contaminated fill extending beyond area shown, as well as potential project impacts associated with such condition.] *comment 16-5*
24. [FEIS figures should identify the location of borings with contaminants.] *comment 16-6*
25. [Locations for contaminated fill stock piles should be provided on the plans. Contaminated fill removal should not be limited to petroleum contaminated but all contaminated soils. The FEIS should provide a discussion of mitigation for exposed contaminated soils. Describe potential impacts of exposed contaminated soils to vegetation, habitat, wetlands and watercourses. The plans and text should be expanded to address the storage of exposed contaminated soils in a location outside the buffer.] *comment 16-7*
26. [The applicant should address how the inclusion of the portion of 7 New King Street (Lot 13A) within the project site effects the future development potential of that lot. A zoning assessment of Lot 13A should be provided.] *comment 3-27*

27. [Any existing easements/covenants/restrictions on Lots 13A and 14 should be identified within the FEIS text and provided on the plans.] comment 3-28
28. [The text and construction sequencing should be expanded to address the removal of the existing oil tanks.] comment 17-7
29. [As the existing well will be abandoned, the water source to be utilized during construction to minimize dust should be identified.] comment 17-8
30. [The document should be revised to incorporate installation and abandonment of all utilities into the construction sequence.] comment 17-9
31. [The FEIS should address construction of new utilities proposed within existing driveway. The discussion should include the rationale and impacts of milling rather than completely remove the existing pavement.] comment 17-10
32. [The FEIS and plans (Sheet C-1, Note 22A) should address the procedure and timing for testing for chemicals pursuant to New York State Department of Environmental Conservation (NYSDEC) requirements.] comment 17-11
33. [The FEIS should address the sequencing of the removal of the trailer and abandonment of the well & SSDS.] comment 17-12
34. [The proposed fire truck access path should be referred to the Fire Department for review and comment. It does not appear that a fire truck would be able to back out.] comment 10-2
35. [The turning radius for the proposed fire truck access should be indicated on the plan.] comment D1
36. [The existing and proposed well locations should be provided on the plans.] comment D-2
37. [The FEIS and plans should address pedestrian safety and plantings on the steep slopes adjacent to the Lot 13A parking lot.] comment 2-35
38. [The plans should be revised to identify the location of the existing culvert, as well as provide new details of the stream crossing, driveway expansion and installation of proposed guide rail.] comment D-3

39. [Identify the type and location of fuel associated with the proposed emergency generator. Describe the potential impacts and mitigation associated with the proposed fuel storage in regulated area.] comment 16-8
40. [The FEIS should discuss the trench drain connection to the sanitary sewer system depicted on Sheet C-6.] comment 11-6
41. [The FEIS and plans should address conveyance of water to temporary sediment basins and the protection of wetlands once the building is under construction.] comment 9-28
42. [Given the proximity of the building to the wetlands, the document and plans should address construction practices which avoid additional wetland impact associated with machinery/access, etc.] comment 17-13
43. [Where will construction-related employee parking occur?] comment 17-14
44. [The FEIS should discuss the potential freezing of the sand filterbed pipes and clogging in cold weather and related effectiveness and operation of the stormwater BMP's.] comment 9-29
45. [The SWPPP and FEIS should identify potential pollutants (petroleum products and chemicals) will be used and required to be stored at the site.] comment 9-30
46. [The document should inventory and discuss the impact of other parking and shuttle services (i.e., SUNY Purchase) which presently supplement on-site parking demand at the airport.] comment 13-68
47. [Existing conditions/survey, notes and data on Sheet C-2 should be revised to include survey information for Lot 13A and all portions of that lot included within the project site.] comment D-4
48. [Sheet C-2 should be revised to identify lands with slopes >25% and >35%.] comment D-5
49. [Sheet C-2 identifies two SB-6 and two TP-1 test locations. Testing locations on the plans and document should be updated for consistency.] comment D-6
50. [Sheet C-2 legend should be updated to include the date of delineation of wetlands by NYCDEP.] comment D-7
51. [Sheet C-2 legend should be updated to identify ACOE Wetlands.] comment D-8

52. [Sheet C-3 should be revised to clearly indicate the location and extent of the utility and stone wall removal.] comment D-9
53. [Sheet C-4 should be revised to show the limits of disturbance and project site boundaries.] comment D-10
54. [Typical plant lists for all proposed landscaping should be provided on Sheet C-8.] comment D-11
55. [Identify location of proposed "Portable Sediment Tank" detailed on Sheet C-9.] comment D-12
56. [The landscaping on Sheet A-3.1 does not appear consistent with Sheet C-8.] comment D-13
57. [The turfstone detail should be revised to identify the turfstone unit on Sheet C-11.] comment D-14
58. [The wash bay locations on Sheets A-4.1 and A-2.2 are inconsistent.] comment D-15
59. [The text indicates that a non-community public water supply will be installed on the site. The supply will include a well, storage tank, and applicable treatment devices. The location of the tank and treatment system do not appear on the site plans. Additionally, the FEIS and plans should discuss and indicate the required controlling distance around the public well.] comment D-16
60. [The Stormwater Pollution Prevention Plan (SWPPP) should provide documentation of compliance with the 5 step process outlined in Section 3.6 in the New York State Stormwater Management Design Manual (NYSSMDM).] comment 9-31
61. [The FEIS should identify potential methods to treat presently untreated stormwater on Lot 13A.] comment 9-32
62. [As no stormwater treatment practice is proposed for post-development DP-1, the SWPPP and FEIS should discuss how "the proposed condition" will improve stormwater quality and quantity at DP-1.] comment 9-33
63. [It is unclear from the information provided that the project meets the Runoff Reduction and water quality volume requirements set forth in the NYSSMDM. Summary tables should be provided detailing the following information: the required Water Quality Volume (WQv), the minimum Runoff Reduction Volume (RRv) required, volume provided in each green practice, WQv's provided in each standard Stormwater Management Practice (SMP), acreage contributing to each green practice and SMP, impervious area contributing to each Green] comment 9-34

Practice and SMP, Green Practices being utilized for Runoff Reduction, and Water Quality Volume Adjustment (reduction) based on the Green Practices. The Green Practices should be sized based on the Water Quality Volume generated by the 1-year, 24-hour design storm over the post-development watershed.]

64. [The FEIS should investigate the incorporation of additional Green Practices in an effort to meet the reduction of the entire WQv. It would appear that additional practices, such as green roofs, rain barrels and/or larger Stormwater Planters, could meet the entire WQv requirement, which would reduce the size of, or obviate the need for, the sand filter or pocket wetland. Any reduction in size of these practices would decrease the intrusion into the wetland buffer, reducing the overall impacts, required wetland mitigation, etc.]
65. [Based on the requirements set forth in the NYSSMDM, it appears that the entire WQv is not being treated with Green Infrastructure Practices. As stated in the Manual, the project should be designed to achieve 100% reduction of runoff within Green Practices or Standard SMP's with RRv capacity. If 100% reduction of runoff cannot be achieved and upon proper justification, the minimum RRv must be achieved. A table should be provided detailing the proper justifications that the reduction of the entire WQv is infeasible. Additional Green Practices designed in compliance with the NYSSMDM should be considered. Tables should be provided to show sizing of Green Practices and how the Green Practices meet the RRv requirements set forth in the NYSSMDM.]
66. [It appears that the project does not meet the proper justification to eliminate the requirement to provide Runoff Reduction practices for the Redevelopment portion of the project. As outlined in the criteria in Section 9.3.1 of the NYSSMDM, a project must clearly identify and document inadequate space to treat and control the stormwater runoff from the reconstructed areas and there should be physical restraints that will prohibit the project from meeting the required elements of the standard practices. The Green Practices and standard SMP's should be sized to accommodate the redeveloped portions of the project, or proper justification provided.]
67. [The design limitations of a Rain Garden are outlined in the NYSSMDM. The NYSSMDM states that a Rain Garden should be designed to receive a maximum contributing drainage area of 1,000 s.f. and shall not be used to treat parking lot or roadway runoff. An alternative practice, such as Bioretention, should be considered. A table should be provided detailing the contributing area, WQv, volume treated in the practice, and the design elements of the practice.]

Comment  
9-35

Comment  
9-36

Comment  
9-37

Comment  
9-38

68. [The Rain Garden location should be clearly identified on Sheets C-5 and C-6. The landscape plan appears to indicate 3 rain garden locations and should be reviewed for consistency with other DEIS documents.] comment D-17
69. [It appears the Stormwater Planters have been designed to treat runoff from the roof of the proposed structure. As stated in the NYSSMDM, a Stormwater Planter shall not be designed to receive drainage from impervious areas greater than 15,000 s.f. The drainage areas contributing to the Stormwater Planters and the Rain Gardens should be depicted on the stormwater maps. A Roof Plan (Sheet A-2.4) is included in the plan set indicating the locations of the roof drains, but does not show where each drainage discharge point occurs. A table should be provided detailing the contributing drainage area, size of the Stormwater Planter, WQv, volume treated in the practice, required elements and the design elements. The Stormwater Planters should be sized based on the WQv generated by the 1-year, 24-hour design storm over the post-development watershed.] comment 9-39
70. [The Stormwater Planter sizing calculation utilizes leaf compost as the hydraulic conductivity for the soil media. According to the NYSSMDM, leaf compost has a hydraulic conductivity of more than double that of loosely packed soil (typically used). In turn, this reduces the size of planter by more than half that typically seen. Specifications for the leaf compost should be provided on the detail sheet.] comment 9-40
71. [In accordance with the NYSSMDM, flow through the Stormwater Planters and Rain Gardens are not credited for 100% of their volume in the runoff RRv calculation. As such, the calculations should be revised to provide 45% of their respective volumes as RRv for Stormwater Planters and 40% for Rain Gardens.] comment 9-68
72. [It is unclear if the permanent pool for the Pocket Wetland has been adequately sized. A table of the Water Quality Volume Calculation should be provided for the drainage area contributing to the Pocket Wetland to verify that a minimum of 50% of the Water Quality Volume has been provided within the permanent pool. The Water Quality Volume Calculations should be based on the resulting 1-year, 24-hour design storm over the post-development watershed contributing to the Pocket Wetland.] comment 9-41
73. [It is unclear if the Pocket Wetland has been designed to meet the required elements, as outlined in Section 6.2.3 of the NYSSMDM. A table should be provided in the SWPPP to verify the Pocket Wetland has been designed to meet the required elements in Section 6.2.3.] comment 9-42

74. [Pursuant to the NYSSMDM, the plans should be revised to provide 25' minimum wetland plant buffer from maximum water elevation.] comment 9-43
75. [The Post-Construction Operation and Maintenance in the SWPPP should be revised to reference the Pocket Wetland.] comment 9-44
76. [It is unclear if the Sedimentation Basin and Sand Filter have been designed to provide the required surface areas, as required in the required elements, and as outlined in Section 6.4.3 and the design guidance in section 6.4.4 of the NYSSMDM. A table should be provided to verify the surface area requirements have been achieved for the Sedimentation Basin and Sand Filter. The sizing calculations should utilize the Water Quality Volume resulting from the 1-year, 24-hour design storm over the post-development watershed.] comment 9-45
77. [The invert of the underdrain in the Stormwater Planter located on the northwest side of the proposed building structure should be a minimum of 2.5 feet below grade, as shown on the Stormwater Planter Detail on Sheet C-10. The underdrain for the Stormwater Planter is shown to be installed at a 0.00% slope throughout the Stormwater Planter. Given the slope of the land where the planter is shown, the location and invert elevations of the underdrains should be included on the plans.] comment D-18
78. [Sizing calculations for the rip-rap outlet protection should be provided to verify the rip-rap sizes indicated on detail. The numbering for the end sections discharging to the rip-rap outlet protections should be reviewed for consistency between the detail and Sheet C-5.] comment 9-46
79. [The rim for the Flow Splitter should be reviewed for consistency between the plan and the Storm Drainage Schedule. The Flow Splitter location, as shown on the plan, will not provide adequate cover from the rim of the structure to the invert of the inlet and outlet drainage pipes.] comment 9-47
80. [The Flow Splitter detail and plan view should be detailed to depict the elevations of the proposed weir, inlet and outlet pipes and the rim. The detail should be revised to show the outlet pipe from the Flow Splitter to the Sedimentation Basin prior to the weir wall.] comment D-19
81. [The outlet structures rims and inverts for the Sedimentation Basin, Sand Filter and the Pocket Wetland should be consistent between the Storm Drainage Schedule on Sheet C-5, the detail sheets and the SWPPP. The weir, emergency spillway, orifice and underdrain elevations for the Sedimentation Basin, Sand Filter and Pocket Wetland should be provided on the plans and details.] comment D-20

82. [ The maintenance path access should be extended to provide access to the outlet structure of the Pocket Wetland. Similar access should be provided to the structures in the Sedimentation Basin and Sand Filter. ] *comment 9-48*
83. [ The text and plans should be revised to address whether the proposed outfall location disturbs the beds or banks of the watercourse and the potential for erosion. Alternate locations should be proposed to reduce potential impacts, if appropriate. ] *comment 9-49*

**Plans Reviewed, prepared by AKRF Engineering, P.C. and dated (last revised) March 28, 2011:**

- Cover Sheet (T-1)
- Notes Plan (C-1)
- Existing Conditions Plan (C-2)
- Demolition Plan (C-3)
- Site Plan (C-4)
- Paving, Grading and Drainage Plan (C-5)
- Composite Utility Plan (C-6)
- Erosion and Sediment Control Plan (C-7)
- Landscape Plan (C-8)
- Standard Details I (C-9)
- Standard Details II (C-10)
- Standard Details III (C-11)
- Standard Details IV (C-12)
- Lower Level Plan (A-2.1)
- Main Level Plan (A-2.2)
- Typical Level Plan (A-2.3)
- Roof Plan (A-2.4)
- Elevations (A-3.1)
- Photometric Lighting Plan (A-4.1)
- Lower Level Plan (MEP-1)
- Main Level Plan (MEP-2)
- Typical Level Plan (MEP-3)
- Electrical & Fire Alarm Riser Diagrams (MEP-4)
- Fire Protection Lower Level Plan (FP-001)
- Fire Protection Main Level Plan (FP-002)
- Fire Protection Typical Level Plan (FP-003)

North Castle Planning Board  
June 1, 2011  
Page 12

**Document Reviewed, prepared by AKRF Engineering, P.C. and dated (last revised)  
March 28, 2011:**

- Draft Environmental Impact Statement

We will continue our review as additional information becomes available.

RC/DJS/dc

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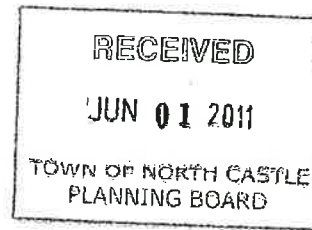
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PLANNING BOARD  
John Delano, Chair



To: North Castle Planning Board

Date: June 1, 2011

Subject: **Park Place at Westchester Airport – Substantive Review of Draft Environmental Impact Statement (DEIS)**

As requested, we have completed our substantive review of the Draft Environmental Impact Statement (DEIS) for the above-captioned project, which was accepted by the Planning Board on March 28, 2011. Based upon our review of this document and associated plans, we offer the following comments for your consideration:

1. [The Applicant should provide a description of the newly operating SUNY Purchase Park and Fly facility. The Applicant should also describe the total number of cars that are served by the Purchase Park and Fly facility. In addition, the Applicant should indicate how the operation of the Purchase Park and Fly would or would not impact the demand for Park Place. It is recommended that a the Planning Board require the preparation of a parking demand study that includes the existing on-site airport parking, the Purchase Park and Fly facility and the proposed Park Place project (also recommended by the FAA).] comment  
13-67
2. [The Federal Aviation Administration and Westchester County has indicated that the proposed project is located within the Westchester County Airport Runway Protection Zone (RPZ) for Runway 16 and recommends that the Town not approve the requested zoning amendments to permit a parking garage at the subject location. The FEIS should provide a description and summary of the FAA RPZ regulations.] comment  
3-25
3. [The NYCDEP has indicated that watercourse and reservoir stems have not yet been confirmed by NYCDEP. The Applicant should arrange for confirmation of the watercourse and reservoir stem locations at this time as the location of these features may have a significant impact on the Proposed Action.] comment  
8-59
4. [The DEIS states that the Proposed Action would not result in an expansion of the airport due to the limits of the 1985 stipulation agreement. The Applicant should provide a copy of the stipulation agreement as an appendix to the EIS as well as provide a detailed summary of the stipulation. In addition, the Applicant should explain the process that would be required to amend the 1985 agreement.] comment  
2-28

5. [Approximately 50 feet of the 60-90 foot buffer along NYS Route 120 is located within the Route 120 right-of-way. The preservation of this buffer is an integral part of the proposed screening plan. The Applicant should identify any current or proposed NYSDOT plans that would remove the buffer. In addition, the Applicant should explain the effectiveness of the screening plan should the NYSDOT buffer be removed.] comment  
4-15
6. [The proposed zoning changes would permit a 60-foot structure where the underlying IND-AA district permits a maximum height of 30 feet. Other zoning districts permit a maximum of 55 feet for structured parking. The Applicant should provide the rationale for permitting the proposed additional height in the IND-AA District.] comment  
3-26
7. [The proposal requires direct wetland disturbance and significant wetland buffer disturbance. The Applicant should explain why a plan cannot be prepared that removes the building from the wetlands, minimizes wetland buffer impacts and provides adequate screening from adjacent roadways.] comment  
2-29
8. [The wetland analysis treats permanent and temporary wetland and wetland buffer disturbance differently. The North Castle Town Code does not recognize such a distinction. The Applicant should indicate the total amount of Town-regulated wetland and wetland buffer disturbance including permanent and temporary impacts.] comment  
8-59
9. [The Applicant is proposing direct disturbance to the wetlands and a significant amount of Town-regulated wetland buffer. The Applicant should include a functional analysis of the on-site wetlands using the wetland assessment model, "A Rapid Procedure for Assessing Wetland Capacity" by D. Magee and G. Hollands."] comment  
8-60
10. [The Applicant should indicate, point by point, how the project conforms to the requirements of Section 209-7 of the Town Code.] comment  
8-61
11. [The Applicant should begin discussions with the Planning Board, the Conservation Board and the Town Board regarding identifying a suitable off-site wetland mitigation location in compliance with Chapter 209 of the Town Code.] comment  
8-62

12. [The proposed building is taller than 60 feet adjacent to NYS Route 120 and requires wetland and wetland buffer disturbance. In addition, due to the environmental sensitivity of the site, the Applicant has attempted to minimize wetland impacts by constructing vertically and not regrading (burying) the rear of the building (as regrading would impact the wetland). However, even with that goal in mind, the proposed footprint and stormwater mitigation area results in limited areas for screening. Additional grading and planting could potentially minimize visual impacts at the expense of additional wetland impacts. The Applicant should indicate whether a combination of the various alternatives (or new alternatives) would address the potential wetland and height impacts associated with this project.] *comment 4-16*
13. [The Applicant should prepare a revised Alternative A2 that utilizes automated parking. This revised alternative may very well reduce wetland and wetland buffer impacts and reduce the height of the building by permitting some amount of regrading at the rear (and additional screening opportunities). It would appear that this smaller garage may meet all, or most, of the Applicant's objectives while minimizing potential impacts.] *comment 11-12*
14. [The Applicant should submit a pumping test program, which will include a water budget analysis and testing of the proposed water supply well, in order to determine the quantity of available water, the ability for the aquifer to satisfy the proposed water demand, the safe yield requirements for the proposed potable well, and the potential for impacts to adjacent groundwater resources.] *comment 11-2*
15. [The DEIS indicates that the proposed HVAC equipment would have some amount of water demand. Given that the site does not have access to public water and water will be supplied by an aquifer supplied well, it is recommended that the building be designed to not utilize an HVAC system that requires any water demand. The Applicant should identify the type of system proposed and provide alternatives to a water using system.] *comment 11-3*
16. [The Applicant should provide additional details regarding the car wash, including details of its operation, water use and recycling ability.] *comment 11-4*
17. [Additional details should be provided describing the mechanisms used to prevent the public from entering the parking area.] *comment 2-30*

....

18. The Applicant should describe whether additional screening, using berms, could be created along the property line fronting Route 120.

comment  
417

19. The DEIS indicates that solar may be used as part of this project. The FEIS should contain an update as to whether this technology will be used.

comment  
2-31

20. The DEIS indicates that the preliminary Stormwater Pollution Prevention Plan (SPPP) minimizes peak flow, increases infiltration and reduces pollutants in stormwater runoff. The Applicant should indicate whether it has received any preliminary comments from the New York City Department of Environmental Protection (NYCDEP) regarding the proposed SPPP.

comment  
9-24

21. The Applicant should indicate the proposed hours of operation of the facility.

comment  
2-32

\* \* \* \* \*

Once all of the written comments have been submitted, responses to all substantive comments will need to be included in a Final Environmental Impact Statement (FEIS). This document is typically prepared by the Applicant and then submitted to the Planning Board, as the Lead Agency, for its review. Once accepted as complete, the Planning Board will need to prepare a Notice of Completion, which will be filed and published together with the FEIS. After the FEIS is filed, public comments may be submitted to the Planning Board for consideration. Finally, the Planning Board will need to prepare a Findings Statement with respect to the proposed project, potential environmental impacts and proposed mitigation measures. This step must precede the Town Board's determination on the zoning changes and special use permit application, as well as any actions to be taken by the Planning Board on the environmental permits and site plan applications.

comment  
2-33

Adam R. Kaufman, AICP  
Director of Planning



Robert P. Astorino  
County Executive  
  
County Planning Board

May 31, 2011

Adam R. Kaufman, AICP  
Director of Planning  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504-1898

Subject: **Referral File No. NOC 11-002 — Park Place at Westchester Airport  
Draft Environmental Impact Statement  
Zoning Text Amendments, Site Plan & Special Permit**

Dear Mr. Kaufman:

The Westchester County Planning Board has received a draft environmental impact statement (EIS) (dated accepted March 28, 2011) prepared pursuant to the NYS Environmental Quality Review Act (SEQR) for the above referenced actions. The Board has reviewed the draft EIS under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code. Through coordination with the County Department of Public Works and Transportation, we have also consulted with staff of the County Airport and the Federal Aviation Administration.

Our review has identified significant concerns about the compatibility of the proposed development with the need to protect people and property on the ground within certain zones around the airport. We consider it incumbent upon the Town of North Castle to place these concerns in the forefront when making decisions about what land uses should be permitted in runway protection zones. As the sole entity with land use authority at this location, it is the Town's responsibility to ensure that its land use controls protect public safety.

comment  
3-10

The proposed development involves the construction of a privately-owned automated parking garage for 1,450 vehicles on a 3.3-acre site located at 11 New King Street, to the north of the Westchester County Airport. This site contains one tax lot (2.47 acres) located at 11 New King Street and a 0.87-acre portion of an adjacent lot, subject to an agreement to allow the construction of stormwater management infrastructure. The site currently contains a 9,700 square foot office building which would be demolished. The site is encumbered with a significant amount of wetlands, as well as a watercourse which drains to the Kensico Reservoir through the rear of the site.

By using an automated system, the garage could accommodate 1,450 vehicles using five levels (60 feet of building height) with 267,000 square feet of floor area. An automated car wash facility is also

proposed for the garage. The garage is intended to serve as off-site airport parking, with access to/from the terminal provided by a shuttle bus. This parking is intended by the applicant to alleviate what is described by the applicant as an existing parking shortage at the airport and, according to the draft EIS, will not encourage the growth of airport customers.

The applicant is petitioning the Town for an amendment to the text of the Zoning Ordinance to allow parking structures in the Industrial AA (IND-AA) zoning district as a special permit use. If the zoning amendment is approved, the applicant would then proceed with site plan and special permit applications.

[The County Planning Board's review raises serious concerns about the wisdom of amending the Town Zoning Ordinance to allow the processing of the proposed development.] The analysis that brought us to this conclusion is presented in the comments below:

comment  
3-11

**1. Location within runway protection zone for Westchester County Airport.** [As noted in the attached letter to the County from the Federal Aviation Administration (FAA), the proposed location of the parking garage is within the runway protection zone (RPZ) for runway 16 at the County Airport. Because the County is responsible as a sponsor for grants received from the FAA, the FAA has recommended that the County "take action to the extent reasonable to discourage this development within the RPZ." Our conveyance of the FAA letter to you, with its strong recommendation against the change in North Castle zoning that would permit this development, is part of the County's obligation under the FAA grant requirements.]

comment  
3-12

**2. Wetland, stormwater and water quality impacts.** [The draft EIS states that the development will disturb approximately 5,700 square feet of preliminary, Town-delineated wetland as well as 79,680 square feet of regulated buffer adjacent to wetlands. Much of the stormwater management infrastructure is proposed to be constructed within the regulated buffer. This approach conflicts with the provision of most wetland protection regulations which require avoidance of disturbance of regulated areas as the preferred course of action and require that alternatives be considered that achieve that objective. As the site is in close proximity to the Kensico Reservoir and in recognition of the proposed uses which include vehicle storage and car washing, it is particularly important that the natural drainage areas and filters not be disturbed. Because of these impacts, the site may not be appropriate for a large development.]

comment  
8-57

**3. Potential environmental benefits do not outweigh safety concerns.** The draft EIS claims several environmental benefits of the project which may or may not have merit. These benefits include: reduced traffic in the airport vicinity, improved air quality, lower greenhouse gas emissions and improved stormwater management over existing conditions. We recommend the Town consider the merit of these perceived benefits. It is our opinion that they do not outweigh the safety concerns regarding the RPZ or the potential negative impacts of the project on wetlands and water quality.]

comment  
2-26

**Additional comments on site plan.** Because we recommend that the Town not amend its zoning ordinance to permit the proposed use, specific site plan issues need not be addressed. However, in

Referral File No. NOC 11-002 — Park Place at Westchester Airport  
Draft Environmental Impact Statement

May 31, 2011

Page 3

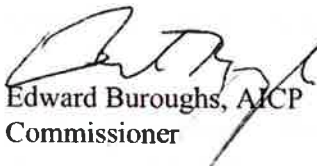
accordance with our practice of commenting on all relevant data presented in an EIS, we offer the following observations:

- [Although the draft EIS identifies a few green building components that are proposed to be incorporated in the development, if the project is to be constructed, the applicant should consider a green roof over the garage to mitigate stormwater runoff impacts.] comment 9-23
- [If the project is constructed, the applicant should ensure the proposed automated garage design is secure with regards to wild animals that could potentially enter the structure. In particular, the draft EIS notes that mice, skunks, raccoons, opossum and deer are of a concern in the immediate area, all of which are also common species adept at using human-altered environments.] comment 6-4
- [The site plan should consider pedestrian access and safety with adequate space for pedestrians to wait for the proposed shuttle bus.] comment 2-27

Thank you for calling this matter to our attention.

Respectfully,  
WESTCHESTER COUNTY PLANNING BOARD

By:

  
Edward Burroughs, AICP  
Commissioner

EEB/LH

cc: Patty Chemka, Deputy Commissioner, County Department of Public Works and Transportation  
Peter Scherrer, Manager, Westchester County Airport  
Thomas Felix, Manager, Planning and Programming Branch, Federal Aviation Administration





**Caswell F. Holloway**  
Commissioner

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May 23, 2011

Mr. Adam Kaufman, Director of Planning  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504-1898



**Re: Park Place at Westchester Airport DEIS**  
**11 New King Street**  
**Town of North Castle, Westchester County**  
**Tax map#: 119.-03-1-1 & 118.02-2-3**  
**DEP Log #:2008-KE-2045-SQ.1**

Dear Mr. Kaufman and Members of the Planning Board:

The New York City Department of Environmental Protection (DEP) has received from AKRF, Inc. the Draft Environmental Impact Statement (DEIS) for the above-referenced project, dated March 28, 2011.

As you are aware, the proposed project is located within the Kensico Reservoir drainage basin of the New York City (City) Water Supply Watershed. Kensico Reservoir is a terminal reservoir and provides one of the last impoundments of water from the City's Catskill and Delaware reservoir systems prior to entering the City's water distribution system. On average, 90% of the water supply for 8 million New York City consumers passes through Kensico Reservoir each day. In addition, several municipalities in Westchester County are served by an intake located less than a mile away from the project site. ]

comment  
8-21

DEP has reviewed the following documents for the above captioned project: 1) DEIS, dated and accepted March 28, 2011 and 2) site plans prepared by AKRF, Inc., last revised January 24, 2011.

Based upon the review of the documents received, DEP has a number of concerns about potential water quality impacts resulting from the project. In particular, DEP is concerned about the project's potential for turbidity and increased pollutant loading, particularly phosphorous, into Kensico Reservoir, disturbance of steep slopes and wetland buffers, and the lack of "green infrastructure" practices. The location of certain stormwater management practices within wetland/watercourse buffer areas may degrade the buffer's beneficial water quality attributes. Further, there is a lack of information regarding mitigation of groundwater and stormwater impacts, construction sequencing and various other concerns detailed below. The comments are listed in accordance with the DEIS Chapters and are not listed in DEP's order of priority. DEP's priority concern remains the project's impact on water quality in the Kensico Reservoir basin. ]

comment  
8-9-7

DEP respectfully submits the following for your consideration:

Chapter 6: Natural Resources

1. [ With regard to Threatened and Endangered Species, Indiana Bat: A survey of potential nursery trees would likely be required before the conclusion that there is no habitat can be made. The list of trees occurring on site includes Shagbark Hickory which is a preferred species for the Indiana Bat. Bog Turtle: A phase 1 bog turtle assessment would likely be required by the New York State Department of Environmental Conservation (NYSDEC) or United States Fish and Wildlife Service (USFWS) to support this conclusion that there is no suitable habitat present at the site. ] comment 6-1
2. [ Mitigation Measures and Vegetation discussed on page 6-21 do not include a planting plan nor is a planting list included on Sheet No. C-8. This information is necessary and should be provided for review to allow for an assessment of the proposed landscaping and planting plan. While the principal goal as stated is admirable, without a planting plan it cannot be determined whether it is likely that the goal can be achieved. ] comment 6-2
3. [ The Black-hooded Parakeet, listed in Table 6-2, is not a species expected to be on the project area. ] comment 6-3

Chapter 7: Geology, Soils, Topography and Slopes

1. [ The topographical map provided indicates that grading will occur on slopes in excess of 25%. While the use of erosion matting is proposed for stabilization, it is unclear whether or not the matting as proposed will be sufficient to avoid impacts of erosion. Either additional information demonstrating the effectiveness of the proposal or additional measures to control erosion should be considered and provided. ] comment 7-1
2. [ The landscape plan should indicate that native vegetation, including seed mixes containing native warm-season grasses, will be used to the greatest extent possible. While not always necessary in areas maintained as mowed lawn, native grass and meadow mixes provide optimal stabilization, wildlife habitat, and can even enhance aesthetic appeal in areas that will not be maintained on a regular basis over the long term. ] comment 7-2

Chapter 8: Water Resources

1. [ The proposed pocket wetlands for stormwater control may not be claimed for mitigation as implied in this Section by either the Town or the Army Corp of Engineers (ACOE). Stormwater practices maximize only a limited subset of the range of functions provided by the lost wetland and cannot be considered true mitigation for the loss of the wetland's other functions. ] comment 8-22

2. [In accordance with Section 18-23 (b) (5) and (6) of the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and Its Sources* (Watershed Regulations), a property owner or applicant may request that DEP flag watercourses, reservoir stems, etc., on a property. If the property owner or applicant provides DEP with a surveyor's map which includes a representation of the flagged watercourses, reservoir stems, etc., DEP will confirm or annotate the findings on the map. Please note that mapping certification is optional, and not required under the Watershed Regulations.] comment 8-23
3. [DEP visited the site in 2008 to identify and flag watercourses; however, DEP has not received a surveyor's map to confirm or annotate. Note that the locations and associated limiting distances shown in the DEIS for both watercourses and reservoir stems may require modification during DEP's regulatory review process.] comment 8-24

#### Chapter 9: Stormwater Management

1. [The DEIS notes that the onsite stream is a NYC regulated reservoir stem located within 500 feet of Kensico Reservoir. Kensico Reservoir is a terminal reservoir in the NYC water supply system. Additionally, Westchester County Waterworks draws drinking water from this reservoir. It is imperative that water quality impacts from turbid discharges and pollutant laden runoff be fully avoided or mitigated.] comment 9-9
  2. [Although two stormwater practices are proposed in series, this approach to stormwater management provides no guarantee of removing dissolved phosphorus. The DEIS should include a discussion regarding dissolved phosphorous and how increases will be mitigated.] comment 9-9
  3. [Additional pollutants should be evaluated. For instance, total nitrogen, total suspended solids and biological oxygen demand (TN, TSS, BOD) are also considered as pollutants of concern and should be assessed. As Kensico Reservoir is a terminal reservoir basin, analysis of fecal coliform loading would also be appropriate.] comment 9-10
  4. [Given the extent of site disturbance and the extent of new impervious surfaces proposed, DEP strongly recommends that the applicant submit full scale drawings depicting pre- and post- development drainage area maps for review.] comment 9-11
  5. [The details associated with the proposed drainage easement on the adjoining property should be provided so that the effectiveness of the stormwater management system, including the inspection and maintenance criteria can be evaluated.] comment 9-12
  6. [The discussion of Mitigation Measures in Section G of Chapter 9 is somewhat misleading. It does not appear that undisturbed areas and buffers will be preserved or that clearing and grading has been reduced. Furthermore, very few green infrastructure techniques are actually proposed and some practices such as rain gardens, may not be appropriate for the proposed development. Alternatives that
- comment 9-13

address commercial development, such as the use of a green roof, should be considered.]

7. [On page 9-2, the bullet referring to Section 18-39(a) (1) of the Watershed Regulations should be revised. Impervious surfaces are not only prohibited within 100 feet of a watercourse or wetland but are also prohibited within the limiting distance of 300 feet of a reservoir, reservoir stem, or controlled lake. The bullet referring to Section 18-39(b) (3) (iii) should also be revised. DEP's review and approval of a Stormwater Pollution Prevention Plan (SWPPP) is required for construction of a new commercial project resulting in the creation of impervious surfaces totaling over 40,000 square feet (not 50,00 square feet) in size.] comment 9-14
8. [The section discussing the requirement for a variance from the Watershed Regulations should be clarified. As noted in the bullets on page 9-2, expansion of impervious surfaces up to 25% is allowed with an approved SWPPP if any part of the expansion is within limiting distances. It appears that the proposed action will result in an expansion of impervious surfaces in excess of 25% and therefore a variance will be required. The need for a variance can be avoided, although a SWPP would still be required, if an alternative is selected that results in an expansion of impervious surfaces that is under 25%, even if some of the impervious surfaces are located within the limiting distance to the watercourse.] comment 9-15
9. [The project will generate increases in both runoff quantity and pollutant loads. Stormwater management facilities are currently proposed to mitigate the post construction impacts to the quality and quantity of surface runoff in the vicinity. Additional information should be provided to demonstrate that impacts associated with increase in volume of stormwater releases over time can be mitigated.] comment 9-16

#### Chapter 11: Infrastructure

1. [The proposed parking structure will require DEP review and approval of a sewer connection for new onsite sewer lines and any modifications to the existing sewage pump stations in the NYC watershed.] comment 11-1

#### Chapter 13: Traffic and Transportation

1. [The consultant should explain the rationale for choosing Wednesday November 26, 2008 for traffic analysis.] comment 13-45

#### Chapter 17: Construction

1. [The site plan shows that stormwater management practices are proposed within 100 feet of a Town-regulated wetland buffer. This is a practice that DEP consistently discourages, as construction in the buffer may impact the natural water quality benefit of the buffer. It is recommended that the applicant choose an alternative that avoids all impacts to the wetland and wetland buffer. If not, guidelines for construction
- comment 17-1

activity in the buffer should be developed to minimize impacts. Similarly, significant changes in landscape are proposed within 300 feet of the NYC designated reservoir stem to construct stormwater management practices. While this is allowed under Watershed Regulations, the impacts to the reservoir stem associated with disturbance of this buffer and installation of stormwater management practices should be evaluated. ]

2. [ The proposed action is taking place in soils where seasonal wetness and high groundwater are a great concern (i.e. Ridgebury and Woodbridge loams). Although erosion and sedimentation measures are shown on the plans, there does not appear to be sufficient information to verify that potential impacts can be avoided. For example, it is unclear whether or not seasonal ground water will be intersected while excavating for the parking garage on the southwest side. A detailed dewatering procedure should be included. Impacts of dewatering excavations or groundwater leaching from cut sections, construction during freeze/thaw conditions, etc., should be fully addressed in the DEIS. ] comment 17-2
3. [ It should be noted that the NYSDEC General Permit covers discharges associated with construction activities that result in disturbance equal to or greater than 5000 sq. ft. of land. The statement on page 17-3 should be corrected. ] comment 17-3
4. [ Although general sequencing has been included, a more detailed sequencing plan is critical to effective mitigation of potential water quality impacts resulting from the proposed construction. Given the importance of construction 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. ] comment 17-4
5. [ The overall cut and fill estimates for the project are provided in the DEIS; however, no interim cut and fill balances are provided. In addition, limited stockpile areas are shown on the plan. The intensity of construction proposed within the site will limit area available for stockpiling, staging, etc. In order to avoid impacts, more detail must be provided on how excavation, testing for hazardous content, and stockpiling can be accommodated within the limited space available. ] comment 17-5

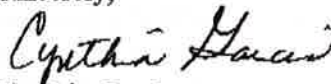
#### Chapter 18: Alternatives

1. [ The DEIS should include the comparison of the pre- and post- development pollutant loading rates from the different alternatives suggested. The peak discharge rates for the various design storms and their significance at the various discharge points for each of the alternatives should also be included. Changes in volume of stormwater runoff for each of the alternatives should be included along with impacts to the downstream hydrology. These factors must be evaluated in sufficient detail for the various alternatives in order to make a reasonable judgment. ] comment 18-2

2. [Erosion control plans for the proposed alternatives were not included in the DEIS. These plans are necessary to demonstrate that impacts due to erosion and sedimentation during construction for each alternative can be fully avoided or mitigated.] comment 18-3
3. [Alternatives that minimize impervious surfaces, as well as impacts to wetlands, the reservoir stem and all buffers, such as Alternative D, should be explored in greater detail.] DEP also urges the Lead Agency to consider alternatives that provide opportunities to treat runoff from developed areas that are currently untreated. For instance, the stormwater management practices for the preferred alternative will be located on an adjoining parcel. Perhaps the development on that parcel can also be treated in the proposed practices. This would provide a more regional approach to stormwater management relative to this project.] comment 18-4
4. [At this stage of the SEQRA review, an opportunity still exists to amend the preferred alternative to reduce proposed impervious surfaces to adequately mitigate post-construction impacts, which will maintain current groundwater recharge capacity, reduce the level of impervious surfaces proposed and avoid earthwork on slopes in excess of 20%. From a purely water quality standpoint, of the alternatives presented in the DEIS, Alternatives C, D, or E would best reduce many of these impacts as compared to the preferred alternative.] comment 18-5

Thank you for the opportunity to provide comments. You may reach me at [cgarcia@dep.nyc.gov](mailto:cgarcia@dep.nyc.gov) or (914) 773-4455 with any questions or if you care to discuss the matter further.

Sincerely,



Cynthia Garcia  
SEQRA Coordination Section

C: SEQRA Unit, ACOE  
W. Janeway, NYSDEC  
E. Burroughs, WCDP  
S. Gates, AKRF Engineering, P.C.  
D. Warne, Assistant Commissioner DEP



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Eastern Region, Airports Division

1 Aviation Plaza  
Jamaica, NY 11434-4809

May 19, 2011

Ms. Patricia Chemka-Speranza  
Westchester County  
148 Martine Ave  
White Plains, NY 10601

The Federal Aviation Administration (FAA) has received a draft Environmental Impact Statement under the State Environmental Quality Review Act (SEQRA) for a parking garage to support Westchester County Airport. The proposed project called Park Place at Westchester Airport is a multi-level automated parking structure at 11 New King Street in the Town of North Castle in Westchester, New York. The parking garage is proposed to be approximately 267,000 square-foot five level structure that would provide 1,450 spaces.

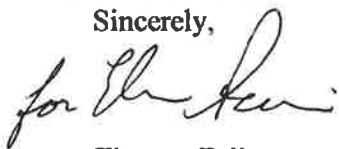
According to the Airport Layout Plan (ALP) for Westchester County Airport, the proposed project site, 11 New King Street is located within the runway protection zone (RPZ) that ensures objects on the ground are compatible with normal airport operations. Based upon our review of the documentation we have the following comments:

*comment*

1. It appears that the proposed location of the parking garage falls within the RW 16 RPZ. The purpose of the RPZ is to enhance the protection of people and property on the ground. For this reason we recommend that the county, as the airport sponsor, take action to the extent reasonable to discourage this development within the RPZ. *3-7*
2. Grant assurance 21, Compatible Land Use. Identifies that the airport owner will take appropriate action, to the extent reasonable, to protect and restrict the land use within the RPZ. *comment 3-8*
3. There is insufficient information known to determine possible aeronautical impacts associated with this proposal. An FAA 7460-1 Form for aeronautical review must be submitted by the proponent for review by all FAA offices. The proposed structure and any temporary construction equipment needs to be evaluated regarding whether it has potential to be a hazard to air navigation and what mitigation measures may be required. Given the proposed location off airport property, it should be filed as an Obstruction Evaluation case (OE), unless otherwise instructed. *comment 3-9*
4. Has a study been completed to determine the need to double the parking for the airport? Is there a need for additional parking at the airport? *comment 13-42*

Please contact me at (718) 553-3335 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "for the town".

Thomas Felix  
Manager, Planning and Programming Branch

cc. Adam Kaufman, AICP, Town of North Castle  
John Dermody, NYADO  
Jose Moreno, NY ADO



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**MICHAEL B. KAPLOWITZ, J.D., CFP**  
*Legislator, 4<sup>th</sup> District*  
26 Lalli Drive  
Katonah, New York 10536

**Chairman**  
Environment & Energy Committee  
**Member**  
Government Reform,  
Efficiency & Savings Committee

April 28, 2011

Caswell F. Holloway  
Commissioner  
Department of Environmental Protection  
City of New York  
59-17 Junction Boulevard, 13th Floor  
Flushing, NY 11373

Re: Draft Environmental Impact Statement ("DEIS") for the  
Park Place at Westchester Airport ("Project")

Dear Commissioner Holloway:

I am writing to express my concern regarding the above-referenced proposed project, for the construction of an additional parking facility at the Westchester County Airport.

[ This project would consist of a 267,000 square foot, 5-level, approximately 56 foot parking garage (for 1,450 vehicles) to be located outside of the Airport property at 11 New King Street – a location which abuts wetlands that protect the Kensico. Further, the site contains a stream, which feeds directly into the Kensico.

The Kensico Reservoir supplies safe drinking water to almost nine million people in both Westchester County and New York City. That is why in 2003, this Honorable Board passed a Resolution (No. 245-2003) preventing any further expansion at the airport in order to protect this vital regional asset.

Resolution No. 245-2003 specifically states *"the policy of the Westchester County Board of Legislators is and continues to be one of supporting no increase in the total capacity of the Airport's runways, taxiways, ramps, gates, hangars, terminal, motor vehicle parking areas, or access roads, in order that we may protect our fragile environment, including the drinking water for almost nine million people..."*.

Comment

8-1

This project would pose the very impacts that prompted the passage of Resolution No. 245-2003, such as expansion, increased traffic and air pollution, which would clearly result in adverse impacts on our drinking water.

Comment

Please note that as a Legislative Body, our efforts to prevent expansion of the Airport have always been prompted by our desire to protect nearby residential communities. However as the Chairman of the Legislature's Environment & Energy Committee, my purpose here is to defend the environmental integrity of these communities and to protect the drinking water for nine million people.

9-1

Therefore, I respectfully request that this project be prevented from moving forward. J

Should you have any questions or comments, please do not hesitate to contact my office. Thank you.

Yours truly,



Michael B. Kaplowitz, J.D., CFP

Nirav R. Shah, M.D., M.P.H.  
Commissioner

**NEW YORK**  
state department of  
**HEALTH**

Sue Kelly  
Executive Deputy Commissioner

April 27, 2011

Mr. Adam R. Kaufman, Director of Planning  
Town of North Castle  
Town Hall Annex Building  
17 Bedford Road  
Armonk, NY 10504

MAY 02 2011

RE: Notice of Completion of Draft Environmental Impact Statement (EIS) and  
Notice of SEQRA Hearing – Type I Action:  
Park Place at Westchester Airport, Town of North Castle, Westchester County

Dear Mr. Kaufman:

The New York State Department of Health (DOH) received the Notice of Completion of the Draft Environmental Impact Statement (EIS) for the proposed Type I Action known as Park Place at Westchester Airport at 11 New King Street, in the Town of North Castle, Westchester County. Representatives from our Central and Metropolitan Area Regional Office reviewed the Draft EIS for this proposed project and we offer the following comments for your consideration:

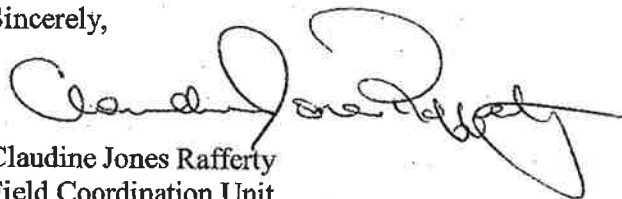
- Chapter 7 - Soils. [It is stated that petroleum contamination was identified in the fill material located on-site. While the site is zoned industrial, based on the understanding that the site is designated a "reservoir stem" to the New York City (NYC) watershed, soil sampling should be conducted to verify that the soil remaining after the excavation work will not be a source of contamination that could potentially contaminate the watershed. For example, the New York State Department of Environmental Conservation (NYSDEC) 6 NYCRR Part 375 Soil Cleanup Objectives for Protection of Groundwater may be applicable in this situation.] comment 7-3
- Chapter 16 - Hazardous Waste. [While it is noted that the current electrical transformer located on the north side of the building was installed in 1997 and does not contain PCBs, the previous transformer(s) may have contained PCBs. Soils near the transformer should be characterized for proper reuse and/or off-site disposal.] comment 16-1
- [Appendix K - Phase 1 Environmental Site Assessment, Section 4.1.2. While it is noted that an identified Voluntary Cleanup Program (VCP) site (V004993) exists at the proposed project location, the report incorrectly states that there are no NYSDEC Inactive Hazardous Waste Disposal sites located within a mile of the site. In fact, NYSDEC Inactive Hazardous Waste Registry Site # 360037 (Former Texaco Hangar) is located on the Westchester Airport property and the report should be revised to reflect this information. Additionally, a second VCP site also exists on the Airport property, VCP #V006113 (Hangar B), and this information should also be reflected in the report.] comment 16-2

- Soil surrounding the 1,000 gallon underground storage tank (UST) should be tested since a stockpile sample was collected not a post excavation/documentation sample when the former 1,500 gallon UST was removed.

comment  
16-3

Should you have any questions regarding these comments or require further clarification, please contact Mr. Stephen Bates or Ms. Krista Anders at 518-402-7850.

Sincerely,



Claudine Jones Rafferty  
Field Coordination Unit  
Division of Environmental Health Protection

cc: V. Pisani  
A. Salame-Alfic, DEHI  
S. Bates/K. Anders/C. Bethoney/N. Waltz, BEEI  
R. Sokol/P. Young, BWSP  
B. Devine, MARO  
R. Morrissey, Westchester County Health Department

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MAY 02 2011

## Comments of the Office of the Watershed Inspector General

### Draft Environmental Impact Statement Park Place at Westchester Airport Town of North Castle Westchester County, New York

June 1, 2011

The Office of the Watershed Inspector General (“WIG” or “WIG Office”)<sup>1</sup> respectfully submits these comments on the draft environmental impact statement (“DEIS”) concerning the proposed Park Place at Westchester Airport project located in the Town of North Castle, Westchester County (“Park Place” or “the Project”). Park Place is an automated parking facility that would be located only six hundred feet from the Kensico Reservoir. As a terminal reservoir, water from the Kensico is drawn directly into New York City’s drinking water distribution system following chlorination. The Kensico Reservoir typically provides unfiltered drinking water to approximately eight million New Yorkers each day.

[ WIG submits these comments because construction activities at the proposed Park Place project, as currently described, would threaten pollution of the Kensico Reservoir. WIG recognizes that the Project could have beneficial impacts on stormwater pollution after construction is complete, especially if significant improvements to the preliminary stormwater plans for the Project are implemented. WIG does not oppose development of Park Place, but seeks appropriate modifications of the Project to avoid construction in wetland and wetland buffer areas, to improve erosion and sediment controls to prevent pollution during construction, and to enhance post-construction stormwater practices. Such modifications are necessary to eliminate and mitigate potential adverse water pollution impacts from the project in accordance with the State Environmental Quality Review Act (“SEQRA”). ]

comment

8-117

#### **I. Summary**

The project site includes two contiguous map parcels adjacent to each other north of Westchester County Airport in the Town of North Castle, one at 11 New King Street (Lot 14B) and the other located at 7 New King Street (Lot 13A). The 2.47-acre parcel at 11 New King Street currently supports a 9,700-square-foot one-story office building built in the 1960s and a 35-space parking area. The total extent of impervious area at the

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<sup>1</sup> The position of WIG was established by Governor Pataki in Executive Order No. 86 on August 19, 1998, and continued in orders by successive governors. See 9 NYCRR § 5.86. The WIG’s purpose is “to enhance current efforts to protect the New York City drinking water supply from activities that have the potential to adversely affect the New York City Watershed reservoirs and tributaries.” See *id.*, § 5.86. The WIG is a joint appointee of the Attorney General and the Governor within the employ of the Attorney General. The comments herein express the views of the WIG and not necessarily those of any State agency that may now or later be represented by the Attorney General in this matter or in any related matter.

existing project site is approximately 32,000 square feet or nearly three quarters of an acre. Approximately 0.87 acres of the 4.20-acre parcel at Lot 13A is included within the project site. This portion of the project site is undeveloped and primarily wooded.

The proposed project would involve construction of an approximately 267,000-square-foot five-and-a-half-level enclosed automated parking structure with a building footprint of approximately 51,000 square feet (~1.2 acres). The parking facility is designed to accommodate 1,450 vehicles. The upper levels and partial lower level would be used primarily for vehicle storage. The main level would contain a variety of areas intended for: vehicle and equipment storage, an office, a shuttle bus pick up/drop off waiting area, vehicle loading bays for vehicle drop off and automated parking, and a car wash bay. Water from the automated car wash will be filtered, treated, and recycled. Wastewater that is not recycled will be sent to the municipal sewer. The total extent of impervious area at the proposed parking facility would be approximately 60,200 square feet (1.38 acres), or almost twice as much as currently exists on site.

With the exception of the northern corner of the site, watercourses and Town wetlands surround much of the property. The watercourses include a perennial New York State Department of Environmental Conservation designated Class A stream and an ephemeral drainage channel. When leaving the site, the stream flows to the west under NYS Route 120 and into the Rye Lake portion of the Kensico Reservoir. Due to its connection to the Kensico Reservoir, the stream is considered a "reservoir stem" by the New York City Department of Environmental Protection ("NYCDEP"), defined by that agency as any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of the reservoir. A reservoir stem designation includes a 300-foot buffer that extends in a circular configuration beyond the 500 foot upstream point from where the stream enters the reservoir. The western boundary of the Park Place site is located approximately 600 feet from the reservoir. As such, part of the property is located within the reservoir stem buffer area. No activities regulated by NYCDEP, such as constructing new impervious surfaces, are being proposed within the reservoir stem buffer area.

Town of North Castle wetlands have been identified and tentatively delineated on site. The tentative wetland boundaries are subject to confirmation by the Town this Spring. Town delineated wetlands are protected by a 100 foot buffer area. Construction of an impervious surface within 100 feet of a watercourse or wetland without a permit or variance is prohibited by the Town. Using the preliminary unconfirmed wetland delineation, approximately 0.13 acres of wetlands are to be destroyed at the site. Mitigation for this loss consists of creating new onsite wetland areas. In addition, 0.49 acres of wetland buffer would be destroyed. Mitigation proposed for this loss is wetland vegetation planting, primarily within the proposed stormwater management system, within the remaining buffer area.

[ As discussed further below and in the attached Technical Appendix, the DEIS's evaluation of the Project's pollution impacts and plans for mitigation are flawed. Further environmental review under SEQRA and modifications to the Project are needed to correct these deficiencies and mitigate potential adverse water quality impacts. Project

comment  
9-7-2

modifications should include, among other elements: (1) scaling down the development footprint to reduce wetland and associated buffer area disturbance at the site; (2) maximizing the use of “green infrastructure” to reduce pollutant loadings and runoff volumes; (3) revising the preliminary stormwater pollution prevention plan to more effectively mitigate pollution impacts; and (4) implementing, or funding the implementation of, additional offsite mitigation projects to further reduce stormwater pollution.]

## **II. The Kensico Reservoir**

The proposed Project is located adjacent to the Kensico Reservoir in suburban central Westchester County. The Kensico Reservoir holds 30.6 billion gallons at full capacity and is located approximately 15 miles north of New York City. The Reservoir’s drainage basin is highly developed, and includes portions of the Towns of Harrison, Mount Pleasant, North Castle, New Castle, and Greenwich, Connecticut.

The Kensico Reservoir receives most of its water from two aqueducts that transport water from the city’s six West-of-Hudson reservoirs in the Catskill and Delaware portions of the New York City Watershed (“Watershed”). As the terminal reservoir for the Catskill and Delaware system waters, the Kensico Reservoir is ordinarily the last stop before its unfiltered drinking water empties into the distribution system for New York City. Water is usually detained in the Kensico Reservoir for 15 to 25 days before entering the distribution system. The Westchester Joint Water Works also draws unfiltered drinking water for areas of Harrison, Port Chester, Rye, and Rye Brook, directly from the western “Rye Lake” section of the Kensico.

[The proposed Project has the clear potential for significant adverse impacts on the Kensico Reservoir and its tributaries. These include construction related erosion and sedimentation (e.g., siltation from excavation) and discharges of turbidity in runoff; increased stormwater flow from additional impervious surfaces; and polluted runoff (e.g., oil, grease, and automotive fluids from parking areas, soaps and detergents from a car wash, fertilizers and pesticides from lawns, and pathogens carried in stormwater into the Reservoir from newly created impervious surfaces).] In the event these pollutants enter the Kensico Reservoir from adjacent developments, they will not receive treatment other than the limited but important protections afforded by disinfection with chlorine implemented by NYCDEP.

comment  
9-73

During normal operations, the Kensico Reservoir provides unfiltered drinking water to roughly 90% of the people who consume New York City water. As a result, the Kensico Reservoir is a critical component of New York City’s drinking water supply system and is subject to strict water quality standards as a Class “AA” water body.

A Class AA water body is of sufficient quality when adequately disinfected to serve as a source of safe and satisfactory drinking water that will meet New York State Department of Health drinking water standards. 6 NYCRR §701.5. The best usages of Class AA waters are: a source of water supply for drinking, culinary or food processing

purposes; primary and secondary contact recreation; and fishing. Class AA waters shall be suitable for fish, shellfish, and wildlife propagation and survival. Id.

The Kensico Reservoir is also regulated by the federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq. (“SDWA”). Under the SDWA, EPA promulgated the Surface Water Treatment Rule, which requires that a public drinking-water system supplied by surface waters satisfy water quality standards, either by installing a filtration system or by meeting criteria, including a “watershed control program,” to protect the quality of the water in the absence of filtration. See 40 C.F.R. §§ 141.70, 141.71. Under EPA regulations, the City has avoided filtration of Kensico Reservoir water pursuant to several filtration avoidance determinations issued by that agency since the 1990s.

Under the SDWA, Kensico water must comply with water quality standards for turbidity and pathogens. EPA prohibits raw water turbidity measurements in unfiltered drinking water, such as the Kensico Reservoir, at the intake to the distribution system in excess of 5 nephelometric turbidity units. See 40 CFR § 141.71(a)(2). Violations of this turbidity standard could provide grounds for the New York State Department of Health (“NYSDOH”), which now holds primacy in enforcing filtration avoidance regulations under the SDWA, to require that the City filter Kensico water. In the 2007 Filtration Avoidance Determination, EPA found that “significant improvement to the City’s ability to prevent, manage, and control turbidity in the Catskill System [which supplies almost half of the water in Kensico Reservoir] is required in order to maintain filtration avoidance for the long-term.”<sup>2</sup> In addition, because of the health risks associated with pathogens in a drinking water supply, EPA requires that each unfiltered water system meet strict requirements “ensuring that the system is not a source of a waterborne disease outbreak.” 40 C.F.R. § 141.71.

[Development within the Kensico Reservoir Basin threatens the discharge of additional turbidity and pathogens, among other pollutants, to that waterbody. If the Kensico Reservoir fails to meet water quality standards, the City could be forced to construct a filtration plant for Kensico water, entailing capital expenditures of over \$10 billion and annual operation and maintenance costs exceeding \$100 million.

comment

8-118

Given the sensitivity of the Kensico Reservoir as a terminal reservoir, new development is generally disfavored within the Kensico basin and any development that is approved must achieve compliance with strict and heightened pollutant control criteria. To address concerns arising from polluted runoff from existing development and impervious surfaces, extensive and very costly efforts have been undertaken by the NYCDEP and others to reduce pollutant loading from existing development into the Kensico Reservoir.]

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<sup>2</sup> 2007 FAD, pp. 13-14.

### **III. Stormwater Pollution Associated with Construction and Development of Land**

“Stormwater pollution is one of the most significant sources of water pollution in the nation.” Environmental Def. Ctr., Inc. v. EPA, 344 F.3d 832, 840 (9th Cir. 2003). According to EPA, “[u]ncontrolled storm water discharges from areas of urban development and construction activity negatively impact receiving waters by changing the physical, biological, and chemical composition of the water, resulting in an unhealthy environment for aquatic organisms, wildlife and humans,” and can “severely compromise” water quality.<sup>3</sup>

The construction and development of land, is a major source of pollutants discharged to surface waterbodies, such as rivers and reservoirs, in stormwater runoff. Discharges of stormwater from construction sites include sediment which, when suspended in water contributes to turbidity (murkiness) in the water and serves as a carrier of other pollutants, such as phosphorus, metals, organic compounds, and pathogens. “It is generally acknowledged that erosion rates from construction sites are much greater than from almost any other land use.”<sup>4</sup> Sediment loads in stormwater discharges from construction sites are typically 1,000 to 2,000 times the sediment loads in discharges from undeveloped forested land.<sup>5</sup>

[ Development adjacent to the Kensico Reservoir could increase discharges of stormwater polluted by turbidity, pathogens, and other contaminants. Turbidity not only facilitates the transportation of pollutants, but it can shelter pathogens from exposure to attack by chlorine, a disinfectant routinely used in the Kensico Reservoir to protect public health. In addition, the organic particles that contribute to turbidity can also combine with chlorine to create disinfection by-products which may increase the risk of cancer or early term miscarriage for people drinking the water.<sup>6</sup> ]

comment  
9-74

[ Post-construction stormwater discharges from developed areas are also a major source of pollution to the waters of the United States. “Urbanization alters the natural infiltration capability of the land and generates a host of pollutants . . . thus causing an increase in storm water runoff volumes and pollutant loadings.”<sup>7</sup> Land development “can

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<sup>3</sup> “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Stormwater Discharges; Final Rule,” 64 Fed. Reg. 68722, 68724, 68728. (Dec. 8, 1999) (hereinafter, 1999 Preamble & Rule).

<sup>4</sup> “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Stormwater Discharges; Final Rule,” 64 Fed. Reg. 68722, 68724, 68728. (Dec. 8, 1999).

<sup>5</sup> EPA, “Storm Water Phase II Final Rule: Small Construction Program Overview (Fact Sheet 3.0),” EPA 833-F-00-013 (Jan. 2000), available at <http://www.epa.gov/npdes/pubs/fact3-0.pdf>.

<sup>6</sup> See National Research Council, “Watershed Management for Potable Water Supply: Assessing the New York City Strategy” (2000) at 2, 5-6, 102-05, 109.

<sup>7</sup> 1999 Preamble & Rule, 64 Fed. Reg. at 68725.

result in both short- and long-term adverse impacts to water quality in lakes, rivers and streams within the affected watershed by increasing the load of various pollutants in receiving water bodies, including sediments, metals, organic compounds, pathogens, and nutrients.”<sup>8</sup> Stormwater pollution to the Kensico Reservoir is of great concern because its drainage basin, including the Project Site, lies within the “sixty-day travel time” of the water which is supplied to consumers. Sixty days is generally viewed as the life span for many disease-causing microbes in fresh water, such as *Giardia lamblia* and cryptosporidia.

comment  
8-119

Preventing pathogens from contaminating the water is of particular concern for the City's Watershed because of the risks pathogens pose to public health. Pathogens include viruses and bacteria, such as *Giardia lamblia*, cryptosporidia, and *E. coli* O157:H7, which can cause serious illness or death, especially among very young, old and people with compromised immune systems.<sup>9</sup>

#### IV. SEQRA

Under SEQRA, the lead agency “having principal responsibility for carrying out or approving” an action regulated by SEQRA must determine if the action “may have a significant effect on the environment.” ECL § 8-0111(6). If the lead agency determines that the action may have such effect, the agency issues a “positive declaration” and a draft environmental impact statement is prepared and made available for public review and comment before being finalized as a final environmental impact statement (“FEIS”). ECL § 8-0109(5); 6 N.Y.C.R.R. § 617.7(a)(1).

Environmental review under SEQRA must be comprehensive; it must cover all “relevant areas of environmental concern.” Har Enterprises v. Town of Brookhaven, 74 N.Y.2d 524, 529 (1989). An environmental impact statement must evaluate alternatives to a proposed project; any project approval must avoid or minimize adverse environmental impacts “to the maximum extent possible.” ECL §§ 8-0109(2), (8); 6 N.Y.C.R.R. § 617.11.<sup>10</sup> Because SEQRA requires consideration of alternatives and mitigation of environmental impacts, it “is not merely a disclosure statute; it imposes far more action-forcing or substantive requirements on state and local decision makers than [the National Environmental Policy Act] imposes on their federal counterparts.” Matter

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<sup>8</sup> EPA, Draft Proposed Rule for Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development Category, Docket No. 01644, at 49-50. February 12, 2002.

<sup>9</sup> In August 1999, the largest outbreak of waterborne *E. coli* O157:H7 illness in United States history occurred at the Washington County Fair in New York, when a drinking water supply well became contaminated with that pathogen, infecting 781 people, and resulting in the hospitalization of 71 people and two deaths.

<sup>10</sup> Alternatively, the agency can disapprove the action based on adverse environmental effects disclosed during SEQRA review or on other grounds. See, e.g., Matter of Fawn Builders, Inc. v. Planning Bd., 223 A.D.2d 996 (3d Dep’t 1996).

of Jackson v. N.Y. State Urban Dev. Corp., 67 N.Y.2d. 400, 415 (1986) (internal quotations omitted).

**V. WIG's Concerns Regarding the DEIS for Park Place**

**A. Wetlands and Wetland Buffers**

Wetlands provide flood control, wildlife habitat, and improve drinking water quality by accumulating and retaining nutrients, trapping sediments, removing and transforming human and animal wastes, and degrading certain pollutants. Any disturbance to wetlands or their adjacent areas within the Watershed is highly disfavored. The restoration or re-creation of wetlands that have been disturbed is often far less successful than anticipated. In short, development should be re-directed away from wetlands and their buffer areas.

[The location of the parking facility and its associated stormwater management practices are being proposed in Town regulated wetlands and wetland buffer areas. The importance of wetlands to the protection of drinking water quality and maintenance of site hydrology is well accepted and understood. The proposed project should be redesigned so that wetlands and wetland buffers are left undisturbed.]

comment  
9-75

**B. Proposed Project Modifications**

[The proposed Park Place project should incorporate the following measures to mitigate increased water pollution that otherwise would be generated by the project. These measures may be accomplished in part by implementing additional "Green Infrastructure" practices. To the project sponsors' credit, the capture and treatment of roof top runoff at the masonry building on Lot 13A, offsite, provide a water quality benefit. Runoff from other offsite impervious surfaces, such as the parking area, on Lot 13A also should be captured and treated. Options for this treatment include, but are not limited to: bioretention modification to the parking areas; grass swales designed for low velocity; utilizing chambered water quality units on-line with the stormwater drainage system; porous pavement replacing impervious pavement in parking areas; pervious walkways; and disconnecting impervious areas to buffer areas.]

comment  
9-76

A useful aid to designing a retrofit program is available from the Center for Watershed Protection which has developed a Watershed Treatment Model, that integrates the latest pollutant removal practices and calculation methodologies.] See Technical Appendix, comment 25.

**C. The Preliminary Stormwater Pollution Prevention Plan is Deficient**

[The stormwater sections of the DEIS are deficient in various respects, as described in detail in the Technical Appendix. Inadequacies include, construction details that are incomplete and at times inaccurate for erosion and sediment control and stormwater management. Proper and complete documentation is missing for hydrology, water quality, and runoff reduction calculations. Some steep slopes are not adequately stabilized and there are no controls proposed for concrete truck wash outs at the site. The design for the pocket wetland and for accepting roof runoff from an offsite building on Lot 13A are deficient.

comment

9-77

These inadequacies and others identified in the Technical Appendix, need to be corrected. Because the SWPPP is only “preliminary,” a revised SWPPP containing these and other corrections should be included in a Supplemental DEIS, so that members of the public and interested public agencies will have an effective opportunity to comment on such matters.]

**D. The DEIS Does Not Adequately Address Car Wash and Automotive Fluid Wastewater Treatment**

According to the DEIS, a car wash will be operated at the proposed parking facility. [The car wash will utilize a special treatment and filtering system to allow wastewater to be recycled for subsequent washes. A detailed description of this treatment and filtering system is not presented in the DEIS.] This system is also equipped with an oil/grit separator. Once the oil and unrecoverable wastewater have been segregated for disposal, it will drain to the sewage ejector pit and be conveyed into the municipal sewer. It is also expected that any automobile fluids leaking out onto the garage floor would be washed into this ejector unit and conveyed into the sewer. No specific details for the internal drainage system nor for the car wash system were included in the DEIS documents other than a schematic shown on Sheet MEP-1. This information must be provided and made available for public comment.

comment  
9-78

## Technical Appendix:

Park Place at Westchester Airport  
Town of North Castle  
Westchester County, New York

Prepared by Donald W. Lake Jr., P.E., CPESC, CPSWQ

### **I. Need for Revision of Preliminary Stormwater Plans**

[The preliminary stormwater pollution prevention plan (PSWPPP) and associated site plans contain a number of errors and omissions that need to be corrected to properly evaluate the effectiveness of stormwater controls at the Site. To this end, these preliminary plans should be revised to develop a stormwater pollution prevention plan, set of associated site plans, and the stormwater section of the draft environmental impact statement (DEIS), and those documents should be made available for public comment prior to completion of a final EIS.]

comment  
9-63

### **II. Erosion and Sediment Control**

1. According to page 17-2 of the PSWPPP, 1,200 cubic yards of concrete will be poured for the foundation and another 2,250 cubic yards will be poured for the concrete slabs. As a result, approximately 430 truck loads of concrete will be required. Concrete is alkaline or has a high pH, so wash water from concrete trucks should be contained and not allowed to enter and adversely impact the environment. To address this issue, a concrete truck washout facility should be constructed on site, away from environmentally sensitive resources, such as water courses, wetlands, and wetland buffer areas. The details for this structure should be added to Sheet C-9 and a note should be added to the Erosion and Sediment Control Plan shown on Sheet C-7.

comment  
17-15

2. All plan views show the finished parking facility extending to and possibly encroaching beyond the proposed limit of clearing and grubbing. As a result, the proposed construction footprint is probably undersized. A foundation grading plan is not included in the set of construction drawings C-1 through C-12. This drawing should be added to assure that the construction footprint stays within the proposed area of disturbance.]

comment  
17-16

3. Steep side slopes, 2:1, occur on the east side of the pocket wetland and sedimentation basin and are shown on the Paving, Grading, and Drainage Plan on Sheet C-5. They are too steep to maintain and should be seeded with a seed mix for critical areas (NYS Standards and Specifications for Erosion and Sediment Control, August 2005, page 3.5) or flattened in combination with construction of a structural retaining wall.]

comment  
9-64

4. According to the first bullet on page 7-10 of the DEIS and Erosion and Sediment Control note 8 on Sheet C-1, disturbed site soils need to be stabilized in seven days.

However, the third bullet on page 7-10 states that disturbed site soils need to be stabilized within 14 days. [Due to the proposed project's proximity to the Kensico Reservoir, we recommend that disturbed site soils be stabilized within 7 days. In addition, the soil stabilization time limit note appearing on Sheet C-1 should be moved to the Erosion and Sediment Control Plan on Sheet C-7.

5. Permanent seeding specifications and a detailed planting schedule are not included on the construction drawings and should be added to the Landscape Plan on Sheet C-8 and to the Details on Sheet C-12.

6. On Sheet C-7, a proposed Perimeter Dike & Swale (#2) is shown discharging at the top of a 3:1 slope. Rock riprap needs to be installed to protect this outlet.

comment  
9-65

7. On Sheet C-7, the outlet for Perimeter Dike & Swale #1 joins the outlet for the storm drain system on the west side of the proposed project site and flows into Sediment Basin #2. This combined flow needs rock riprap protection down to elevation 377.

8. Also on Sheet C-7, the outlet from Sediment Basin #1 needs rock riprap protection all the way down to elevation 377, where it enters Sediment Basin #2.

9. To facilitate and clarify the erosion and sediment (E&S) control component of the PSWPPP, the E&S notes on Sheet C-1 should be relocated to the E&S Plan on Sheet C-7.

10. Stone check dam details are shown on Sheet C-10. However, these are not mentioned in the E&S notes on Sheet C-1 nor shown on the Erosion and Sediment Control Plan on Sheet C-7. These details should be removed.]

### III. Stormwater Management

11. According to the second paragraph on page 7-11 of the DEIS, [temporary conveyances to the sediment basins would be designed to transport a 100-year storm event. However, these calculations were not provided in the PSWPPP nor were specific dimensions for the perimeter Dike/Swale presented on Sheet C-10.] This deficiency needs to be addressed to validate the capacity of the temporary conveyances.

comment  
9-66

12. The PSWPPP is deficient in that the hydrologic and hydraulic calculations for the construction condition are absent. [Considering the proposed size of disturbance and construction operations, a curve number of 98 is recommended to size the erosion and sediment controls for all areas. In addition, the construction condition hydrologic and hydraulic calculations must also be presented.]

comment  
9-67

13. [The structural details for three outlet structures within the Stormwater Control System are absent and should be provided. Validation of the post-developed design HydroCAD routings cannot be made without these details. A table of dimensions and elevations needs to be provided on Sheet C-10.]

comment  
D-23

14. The flow splitter detail on Sheet C-10 of the construction drawings is incorrect, since it shows two outlets on the same side of a splitter wall and at the same invert elevations. Also the flow splitter detail does not match the HydroCAD routings, which show a 2' x 0.5' orifice below the 24" diameter overflow pipe. This error needs to be corrected.

comment  
D-24

15. Specific dimensions and elevations should be added to the Stormwater Planter Detail on Sheet C-10, and to all the details, as appropriate, on Sheets C-9 through C-12.

comment  
D-25

16. The profile of the outlet structure for the pocket wetland shown on Sheet C-12 is incorrect. The bottom of the outlet control structure should be raised to elevation 374.0 and the pipe outlet invert elevation raised to elevation 370.0 to agree with the elevations show in the table on Sheet C-5 and also to correct the HydroCAD routing, which shows the pipe invert at 372.0. In addition, the W-4 wet pond label on Sheet C-12 needs to be edited to W-4 pocket wetland.

comment  
D-26

17. The runoff reduction volume (RRv) calculations performed and included as Appendix E of the PSWPPP were never signed by the designer nor signed as checked. These calculations also include the water quality volume (WQv) for sizing the rain garden and stormwater planter. These calculations should be validated and the details on the construction drawing C-10 for the stormwater planter should match those used in the design calculations presented in the SWPPP Appendix E. For example, the soil depth shown on Sheet C-10 is 18", whereas the soil depth presented in the design calculations in the PSWPPP is 24". These inconsistencies need to be corrected.

comment  
D-27

18. The time of concentration ( $T_c$ ) is defined as the time required for a drop of water to travel from the most hydrologically distant point in a subcatchment to the outlet. Sheet D-1 of the PSWPPP Appendix B presents the drainage area shown as PRE-2. However, the  $T_c$  flow path to the design point DP-2 does not appear to accurately represent the entire PRE-2 drainage area. The same is true for the  $T_c$  flow path for PRE-3. As a result, the analysis for the existing condition discharges at design points 2 and 3 appear to be erroneous. Corrected  $T_c$  flow paths should be used or the drainage areas should be further subdivided to more accurately represent the design points.

comment  
D-28

19. Mannings coefficients ( $n$ ) are used to calculate sheet flow travel time while  $K_v$  coefficients are a component used to calculate shallow concentrated flow velocity. Based on aerial photos and existing site descriptions, it appears that lower mannings coefficients for sheet flow were used while higher  $K_v$  values were used for shallow concentrated flow, both resulting in higher pre-developed peak discharges. These calculations need to be re-evaluated.

comment  
D-29

20. The sedimentation basin used as pre-treatment for sand filters should be sized to: 1) contain 25% of the sand filter water quality volume; and 2) to dewater over a twenty-four hour period, to effectively retain fines and prevent clogging. The DEIS does not provide structural details nor drawdown calculations for the sedimentation basin outlet structure. These details are needed to validate its intended operation.

comment  
D-30

21. The contributing areas assigned in the pollutant loading calculations do not agree with the drainage areas utilized in the HydroCAD model. These should be reconciled. *comment D-31*

22. Page 35 of the PSWPPP refers to a wet pond (W-4) instead of to a pocket wetland. This should be corrected here and wherever else it occurs in the document. *comment D-32*

23. Roof runoff from the offsite building on Lot 13A is flowing into the proposed onsite pocket wetland for treatment. However, no pre-treatment for the roof runoff is shown on the drawing nor described in the DEIS, as required in the New York State Stormwater Management Design Manual, Chapter 6, 2010. In addition, the outlet location entering the pocket wetland, as designed on Sheet C-5, should be re-configured to increase flow and modified to incorporate a serpentine flow path to the outlet structure to prevent short circuiting through the stormwater treatment system as shown on Figure 6-10 of the New York State Stormwater Management Design Manual, March 2010, page 6-26. *comment D-33*

24. A detailed review of the pollutant loadings was conducted. Although some areas did not agree with the HydroCAD sub-area values, the pollutant loads, as calculated in accordance with the DEC 1992 Reducing The Impacts Of Stormwater Runoff From New Development manual, showed a phosphorus decrease after treatment. Our independent evaluation, based on more recent methods and pollutant load characteristics for the project and offsite area, showed the following: *comment 9-68*

Pre-Developed Load = 4.67 lbs TP  
Post-Developed Load = 6.31 lbs TP  
Post-Dev Load with Treatment\* = 3.31 lbs TP

\* Using the efficiency methodology of sites in series in Appendix 1, New York State Stormwater Management Design Manual, 2003.

#### Pollutant Loading Calculations

Simple Method Calculations (New York State Stormwater Design Manual August 2003)

$$L = \frac{P \cdot P_j \cdot R_v \cdot C \cdot A \cdot (2.72)}{12}$$

L = Pollutant Load in Pounds (a loading rate is the total amount of pollutants entering the system from one or multiple sources. It estimates pollutant discharge with different land use categories and is often expressed as pounds per acre per year in a watershed.)

P = 48.2 inches (annual rainfall)

P<sub>j</sub> = 0.9 (constant for fraction of annual rainfall events that produce runoff)

R<sub>v</sub> = 0.05 + 0.009 • I (I = % Impervious)

0.068 existing condition for woods and 2% I

0.59 existing condition for commercial and 60% I

C = Constant Pollutant Concentration (Terrene Institute 1996)  
0.11 total phosphorus (TP) in mg/l or ppm (for forest)  
0.33 TP (for commercial [comm])  
0.08 TP (for water/wetlands)

A = Source Area (the adjusted areas as shown on the HydroCad routings for Pre- and Post-Development)  
1.9225 acres of forest for existing condition  
1.1995 acres of forest for developed condition  
2.3606 acres of commercial for existing condition  
3.2441 acres of commercial for developed condition

12 & 2.72 are Constants for Units (converts variables into pounds)

#### 1. Existing Condition - Total Phosphorus

$$\text{Woods - L} = \frac{48.2 \cdot 0.9 \cdot .068}{12} \cdot 0.11 \cdot 1.9225 \text{ Acre} \cdot (2.72) = 0.14 \text{ pounds}$$

= 0.14 pounds of total phosphorus

$$\text{Commercial - L} = \frac{48.2 \cdot 0.9 \cdot .59}{12} \cdot 0.33 \cdot 2.3606 \text{ Acre} \cdot (2.72) = 4.52 \text{ pounds}$$

= 4.52 pounds of total phosphorus

$$\text{Existing Total Phosphorus Total} = 0.14 + 4.52 = 4.66 \text{ pounds}$$

#### 2. Future Condition - Total Phosphorus

$$\text{Woods - L} = \frac{48.2 \cdot 0.9 \cdot .068}{12} \cdot 0.11 \cdot 1.1995 \text{ Acre} \cdot (2.72)$$

= 0.09 pounds of total phosphorus

$$\text{Commercial - L} = \frac{48.2 \cdot 0.9 \cdot .59}{12} \cdot 0.33 \cdot 3.2441 \text{ Acre} \cdot (2.72)$$

= 6.21 pounds of total phosphorus

$$\text{Future Total Phosphorus Total} = 0.09 + 6.21 = 6.30 \text{ pounds}$$

#### Future Condition With Treatment

Average pollutant removal efficiency of a sand filter for total phosphorus = 40%  
Average pollutant removal efficiency of a pocket wetland for total phosphorus = 46%  
(American Society of Civil Engineers [ASCE] Pollutant Removal Database 2009)

As the second treatment practice in series: the efficiency (E) for  $E_2 = (1 - E_1) \cdot E_2$   
 $E_2 = (1 - 0.4) (46) = 27.6$ , so use 28%

Since only design point (DP)-2 is treated = 2.7524 acres (total commercial area)

$$\begin{aligned}\text{Its load (Developed)} &= \frac{48.2 \cdot 0.9 \cdot .59}{12} \cdot 0.33 \cdot 2.7524 \text{ acres} \cdot (2.72) \\ &= 5.27 \text{ pounds of total phosphorus (TP)}\end{aligned}$$

Removal = 5.27 pounds  $\cdot$  0.4 = 2.11 pounds of TP removed by the sand filter  
5.27 pounds - 2.11 pounds = 3.16 pounds of TP that flow into the pocket wetland  
3.16 pounds  $\cdot$  (0.28) = 0.88 pounds of TP removed by the pocket wetland  
3.16 pounds - 0.88 pounds = 2.28 pounds of TP remaining after the pocket wetland  
2.28 pounds + 1.03 pounds (from untreated Drainage Area's 1 & 3) = 3.31 pounds  
of total phosphorus

Total Phosphorus Leaving the Site After Treatment = 3.31 pounds.

This results indicate a 29% phosphorus reduction below the pre-developed load and a total phosphorus reduction of approximately 47.5% of the post-developed load. These values are significantly less than the 40% to 88% reduction shown in Table 6-7 on page 23 of the SWPPP. As a result, additional retrofits of impervious areas of Lot 13A should be required to increase phosphorus removal.

comment  
9-69 cont'd.

25. The Town of North Castle is a municipal separate storm sewer system (MS4) in the New York City Watershed. In accordance with the NYSDEC General Permit for MS4's, the town needs to reduce the amount of phosphorus entering its waters. Municipalities must also estimate how many pounds of phosphorus have not entered reservoirs and other water bodies due to this program. One way to achieve this goal is by implementing a retrofit program which constructs, or directs the construction of, stormwater management practices designed to reduce phosphorous loads to receiving waters. In addition to the capture of rooftop runoff from the masonry building on Lot 13A, offsite, runoff from other offsite impervious surfaces on Lot 13A should be captured and treated. Options for this treatment include but are not limited to: bioretention modification to the parking areas; grass swales designed for low velocity; utilizing chambered water quality units on-line with the stormwater drainage system; porous pavement replacing impervious pavement in parking areas; pervious walkways; and disconnecting impervious areas to buffer areas.

comment  
9-69

A useful aid to designing a retrofit program is available from the Center for Watershed Protection (CWP) which has developed a Watershed Treatment Model (WTM), that integrates the latest pollutant removal practices and calculation methodologies. The WTM is acknowledged by NYSDEC as meeting this MS4 requirement and this type of model should be used on all projects within the New York City Watershed.

26. Chapter 18 of the DEIS evaluates the proposed project and compares it to six other development alternatives as well as to the no build alternative. No explanation was provided justifying why: all the other analyzed alternatives are "self-park;" the automated alternative was set at 1,450 cars; Alternative C was not analyzed for the automated system which reduces the impervious surface foot print, saves some wetland buffer, and reduces further the pollutant load. In addition, analysis of the social and economic need for additional parking was inadequate and should include consideration of the availability of other emerging parking services for the Airport, such as Purchase Park2 Fly, the new parking service being provided by Purchase College.

comment  
18-22

27. The DEIS states that the proposed project alternative will provide 1,450 parking spaces. Based on the numbers provided on the DEIS Architectural Drawings (A.21, A2.2, and A2.3) 1,290 parking spaces are shown. This 160 parking space discrepancy needs to be explained.

comment  
18-23

28. Page 9-9 of the DEIS discusses mitigation measures and " ... site planning practices and that were used to help determine the site plan and stormwater management system design". The first four planning practices presented are: Preservation of Undistributed Areas; Preservation of Buffers; Reduction of Clearing and Grading; and Locating Sites in Less Sensitive Areas. Based on the proposed areas of wetland and wetland buffer destruction, none of these planning practices were implemented. They should be seriously considered in a revised DEIS which should be made available for public comment prior to issuance of a final EIS.

comment  
9-70

29. According to pages 1-7 and 1-8 of the DEIS, a car wash will be operated at the proposed parking facility. The car wash will utilize a special treatment and filtering system to allow wastewater to be recycled for subsequent washes. This system is also equipped with an oil/grit separator. Once the oil and unrecoverable wastewater have been segregated for disposal, it will drain to the sewage ejector pit and be conveyed to the municipal sewer. It is also expected that any automobile fluids leaking out onto the garage floor would be washed into this ejector unit and conveyed to the sewer. No specific details of this proposed system were included in the DEIS documents other than a schematic shown on Sheet MEP-1. This information must be provided for a full review.

comment  
9-80

30. According to page 16 of the PSWPPP, all deep sump catch basins will be installed with a "hood" at their outlet. However, the hood details are missing from the catch basin details shown on Sheet C-10 and need to be added.

comment  
D-34

31. "Turfstone" permeable paver units are described in the SWPPP on page 15 and are shown in detail on Sheets C-5 and C-11. The detail on Sheet C-11 shows the permeable paver incorrectly depicted on a slope instead of on level ground to the south side of the facility. As such, this detail is incorrectly labeled. In addition, the depth dimensions associated with determining the amount of water that can be stored beneath the permeable pavers is missing. Finally an underdrain should also be provided in low permeable soil, such as the Ridgebury loam on site.

comment  
D-35

32. The DEIS in many locations notes that the proposed project will provide 1,450 parking spaces and this is compared to alternatives A1 and A2 shown in Chapter 18 of the DEIS whose parking spaces number 500 and 1,000 respectively. Based on the numbers provided on the Architectural Drawings A2.1, A2.2, and A2.3, there are only 1,290 parking spaces shown. What accounts for this discrepancy of 160 parking spaces and how will that affect the comparison results in the DEIS?

comment  
9-81

33. The DEIS does not provide a map depicting the stormwater sub-areas analyzed in Appendix E. As a result, the water quality volume (WQv) and runoff reduction volume (RRv) calculations provided in Appendix E of the PSWPPP are unsupported. Based on the site information provided on page 9-9 of the DEIS, our independent calculations indicate a site WQv equal to 10,819 cubic feet for the impervious area of Lot 14B, in the developed condition. This calculation is based on a 25% WQv capture for re-development runoff captured by a standard stormwater management practice (New York State Stormwater Management Design Manual, Chapter 9, 2010). This value exceeds the 4,144 cubic feet stated on page 9-11, Chapter 9, of the DEIS by over two and a half times. The DEIS needs to further document and clarify this issue.

comment  
9-71

Safe Flight Instrument Corporation  
20 New King Street  
White Plains, NY 10604-1206

Telephone: 914-946-9500  
Telefax: 914-946-7882

**SAFE FLIGHT**  
INSTRUMENT CORPORATION

April 29, 2011

Adam R. Kaufman  
AICP, Director of Planning  
Town of North Castle, Annex Building  
17 Bedford Road  
Armonk, New York 10504

MAY 02 2011

Subject: Park Place at 11 New King Street

Dear Mr. Kaufman:

[ Safe Flight Instrument Corporation is submitting the following concerns in regards to the "Park Place" parking structure proposal. Safe Flight is opposed to this plan primarily due to the traffic congestion that will be added to New King Street.

Traffic is frequently backed up past our entrance, which is at 20 New King Street during the afternoon periods between 4:15 and 4:45 PM. Safe Flight already uses a staggered shift time in an attempt to mitigate congestion.

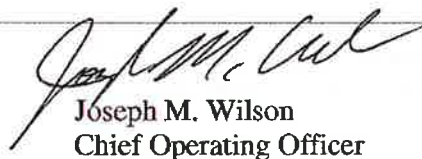
comment

13-1

While we are not traffic engineers, we believe that should this plan go forward, an additional left turn lane would be required for the New King Street to Route 120 turn and a corresponding lane on route 120 to the I 684 traffic light would be needed to more quickly move the traffic onto I684.]

If you have any questions, please don't hesitate to contact me.

Sincerely,

  
Joseph M. Wilson  
Chief Operating Officer

JMW/CYA



**MORGAN & Brother**  
**MANHATTAN**  
Storage Co., Inc.

16 BRUCE PARK AVENUE  
Greenwich, CT 06830-6388

203-869-8700  
FAX 203-869-0991

May 2, 2011

North Castle Planning Board  
17 Bedford Road  
Armonk, NY 10504

Re: Proposed Airport Parking Structure

To Whom it May Concern,

[ I have become aware that the Board is considering a proposal for increased parking near Westchester County Airport. Apart from operating a business in Armonk, I am also a Greenwich resident and an airport user. This letter is in favor of approval of the new parking structure proposal.

I can think of no more worthwhile improvement for the area surrounding the airport. As recently as 45 days ago my wife and I were each relegated to the auxiliary lot (we were traveling to different destinations on the same day). When my wife returned at night the unmanned lot was frightening to her. When I got back on a different night the automated payment machine didn't work; again nobody around, and it was raining hard.

I suspect that even those who decry the airport's increased airplane traffic and resultant flight noise swallow their indignation when it comes time to plan air travel. We all use the airport when we can; it is just too convenient not to. Parking is the one significant drawback. I always approach the airport with some amount of trepidation about whether there will be space in the current parking structure. Clearly the proposed facility would alleviate these issues with the certainty of properly managed, safe parking.

Let's face it; the airport is a fact of life. We should have parking services befitting the terrific area where we live. I understand that the proposed facility will be such a place and do so without being an eyesore or environmental liability. I hope you will approve the project. ]

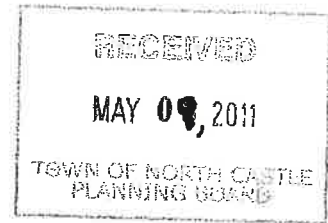
Sincerely,

  
Jeffrey S. Morgan  
President

comment  
2-12

Carol De Angelo, SC  
Sisters of Charity  
535 Ashford Avenue  
Ardsley, NY 10502

Mr. Adam Kaufman  
Town of North Castle Planning Board  
Town Hall  
17 Bedford Road  
Armonk, NY 10504



May 4, 2011

Dear Mr. Kaufman,

I am writing to let you know that I oppose the construction of a parking structure (in the town of North Castle) that is to be built for the purpose of providing more parking for Westchester County Airport.

According to my information, the structure, if built, would rest on two wetland areas which are a buffer zone for the Kensico Reservoir. Construction of this parking structure would endanger Kensico Dam, the wetland areas and the drinking water of nine million New York residents.

Comment

I hear that the North Castle Planning Board has accepted the DEIS from the builder. It is imperative that you seriously consider the impact this proposed structure would have on the health and quality of life of humans. We are becoming increasingly aware that our health, well being and existence depend on other communities of life and the environment as a whole. As you review this project, please remember to judge it from the long view and the quality of life for our children. Though the parking lot may show short term financial profit and other benefits this does not mean that this is the wisest decision. A wise economic approach incorporates into the decision making process a thorough study and clear understanding of future implications, especially if our water supply and other resources for life are put at risk.

8-20

Please protect and preserve the quality of our drinking water and those resources that keep our water supply clean and drinkable. Please work towards an economic framework that looks at true costs – where we acknowledge that progress must be balanced by providing a sustainable quality of life that offers our children a future.

As you know resolutions of non-expansion were passed by the County, State Senate and State Assembly. The resolutions clearly state that there should be "no additional parking". While the proposal is off the property of the airport, I believe it goes against the spirit and intent of the resolutions.

Thank you for listening. My prayers as you and the Town Board consider the proposal. May God bless you in your important ministry of serving the people of North Castle.

Sincerely,

Carol De Angelo, SC

A handwritten signature in cursive script that reads "Carol De Angelo".

70 Forest Ave B-602  
New Rochelle NY

10801

MAY 09 2011

5/5/11

Dear Mr Kaufman:

My comments on the proposed 10 King  
Street parking garage are as follow:

[My primary concern is the high  
possibility of petroleum and antifreeze  
products will enter the surface drain-  
age system and will eventually foul  
the Kensico Reservoir. This situation is  
not easily remedied and presents a  
threat to the water supply for 9  
million people.]

comment

9-6

[My other concerns mirror the  
myriad of problems identified by the  
various professionals representing  
Westchester County Airport Associates  
LLP.

comment

2-13

In my opinion, this project has so  
many serious flaws that it should not  
be approved by the Planning Board.]

Sincerely Steve Hopkins

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New Rochelle NY  
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05 MAY 2011 PM 2 L



North Castle Planning Board

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June 1, 2011

**By Hand Delivery**

Chairman John Delano and the Members of the  
Town of North Castle Planning Board  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504

**Re: Proposed Park Place at Westchester Airport;  
Comments on Draft Environmental Impact Statement**

Dear Chairman Delano and Members of the North Castle Planning Board:

The following comments on the Draft Environmental Impact Statement ("DEIS") prepared by 11 New King Street, LLC (the "Applicant") in connection with its proposed Park Place Project (the "Project") are submitted on behalf of Westchester Airport Associates, L.P., the owner of the existing garage at the Airport. These comments supplement our oral testimony at the May 2, 2011 Public Hearing. Incorporated herein in their entirety, and also an integral part of our client's comments on the DEIS, are the written comments of Carpenter Environmental Associates and Adler Consulting, which are annexed hereto.

[In sum, the Project conflicts with multiple layers of established planning and regulatory principles in the Town of North Castle (the "Town"). In adopting the Town's Freshwater Wetlands and Drainage Law, for example, the Town Board expressly found that "[w]etland areas should be protected from encroachment, spoiling, polluting, or obliteration stemming from . . . commercial development." The DEIS does not discuss the Project's noncompliance with this Town policy. The DEIS also does not discuss the fact that the Project clearly exceeds the low threshold mandating rejection of a wetland permit under the Town's Freshwater Wetlands Law.]

comment  
8-74

[Moreover, in the past, the Town has been proactive in protecting the wetlands immediately surrounding the Kensico Reservoir in recognition of their singular value in protecting the public potable water supply. The Town, for example, worked

comment  
8-75

with the corporations specifically along King Street to create management guidelines, set forth in the King Street Corridor Management Plan, to ensure that wetlands on these properties were safeguarded, and to require "careful planning" for new development around the Kensico Reservoir. The DEIS does not mention the Plan or discuss its relationship to the Project.]

[Perhaps most troublesome, the DEIS attempts to ignore a second stream on the Project site (the "Site"), even though the Town's Wetlands Consultant has specifically stated that it "will be considered a regulated watercourse." The Project would completely eliminate the buffer protecting this watercourse. This watercourse, and its attendant one-hundred foot (100') buffer, is likely subject to the jurisdiction of the New York City Department of Environmental Protection (the "DEP"). DEP would almost certainly deny a variance to allow the parking garage to be constructed in this sensitive buffer area. The DEIS also does not discuss a second Reservoir Stem potentially affecting the Property, even though it is clearly shown on Westchester County Maps included in the DEIS. The three hundred foot (300') buffer from this Reservoir Stem mandated by DEP's Watershed Regulations may also prohibit the development of the Project.]

comment  
8-76

[Similarly, the Project flatly contradicts the Town's Comprehensive Plan. The Town's Comprehensive Plan unequivocally establishes that "any expansion" of the Airport is *not* recommended. The proposed zoning amendment would violate established development parameters both within the IND-AA District, as well as the Town as a whole. This includes a maximum permissible height, as well as building coverage allowances, which would surpass the limitations applicable in *any* District in the Town. Respectfully, it would set a dangerous precedent, which the DEIS ignores. Similarly, the Project goes against the established policies of Westchester County, as well as the New York State Legislature, in opposition to any expansion of the Airport.]

comment  
3-29

[The DEIS also irrationally asserts that the Project would actually result in a reduction of vehicle trips to and from the airport. As the Town Traffic Consultant's analysis recognizes, however, the Project would actually exacerbate existing "F" Levels of Service ("LOS") at three critical intersections, with potential adverse impacts spilling onto I-684. No mitigation is discussed for these impacts.]

comment  
13-70

[Ultimately, the Project would constitute an expansion of the Airport beyond its present geographic confines, which is inconsistent with more rational efforts to modernize the Airport. The Airport can be renovated to meet the existing demands, including for parking, without causing unnecessary adverse impacts to sensitive receptors, including the Kensico Reservoir and the residential communities in Greenwich, Connecticut. The significant, unmitigatable, adverse impacts of concentrated off-site parking development in the IND-AA District can and must be avoided, both under SEQRA, as well as other applicable laws and regulations, including, the Town's Freshwater Wetlands Law and DEP's Watershed Regulations.]

comment  
2-42

[As the Planning Board surely appreciates, the DEIS is only a "starting point" for the environmental review of this ambitious Project under the State Environmental Quality Review Act ("SEQRA"). The comments herein are offered in good faith to assist the Town of North Castle ("Town") in "filling in the gaps" in what is a complex proposal, with wide ranging implications.]

comment

2-43

The DEIS is a starting point. It is a document which should analyze the significant environmental effects of a proposed action and identify how those effects can be avoided or minimized. When a DEIS is accepted as complete, it is complete for the purposes of commencing formal review of the proposal. *The opportunities for public comment, formal review and public hearings are all part of the SEQRA process established to fill in gaps and to provide updated information and analysis in the DEIS in order that an informed decision may ultimately be made regarding the proposal.*

In re Amenias Sand & Gravel, 1997 WL 1879249, at \*8 (N.Y. D.E.C. June 16, 1997) (Rulings of the Administrative Law Judge on Party Status and Issues), appeal denied, 1997 WL 628371 (N.Y. D.E.C. Aug. 27, 1997) (Interim Decision of Deputy Commissioner); see also N.Y. Env'tl. Conserv. Law § 8-105(8) (defining a DEIS to be "a preliminary statement prepared pursuant to [SEQRA]" (emphasis added)).

In that spirit, we submit the following comments.

**A. Town Board Cannot Delegate Its SEQRA Review Responsibilities To The Planning Board**

[It appears at first blush that the Town Board has improperly delegated its SEQRA review responsibilities to the Planning Board. SEQRA requires that decisions under it "must remain with the lead agency *principally responsible for approving the project.*" Coca-Cola Bottling Co. of New York, Inc. v. Bd. of Estimate of City of New York, 72 N.Y.2d 674, 536 N.Y.S.2d 33, 37 (1988). The agency primarily responsible for approving the instant Project is the Town Board. In contrast, it is questionable whether the Planning Board has any approvals respecting the Project.]

comment

2-44

[The heart of this Application is a zoning amendment. The amendment would create a new Special Use category for parking garages in the IND-AA District subject to Town Board approval (the "Amendment"). The Project is not possible without this substantial revision of the Town Zoning Code. The Amendment is, of course, a discretionary determination of the Town Board. If the Amendment were adopted, no discretionary decisions would be required from the Planning Board under the Amendment.]

comment

2-45

[The Amendment would make the Town Board the approval authority for Special Permit Applications for garage proposals off-site from the County Airport. Pursuant to the Town Code, the Town Board's Special Permit review would obviate the need for Site Plan review from the Planning Board. (See Town Code § 213-34 (establishing that "[n]o building permit shall be issued, and no structure or use shall be established or changed, *other than for one single-family dwelling or a special permit use approved in accordance with the procedures specified in Article VII of this chapter*, except in conformity with a site development plan approved and endorsed by the Planning Board . . . ." (emphasis added).)]

comment

2-46

[The Town Board would also assume Freshwater Wetlands review authority for the Project. (See Town Code § 205-5(C) (defining the Town Board to be the Approval Authority for wetland applications when neither the Planning Board nor the Town Engineer have that capacity).) The Planning Board would similarly lack review authority over the Project's Tree Removal Permit. The Building Inspector would be the Approval Authority for the Tree Removal Permit. (See Town Code § 192-2 (Planning Board only the Approval Authority where there is a pending Site Plan Application).)]

comment

47

2-48

[Accordingly, as the New York State Department of Environmental Conservation ("DEC"), the agency primarily responsible for SEQRA's implementation, indicates in its official SEQRA guidance document, the SEQR Handbook, the Town Board is indisputably the agency "primarily responsible" for reviewing the Project:

"Which board is responsible for the conduct of SEQR when local zoning decisions are made?"

comment

"The board with primary responsibility for making the zoning decision. . . . *If the zoning decision is legislative (such as a rezoning decision), then the board with primary responsibility*, depending on whether the municipality is a city, town or village, will be the city council, *the town board*, or the village board of trustees, respectively."

2-48

SEQR Handbook at 181 (emphasis added).]

[Without denigrating the capability or integrity of the Planning Board, its improper assumption of Lead Agency status in this matter potentially renders these proceedings jurisdictionally defective. As the Board is aware, SEQRA mandates "strict compliance" with its environmental review procedures. N.Y.C.C.E.L.P. v. Vallone, 100 N.Y.2d 337, 763 N.Y.S.2d 530, 535 (2003). Strict compliance with SEQRA is particularly important where, as here, potable water may be impacted. See Doremus v. Town of Oyster Bay, 274 A.D.2d 390, 711 N.Y.S.2d 443 (2d Dept. 2000) (holding that local board violated SEQRA by failing to order a supplemental environmental review for

comment

2-49

<sup>1</sup> It is notable that the Building Inspector has not been included as an Involved Agency, notwithstanding the fact that he will have jurisdiction over this significant discretionary determination.

a site located in an area designated for special groundwater protection); Bryn Mawr Props., Inc. v. Fries, 160 A.D.2d 1004, 554 N.Y.S.2d 721, 722-23 (2d Dept. 1990) (upholding requirement for supplemental environmental review under SEQRA, noting that "[i]t is of critical importance that the petitioner's proposed development is situated on the shores of Pocantico Lake, a former reservoir which is still a potential source of potable water.").

Comment  
2-49  
cont'd

The Town Board's duty to serve as Lead Agency is particularly important here because the Project places so many of the Town's legislatively adopted planning principles and requirements in question. Respectfully, the Planning Board should defer to the Town Board as the appropriate Lead Agency for the review of this Project. ]

**B. [ The DEIS Fails To Substantiate The  
Need for 1,450 More Parking Spaces**

SEQRA's implementing regulations require that the lead agency take a hard look at "the proposed action, its purpose [and] public need and benefits, including social and economic considerations." 6 N.Y.C.R.R. § 617.9[b][5][i]. Economic need and other essential considerations must be taken into account and "balanced with [a project's] adverse environmental impacts." See, e.g., In the Matter of the Application of Al Turi Landfill, Inc., DEC Application No. 3-3330-0002-21, 1998 WL 1670484, (Administrative Law Judge Ruling on Party Status/Issues, June 19, 1998) (stating that "'need' is typically considered to be a SEQRA issue, to be weighed against unavoidable or unmitigatable adverse environmental impacts . . . [but may also be considered] outside the SEQRA context, in relation to a policy judgment by DEC); In the Matter of the Preble Aggregate, Inc., DEC Project No. 7-1136-0007/00001, 1995 WL 582480, (Comm. Interim Decision, Sept. 7, 1995) (upholding ALJ's ruling in mined land reclamation permit proceeding, that the "loss of prime agricultural land versus the need for gravel" is a valid issue for adjudication, and directing ALJ to develop record on same.) The relevancy of making a showing of a project's fulfillment of public need increases proportionate to the degree of adverse environmental impacts involved in the proposed action.

Comment  
13-71

Since this Project has the potential for significant, irreversible adverse impacts, including to the Kensico Reservoir, particularly careful scrutiny must be afforded to the Applicant's unsubstantiated claim that 1,450 more parking spaces are needed to meet existing Airport demand. The Applicant, at a minimum, should be compelled to produce market studies supporting its contention that 1,450 additional parking spaces are needed for Westchester Airport. Moreover, the DEIS must factor in the approximately 500 parking spaces that have recently become available at the State University of New York at Purchase. ]

**C. DEIS Ignores The Project's Significant Adverse Impacts On Wetlands And The Region's Potable Water Supply**

[ The DEIS dramatically understates the Project's potential adverse impacts on the relevant wetlands and watercourses.

One of the major impacts that the off-site expansion of the Airport poses is to the water quality of the Kensico Reservoir. The Kensico Reservoir, as the Board knows, is "the final reservoir in the Catskill/Delaware system before water enters the distribution network."<sup>2</sup> It holds the drinking water for millions of New Yorkers. Indeed, one of the reasons the Planning Board issued a Positive Declaration, requiring the preparation of an EIS, was because "[t]he proposed construction is to occur wholly within the Kensico Reservoir Watershed." (Planning Board Positive Declaration, dated Sept. 30, 2009, at 2.) The Town Conservation Board has similarly expressed concerns regarding the Project's potential adverse impacts on the Kensico Reservoir. (See Memorandum on Comment-Draft Scoping Document, from John F. Fava, Chair, Conservation Board to Planning Board, dated Jan. 7, 2010 ("[I]t must be stated that the impacts of this project on the Kensico Reservoir, especially the local water supply intake from Rye Lake are of special concern."))

comment

8-77

[ The Town has traditionally been a leader in efforts to protect the Kensico Reservoir. The Town of North Castle established the Kensico Watershed Improvement Committee ("KWIC") in conjunction with five major corporations on Route 120, specifically in order "to protect the Kensico Reservoir from potential water quality threats associated with the corporate and roadway uses in the King Street Corridor," within which the Project site ("Site") is located. (See KWIC, King Street Corridor Management Plan, May 2001, at 1 & fig. 1). "[C]areful planning for new development [is one of two] extremely important components of the management plan" (Id. at 3.) Tellingly, the Plan, once again, is not even mentioned in the DEIS.<sup>3</sup> ]

comment

8-79

<sup>2</sup> See [http://www.nyc.gov/html/dep/html/watershed\\_protection/kensico.shtml](http://www.nyc.gov/html/dep/html/watershed_protection/kensico.shtml).

<sup>3</sup> Similarly, in its official planning document, Westchester 2025, the Westchester County Planning Board established that protecting water quality must be "at the forefront of government action:"

The protection and enhancement of water quality must continue to be at the forefront of government action, not simply because of standards and regulations originating at the state and federal levels but because water quality shapes quality of life. Efforts must be directed at protecting drinking water supplies, improving surface water quality and protecting underground water supplies.

Westchester 2025 at 3. The DEIS is silent on the policy set forth in this document.

1. **Project Cannot Be Approved  
Under The Town's Freshwater Wetlands Law**

Consistent with both its legal obligations under North Castle's Freshwater Wetlands and Drainage Law, as well as the principles that prompted the Town to form the KWIC to protect the Kensico Reservoir, the Town Board would almost certainly be compelled to deny a Wetlands Permit to the Project. In adopting North Castle's Freshwater Wetlands and Drainage Law, the Town Board expressly found that "[w]etland areas should be protected from encroachment, spoiling, polluting, or obliteration stemming from . . . commercial development . . . and/or disregard for natural resources." (Town Code § 209-3(A)(1).) The Town Freshwater Wetlands Law recognizes that "[w]etlands protection is a matter of concerns to the entire Town and surrounding region." (Town Code § 209-3(A)(4).)

The Town Freshwater Wetlands Law recognizes that wetlands provide multiple beneficial functions, including, of relevance to this Application:

comment

- "[p]roviding drainage, flood control, and natural storage for water;"
- "[p]rotecting and purifying surface and subsurface water resources by sediment trapping, nutrient removal and chemical and biological detoxification;"
- "[r]echarging, storing groundwater (including aquifers and surface waters,) and maintaining stream flow;" and
- "[m]itigating the effects of erosion by serving as natural sedimentation areas and filter basins."

8-79

(Town Code § 209-3(A)(1).)

The Freshwater Wetlands Law sets a low threshold, which affirmatively *mandates* that the Town Board *must* deny Wetland Permit applications that have the potential to adversely impact the environment. The Law requires that the Approving Authority, here the Town Board, "*shall* deny the permit if"

"The proposed activity *may* threaten public health and safety . . . can cause nuisances, impair public rights to the enjoyment of public waters . . . or violate other federal, state or local laws and regulations" [or]

"It finds that the detriment to the public good by the factors listed in this section would occur on the issuance of the permit outweighs the nonmonetary public benefits associated with the activity."

comment  
8-80

(Town Code, § 209-7(B)(3) (emphasis added).)

It is well settled environmental law that the use of the word “may” establishes a low threshold. See, e.g., Silvercup Studios Inc. v. Power Auth. of N.Y., 285 A.D.2d 598, 729 N.Y.S.2d 47, 49 (2d Dept. 2001) (“Because the operative word triggering the requirement of an EIS is ‘may’, there is a relatively low threshold for the preparation of an EIS.” (citation omitted)). In conjunction with the Freshwater Wetlands Law’s use of the word “shall,” the Law mandates that the Approving Authority deny a Permit application, which, as here, has the potential to cause the listed adverse impacts. See N.Y. Statutes § 177(a) (“In the absence of anything to indicate a contrary intention, words of command in a statute are construed as peremptory, and words of discretion are treated as permissive.”).

comment  
8-81

In the first instance, it is unclear how the Town can rationally assess the Project’s wetland and wetland buffer impacts in the absence of confirmation of the Site’s wetland boundaries. (See DEIS at 8-7.) As the Planning Board’s Wetland Consultant previously advised, accurate confirmation is required to enable the Board to evaluate project impacts and consider appropriate mitigation measures. (See Memorandum to the Planning Board from David J. Sessions, RLA, AICP, re: Site Development Plan Review: David Zeng, dated May 21, 2010, at 2 (“The Board should request the verification of the extent and accuracy of the wetlands flagging by the Town Wetland Consultant. Upon confirmation of the extent of the resources and impacts, the Board may evaluate the project impacts, as well as the quality and quantity of the mitigation proposed.”).) Similarly, there has also been no pump test conducted yet, to determine, *inter alia*, whether the Project, which proposes intense water usage, including for car washing, would impact hydrology at the Site. (See DEIS at 8-3.)

comment  
8-82

Nevertheless, based on this incomplete information, as set forth in greater detail in the annexed report from Carpenter Environmental Associates, it is clear that the Project poses substantial adverse impacts, which clearly have the potential to threaten public health and safety, impair public rights to the enjoyment of public waters, and otherwise violate other federal, state or local laws and regulations.

comment  
8-83

The Proposed Project would dramatically upset, for example, the hydrological balance to Wetland “A”. This wetland functions to collect, retain and distribute water from the Site to streams that flow directly into the Kensico Reservoir. A significant portion of the Project would be located in Wetland “A” and its protected buffer area. The Project would essentially eliminate the stormwater catchment area for Wetland “A,” and eliminate much of the buffers that protect this Wetland.

comment  
8-84

The proposed Project is in stark contrast to the Town’s “usual practice” of eliminating new construction in wetland buffers, especially at the level proposed here. (See Memorandum from John F. Fava, Chair, Conservation Board to Planning Board, dated May 27, 2010, re: Wetland Permit Application for 46 North Greenwich Road, ¶ 4 (“It is the usual practice to eliminate construction for new building in a wetland buffer or in this case to keep intrusions to a minimum.”); see also Memorandum from John F.

comment  
8-85

Fava, Chair, Conservation Board to Planning Board, dated Nov. 19, 2009, re: Wetland Permit Application for Byram Ridge Road Subdivision (“To recommend intrusions or disturbances in the buffer that may increase the monetary return to the applicant should not be our focus.”).)]

[Indeed, recently, the Planning Board, in consultation with the Town Conservation Board, would not approve a single-family home application that was initially proposed to be located 50% in wetland buffers until the house was relocated outside the buffer. (See Memorandum from John F. Fava, Chair, Conservation Board to Planning Board, dated Jan. 20, 2011, re: Wetland Permit Application for David Zeng, 46 North Greenwich Road (“The initial plan located about 50% of the proposed house within the wetland buffer which was not an acceptable arrangement on this lot. Subsequently the house was relocated outside the buffer, with substantial filling, grading and buffer disturbance greatly reduced”).) Notably, the Zeng proposal was classified as a SEQRA Type II Action – i.e., it presumptively posed no significant adverse environmental impacts. Moreover, the Zeng proposal was not in immediate proximity to the Kensico Reservoir. We trust that the instant Project, which has been classified as a SEQRA Type I Action – i.e., the presumption is that it will pose significant adverse environmental impacts – and which is in close proximity to the Kensico Reservoir, will be held to the same standard.]

comment  
8-86

[The DEIS goes on to inaccurately state that the Project’s wetland buffer “disturbances are primarily for the proposed construction of the stormwater management basins.” (DEIS at 8-10.) In reality, more than half of the proposed parking facility would be located within the 100 foot buffer zone, which is protected by the Town and DEP.]

comment  
8-87

[The DEIS also inaccurately trivializes the functional value of the buffers that would be eradicated in an effort to justify the Project’s substantial buffer impacts. Under present conditions, stormwater runoff must, on average, traverse 100 feet of natural vegetation, consisting of native trees, shrubs, and groundcover, as well as some areas of lawn area, prior to reaching Wetland “A”. While the DEIS insinuates that the Project would result in conditions “similar to” existing conditions at the Site, the Project would triple the amount of impervious surfaces in the buffer area. (See DEIS at 8-14 (“At the present time, the existing impervious surface and lawn in the wetland buffer is 35,269 square feet (12,132 square feet impervious + 23,137 square feet of lawn. This is *similar to* the impervious surface and porous pavers proposed in the wetland buffer which is 39,255 square feet.” (emphasis added)).) Under existing conditions, there are 12,132 square feet of impervious surfaces in the buffer. The Project would add 21,354 square feet of impervious surfaces above existing conditions in the buffer area, resulting in a total of 33,486 square feet of impervious surfaces in the buffer area. (See DEIS at 8-14 to 8-15.)]

comment  
8-88

[The DEIS’s effort to compare existing lawn area in the buffer to the impervious surfaces it would add is also misguided. (See DEIS at 8-14.) While lawn may not be the optimal buffer cover, it is pervious. It provides filtration value. The Project’s conversion of turf areas to impervious surfaces contrasts sharply with the KWIC’s goal of

comment  
8-89

"convert[ing] turfed areas to meadows." (See King Street Corridor Management Plan, at 16.)

[Ultimately, as the Town Wetland Consultant noted in connection with the draft DEIS, "this section completely downplays the extent of improvements proposed within the wetland buffer, proximity of these improvements to the wetland boundary line and potential impacts." (Memorandum to the Planning Board from David J. Sessions, RLA, AICP, dated Dec. 10, 2010, at 2.) The DEIS does not appear to have been substantially revised since the Town Wetland Consultant made this observation.]

comment  
8-90

[In light of the significant adverse impacts on wetlands and water quality posed by the Project, it is problematic that the DEIS lacks any real mitigation plans. The DEIS suggests that its stormwater management basins could provide mitigation even while acknowledging "that the Town does not typically accept required stormwater management areas to serve toward wetland mitigation." (DEIS at 8-17.) The DEIS consequently represents that "offsite wetland creation/enhancement . . . would be considered." (Id.) Respectfully, it is unclear why the DEIS was deemed complete when this casual suggestion that wetland mitigation "would be considered" does not meet the Planning Board's consultant's statement that concrete mitigation measures "should be proposed and discussed" in light of "the extent of improvements within the wetland and the wetland buffer area":

As stormwater ponds have not been historically accepted as wetland mitigation, the applicant should provide alternative mitigation for the proposed wetland and wetland buffer disturbance. Given the extent of improvements proposed within the wetland and the wetland buffer on-site and potentially off-site mitigation should be proposed and discussed.

comment  
8-91

(Memorandum to the Planning Board from Ryan Coyne, P.E., Kellard Sessions Consulting, P.C., dated Feb. 25, 2011, at 2 (copy annexed hereto).)<sup>4</sup>

[Indeed, Minutes of the Planning Board make clear that the Applicant has long been aware that its mitigation proposal was insufficient. (See Planning Board Minutes, Dec. 13, 2010, at 5 ("Mr. Delano inquired about the 2:1 mitigation which can't be done on site. [Applicant's Counsel] stated that he has not had a conversation with the Town Board on this matter and felt that the mitigation to the wetlands was an exchange for the 2:1 mitigation. *The Planning Board noted that would not be acceptable*

comment  
8-92

<sup>4</sup> The Town's disinclination to count stormwater basins as mitigation is well established. (See, e.g., Memorandum to the Planning Board from Adam R. Kaufman, AICP, Director of Planning, re Zeng, dated Jan. 14, 2011, at 2 ("It is noted, however, that a portion of the mitigation area is comprised of the proposed stormwater basin; typically, stormwater mitigation elements are not counted for wetland buffer mitigation purposes."))

mitigation.” (emphasis added).) Clearly, the cursory suggestion in the DEIS that wetland mitigation “would be considered” is legally inadequate.<sup>5</sup>

2. **DEIS Ignores Multiple Additional Layers of Regulatory Control**

The Applicant seeks to avoid several layers of regulatory review applicable to wetlands. Ironically, the Town Freshwater Wetlands Law declares that “[t]he establishment of regulatory and conservation practices for these [wetland] areas serves to protect the Town *by insuring review and regulation of any activity* near or on the wetlands that might adversely affect the public health, safety and welfare.” (Town Code § 209-3(A)(3) (emphasis added).) The DEIS, however, seeks to evade multiple layers of agency review intended to ensure that impacts to wetlands, particularly those in close proximity to Kensico Reservoir, are carefully vetted.

comment  
8-93

a. **Second Stream on the Site is Subject To DEP Jurisdiction**

Of particular significance, the DEIS understates the geographic scope of DEP jurisdiction at the Site. While the DEIS recognizes that there is one DEP watercourse on the Site, there actually are two. The DEIS specifically recognizes that there are “[t]wo streams [that] occur on the project site,” one which it denominates a “perennial stream,” and the other a “ephemeral drainage channel that is infrequently flooded.” (DEIS at 8-5 (emphasis added).) Figure 8-2 in the DEIS, which reflects streams designated by Westchester County, clearly shows two streams that pass through the Site on their way to the Kensico Reservoir. Similarly, DEIS Figure 8-1, which shows the National Wetland Inventory mapped wetlands, also shows a second stream along the southern boundary of the Project Site.

comment  
8-94

Moreover, the Town’s own Wetland Consultant recognizes that this second stream is, in fact, “a regulated watercourse”:

Water was observed within the channel located to the south of the proposed parking garage (partially off-site) and therefore *this channel will be considered a regulated watercourse*. This determination is based, in part, on the fact that water flow was present more than 48 hours after a rain event.

comment  
8-95

<sup>5</sup> Moreover, the DEIS fails to substantiate that the Applicant even has the right to use the property upon which it proposes to locate the stormwater management basins. The DEIS indicates that the stormwater management basins would be located on Lot 13A. (See DEIS at 2-5.) The DEIS, however, fails to provide any indicia that the Applicant has the right to use Lot 13A for the Project. The DEIS also lacks a title report for Lot 13A, which would indicate if there are any private restrictions affecting the proposed use of Lot 13 A for the Project.

(Memorandum to the Planning Board from David J. Sessions, RLA, AICP, dated Dec. 29, 2010, at 2 (emphasis added) (copy annexed hereto).)]

[While the DEIS asserts that this "secondary drainage feature [] does not demonstrate perennial or intermittent flow" (DEIS at 8-6), the Town Wetlands Consultant has expressly stated that this stream had water flow more than 48 hours after a rain event. This finding establishes unequivocally that the second watercourse on the southern portion of the Site qualifies as an Intermittent Stream under the DEP's Watershed Regulations. (See Watershed Regulations § 18-16(a)(63) (establishing that a surface feature will only not be considered an Intermittent Stream if it only "contains water only during and immediately after a rainstorm or a snow melt shall not be considered to be an intermittent stream"). Accordingly, DEP appears to have jurisdiction over this stream, which the Applicant must recognize in the EIS.)]

comment  
8-96

[The DEIS goes on to claim this secondary stream "would not be directly affected by the development of the project." (DEIS at 8-13.) The proposed parking facility, however, would essentially eliminate the stream's protective buffer areas, and almost certainly directly disturb it. (See DEIS fig. 8-4.) As the Town Wetland Consultant has stated, "given the proximity of the proposed improvements to the wetland boundary line, it does not appear feasible to construct the building without directly impacting/disturbing the wetland proper." (Memorandum to the Planning Board from David J. Sessions, RLA, AICP, dated Dec. 10, 2010, at 10.)]

comment  
8-97

[Additionally, the DEIS does not show the limiting distance from the second Reservoir Stem affecting the Site. DEIS Figures 8-1 and 8-2 both show two streams leaving the Site, and entering the Kensico Reservoir immediately thereafter. (See Watershed Regulations, § 18-16(a)(95) (defining a Reservoir Stem to be "any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of the reservoir").) The DEIS also indicates that wetland "A" "contains two outlets [including] the culvert beneath NYS Route 120." (DEIS at 8-9.) The DEIS must show where the 300 foot buffer from this second Reservoir Stem lies in relation to the Project. (See Watershed Regulations § 18-39(a)(1) (prohibiting the construction of impervious surfaces within 300 feet of a reservoir stem).)]

comment  
8-98

[In light of the aforementioned conditions, it is unlikely that DEP could even grant a variance in connection with the Project. Initially, the DEIS mistakenly indicates that the Project could take advantage of the limited exception for the expansion of impervious surfaces in buffer areas for existing commercial facilities set forth in Watershed Regulation § 18-39(a)(4)(iii). (See DEIS at 8-14.) This exception only applies to "existing" facilities. This Project, which would supplant the existing use on the Site, cannot take advantage of this exception. The current facility on the Site would no longer "continue to be." See Merriam-Webster Dictionary, at 171 (2005) (defining "exist" to mean "to have being" or "to continue to be"). Moreover, the Project is further excluded from this exception because it would add impervious surfaces to the buffer areas in excess of 25% of the existing condition. As such, the Applicant would be required to pursue the "traditional" DEP variance. (See Watershed Regulations § 18-61.)]

comment  
8-99

[The Project, however, cannot meet the basic criteria for a DEP variance. It cannot, for example:

“[d]emonstrate that the variance requested is the minimum necessary to afford relief;”

“[d]emonstrate that the activity as proposed includes adequate mitigation measures to avoid contamination to or degradation of the water supply which are at least as protective of the water supply as the standards for regulated activities set forth in [the Watershed Regulations]”; [or]

“[d]emonstrate that . . . compliance [with the Watershed Regulations] would create a substantial hardship due to site conditions or limitations.” ]

[See Watershed Regulations § 18-61(a)(1).] Here, the Applicant, which has not yet even formulated proposed mitigation plans for its wetland impacts, cannot show that such mitigation measures would “protect the watershed just as much as compliance with the regulation from which the applicant seeks a variance.” See Nilsson v. D.E.P., 8 N.Y.3d 398, 834 N.Y.S.2d 688, 690 (2007) (“[B]efore it grants a variance, DEP must be persuaded that the applicant’s proposed mitigation measures will protect the watershed just as much as compliance with the regulation from which the applicant seeks a variance.”).

Nor would the Applicant be able to qualify for a DEP “hardship” variance. Where it is possible for a development project to comply with the Watershed Regulation, an applicant can only obtain a DEP variance if compliance would be “prohibitively expensive.” See Nilsson, 834 N.Y.S.2d at 691. Initially, the DEIS contains an alternative, which appears to show that compliance with the Watershed Regulations is possible. Alternative “D” in the DEIS envisions a “no wetland impacts” Project, which would appear to avoid both the Town and DEP regulated buffers areas (See DEIS at 18-29 to 18-34 & fig. 18-5.) ]

[The DEIS also does not argue that Alternative D would be prohibitively expensive. To the contrary, it states “Alternative D would result in economic benefits during construction and during annual operations.” (DEIS at 18-33.)<sup>6</sup> Since the DEIS does not claim that a Project that complies with the Watershed Regulations is feasible, the Applicant cannot claim that a variance denial by DEP would cause a “substantial hardship.” ]

<sup>6</sup> The only apparent objection to this Alternative is that “[i]n the applicant’s opinion, this alternative would not adequately respond to existing parking demand at Westchester County Airport.” (DEIS at 18-29.)

**b. Project Requires Individualized  
Review From The Army Corps**

[The DEIS also inaccurately states that the Project could obtain a Nationwide Permit from the U.S. Army Corps of Engineers ("ACOE") in connection with its impacts on federally protected wetlands. (See DEIS at 1-2). In fact, the Project would be subject to individualized review by the ACOE, which would likely result in the denial of the permit request.]

comment  
8-103

[While the DEIS assumes that the Project could avail itself of Nationwide Permit 39 (for Commercial and Institutional Developments involving less than ½ acre of disturbance), this Nationwide Permit is not available. (See DEIS at 2-14.) General Condition 19 of the Nationwide Program disallows certain Nationwide Permits (including NWP 39) in Designated Critical Resources Waters "for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters." 72 Fed. Reg. 11092, 11193 (March 12, 2007). The East of Hudson Watershed (including the Kensico Reservoir Watershed) has been designated as Critical Resource Waters. (See DEP, Wetlands in the Watersheds of the New York City Water Supply System, at 19 ("It should be noted that all wetlands in the East of Hudson Watershed of the New York City Water Supply were designated as 'Critical Resources Waters' meaning that individual, project-specific permits are required for many activities.").)]

comment  
8-104

[The Project would likely fail the individualized "Public Interest Review" that ACOE would have to conduct. See 33 CFR § 320.4(a) ("The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest."). The ACOE regulations specifically state that "[w]etlands [that are] considered to perform functions important to the public interest" include:

"Wetlands the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;" and

comment  
8-105

"Wetlands which serve significant water purification functions"

<sup>7</sup> While the DEIS recognizes ACOE jurisdiction over wetlands at the Site, including Wetlands "A," (see DEIS at 8-7 ("Forested wetlands, a perennial stream, and an additional drainage feature were found to constitute regulated surface water resources at the Town and Federal level."), ACOE still needs to confirm boundaries of its regulated resources. (DEIS at 8-6.) In any event, it appears that the Project would impact approximately 0.13 acres of wetlands subject to ACOE jurisdiction. (See DEIS at 8-13.) These impacts result from the fact that a portion of the garage would be located in Wetland "A." (See DEIS fig. 8-4.)

33 C.F.R. § 320.4(b)(2). Inasmuch as the Project would adversely impact natural drainage characteristics, sedimentation patterns, and other environmental characteristics of wetlands that serve important functions for the New York City watershed, ACOE would likely be compelled to deny the permit request.<sup>8</sup>

[In connection with the ACOE Permit, DEC would also need to make an individualized Water Quality Certification determination. Under the federal Clean Water Act, States are intended to be the “prime bulwark” against water pollution. Keating v. F.E.R.C., 927 F.2d 616, 622 (D.C. Cir. 1991) (“The states remain, under the Clean Water Act, the ‘prime bulwark in the effort to abate water pollution,’ and Congress expressly empowered them to impose and enforce water quality standards that are more stringent than those required by federal law.” (citations omitted)). In enacting the Clean Water Act, Congress expressly declared its intention that States have the “primary” responsibility for preventing water pollution within their jurisdictions:

It is the policy of the Congress to recognize, preserve, and protect the *primary responsibilities and rights of States* to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter.

comment  
8-106

33 U.S.C. § 1251(b) (emphasis added). “One of the *primary mechanisms* through which the states may assert the broad authority reserved to them is the certification requirement set out in section 401 of the Act.” Keating, 927 F.2d at 622. “Through this requirement, Congress intended that the states would retain the power to block, for environmental reasons, local water projects that might otherwise win federal approval.” Id.

[As such, DEC can only provide Water Quality Certification if it can determine that the Project will not violate all relevant regulatory requirements intended to preserve water quality. See 6 N.Y.C.R.R. § 608.9. The DEIS should address the Project’s adherence to each of the listed criterion.]

comment  
8-107

**D. DEIS Fails To Take A “Hard Look” At The Impacts Of The Proposed Zoning Amendment**

[The DEIS also fails to consider the potential effects of the proposed Amendment, particularly as it may apply to other properties and the growth inducing impacts of the precedent it would establish. It is axiomatic that “[t]o comply with SEQRA, the Town Board must consider the environmental concerns that are reasonably likely to result from, or are dependent on, [proposed zoning] amendments.” Eggert v.

comment  
22-9

<sup>8</sup> The Project’s ACOE application would be subject to review under the National Environmental Policy Act (“NEPA”).

Town Bd. of Westfield, 217 A.D.2d 975, 630 N.Y.S.2d 179, 181 (4th Dept 1995); see also Fisher v. Giuliani, 280 A.D.2d 13, 720 N.Y.S.2d 50, 56 (1st Dept 2001); Brew v Hess, 124 A.D.2d 962, 508 N.Y.S.2d 712, 715 (3d Dept 1986). “[T]he decision to amend [a] zoning ordinance commit[s] the Town Board to a definite course of future conduct by permitting previously prohibited uses subject to obtaining a special use permit.” Eggert, 630 N.Y.S.2d at 181. As such, “[t]o comply with SEQRA, the Town Board [is] required to address the potential environmental effects of the amendments, at least on a conceptual basis.” Id.; see also SEQR Handbook at 182 (“A municipality should consider the most intensive uses allowable under the proposed zoning to judge potential impacts.”)

[The proposed zoning amendments represent a dramatic departure from the existing requirements of the IND-AA zone. The amendments would:

- double the maximum allowable height, from 30 feet to 60 feet;
- double the maximum allowable building coverage, from 30% to 60%;
- eliminate the Floor Area Ratio (FAR) requirement; and
- reduce the side yard set back, from 50’ to 10’.

comment  
3-30

[The Lead Agency needs to consider not only other parcels that could be subject to the Amendment, but also the impacts that might result in other Districts throughout the Town from the precedent set by the adoption of the Amendment.]

[The North Castle Environmental Quality Review law mandates specifically that EIS’s set forth “[a] description of any growth-inducing aspects of the proposed actions, where applicable and significant.” (Town Code § 99-12(H).) As DEC’s SEQR Handbook similarly states:

Keep in mind that rezoning itself may be more significant from the standpoint of SEQR than the individual permitting of projects since a zoning change triggers a change in the allowable use of land and *ostensibly individual projects consistent with that change will be considered in the future in the rezoned area.*”

comment  
22-13

SEQR Handbook at 182 (emphasis added).]

[The DEIS only contains one paragraph, which addresses the growth-inducing aspects of the zoning amendment. (See DEIS at 22-2.) It narrowly states that “[s]ince adjacent existing parcels that meet the[ proscribed] development criteria are substantially developed, no significant growth-inducing aspects are anticipated from the proposed zoning amendment.” (DEIS at 22-2.) It fails to consider at all the precedential impacts of the Amendment.

comment  
22-10

The Amendment would set the stage for potential additional Airport related development on the other properties along New King Street, as well as other areas

within the Town. Having allowed development of up to sixty feet (60'), with sixty percent (60%) coverage, and no FAR restriction for a Parking Garage in the IND-AA Zone, for example, the Town Board would be hard pressed not to allow similar development parameters for other Projects on New King Street.]

[Moreover, the DEIS does not consider the pressures the Amendment would create throughout the Town for more intense development parameters. The Amendment, for example, would establish a maximum height and a coverage allowance, which would surpass that allowable in *any* District in the Town. Clearly, other developers would desire the same development allowances on their properties. Again, if the Town ignores established development parameters for the proposed parking garage, it would be difficult for it to maintain those restrictions for other commercial development in the King Street area, or the Town as a whole.]

comment  
22-11

#### E. DEIS Advocates Illegal Spot Zoning

[In an effort to downplay the growth inducing impacts of the Amendment, the DEIS effectively concedes that the Applicant's goal is to engage in illegal "spot zoning." (See DEIS at 22-2.) As the Board knows, spot zoning is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners." Yellow Lantern Kampground v. Town of Cortlandville, 279 A.D.2d 6, 716 N.Y.S.2d 786, 788-89 (3d Dept. 2000), quoting Rodgers v. Village of Tarrytown, 302 N.Y. 115, 96 N.E.2d 731 (1951). The ultimate test is "whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community." Yellow Lantern, 716 N.Y.S.2d at 789 (citation omitted).]

comment  
3-31

The DEIS essentially admits that the Applicant's goal is to single out the Site. The DEIS asserts that the Site would be the only parcel that could benefit from the proposed zoning change. (See DEIS at 22-2.) Moreover, the proposed Zoning Amendment is inconsistent with the Town's Comprehensive Plan. As the DEIS recognizes, "North Castle opposes any expansion of the airport." (DEIS at 3-5.) The Town's Comprehensive Plan unequivocally states that "any expansion" of the Airport is *not* recommended, stating:

Due to the importance of preserving the residential character of the Town and minimizing the impact of airport disturbance on neighboring residential communities, any expansion of the airport facilities and services leading to increased flights and related noise is not recommended.

(Comprehensive Plan at IV-41.) ]

[The Lead Agency should consider the propriety of the Applicant's effort to single out its Site for special classification solely for its own benefit, and to the detriment of other owners.]

comment  
3-32

[Similarly, the Project also goes against the established planning policies of Westchester County, as well as the New York State Legislature. The Westchester County Board of Legislators, the New York Assembly and the New York State Senate each adopted Resolutions establishing formal policies against expansion of Westchester Airport. Of special relevance here, their goal in opposing expansion of the Airport is to “protect our fragile environment, including the drinking water for almost nine million people, from the noise, air and water pollution any such expansion would generate.” (Resolution 245-2003 of the Westchester County Board of Legislators, dated Oct. 7, 2003; see also Assembly Resolution No. 1654, adopted April 26, 2004; Senate Resolution No. 5435, adopted June 22, 2004.)]

comment  
22-12

**F. Town Board Lacks Authority To Grant A Special Permit For The Parking Garage Project**

[The Town Board lacks authority to approve the Project at the instant flag lot Site. Section 213-21 of the Town Code (“Schedule of Office and industrial District Regulations”) establishes that there is a 200 foot frontage requirement in the IND-AA District. The Town Board lacks the authority to grant a variance from the frontage requirements. While Section 213-21 purports to give the Planning Board authority to vary or reduce this requirement in connection with site plan review, again, under the proposed zoning, the Planning Board will not be conducting site plan review.

comment  
3-33

The Town Board has no lawful ability to grant a variance from the frontage requirements. Buckley v. Town of Wappinger, 12 A.D.3d 597, 785 N.Y.S.2d 98, 99 (2d Dept 2004) (holding that Town Board illegally “usurped the jurisdiction of the local zoning authorities” when it entered into stipulation of settlement that effectively granted a zoning variance).<sup>9</sup>]

<sup>9</sup> The DEIS does not suggest that the Applicant would seek a variance from the frontage requirement from the Town’s duly constituted Zoning Board of Appeals (“ZBA”). The ZBA is not an Involved Agency in this SEQRA review, and does not appear to be engaged in these proceedings. In any event, the Project would likely fail the statutory balancing analysis the ZBA would undertake, including, because such a variance would:

- produce adverse impacts in the character of the neighborhood [and] a detriment to nearby properties;
- the requested area variance is substantial;
- the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and;
- the alleged difficulty was self-created.

(See N.Y. Town Law § 267-b(3)(b).)

**G. Project Presents Significant,  
Unmitigated, Adverse Traffic Impacts**

[A major flaw in the DEIS, and with the proposed Project in general, is the DEIS's assertion that the Project would actually result in a reduction of vehicle trips to and from the airport. (DEIS at 13-3.) The Town Traffic Consultant does not accept this contention. The Town Traffic Consultant appropriately notes that "the proposed Garage may increase demand and result in travelers now having the option of driving to the Airport for flights." (Letter to Adam Kaufman, Town Planner, from Michael A. Galante, Frederick P. Clarke Assocs., dated Dec. 9, 2010 at 8 (copy of letter included within DEIS Appendix J).) The Town's traffic consultant thus concludes that "the proposed facility could generate 200 new vehicle trips, plus 18 shuttle bus trip ends and 195 vehicle trip ends plus 18 shuttle bus trip ends during weekday morning and afternoon peak hours, respectively." (Id.)]

comment  
13-72

[Based on the Town Consultant's projections, the Project would exacerbate existing "F" LOS levels at three critical intersections:

- Airport Road and Route 120;
- Airport Road and the I-684 northbound ramps, and
- Airport Road and the I-684 southbound ramps.

comment  
13-73

This is consistent with the Town's Comprehensive Plan, which states that the "Route 120 at Airport Access Road/I-684 Interchange 2" suffers from "[l]imited traffic capacity – high traffic volume." (Comprehensive Plan at III-76.)]

[The New York City City Environmental Quality Review (CEQR) Technical Manual (May 2010) (the "CEQR Manual") provides the established standard for determining whether an intersection would be "significantly impacted" by traffic from a project, and hence require mitigation.<sup>10</sup> As the CEQR Manual notes, LOS F describes unacceptable, failing conditions. (See CEQR Manual, at 16-28 ("LOS F typically describes ever increasing delays as queues begin to form. This is considered to be unacceptable to most drivers. This condition often occurs with oversaturation, i.e., when arrival flow rates exceed the capacity of the intersection.").)]

comment  
13-74

The CEQR Manual is intended to apply to the wide range of planning environments in New York City, ranging from the urban in Manhattan to the suburban in the outer Boroughs. As such, its guidance is clearly relevant to the traffic conditions around the Airport.]

<sup>10</sup> Notably, AKRF, the firm retained by the Applicant to prepare the DEIS, served as the primary consultant for the preparation of the CEQR Manual.

[The CEQR Manual establishes that a three (3) second delay increase at an existing LOS F intersection poses a significant impact that must be mitigated. (See CEQR Technical Manual at 16-53 (stating that at signalized intersections, “[f]or a lane group with LOS F under the No-Action condition, an increase in projected delay of 3.0 or more seconds should be considered significant. . . . For unsignalized intersections the same criteria as for signalized intersections would apply.”))

Comment

13-75

The requisite mitigation would, at a minimum, compel the Applicant to bring conditions with its Project at the three LOS F intersections to within 3 seconds of the No-Build condition. The CEQR Manual establishes that appropriate mitigation requires that “Action-with-Mitigation” condition produces in insignificant LOS degradation as compared to the “No-Action” condition. (See CEQR Manual at 16-66 (“When considering traffic mitigation, the impact is considered fully mitigated when the resulting LOS degradation under the Action-with-Mitigation condition compared to the No-Action condition is no longer deemed significant following the impact criteria as described in Section 420.”). Again, a 3 second delay at an LOS F intersection is deemed significant. Accordingly, mitigation must reduce the impact of the build condition to less than an additional 3 second delay.]

[The DEIS’s failure to rationally address, let alone mitigate, the Project’s significant adverse traffic impacts is, respectfully, a critical defect. See Chatam Towers, Inc. v. Bloomberg, 6 Misc.3d 814, 793 N.Y.S.2d 670, 679 (Sup. Ct. N.Y. Co. 2004) (overturning, for lack of the requisite “hard look,” SEQRA determination that “fail[ed] to address the potential traffic impacts on the streets most affected by” the proposed action, noting that “[t]he result, is an arguably flawed study, as the areas most impacted by the closures, appear to have never been reviewed”); Board of Cooperative Educ. Servs. v. Town of Colonie, 268 A.D.2d 838, 702 N.Y.S.2d 219, 222-23 (3d Dept. 2000) (overturning SEQRA analysis that “baldly assert[ed]” that project would have no environmental impacts without addressing concerns that increased use of access road for project would create traffic problems and associated threat to public safety).]

comment

13-76

[To the extent the Applicant would contend that it has no obligation to address its Project’s adverse impacts on the I-684 Interchange with Airport Road because this is a regional problem and/or mitigation would be costly, we are aware of no support for such a proposition. To the contrary, the essential thrust of SEQRA’s EIS requirement is that Agencies explore all means necessary to mitigate a Project’s significant adverse impacts to the maximum extent practicable. See 6 N.Y.C.R.R. § 617.11(d).]

comment

13-77

[Related to this, given that the Project would exacerbate queuing problems onto I-684, the Lead Agency should contact the State Department of Transportation to ascertain its insight on the Project’s potential impacts prior to closing the SEQRA process. The DEIS also does not consider whether the Project would cause a spillback from the facility itself onto New King Street, which could also impact traffic on Airport Road. There is no analysis of how fast the proposed automated parking facility could process cars, particularly with multiple passengers and baggage. There is, thus, no

comment

13-78

analysis of whether this automated facility could timely process incoming traffic during peak hours.

**H. DEIS Ignores the Project's Significant Adverse Impacts on Greenwich**

[The DEC has clearly indicated that municipalities have the responsibility to consider impacts of a proposal, even if they fall outside their jurisdictional boundaries:

Does a municipal board have to consider extraterritorial environmental impacts, for example: impacts occurring in an adjoining municipality?"

Yes. For example, a planning board reviewing a cellular communications tower visible from a neighboring community should consider the aesthetic impact of the tower on the neighboring community. . . . [Another] example would be a community reviewing a shopping plaza that generates traffic on an adjoining community's roadway system. In that case, the host community's review should consider the traffic on the adjoining community.

comment  
4-6

(SEQR Handbook at 177.) The DEIS, however, trivializes the visual and community character impacts the Project would have on the nearby residential community in Greenwich.]

[The DEIS irrationally downplays, for example, the Project's visual impacts on the proximate residential community, stating that "[t]here are also some nearby residential uses, but these uses are typically found interspersed among dense vegetation that would screen views of the parking facility." (DEIS at 4-2). It similarly states that the homes on King Street "are generally surrounded by dense vegetation and allow for few if any views of the project site and existing buildings." (DEIS at 4-4.) The DEIS provides no analyses to support these statements.]

comment  
4-8

[The DEIS, for example, provides no photo-simulation to show how the Project would appear from King Street in Connecticut. It also does not consider conditions during winter/leaves off condition, when the vegetation that ostensibly provides screening is not there.]

comment  
4-10

[The reality is that this nearly sixty foot (60') Project would loom over the residences on King Street in Greenwich year round. Obviously, this impact would be compounded if other projects seek to develop in the IND-AA District in line with the expanded bulk requirements under the proposed zoning amendment.]

comment  
4-12

[The DEIS also ignores the community character impacts the Project would have on the adjacent residential community in Greenwich. It incorrectly states, for

example, that “[t]he area immediately surrounding the project site is dominated by transportation, business, and commercial land uses,” completely ignoring area residents. (DEIS at 3-1.) In contrast, the DEIS is sensitive to North Castle’s desire to protect its single family residential neighborhoods, noting that “the Town desires to protect the qualities of a rural community or ‘quiet suburb’, characterized largely by low- to medium-density single-family neighborhoods.” (DEIS at 3-5.) It is unclear why the immediately proximate residential neighborhood in Greenwich does not deserve the same consideration.]

comment  
4-14

**I. DEIS Fails to Consider as an Alternative  
The Provision of Parking at the Airport**

[Finally, the DEIS completely fails to consider as an alternative to the Project the provision of additional parking for Westchester Airport at the Airport itself. This alternative would pose substantially fewer environmental impacts, and would alleviate concerns about the geographic expansion of the Airport. The search for possible alternatives to a proposed action has “been characterized as the ‘heart of the SEQRA process.’” Shawangunk Mountain Envtl. Ass’n v. Planning Bd. of Town of Gardiner, 157 A.D.2d 273, 557 N.Y.S.2d 495, 497 (3d Dept. 1990) (citation omitted); see also Dubois v. U.S. Dept. of Agric., 102 F.3d 1273, 1287 (1<sup>st</sup> Cir. 1996) (“The ‘existence of a viable but unexamined alternative renders an environmental impact statement inadequate’.”).]

comment  
18-13

[While ordinarily a private applicant should not be compelled to consider alternative locations, where, as here, the suitability of the project site goes to the heart of environmental concerns, it should. The DEC’s SEQR Handbook states that “a discussion of alternative sites for a proposed action would be reasonable” in circumstances including “[a]ny case where the suitability of the site for the type of action proposed is a critical issue, in which case a conceptual discussion of siting should be required.” (SEQR Handbook at 123 (emphasis added).) Caselaw confirms that a private applicant may be compelled to consider alternative sites for the proposal in circumstances such as here:

In certain cases involving proposed development by a private entity an in-depth analysis and discussion of alternate sites for the project may be appropriate and necessary. For example, where two or more competing private entities are striving to obtain approval from a municipality for a particular type of proposed development (such as a shopping mall) on different sites, such discussion and analyses of the different sites, in terms of environmental impact, would certainly be appropriate.

comment  
18-14

Horn v. Int’l Bus. Machines Corp., 110 A.D.2d 87, 493 N.Y.S.2d 184, 192 (2d Dept. 1985), appeal denied, 67 N.Y.2d 602, 499 N.Y.S.2d 1027 (1986). Thus, consistent with Horn, the Lead Agency should consider alternative locations on which additional parking could be provided.]

[Analysis of such alternative site will enable the Lead Agency to determine whether it should issue positive or negative Findings at the end of the SEQRA process. As the Board knows, ultimately, Findings must be issued certifying whether “from among the reasonable alternatives available,” the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.” 6 N.Y.C.R.R. § 617.11(d)(5); see also SEQR Handbook at 151 ( “An agency must not undertake, approve or fund any part of an action, if it cannot support positive findings and demonstrate, consistent with social, economic and other essential considerations from among the reasonable alternatives, that the action: minimizes or avoids adverse environmental impacts to the maximum extent practicable, and, incorporates into the decision those mitigation measures identified in the SEQR process as practicable.”).]

Comment  
18-15

[Where, as here, the suitability of this Site for an Airport related use goes to the heart of the concerns here, the Lead Agency should consider as an alternative the provision of additional parking at the Airport itself.<sup>11</sup>]

Comment  
18-16

#### J. Substantial Missing Information Must Be Subject To Public Review

[Where, as here, significant new information is required subsequent to the filing of a DEIS, a supplemental environmental impact statement (“SEIS”) is required:

The law recognizes that in situations in which significantly new information has been discovered subsequent to the filing of a draft EIS, which new information is relevant to the environmental impact of the proposed action, a supplemental EIS containing this information should be circulated to the relevant agencies so as to insure that the decision making authorities are well informed.

Comment  
2-50

Horn, 493 N.Y.S.2d at 192; see also Environmental Impact Review in New York § 3.09[4], at 3-160 (“If the lead agency learns of important new issues about significant adverse environmental effects regarding the proposed action in the course of receiving public comments [on a DEIS], the lead agency must require the preparation of a supplemental EIS in order to solicit additional public comments on the new issues.”) .

Of particular relevance here, the Lead Agency must, as a matter of law, subject the required, previously unaddressed issues to further public review:

[C]ourts have cautioned that the omission of required information from a draft EIS cannot be cured by simply including the required data in the final EIS since the

<sup>11</sup> Notably, the ACOE must also consider of alternative locations. See 33 C.F.R. § 320.4 (establishing among the criteria that will be considered “[w]here there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work.”).

abbreviated comment period for the final EIS "is not a substitute for the extended period and comprehensive procedures for public and agency scrutiny of and comment on the draft EIS."

Horn, 493 N.Y.S.2d at 192, quoting Webster Assoc. v. Town of Webster, 59 N.Y.2d 220, 228, 464 N.Y.S.2d 431 (1983). ]

### CONCLUSION

We look forward to working with the Town in its continuing review of the Project. Please do not hesitate to contact us should you have any questions or comments, or would like for us to expand on any of the areas discussed in this submission.

Respectfully,

ZARIN & STEINMETZ

By:



Michael D. Zarin

Daniel M. Richmond

MDZ/mth

encs.

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Greg M. Fleischer, Carpenter Environmental Associates, Inc.  
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Town Board of the Town of North Castle  
New York City Department of Environmental Protection  
Selectmen of the Town of Greenwich, Connecticut  
Army Corps of Engineers

## CEA Letter

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May 24, 2011

Planning Board  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504

Re: Review of Draft Environmental Impact Statement  
Park Place at Westchester Airport

CEA No. 21112

Dear Chairperson Delano and Members of the Board:

Carpenter Environmental Associates, Inc. (CEA) has reviewed the Draft Environmental Impact Statement (DEIS) for Park Place at Westchester Airport prepared by AKRF, Inc. dated March 28, 2011. CEA offers the following comments and attachment with respect to the freshwater wetlands, watercourses, and their associated buffers identified within the project area and adjacent parcels.

1. The lack of confirmed wetland and watercourse delineations by the Town, ACOE, and NYCDEP prevents a proper analysis of the environmental impacts of the development and associated increases in impervious surface on the regulated wetlands, wetland buffers and watercourses.

comment  
8-25

2. The DEIS does not adequately describe the hydrological connections between wetlands "A" and "B" and watercourses both onsite and adjacent to the property which are all tributary to the Kensico Reservoir. The impacts to wetlands and watercourses from the proposed reductions and rerouting of surface water runoff, stream flow, and groundwater flow are not clear. A more detailed analysis and discussion of hydrology and the interconnectivity of water resources within and adjacent to the site is required to fully assess project impacts.

comment  
8-26

- Wetland "A", as acknowledged in the DEIS, meets federally regulated wetland criteria per ACOE guidance documents.<sup>1</sup> Figures within the DEIS and associated narrative indicate that Wetland "A" is hydrologically connected to both the NWI mapped (PFO1A) perennial stream (regulated by NYSDEC-Class A, ACOE, NYCDEP & the Town of North Castle), the NWI mapped linear wetland/watercourse on the southern boundary of the parcel (PFO1A), as well as the NWI mapped stream (R4SBF) located directly adjacent to the project site's

comment  
8-27

<sup>1</sup> DEIS - Onsite Wetlands and Surface Waters Delineation; Pg 8-7 and associated footnote.

southwestern boundary (connected via a 36" culvert) that is tributary to the Kensico Reservoir.<sup>2,3,4,5,6,7,8,9</sup>

- [The NWI mapped (R4SBF) stream directly adjacent to the site's southwestern boundary and connected via a culvert to Wetland "A" must be considered both a "Watercourse" and "Reservoir Stem" as defined by NYC DEP regulations as it is tributary to the Kensico Reservoir.<sup>10,11</sup> This would then require a 300-foot offset from the 500-foot extent of the NYCDEP reservoir stem. Additionally, the NWI mapped (PFO1A) linear wetland associated with Wetland "A" (characterized as ephemeral by AKRF) would require a 100-foot limiting distance due to its connection with the NWI mapped (R4SBF) stream, by definition a NYCDEP watercourse<sup>12</sup>. In their December 29, 2010 letter to the Planning Board the Town wetland consultants, Kellard Sessions Consulting, P.C., noted the following with regard to the regulated watercourse along the southern boundary of the subject property:<sup>13</sup>

Comment

8-20

"Water was observed within the channel located to the south of the proposed parking garage (partially off-site) and therefore this channel will be considered a regulated watercourse. This determination is based, in part on the fact that water flow was present more than 48 hours after a rain event..."

The DEIS must be revised to reflect the appropriate limiting distances from all relevant regulated watercourses including the NWI mapped (R4SBF) watercourse and its associated headwaters or potential source waters which include the NWI mapped (PFO1A) linear wetland/ watercourse associated with Wetland "A" and identified by the Town wetland consultants as a regulated watercourse.]

- [Wetland "B", as acknowledged in the DEIS, meets federally regulated wetland criteria per ACOE guidance documents.<sup>14</sup> It is acknowledged in the DEIS that

<sup>2</sup> DEIS - *Onsite Mapped Wetlands*; pg. 8-5

<sup>3</sup> DEIS - *Streams*; pg. 8-5

<sup>4</sup> DEIS - *Onsite Wetlands and Surface Waters Delineation*; Pg 8-7; "This wetland is hydrologically connected to the stream that runs under the access road and across the northern limit of the stormwater easement at a point just to the east of the culvert which conveys its flow under NYS Route 120."

<sup>5</sup> DEIS - *Wetland Functions*; pg. 8-9; "*Stormwater Storage/Water Quality* - However, the onsite wetland "A" ....Because it contains two outlets (the culvert beneath NYS Route 120 and the surface connection to the perennial stream)..."

<sup>6</sup> DEIS - Figure 3

<sup>7</sup> DEIS - Figure 8-1

<sup>8</sup> DEIS - Figure 8-2

<sup>9</sup> DEIS - *Town of North Castle*; pg. 9-2 - Describes location of 36" culvert conveying water to Kensico Reservoir.

<sup>10</sup> IBID

<sup>11</sup> Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources; Chapter 18 - Rules of New York City; Subchapter A § 18-16(a)(95)(128) Definitions.

<sup>12</sup> IBID

<sup>13</sup> Memorandum - Wetland Boundary Verification; December 29, 2010; Kellard Sessions Consulting, P.C.

<sup>14</sup> DEIS - *Onsite Wetlands and Surface Waters Delineation*; Pg 8-7 and associated footnote.

Wetland "B" is hydrologically connected to both the NWI mapped (PFO1E) wetland to the south on Westchester County Airport property and the NWI Mapped (PFO1A) perennial stream (regulated by NYSDEC, ACOE, NYCDEP & the Town).<sup>15,16,17</sup> However, *Figure 8-2 - Mapped Streams and Water Bodies*, depicts a connection between the NWI mapped (PFO1A) watercourse associated with Wetland "B" and the NWI mapped (PFO1A) linear wetland/watercourse associated with wetland "A" (southern edge of property). Drawing No. C-2 – Existing Conditions depicts both the surveyed AKRF and Town wetland delineations as having no connection to the NWI mapped (PFO1A) linear wetland associated with Wetland "B". This is a clear discrepancy that needs further onsite investigation to determine if there is indeed a hydrological connection between Wetlands "A" and "B" via the NWI mapped (PFO1A) linear wetland/watercourse (identified as regulated by the Town wetland consultants).<sup>18</sup> The proximity of the watercourses to one another combined with the downward sloping site topography would indicate the potential for groundwater and/or surface water connectivity during the growing season.]

comment  
8-29

- [The DEIS states that Wetlands "A" and "B" were delineated and described as per ACOE methodologies and Town definitions.<sup>19</sup> Both wetlands have preliminary Town delineations until a final determination is made following re-inspection of the wetland lines during the 2011 growing season. However, a federal jurisdictional determination by the ACOE is required to confirm both wetland boundaries, identify the nature of the linear wetlands/watercourses, and to establish the hydrological interconnections with watercourses both onsite and on adjacent properties.]

comment  
8-30

3. [The DEIS overlooks NYSDEC jurisdiction for Protection of Waters with regard to water quality certification as well as Critical Resource Water criteria set forth by the ACOE.

- The DEIS states "While the New York State Department of Environmental Conservation (NYSDEC) also maintains regulatory authority over certain wetlands, the wetland resources on the project site do not meet the minimum requirements for regulation by the State." Although the onsite wetlands are not mapped by the NYSDEC, both Wetlands "A" and "B" would be regulated by the U.S. Army Corps of Engineers (ACOE). As such, filling a portion of Wetland "A" for development would require the applicant to obtain an ACOE Individual Permit (a federal Nationwide Permit (NWP) #39 for Commercial and Institutional Developments would not be authorized) and consequently NYSDEC Section 401 Water Quality Certification (WQC).

<sup>15</sup> DEIS – *Upstream Mapped wetlands – Offsite*; Pg. 8-5.

<sup>16</sup> DEIS - *Onsite Wetlands and Surface Waters Delineation*; Pg 8-8.

<sup>17</sup> DEIS – *Wetland B Functions*; Pg. 8-10.

<sup>18</sup> Memorandum – Wetland Boundary Verification; December 29, 2010; Kellard Sessions Consulting, P.C.

<sup>19</sup> DEIS – Appendix B

NYSDEC Section 401 Water Quality Certification would be required as per 6 NYCRR §608.9(a) which states:

*Water Quality Certifications* - "Water quality certifications required by Section 401 of the Federal water Pollution Control act, Title 33 United states Code 1341 (see subdivision (c) of this Section). Any applicant for a federal license or permit to conduct any activity, including but not limited to the construction or operation of facilities that may result in any discharge into navigable waters as defined in Section 502 of the Federal water Pollution Control Act (33 USC 1362), must apply for and obtain a water quality certification from the department..."

The project as proposed will require the placing of fill material into waters of the United States and as such, the NYSDEC Section 401 Water Quality Certification for the U.S. Army Corps of Engineers Nationwide Permits and the associated regional conditions are applicable.<sup>20</sup> The document states:

*List 4 – Permits denied Section 401 Water Quality Certification* – "The Nationwide Permits listed below are hereby denied Section 401 Water Quality Certification in New York State. Any party conducting the activities authorized by these NWP's must apply for and obtain a Section 401 Water Quality Certificate from the New York State Department of Environmental Conservation....NWP 39. Commercial and Institutional Developments."

As referenced above, the applicant would be unable to obtain a NWP #39 that would be necessary for filling a portion of Wetland "A", due to the required conformance with NWP General Condition #19 which puts forth additional restrictions for Critical Resource Waters.<sup>21,22</sup> All wetlands and streams onsite are tributary to a Critical Resource Water, the Kensico Reservoir (Rye Lake), which is part of the East-of-Hudson portion of the New York City water supply watershed.<sup>23</sup> NWP General Condition #19 states in both the U.S. ACOE regulations and ACOE NY District regional condition documents that discharges of dredged or fill material into Critical Resource Waters is not authorized by NWP #39.<sup>24,25</sup> The NY District ACOE regional condition document states:

*Critical Resource Waters* – "In accordance with NWP General Condition #19, certain activities in Critical Resource Waters cannot be authorized under the NWP program or will have to meet additional conditions. Discharges of dredged or fill material into waters of the United States are not authorized by NWP's 7,...39, ..for any activity within or directly affecting Critical Resource Waters, including wetlands adjacent to such waters.

1. State Waters with Environmental Significance: The New York District has designated the East-of-Hudson portion of the New York City water supply watershed as Critical

<sup>20</sup> New York State Department of Environmental Conservation; May 11, 2007 Section 401 Water Quality Certification for U.S. Army Corps of Engineers March, 2007 Nationwide Permits.

<sup>21</sup> Department of the Army, Corps of Engineers; Reissuance of Nationwide Permits; Federal Register/ Vol. 72, No.47/ Monday, March 12, 2007/Notices.

<sup>22</sup> U.S. Army Corps of Engineers; New York District Nationwide Permit Regional Conditions.

<sup>23</sup> DEIS - *Downstream Mapped Wetlands – offsite*; pg. 8-5

<sup>24</sup> Department of the Army, Corps of Engineers; Reissuance of Nationwide Permits; Federal Register/ Vol. 72, No.47/ Monday, March 12, 2007/Notices.

<sup>25</sup> U.S. Army Corps of Engineers; New York District Nationwide Permit Regional Conditions.

Comment  
8-30

Resource Waters. This area includes portions of Dutchess, Putnam, and Westchester Counties as delineated on the attached map.” ]

4. [ The DEIS and the wetland delineation report provided therein do not provide significant supporting information to adequately characterize onsite and adjacent wetlands and watercourses that are direct tributaries to the Critical Resource Waters of the Kensico Reservoir watershed. The DEIS needs to provide additional information describing in more detail the hydrological connections and flow patterns between wetlands and watercourses both on the proposed project site and adjacent properties in accordance with ACOE jurisdictional determination requirements to better assess the impacts of the proposed project <sup>26</sup>:

comment

8-32

*Checklist, 4. Delineation report, including the following supporting information:*

- Watershed size, drainage area size (for each stream reach), average annual rainfall/snowfall.
- Discussion of whether tributaries (streams) on the site are TNW's, perennial RPW's, seasonal RPW's, or non-RPW's. Include a description of general flow patterns, volume and frequency.
- Description of whether each wetland on the site either abuts or is adjacent to a tributary, identify which tributary (e.g. Wetland A directly abuts an unnamed tributary to Kayaderosseras Creek), and provide a justification for this determination.
- Description of tributary connections to a TNW for each aquatic resource on the site, including a discussion of wetland and/or other connections (e.g. Wetland B connects to Wetland A via a culvert under Elm St. Wetland B abuts an unnamed tributary to Kayaderosseras Creek, which is a TNW).
- Color photographs of all representative areas of the site (taken during the growing season), including any connections between tributaries and wetlands. ]

5. [ The DEIS underestimates the functions of the existing wetland and watercourse buffers. The DEIS states, “Currently, the stormwater runoff from impervious surfaces located within wetland and watercourse buffers discharge directly to the waterbodies without treatment.”

- The stormwater runoff must traverse, on average, over 100 feet of natural vegetation and lawn area prior to reaching Wetland “A”.<sup>27</sup> The pre-development buffer for Wetland “A” currently consists of a mix of native tree, shrub, and groundcover species with some areas of maintained lawn. The extent of the buffer currently ranges from 50-100 feet. There is virtually no impervious surface currently existing within the 100-foot buffer of Wetland “A” in the “Pre 2” drainage area.<sup>28,29</sup> Half of the existing roof area of the structure on Lot 14B (≈ 4,600 square feet) is the only impervious structure within the “Pre 1” drainage area along the buffer of the NWI mapped (PFO1A) linear wetland/watercourse, part of Wetland “A”, along the southern portion of the property.<sup>30,31</sup> This roof area

comment

9-53

<sup>26</sup> United States Army Corps of Engineers. 2007. *U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook*. Appendix B – Checklist of Information Included with Requests for Jurisdictional Determinations.

<sup>27</sup> DEIS – Sheet No. C-2 – Existing Conditions Plan

<sup>28</sup> IBID

<sup>29</sup> DEIS – Figure 9-1 – Pre-Development Stormwater Map

<sup>30</sup> DEIS – Sheet No. C-2 – Existing Conditions Plan

<sup>31</sup> DEIS – Figure 9-1 – Pre-Development Stormwater Map

is 50 feet away from the wetland at its closest point. The existing buffer serves to provide natural filtration of the stormwater flowing from the site before it enters Wetland "A", its associated watercourses, and ultimately Kensico Reservoir.

The existing buffer of tree, shrub, and herbaceous vegetation for Wetland "A" and the NWI mapped (PFO1A) linear wetland/watercourse will be almost entirely removed as part of the development. In its place will be the proposed parking garage and a stormwater management system consisting of graded, wet basins that create an additional 33,486 square feet of impervious surface within the buffer area.<sup>32</sup> In addition to eliminating the buffer, the proposed stormwater management basins and parking garage will not balance the pre-construction stormwater flow to Wetland "A" and one of its downstream tributaries.]

6. [The proposed project does not maintain the hydrological balance to Wetland "A" and the associated NWI Mapped PFO1A linear wetland/watercourse.

- The pre- and post stormwater flow to Wetland "A" will not be maintained. The wetland and its associated NWI mapped (PFO1A) linear wetland/watercourse currently functions to collect, retain, and distribute water from the site to two different perennial streams (NWI mapped PFO1A & R4SBF) that drain to the Kensico Reservoir via a 60" and 36" culverts. Eliminating the hydrology to Wetland "A" and the NWI mapped (PFO1A) linear wetland/watercourse will disrupt the natural flow of the site stormwater within the network of onsite and adjacent streams that feed the Kensico Reservoir. The hydrology for the Town regulated Wetland "A" and NWI mapped (PFO1A) wetland/watercourse in the southwestern portion of the site is almost completely eliminated in the post-development design.<sup>33</sup> Hydrological flow of stormwater from the project site to Design Point 1, and subsequently to Kensico Reservoir, will be almost completely eliminated.<sup>34</sup> ]

comment  
9-54

- [The applicant is proposing a series of basins to concentrate and filter stormwater flow to a central discharge point. The proposed stormwater management system will concentrate site stormwater to one central area for discharge at a single point (Design Point 2) along only one regulated watercourse (NWI mapped PFO1A on the northwestern corner of the property). The post-development stormwater plan does not account for the water currently flowing to Wetland "A", the linear PFO1A wetland/watercourse, nor to the adjacent perennial stream (R4SBF) that receives their naturally filtered drainage via a 36" culvert prior to discharge to the reservoir (Design Point 1).<sup>35,36</sup> ]

comment  
9-55

<sup>32</sup> DEIS – *Wetland and Watercourse Impacts*; Pg. 8-14.

<sup>33</sup> DEIS – Figure 9-1 & 9-2

<sup>34</sup> DEIS – *Design Point 1*; pg. 9-11.

<sup>35</sup> DEIS – *Design Analysis* – pgs. 9-11 & 9-12

<sup>36</sup> DEIS - *Town of North Castle*; pg. 9-2 – Describes location of 36" culvert conveying water to Kensico Reservoir.

- [Based on the information provided in Appendix H – Preliminary Stormwater Pollution Prevention Plan (SWPPP), the DEIS does not provide an adequate analysis of the impacts that the overall reduction in hydrology via runoff will have on Wetland “A”. Based on the analysis shown there is an approximately 50% reduction in both volume and flow to Wetland “A” which would irreversibly impact the functions, values and benefits provided by the wetland system.<sup>37</sup> The DEIS must provide a more detailed hydrological analysis, inclusive of a relevant site precipitation analysis, to better identify the total annual reduction of flow to Wetland “A”, the NWI mapped (PFO1A) wetland/watercourse and subsequently the NWI mapped R4SBF watercourse that contributes flow to the Kensico Reservoir.]

comment  
9-56

7. [The number of wetland and watercourse buffer reductions required due to development restrictions at the Federal, State, City, and Town levels should not be downplayed. There are currently a number of interconnected wetlands and watercourses on the proposed project site that work in concert to buffer and regulate water flowing to the Kensico Reservoir. The purpose of establishing onsite buffers within the watershed is to protect land in its natural state and allow for natural communities to filter impurities from water that makes its way to the reservoir system. The limitations placed on development in such a critical area by the NYCDEP, ACOE, and the Town of North Castle are designed to maintain and preserve the value and integrity of the wetlands and associated buffers that serve both as protection and filtration for the New York City water supply. The DEIS must accurately reflect all applicable development restrictions, rationally assess the projects impacts, and provide real, substantiated measures to avoid or mitigate these impacts.]

comment  
8-33

Sincerely,

Carpenter Environmental  
Associates, Inc.

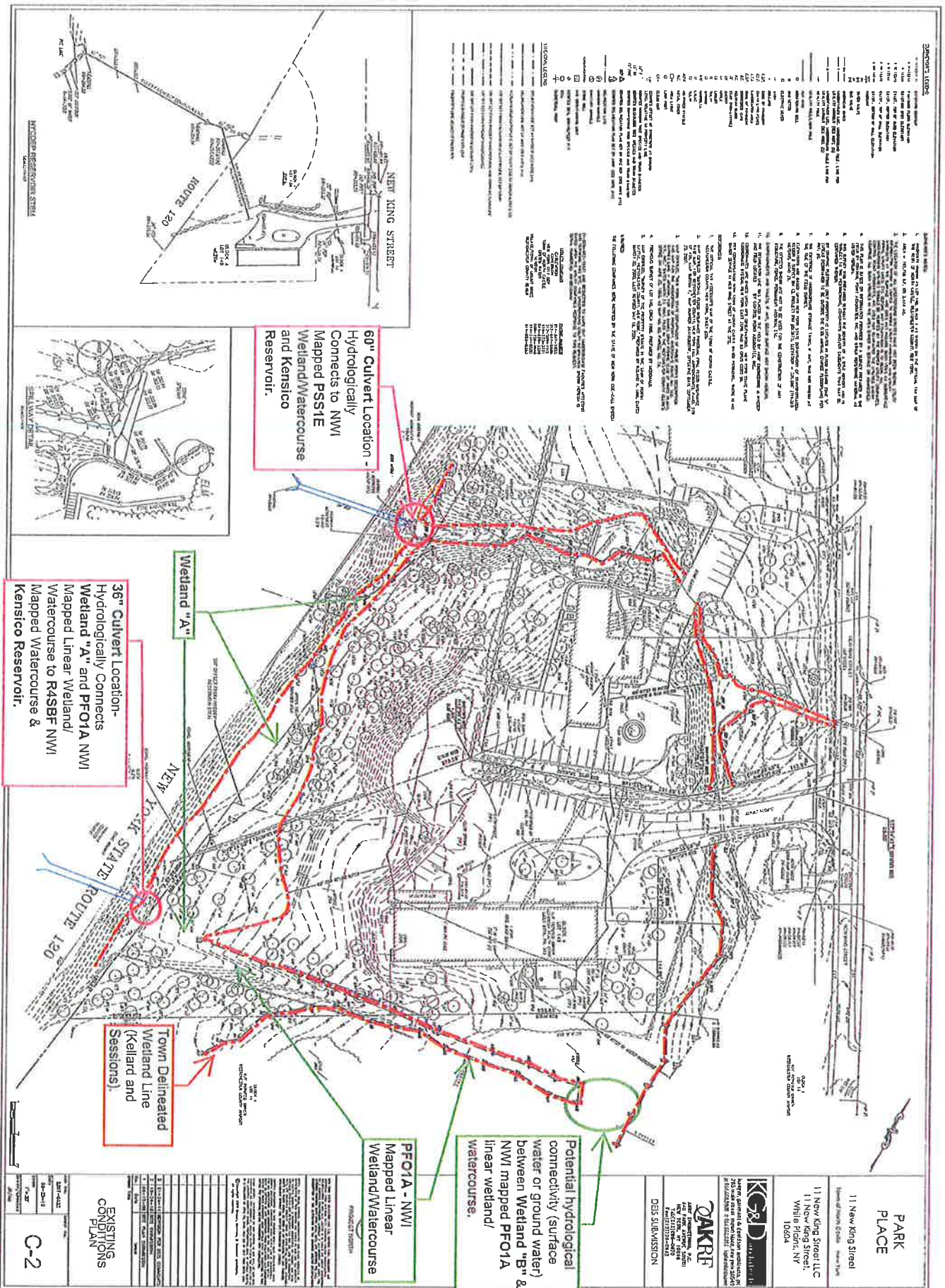


Greg M. Fleischer, PWS  
Senior Scientist

<sup>37</sup> DEIS - Appendix H – Preliminary Stormwater Pollution Prevention Plan; Table 6-3, pg. 17; Tables 6-4 & 6-5, pg. 22.

ATTACHMENT 1

# ATTACHMENT 1



## Adler Letter

Adler Consulting,

235 Main Street  
White Plains, NY 10601-2401

Transportation Planning & Traffic Engineering, PLLC

Tel # (914) 997-8510  
Fax # (914) 997-7140

May 31, 2011

John Delano, Chairman  
Members of the Planning Board  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504

Subject: Review of Park Place at Westchester Airport  
New King Street  
North Castle, New York

Dear Chairman Delano and Members of the Board:

Adler Consulting has been retained by Westchester Airport Associates L.P., to review the Traffic and Transportation Section of the Draft Environmental Impact Statement (DEIS), for the proposed Park Place at Westchester Airport. The proposal would consist of construction and operation of a parking facility with approximately 1,450 spaces and would include access from New King Street in the Town of North Castle. In addition, Adler Consulting reviewed the supplemental traffic study prepared by the Town of North Castle's Traffic Consultant, as well as the Site Plan submitted by the Applicant.

#### A. NEED

[ The need for a 1,450 space garage has not been proven. The Applicant has not provided any data documenting the need for a new parking facility. It is incumbent on the Applicant that a study should be prepared by a parking professional, since the lack of a study calls into serious question the need for constructing such a massive facility. Various numbers of parking deficiency have been claimed in the DEIS, but short of a valid quantitative assessment, the need for 1,450 spaces is, at best, questionable.

comment  
13-49

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Further, the recent opening and operation of the 500-space parking lot on the nearby SUNY Purchase College campus also suggests that a 1,450 space facility is not needed. ]

## B. TRAFFIC ISSUES

[ The Traffic Study contained in the DEIS simplistically suggests that the operation of the proposed facility would result in the elimination of a number of vehicle trips to and from the Airport on the roadway network. The study proposes that a good majority of taxis, limo and private cars will become parkers on the site resulting in very significant reductions of traffic on some intersection approaches. While some individuals may be utilizing taxis or car services to avoid parking at the Airport, there is no evidence that this is the sole reason that airport passengers are using taxis. Accordingly, the DEIS projections are very likely inflated. On the other hand, the supplemental traffic study prepared by the Town's Traffic Consultant performs analysis with the addition of approximately 200 vehicle trips in the AM and PM peak hours to the roadway network due to the proposed facility. The supplemental study appears to be more reasonable and appropriate. ]

comment  
13-50

[ Standard engineering practice dictates that the traffic impacts including increased delays or greater volume-to-capacity (v/c) ratios due to a development, shall be mitigated, even if the operating conditions remain at Level-of-Service "F" when comparing the No-Build and the Build scenarios. As an example, the 2010 New York City Environmental Quality Review (CEQR) Manual states that where a lane group is expected to operate at Level-of-Service "F" in the No-Build condition, an increase in the projected delay of three (3.0) seconds for the Build condition should be considered significant and, therefore, require mitigation.

comment

The capacity analysis performed by the Town's Traffic Consultant indicates that existing Level-of-Service "F" conditions, that is failure conditions, would be significantly exacerbated at the following intersections: NY Route 120 with Airport Road; the I-684 northbound ramps with Airport Road; and, the I-684 southbound ramps with Airport Road, during the AM and PM Peak Hours. ]

13-51

[ For the intersection of NYS Route 120 with Airport Road, the capacity analysis indicated that Level-of-Service "F" conditions will be expected on the southbound through movement during the morning peak hour in the Build condition. According

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May 31, 2011  
Page 3

to the Town's Consultant, vehicle delay is expected to increase by approximately 25 seconds above the No-Build conditions to 92.8 seconds. In addition, the eastbound left/through/right movement is expected to experience a significant increase in the number of vehicles queued on the roadway with a calculated queue of approximately 1,045 feet in the morning peak hour, an increase in vehicle queue of approximately 380 feet. In the PM Peak Hour, the capacity analysis performed by the Town's Consultant indicates that a vehicle queue of approximately 589 feet is anticipated, an increase in queue length of 138 feet from the No-Build condition. **It is important to note that the approximate storage length to accommodate these anticipated vehicle queues is only 100 feet. The vehicle queues would be expected to "spill-back" and negatively impact the intersections of Airport Road with the entrance and exit ramps for I-684.**

comment  
13-52

[For the intersection of Airport Road with the northbound ramps of I-684, the capacity analysis indicated that the northbound approach is expected to experience Level-of-Service "F" conditions during the AM Peak Hour in the No-Build and Build conditions. For the AM Peak Hour in the Build condition, the vehicle delay is expected to be 169.5 seconds, an increase of approximately 56.8 seconds from the anticipated No-Build conditions. The vehicle queue on the approach is expected to be approximately 598 feet, which is an increase of approximately 137 feet over the vehicle queue anticipated for the No-Build condition.]

comment  
13-53

[Level-of Service "F" conditions are expected on the southbound exit ramp from I-684 at the intersection with Airport Road during the AM and PM peak Hours for both the No-Build and Build conditions. The level of congestion is so intense that the capacity modeling used can not calculate the expected vehicle delays nor can the expected vehicle queues be calculated.]

comment  
13-54

[Another measure used by traffic engineers to measure the impact of traffic on a roadway is the v/c ratio, which compares the rate of vehicle flow in an hour with the capacity of the approach to accommodate the vehicle flow. A v/c ratio approaching 1.00 is considered to be a serious condition and generally warrants close surveillance. A v/c ratio greater than 1.00 indicates that more vehicles are trying to get through an intersection than can actually be accommodated and that mitigation is needed. The analysis by the Town's Consultant also indicates that the Project would severely exacerbate the v/c ratios at the I-684 interchange. For the No-Build condition, the anticipated v/c ratio for the southbound I-684 ramp at Airport Road is 3.79. For the PM Peak Hour, the v/c ratio is calculated to be 5.64. The capacity analysis for the

comment  
13-55

John Delano, Chairman  
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Page 4

Build conditions indicates that the additional garage traffic greatly exacerbates these congested conditions. In the Build condition, a v/c ratio of 4.65 is expected in the AM Peak Hour, an increase of 0.86. In the PM Peak Hour, the v/c ratio is expected to reach approximately 7.49, a 33 percent increase without any proposed mitigation.]

Comment  
13-55

[These poor operating conditions on both exit ramps of I-684 at Exit 2 seem to be ignored by both the Applicant and the Town's Consultant. The anticipated volume on the I-684 southbound ramp is seven and one-half times the number of vehicles that can actually be processed and accommodated in one hour.

comment  
13-56

The Applicant should be required to identify potential measures that can be implemented at the affected local intersections and on the highway ramps that provide direct access to and from the Airport property to mitigate the anticipated impacts of the proposed garage.]

[With regard to safety implications, no statistical accident analysis has been performed. There is merely a summary of the accidents that had occurred over a three-year period. It is recommended that a complete, statistical accident analysis be performed by the Applicant to determine the potential safety impacts of increased traffic volumes on the airport roads. The accident analysis will identify the accident rates at intersections and roadway segments. Further, these rates should then be compared with state-wide average rates for similar roadway operating conditions. Moreover, mitigation measures should be implemented where there is a causal relationship between the roadway and/or traffic control devices and the accident history.]

comment  
13-57

## C. SITE PLAN ISSUES

### [1. Processing Time.

The DEIS anticipates that there will be approximately 99 cars entering the facility in the AM Peak Hour and approximately 86 cars in the PM Peak Hour. The Applicant should provide documentation concerning the processing rate for arriving vehicles to ensure that the arriving vehicle queues do not extend beyond the entrance area and interfere with the circulating shuttle buses and vehicles leaving the garage facility or create spill back problems on New King Street, which could affect Airport Road.]

comment  
13-58

2. Poor Driveway Design.

It is a common traffic engineering practice on one-way streets to design the circulation pattern to allow a more safe driving environment without conflicts. A more appropriate design should have reversed the directional flows of the access driveway to permit left-turns into the site without "crossing" in front of exiting traffic.

comment

13-59

3. Unsafe Merging.

The Site Plan indicates that shuttle bus traffic is expected to merge from two lanes of traffic into one lane of traffic (left side) simultaneous with the merge of the departing automobile traffic (right side). This is a potentially dangerous conflict and should be revised with proper spacing between the two merge points to avoid this condition.

comment

13-60

4. Access to Pocket Wetlands

The proposed 10-foot wide 'grass paver area' proposed to access the pocket wetland areas is very narrow for vehicle access. In addition, there does not appear to be an area designated to permit a vehicle to turn around leaving the wetland area and proceeding towards the garage facility. Finally, vehicles returning to the garage facility from the wetland area would be traveling in the wrong direction and facing incoming passenger car traffic. It is anticipated that vehicle maneuvers at this location would be extremely difficult if not impossible. Moreover, the area where the 'grass paver area' intersects with arriving traffic at the garage facility appears unsafe.

comment

13-61

D. SUMMARY

There are fatal flaws with the DEIS, as follows:

- The quantified need for the proposed garage has not been justified;
- The analyses simplistically assume that traffic volumes will be reduced. This assumption is not valid; the increase in traffic volumes assumed by the Town's Traffic Consultant appears to be more reasonable and appropriate;
- The serious congestion currently experienced on the roadway system in the area would be significantly exacerbated with the operation of the garage and is neither addressed nor mitigated; and,

comment

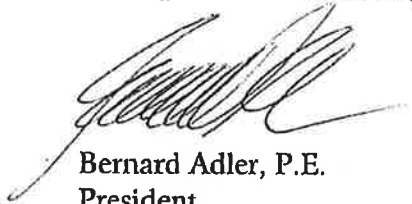
13-62

John Delano, Chairman  
May 31, 2011  
Page 6

- There are several areas on the Site Plan that are deficient, including a potentially dangerous simultaneous merge from both sides of the exit roadway. }

We trust that this information will assist you with your continued review of this project. Should you have any questions, please do not hesitate to contact us.

Sincerely,  
Adler Consulting,  
Transportation Planning & Traffic Engineering, PLLC



Bernard Adler, P.E.  
President  
NY Professional Engineer No. 48373



Michael P. O'Rourke, P.E., PTOE  
Senior Associate  
NY Professional Engineer No. 61375



Via Email & U.S. Mail

June 1, 2011

Chairman John Delano and Members of  
The Town of North Castle Planning Board  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504

**Re: Park Place at Westchester Airport DEIS**

Dear Chairman Delano and Members of the Planning Board:

Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the unfiltered drinking water supply of nine million New York City and Hudson Valley residents. As a signatory to the 1997 Watershed Memorandum of Agreement, Riverkeeper has a demonstrated interest in proposed development projects that may impact water quality in the New York City watershed. As you know, we have a specific interest in the Park Place at Westchester Airport development proposal and welcome the opportunity to provide comments on the Draft Environmental Impact Statement (DEIS).

[ Riverkeeper believes this project, as proposed, poses the risk of undue impact to the New York City watershed. The nature of the site, scale of the development and the proximity of the proposed Park Place project to Rye Lake, an arm of the Kensico Reservoir, raises a number of significant issues for Riverkeeper, in particular the potential for impacts to water quality as a result of contaminated stormwater runoff. The project entails a large amount of excavation, cut and fill and disturbance of onsite wetlands, stream courses and buffers in order to accommodate the scale of the parking facility on an unsuitable site. Runoff from all these sources has the potential to threaten the utility and viability of adjacent wetland areas and watercourses, and ultimately the Kensico Reservoir, the terminal reservoir for the Catskill Watershed which typically provides 40% of the unfiltered drinking water supply to nine million New York City and upstate consumers. ]

comment

8-114

[ In addition to the effects of the project on topography, drainage, vegetation and critical wetland and stream buffers, the consideration of alternatives in the DEIS is limited by insufficient information and a failure to seriously consider reduced scale or off-site alternatives. Riverkeeper respectfully requests the Planning Board to direct the applicant to prepare a Supplement to the DEIS to address the DEIS deficiencies outlined below. In the alternative, we urge the Planning Board to reject the application in its current form. ]

comment

18-24

## I. Project Description

The proposed action requires construction of a 1,450-space parking garage and the addition of 0.78 acre of new impervious surface on a two tax parcels totaling 3.34 acres in the Town of North Castle.<sup>1</sup> The proposed garage would be a 267,000-square-foot, five-level parking structure with a 51,000-square-foot footprint.<sup>2</sup> A total of 2.8 acres of land or about 84% of the entire project site would be disturbed during the construction of the proposed facility.<sup>3</sup> The project site lies within 600-700 feet of the Kensico Reservoir and contains a forested wetland, a stream and "drainage way,"<sup>4</sup> which are regulated by the Town, the New York City Department of Environmental Protection (NYCDEP), and potentially, the US Army Corps of Engineers. Due to the proximity of the project site to the Kensico Reservoir, site characteristics such as steep slopes and high groundwater table in areas proposed to be excavated, and the proposed disturbance of onsite wetlands, wetland buffers and stream buffers, Riverkeeper has grave concerns with the project as proposed and urges consideration of another preferred alternative, for the reasons outlined below.

## II. Geology, Soils, Topography and Slopes

[The DEIS reports that 93.7% of the project site has slopes from 0-25%.<sup>5</sup> However, the applicant does not discuss how much of the site has 0% slopes versus how much of the site has slopes closer to 25%. The configuration and density of the topographic contour lines in Figure 7-1, *Existing Slopes and Topography*, indicate that except for the area of the proposed footprint of the parking structure, the majority of the project site has slopes closer to 25% than 0%. Although the project proposes disturbance of 112,865 square feet of slopes 0-25%, the DEIS should include additional information regarding the amount of disturbance proposed on slopes from 15-25%.]

comment  
7-5

[Compounding the potential impacts of extensive slope disturbance is the proposed excavation of 25,075 cubic yards of poorly and excessively drained soils.<sup>6</sup> The three identified project site soil types are Woodbridge loam (limited for dwellings with basements due to wetness); Udorthents (moderately to excessively well drained); and Ridgebury loam (poorly drained, high water table).<sup>7</sup> According to the project site plan, construction of the access roads and stormwater management areas will require considerable flattening of the project site, as supported by the DEIS proposal to retain only 400 cubic yards of excavated soil to be used for fill and to export 24,675 cubic yards off-site.<sup>8</sup>]

comment  
7-6

[The proposed action further requires disturbance of 4,566 square feet of slopes 25-35% and 3,415 square feet of slopes greater than 35%.<sup>9</sup> The proposed extent of soil and steep slope

<sup>1</sup> DEIS, at 9-10, 2-1.

<sup>2</sup> See *id.*, at 1-1.

<sup>3</sup> See *id.*, at 2-9.

<sup>4</sup> See *id.*, at 1-3.

<sup>5</sup> See *id.*, at 7-1.

<sup>6</sup> See *id.*, at 7-8.

<sup>7</sup> See *id.*, at 7-5.

<sup>8</sup> See *id.*, at 7-8.

<sup>9</sup> See *id.*, at 7-7.

disturbance on a small site poses adverse impacts to water quality not only during the construction phase, but also under post-development conditions after existing soil profiles and drainage patterns have been artificially reconfigured. The Town of North Castle should require the applicant to scale back the proposed action to conform with the intent of the Town's amendment to Chapter 13, *Zoning, of the Code of the Town of North Castle*, which sets forth the Town's findings that such regulations:

comment  
7-7

... prevent, to the maximum degree reasonably feasible, future development upon steep slopes, hilltops and ridgelines in all zoning districts, thereby: (1) minimizing erosion and sedimentation, including the loss of topsoil; (2) preventing habitat disturbance; (3) protecting against possible slope failure and landslides; (4) minimizing stormwater runoff and flooding; (5) providing safe and stable building sites; (6) protecting the quantity and quality of the Town's surface and groundwater resources; (7) protecting important scenic vistas, rock outcroppings and mature vegetation; (8) preserving the Town's attractive semi-rural character and property values; and (9) otherwise protecting the public health, safety and general welfare of the Town of North Castle and its residents.<sup>10</sup>

While the Town "may permit such disturbance, provided that the nature and extent of the disturbance is limited to the minimum amount practicable, consistent with the legislative intent of this section,"<sup>11</sup> the amendment prohibits disturbance of slopes greater than 25% in any zoning district unless a disturbance permit is obtained from the Building Department. The DEIS does not include a disturbance permit among the list of required Town permits in Table 1-1. The Town therefore should require the applicant to apply for a steep slope disturbance permit.

comment  
7-8

#### *Construction Impacts*

The above impacts to soils, slopes and topography pose significant challenges to the proposed construction activities on the project site. Excavation of a large volume of poorly drained soils likely will result in groundwater expressions wherever those soils types occur. Cutting over 25,000 cubic yards on a 3.34-acre site with steep slopes will require intense construction activity in a confined work area with little if any remaining area for staging, equipment storage, stockpiling and disposal. The intensity of construction activity in the limited space available increases the potential for erosion and sediment transport to the Kensico Reservoir. Compressing the construction sequencing into a single phase as proposed in the DEIS,<sup>12</sup> heightens the risk that surface water quality in the Kensico Basin will be adversely impacted as a result of construction activities on this confined site.

comment  
7-9

### **III. Water Resources**

#### *Surface Water and Groundwater Impacts*

The DEIS notes that "the project site contains forested wetland habitat, a stream and a 'drainage way.'" The stream traversing the site is a NYSDEC Class A stream<sup>13</sup> and, due to its

<sup>10</sup> Town of North Castle, Local Law No. 27 Section 2.A (2006)

<sup>11</sup> See *id.*, Section 2B.

<sup>12</sup> DEIS, at 2-13.

<sup>13</sup> DEIS, at 8-6.

proximity to the Kensico Reservoir, a DEP-regulated reservoir stem. This stream therefore requires a 300-foot buffer "from the point 500 feet upstream from where the stream enters the reservoir."<sup>14</sup> The DEIS claims that the secondary drainage feature is "likely not" a regulated watercourse based on the text, in part, of Chapter 209 of the Town Code: "A drainage ditch, swale, or surface feature that contains water only during and/or immediately after (usually up to 48 hours) a rainstorm or snowmelt shall not be considered a watercourse."<sup>15</sup> The DEIS further states that "since the Town regulated surface water features have not been confirmed by the Town's representative, for the purposes of this DEIS, the drainage way and a 100 foot buffer are conservatively considered regulated under Chapter 209."<sup>16</sup>

comment

8-115

This latter claim is refuted by a memorandum from the Town's wetland consultants, Kellard Sessions, dated December 29, 2010, stating: "Water was observed within the channel located to the south of the proposed parking garage (partially off-site) and therefore this channel will be considered a regulated watercourse. This determination is based, in part, on the fact that water flow was present more than 48 hours after a rain event." The Town consultant's finding indicates that the "drainage way" is in fact not only regulated but also a second reservoir stem that requires an additional 300-foot buffer from the point 500 feet upstream from where the stream enters the Rye Lake portion of the Kensico Reservoir.

comment

8-109

Regarding impacts to groundwater resources, the DEIS proposes drilling a new potable water well and that a "water budget analysis would be completed during the pumping test investigation, and the pumping test data would be used to determine that the estimated direct recharge to the bedrock aquifer during drought conditions would support the proposed potable water demands."<sup>17</sup> It is unclear why the applicant failed to complete this analysis for public review prior to issuance of the DEIS. This critical information, absent in the current DEIS, should be addressed in a supplemental DEIS.

comment

8-109

#### *Wetland Impacts*

The DEIS reports that two town-regulated wetlands cover 20% of the project site<sup>18</sup> and proposes permanent disturbance of 0.13 acres of the existing 0.66 acres of onsite wetlands.<sup>19</sup> However, the delineation of the onsite wetlands is in dispute and the Town has not made a final determination of the town-regulated wetland boundary.<sup>20</sup> This critical information, absent in the current DEIS, should be addressed in a supplemental DEIS.

comment

8-110

The applicant claims that functions of Wetland A include seasonal groundwater recharge and limited stormwater storage and wildlife habitat; functions of Wetland B include groundwater discharge, low stormwater storage and wildlife habitat.<sup>21</sup> These wetlands also benefit water quality by "by removing sediment, nutrients, and other pollutants from runoff prior to discharge

comment

8-116

<sup>14</sup> See *id.*, at 8-7.

<sup>15</sup> See *id.*, at 8-6.

<sup>16</sup> See *id.*

<sup>17</sup> See *id.*, at 8-2.

<sup>18</sup> See *id.*, at 8-7.

<sup>19</sup> See *id.*, at 1-4, 8-5, 8-13.

<sup>20</sup> See *id.*, at 8-7.

<sup>21</sup> See *id.*, at 8-9, 8-10.

to surface waters.”<sup>22</sup> To mitigate for the disturbance of 0.66 acres of onsite wetlands, the DEIS proposes construction of three “onsite wetland creation areas” at a ratio of 2.2:1.<sup>23</sup> “The three stormwater management cells would be planted with facultative wetland vegetation,” and the DEIS claims that these cells will improve groundwater recharge, stormwater storage, and wetland wildlife habitat.<sup>24</sup>

[These wetland creation areas would be more accurately characterized as stormwater detention basins or bioretention practices because their primary function is to capture, retain, infiltrate and, to a nominal extent, treat stormwater runoff from the project site. These “stormwater cells would comprise the stormwater management system [and] would retain water and allow infiltration for a longer period than the swift runoff that occurs under current conditions.”<sup>25</sup> However, these structural practices would not replicate all of the functions of a forested wetland, as evidenced by the applicant’s proposed planting of the stormwater management practices with facultative species rather than a mixture of facultative and obligate wetland vegetation. If these stormwater cells could truly function as wetlands, there would be no reason to exclude obligate species that rely on sustained wetland hydrology—an unlikely condition in a system that relies primarily on stormwater runoff to drive its hydrology.

comment  
8-111

In addition, the applicant acknowledges that “the Town does not typically accept required stormwater management areas to serve toward wetland mitigation.”<sup>26</sup> In fact, neither does NYCDEP nor NYSDEC. The proposed action will require a SPDES General Permit GP-0-10-001. 1-2. Part III.A(2) requires the Stormwater Pollution Prevention Plan (SWPPP) to “describe the erosion and sediment control practices and where required, *post-construction stormwater management practices* that will be used and/or constructed to reduce the pollutants in stormwater discharges and to assure compliance with the terms and conditions of this permit” (emphasis added). Because NYSDEC does not approve SWPPPs that propose to use stormwater management practices to serve as compensatory mitigation for wetland losses, the applicant’s proposal to do so appears to be proscribed by three separate regulatory entities.]

In the alternative, the DEIS proposes that “an area of off-site wetland creation/enhancement in compliance with Chapter 209 of the Town Code would be considered. If necessary, the applicant is fully committed to working with the Town to identify and develop an offsite wetland mitigation plan within an area of wetland or upland located in the same watershed or in a nearby portion of the Town that would benefit from wetland creation or enhancement.”<sup>27</sup> However, [the DEIS identifies no off-site wetland mitigation areas and no final wetland mitigation plan has been developed and presented in the DEIS for public review and comment. This critical information, absent in the current DEIS, should be addressed in a supplemental DEIS.]

comment  
8-112

<sup>22</sup> See *id.*, at 6-6.

<sup>23</sup> See *id.*, at 8-17.

<sup>24</sup> See *id.*, at 8-18.

<sup>25</sup> See *id.*, at 8-15.

<sup>26</sup> See *id.*, at 1-6.

<sup>27</sup> See *id.*

### *Buffer Impacts*

The DEIS proposes disturbance of a town-regulated wetland buffer and a NYCDEP-regulated stream buffer.<sup>28</sup> The applicant will seek a variance from the Watershed Rules and Regulations for disturbance of 0.40 acres of the NYCDEP-regulated buffer to widen the access road.<sup>29</sup> This disturbance will include 1,737 square feet (0.04 acre) of new impervious surface, 2,255 square feet (0.05 acre) of full depth asphalt replacement of existing asphalt surface, and 3,115 square feet (0.07 acre) of mill and repave existing asphalt surface.<sup>30</sup> In reference to the discussion above, the applicant will also require a variance from NYCDEP for disturbance of the second onsite regulated watercourse, which the DEIS erroneously characterizes as a “drainage way.”

Under existing conditions, 35,269 square feet of the town-regulated wetland buffer is developed with impervious surface and lawn.<sup>31</sup> Some of the proposed 79,680 square feet of buffer disturbance will be temporary; permanent buffer disturbance includes 33,500 square feet of impervious surfaces and 5,800 square feet of pervious pavers.<sup>32</sup> Vegetated wetland buffers provide transitional areas that intercept stormwater from upland habitat before it reaches wetlands or other aquatic habitat. Buffers function to maintain or improve water quality by trapping and removing various nonpoint source pollutants. 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. The disturbance of wetland buffers impairs their functions and therefore should be avoided.

Comment

The DEIS claims that “[f]orested portions of the 100-foot buffer do provide opportunities for wildlife foraging and nesting and some capacity to trap sediment and lessen the detrimental effects of stormwater runoff to the site’s wetlands,” but that “due to past disturbance and the presence of non-native plant species, the ability of the buffer to provide these functions is limited.”<sup>33</sup> Regardless of how limited the functions of Wetland A’s buffer are, they are not as limited as the water quality functions of the impervious parking structure proposed to displace the existing buffer. To the contrary, the parking structure in the buffer of Wetland A will eliminate infiltration beneath its footprint and will increase stormwater runoff volume and velocity. The extent of proposed stream and wetland buffer disturbance under the preferred alternative is extremely ill-advised on a site that lies 600 feet from the terminal drinking water reservoir for nine million New Yorkers and should be scaled back to protect the existing buffer areas from the encroachment of impervious surfaces and other impacts during construction and under post-development conditions. This would be accomplished by selecting Alternative C (reduced wetland impacts) or D (no wetland impacts) as the preferred alternative. J

8-113

<sup>28</sup> See *id.*, at 8-12.

<sup>29</sup> See *id.*, at 8-14, 9-18.

<sup>30</sup> See *id.*, at 9-19.

<sup>31</sup> See *id.*, at 8-11.

<sup>32</sup> See *id.*, at 1-6.

<sup>33</sup> See *id.*, at 8-11.

#### IV. Stormwater Impacts

[“The project, as proposed, includes the implementation of a stormwater treatment train that integrates green practices, such as stormwater planters and rain gardens, a surface sand filter and wet pond, to manage both existing and proposed stormwater runoff from the project site and the adjoining parcel to the north.”<sup>34</sup> Treatment trains generally constitute stormwater Best Management Practices (BMPs); however, the applicant proposes siting these BMPs in regulated wetland and stream buffers and further proposes these BMPs to serve as compensatory wetland mitigation.

comment  
9-57

The applicant acknowledges that “a SWPPP should address potential pollutants in the design of structural and non-structural post-construction stormwater treatment practices.”<sup>35</sup> As discussed above, however, the involved regulatory agencies will not permit post-construction stormwater practices to serve as mitigation for wetland disturbances and the DEIS presents no off-site wetland mitigation plan in the alternative. This critical information, absent in the current DEIS, should be addressed in a supplemental DEIS.]

[The DEIS claims that the “existing runoff is currently uncontrolled and untreated from the project site...” and on the same page that “post-development stormwater flows have been attenuated to the pre-development flow conditions, which would help to decrease potential erosion and improve water quality.”<sup>36</sup> How does attenuating stormwater flows to “uncontrolled and untreated” improve water quality? The New York State Stormwater Management Design Manual requires the applicant to achieve a runoff reduction volume “of 100 percent of the post-development water quality volumes to replicate pre-development hydrology.”<sup>37</sup> However, the applicant will achieve a reduction only to the *existing* volume of the previously disturbed site, not to the volume under pre-development conditions *prior* to the existing disturbance, i.e., clearing, grading, and addition of impervious surfaces. The applicant is proposing new development and redevelopment on the same site, but proposes reducing stormwater runoff volume only to the level generated by the existing disturbance. The Town should require the applicant either to (1) reduce the stormwater volume discharging to the Kensico Reservoir system to the volume prior to the existing disturbance, or (2) restrict development to the previously developed areas of the project site.]

comment  
9-58

[The applicant proposes to achieve the required stormwater runoff reduction through use of rain gardens, stormwater planters, and porous pavement.<sup>38</sup> The DEIS proposes several Better Site Design (BSD) practices as Stormwater Mitigation Measures in Section G of Chapter 9,<sup>39</sup> but their application appears to be inconsistent with certain specifics of the proposed action:

<sup>34</sup> See *id.*, at 9-7.

<sup>35</sup> See *id.*, at 9-8.

<sup>36</sup> See *id.*, at 1-6.

<sup>37</sup> See *id.*, at 9-10.

<sup>38</sup> See *id.*

<sup>39</sup> See *id.*, at 9-9, 9-10.

- Preservation of undisturbed areas  
*Approximately 44% of the habitat area will be disturbed during construction (1-4) and nearly one-third of the undisturbed area of the site (0.78 acres) will be new impervious surface (9-10).*
- Preservation of buffers  
*The DEIS proposes permanent buffer disturbance of 33,500 square ft of impervious surfaces and 5,800 square ft of pervious pavers (1-6)*
- Reduction of clearing and grading  
*Clearing and grading is increased in stream and wetland buffers*
- Locating sites in less sensitive areas  
*There are probably no sites in the New York City Watershed that are more sensitive than one located 600 feet from the Kensico Reservoir system.*
- Soil restoration  
*The DEIS proposes restoration or modification of on-site soils prior to final stabilization, but does not discuss how the soils will be modified.<sup>40</sup> The project calls for excavation of 25,075 cubic yards of onsite soils, using 400 cubic yards for fill and exporting 24,675 cubic yards off-site.<sup>41</sup> How will the underlying soil types be modified or restored after such a large cut with minimal fill?*
- Roadway reduction  
*The proposed action increases roadway—changing an earlier proposed design from a two-lane exit to one lane still adds one lane of roadway to the existing site.*

Comment  
9-59

The DEIS further proposes the “use of fertilizers, pesticides, herbicides, fungicides and/or other chemicals”<sup>42</sup> but elsewhere claims that no herbicide or fungicide use is anticipated.<sup>43</sup> The applicant should resolve this discrepancy. Although the DEIS acknowledges that “short-term and long-term impacts of runoff carrying fertilizers, pesticides, and other chemicals from lawns, roadways and other impervious surfaces and sedimentation is [sic] that it can be toxic to plants and animals,”<sup>44</sup> the DEIS nevertheless proposes their application on the project site. On any site in such close proximity to the Kensico Reservoir, the Town should require the applicant to employ alternative pest management practices such as species-specific bacteria, predator stocking and pheromone lures in lieu of chemical pesticides.

comment  
9-60

While pesticides are toxic to flora and fauna, fertilizers contain phosphorus, which promotes eutrophication in freshwater ecosystems. The applicant should note that as of January 1, 2011, Section I, Article XXVI of Chapter 863 of the Laws of Westchester County restricts the use of phosphorus fertilizers within the County unless soil tests confirm the need for additional phosphorus application. Because the proposed stormwater management areas provide no treatment of phosphorus in stormwater other than nominal nutrient uptake by facultative wetland vegetation, the applicant should avoid altogether the use of phosphorus fertilizers to avoid phosphorus loading of the Kensico Reservoir during stormwater discharges.

comment  
9-61

<sup>40</sup> See *id.*, at 9-10.

<sup>41</sup> See *id.*, at 7-8.

<sup>42</sup> See *id.*, at 8-3.

<sup>43</sup> See *id.*, at 9-18.

<sup>44</sup> See *id.*, at 9-6.

The DEIS also notes that most East-of Hudson "reservoirs have displayed steady increases in conductivity since the early 1990s, most likely associated with development pressure in the watershed (e.g., increased use of road salt)."<sup>45</sup> In fact, according to one USGS study, deicing salts applied to roads during winter are the primary source of solutes to groundwater in the Croton Watershed, where chloride concentrations in baseflow of sampled streams ranged from 18-280 mg/L.<sup>46</sup> Impacts of road salt to soils, vegetation, wildlife, aquatic biota, human health, and infrastructure are well documented. Exposure to chloride salts inhibits some soil bacteria at low concentrations, which ultimately compromises soil structure and inhibits erosion control. Elevated sodium and chloride levels in soils also create osmotic imbalances in plants, which inhibits water absorption and reduces root growth. Damage to vegetation degrades wildlife habitat by destroying food resources, habitat corridors, shelter and breeding or nesting sites. In freshwater ecosystems, salinity stresses the periphyton communities upon which benthic grazers forage and inhibits microbial processing of leaf litter. For all of these reasons, [more environmentally benign, salt-free deicers, such as potassium acetate (KA) and calcium magnesium acetate (CMA), should be applied in lieu of road salt in close proximity to the Kensico Reservoir.

Comment  
a-b2

Finally, except for claiming that all landscaping and deicing chemicals will be properly stored and handled, and that road salt use would be "minimized,"<sup>47</sup> the DEIS provides no detailed application plan for any of these products. [This critical information, absent in the current DEIS, should be addressed in a supplemental DEIS.

## V. Alternatives

Given the unsuitability of the site for the scale of the project which has been proposed, catalogued above, a serious consideration of all reasonable alternatives is critical to the sufficiency of this DEIS. As noted by the First Circuit in Dubois v. U.S. Dept. of Agriculture, 102 F.3d 1273, 1287 (1st Cir. 1996), "the existence of a viable but unexamined alternative renders an environmental impact statement inadequate." 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).

As presented, [the discussion of alternatives in the DEIS fails to provide sufficient information regarding the alternatives, in comparison to the proposed project, in particular the comparative analysis of potential impacts, to allow clear and meaningful choices for informed

comment  
18-17

<sup>45</sup> See *id.*, at 9-22.

<sup>46</sup> HEISIG, P.M. EFFECTS OF RESIDENTIAL AND AGRICULTURAL LANDUSES ON THE CHEMICAL QUALITY OF BASEFLOW OF SMALL STREAMS IN THE CROTON WATERSHED, SOUTHEASTERN NEW YORK, U.S. Geological Survey (USGS) Water-Resources Investigations Report 99-4173. March 2000, Available at <http://ny.water.usgs.gov/pubs/wri/wri994173/>.

<sup>47</sup> See *id.*, at 9-22.

public comment and agency decision-making.<sup>48</sup> The applicant should be required to offer a more detailed analysis of the full range of alternatives and the reduction in potential environmental impacts associated with them, including an alternative location.]

### *Alternative Scale or Magnitude*

The DEIS notes that the scoping document required seven alternatives, five of which were an alternative scale or magnitude to the proposed project. Clearly the objective of such a requirement was to allow the lead agency to assess the relative impacts of such alternatives with the proffered purpose and need of the proposed project and the goals of the applicant. Notably, the applicant chose to design Alternatives C (reduced wetland impact) and D (no wetland impact) as self park rather than automated parking facilities, thereby resulting in significantly fewer parking spaces, because "although an automated facility and a valet operation would be able to accommodate more spaces within the parking structure due to lower space requirements (as shown in Table 18-1), in the applicant's opinion, neither would yield an acceptable return on investment."

"The objectives of the sponsor in seeking to undertake the proposed action are an important but not always conclusive factor for determining the alternatives that must be considered in an EIS." Gerrard, Environmental Impact Review in New York, §5.14[2][c]. According to DEC, a reduced scale alternative may be reasonable "if the proposed alternative meets the minimum functional size of the project." NYSDEC, *SEQRA Handbook* at B-36. Consequently, [New York courts have held that property owners are required to prove that they are unable to realize a reasonable return from certain alternatives. Without such proof, the lead agency could insist upon requiring a significantly reduced density alternative as compared with the Applicant's preferred alternative.] See, e.g., *Save the Pine Bush, Inc. v. Zoning Bd. of Guilderland*, No. 01-95-ST5464 (Sup. Ct. Albany Co. June 26, 1995). Here, the applicant has made no showing that alternatives C and D would not result in a reasonable return on the property.

comment  
18-19

More significantly, [the applicant has failed to provide sufficient information to be able to compare the reduction in environmental impacts associated with the reduced scale alternatives, in particular C and D, with the impacts likely to result from the proposed project. The use of non-numerical descriptors like "Lesser Impact" and "Slightly Lesser Impact" to not permit an informed evaluation of the environmental benefits of those alternatives,] either by the public or the lead agency. Additional detail is also required with respect to pre- and post-development pollutant loading rates and volume of stormwater runoff along with impacts to downstream hydrology to allow an informed judgment to be made between the proposed project and reduced scale alternatives.

comment  
18-19

[In spite of the lack of quantitative information provided by the evaluation of alternatives in the DEIS, it is clear that alternatives C (limits development of the project site to areas that are currently developed, thereby eliminating any new disturbance to on-site wetlands and wetland buffers) and D (avoids development within Town-regulated wetlands and wetland buffer areas and locates all stormwater facilities on the main parcel) reduce impervious surface coverage on

comment  
18-20

<sup>48</sup> See *id.*, at 18-23 and 18-29.

the main parcel from 56% to 29% and 21% respectively, eliminate all wetland disturbance, and reduce or eliminate disturbance of and impervious surface coverage within wetland and watercourse buffer areas. The reduced footprint of both Alternatives C and D will significantly reduce the total amount of site disturbance, both during and after construction, limit the disturbance of steep slopes and minimize the amount of excavated material. Both alternatives clearly avoid a substantial amount of the post construction increases in both runoff quantity and pollutant loads associated with the proposed project. A substantial risk exists that those increases will result in impacts to the quantity and quality of surface runoff to the onsite stream, a regulated reservoir stem 600 feet away from the Kensico Reservoir, a risk that the project's proposed mitigation measures do not appear to significantly reduce.<sup>49</sup>

Because it is critical that impacts from the proposed project to the water quality of the NYC water supply system from turbid discharges and pollutant laden runoff be fully avoided or mitigated, Riverkeeper joins the DEP in urging the Planning Board to amend the selection of the preferred alternative in the DEIS to an alternative such as C or D which reduce or avoid the significant potential for impacts to water quality presented by the proposed project. In addition, given the unsuitability of the project site for the project proposed and the inevitable connection between site choice and the significant environmental concerns raised by the project, Riverkeeper strongly recommends that the Planning Board require the DEIS to evaluate alternative locations on which the applicant's project could be constructed. DEC's SEQR Handbook supports a discussion of alternative sites where, as here, "the suitability of the site for the type of action proposed is a critical issue."<sup>50</sup> Such an evaluation will provide the Lead Agency with the information necessary for it to ultimately certify, in its findings, that the action selected is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

comment  
18-21

## VI. Conclusions

Currently, the DEIS lacks information critical to conducting an informed review as required under the provisions of SEQRA. Some of this information is not included in the DEIS because it was unavailable at the time the DEIS was declared complete (delineation of boundary of Town wetlands onsite, determination of Army Corps regulatory jurisdiction, off-site wetland mitigation plan required by Town Law, water budget analysis). This information, once available, may lead to an increase in the project's environmental impacts. The omission of other information (detailed construction plans, an application plan for pesticides, de-icing and other chemicals, a more detailed and expanded discussion of alternatives) renders the DEIS in its current form deficient. In such a situation, it is critical that the lead agency require the preparation of a supplemental EIS which provides the new information relevant to the environmental impacts of a proposed project so that the public has an opportunity to comment on the new issues and decision-making agencies are fully informed.<sup>51</sup>

comment  
2-51

The adverse environmental impacts associated with the proposed action as presented in the DEIS have the potential to degrade water quality in the unfiltered drinking water supply of

<sup>49</sup> See discussion of BSD practices on p. 7 above.

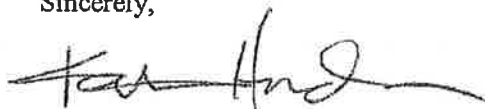
<sup>50</sup> SEQR Handbook at 123.

<sup>51</sup> Gerrard at 3-160.

nine million New Yorkers. For these reasons, the Planning Board should require the applicant to prepare a supplemental DEIS and cure the deficiencies in the current DEIS. In addition, we strongly recommend that the Planning Board consider selection of another preferred alternative which will be more protective of water quality and thus New York's drinking water supply. In the alternative, we urge the Planning Board to reject the application in its current form.

Thank you for the opportunity to comment on these important issues. If we may provide any clarification regarding the above comments, or any additional information, please contact us at (914) 422-4410.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Hudson", written over a horizontal line.

Kate Hudson  
Watershed Program Director

A handwritten signature in black ink, appearing to read "William Wegner", written in a cursive style.

William Wegner  
Staff Scientist



June 1, 2011

Town of North Castle Planning Board

Town of North Castle

17 Bedford Road

Sent via e-mail and U.S. Mail

Armonk, New York 10504

Dear Town of North Castle Planning Board:

The Natural Resources Defense Council ("NRDC") is a national, non-profit legal and scientific organization active on a wide range of public health and natural resource issues, including drinking water protection. In New York State, where we have more than 48,000 members and contributors, we have taken a particular interest over the years in the protection of the Catskill and Delaware water system, which provides drinking water for 9 million residents of New York City and Westchester County. Among other things, we have previously engaged in efforts to safeguard the Kensico Reservoir and to that end have participated in legal and administrative proceedings associated with proposals for highway expansion along Route 22/120, for re-construction of MBIA's corporate headquarters and for enlarging facilities at Westchester County Airport.

We submit these comments in response to the Draft Environmental Impact Statement ("DEIS") dated March 28, 2011 and prepared by 11 New King Street LLC.

[The importance of the Kensico Reservoir to the environmental and economic health of New York cannot be over-stated. The Kensico plays a central role in delivering clean, unfiltered drinking water to nine million downstate residents. It is the last stop for more than one billion gallons of water that flows from New York's six giant West-of-Hudson Catskill and Delaware system reservoirs. These waters are usually held in Kensico for 15 to 25 days before heading to the much smaller Hillview Reservoir in Yonkers for distribution throughout New York City or to local water providers in Westchester Country. This 15 to 25 day period provides a final opportunity for settling out impurities, including solids and microorganisms – a critical function in view of the facts that the Catskill and Delaware system reservoirs are unfiltered and that filtration facilities for these waters would cost more than 10 billion dollars, according to official estimates.

comment  
2-39

Despite its essential function in providing clean drinking water to half the state's population, the Kensico Reservoir and its 6,000 acre watershed have faced intensifying development pressures over the last several decades. Increased corporate, residential and commercial construction within the Kensico basin have created localized water quality problems.

Threats to the reservoir include turbidity (a measure of cloudiness of water), fecal coliform bacteria (products of human and animal waste), as well as phosphorous and other nutrients and pesticides and other organic chemicals. These and other contaminants are all associated with stormwater and runoff from encroaching development in the small Kensico watershed itself.

Nevertheless, as set forth in the DEIS, the 11 King Street project sponsor proposes to construct a 1,450 car parking garage within a stone's throw of the region's single most important drinking water reservoir. The new parking structure would be 267,000 square feet in size. Its construction would destroy 5,700 square feet of wetlands, which currently serve as natural filters for rainwater and snow melt that flow directly into the Kensico. And among many other adverse impacts, the new construction would add 21,354 square feet of impervious surfaces in the all-important buffer areas. These and other earth-altering impacts of the proposed project make it hard to see how the 11 New King Street developers could have selected a more ill-advised spot for new construction anywhere in the entire Catskill/Delaware watershed. ]

[ NRDC's review of the Draft Environmental Impact Statement has convinced us that the document has failed to comply with the requirements of the State Environmental Quality Review Act, set forth in sections 8-0101 et seq. of the State's Environmental Conservation Law. Among the numerous deficiencies in the DEIS are the following:

- (1) failure to fully describe the adverse short- and long-term environmental impacts that would result from implementation of the project as proposed;
- (2) failure to consider reasonable alternatives -- the DEIS does not examine alternative sites for construction that are located outside of the Kensico Reservoir watershed or comprehensive public transit enhancement measures to address airport parking needs, to cite just two examples of a reasonable alternatives that warrant full assessments;
- (3) failure to adequately mitigate -- the DEIS fails to present a reasonable program for mitigating harm to wetlands and buffer lands that would be destroyed by the proposed construction; and
- (4) failure to demonstrate compliance with other environmental laws and rules, including the Town of North Castle's Freshwater Wetlands Law and the New York City Watershed Rules and Regulations. ]

[ In short, NRDC believes that the DEIS for the 11 New King Street project fails in these and other ways to meet the cornerstone requirements of state environmental law. This project is fatally flawed and should not in our view be constructed in its proposed location. We urge the Town to go back to the drawing boards and completely rethink this project. We stand ready to work with you on such an effort. ]

Very truly yours,

comment

2-40

comment

2-41

Eric A. Goldstein, Esq.



## TOWN OF GREENWICH

Office of First Selectman (203) 622-7710 Fax (203) 622-3793

Town Hall- 101 Field Point Road - Greenwich, CT 06830

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Peter J. Tesei  
First Selectman

May 31, 2011

Town of North Castle Planning Board  
17 Bedford Road  
Armonk, NY 10504  
[akaufman@northcastleny.com](mailto:akaufman@northcastleny.com)

SENT VIA EMAIL

Re: 11 New King Street Parking Garage

Dear Sirs:

In supplement to my comments on this topic that were transmitted on May 23, 2011, I would like to submit the following on behalf of the Town of Greenwich and the many surrounding neighborhoods that are located near the proposed parking garage at 11 New King Street. Greenwich is a member of the Greenwich-Westchester Task Force and this proposal was discussed at a recent meeting of that group. During the last few weeks many of the individual neighbors of this site have also spoken to me and have expressed a number of concerns that I feel a responsibility to share with you. Greenwich supports environmentally sensitive planning and development and appreciates this opportunity to expand upon the comments I made on May 2 during the public hearing on the DEIS.

The proposal before you is for a five story, 267,000 square foot structure that will cover over an acre of land and accommodate 1,450 vehicles. The site is within 400 feet of the Town of Greenwich and will impact a number of residential homes. The site is also within 600 feet of the Kensico Reservoir, one of the main components of the New York City water system. This structure will require that over 2.80 acres of land (84% of the site) be disturbed and ultimately 1.58 acres of the site will permanently lose vegetative cover. The proposal will cause the loss of 122 trees in excess of 8" in diameter. The Town of North Castle has also noted that of these trees, 25 are considered as being "Significant". The site is within a Town wetland and will disturb a New York City Watercourse that runs into the Kensico Reservoir. The onsite wetlands will be lost for future use although the developer does propose some remediation with a sedimentation basin and a pocket wetland. Extensive cut and fill will be required to make the site useable for a parking structure. Over 25,000 cubic yards of material will be excavated with over 98% of this material being transported offsite. In short, this is a major development that will have a significant impact on the site, the surrounding properties and the environment.

Greenwich has a number of concerns that we present here for your consideration. These include the following:

- [The Town's Zoning Code does not permit parking structures within this district as either a principal or accessory use. Clearly this use was never contemplated when the zoning code was drafted and any amendment to add such a use should be carefully considered. A zoning change that will accommodate this request may have unanticipated consequences with regard to other submissions in this zone that will contribute to growth that is not desirable or beneficial.] comment  
3-33
- [The traffic patterns and volumes in the vicinity of the facility will be permanently changed with its construction. While the impact on Greenwich appears not to be significant, we are concerned that it may cause future traffic volume to grow as individuals use King Street to access the proposed parking facility via Rye Lake Ave. and Gateway Lane. We believe this change in habits is likely and should be given consideration in your review of this structure.] comment  
13-79
- [Construction on this site will have an immense impact on the immediate area. The number of cars, trucks and large tractor trailer size vehicles will be significant. In addition to the normal level of contractor traffic that will be required, the removal of 25,000 cubic yards of soil and the delivery of an unknown quantity of concrete will make travel on New King Street an unpleasant experience for many months.] comment  
17-17
- [Air quality will be degraded during construction and will likely be poor for the foreseeable future due to the proposed use. Particulate matter from the necessary cut and fill on the site, the removal of 25,000 cubic yards of soil, and the vehicle traffic to and from will result in poor air quality for a large area within this section of North Castle and a portion of Northeast Greenwich. Homes on King Street will be negatively impacted and matter will be blown into the nearby Kensico Reservoir. Once construction is complete the volume of traffic that a 1,450 parking structure represents will result in new particulate matter and exhaust from these vehicles replacing construction debris. This will be an ongoing, never ending, degradation to the quality of life to all homes in Greenwich near this site and is very troublesome. New King Street, parts of Route 120, and the nearby Kensico Reservoir will also be affected and this impact is not mitigated by any measures proposed by the developers.] comment  
17-18
- [The noise from the site during construction and once it is in operation will be significant. Residences within Greenwich will of course be impacted by both of these periods. The background ambient noise caused by cars going to and from the facility and the vans used to shuttle people to and from the airport will be a new and unpleasant reality for those individuals who are unfortunate enough to live in the vicinity. While the DEIS cites the maximum decibel levels that can be expected as 69 dB for nearby residents in Greenwich, the ongoing drone of vehicle traffic will degrade the quality of life for numerous residents to this already busy and noisy area.] comment  
13-80
- [Finally, during construction the site will of necessity disturb wetlands and the nearby water course. Drainage patterns will be altered due to the extensive cut and fill operations that are proposed. It should be expected that given the time period that will be required to build this facility that erosion and silting will] comment  
17-19

The Town of Greenwich supports projects that are well thought out and planned. In our opinion this proposal has numerous unanswered questions and unresolved issues that bring into question its merits. I urge you to expand upon the issues that we have raised and work to insure that the necessary mitigation measures are taken to assure that the project, in what ever form it eventually takes, will protect the interests of all surrounding neighbors. Thank you for giving me the opportunity to bring these concerns to your attention on behalf of the Town of Greenwich and many of the neighboring residents.

Sincerely,

A handwritten signature in dark ink, reading "Peter J. Tesei". The signature is written in a cursive style with a large, stylized "P" and "T".

Peter J. Tesei  
First Selectman

**RICHARD J. LIPPES & ASSOCIATES**

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**RICHARD J. LIPPES, ESQ.**

RLIPPES@CONCENTRIC.NET

May 31, 2011

Mr. Adam Kaufman, AICP  
Director of Planning  
Town of North Castle  
17 Bedford Road  
Armonk, New York 10504-1898

**Re: Park Place at Westchester Airport  
11 New King Street  
North Castle, New York**

Dear Mr. Kaufman:

These comments are submitted on behalf of the Sierra Club. The Sierra Club, founded in 1895, is the oldest continuing Environmental origination in the Country. It has extensive membership throughout the Country, including in New York State, Westchester County and the Town of North Castle.

**INTRODUCTION**

On March 28, 2011, the Town of North Castle Planning Board, ostensibly as Lead Agency for the proposed action pursuant to the New York State Environmental Quality Review Act ("SEQRA"), issued a Notice of Completion with respect to a Draft Environmental Impact Statement ("DEIS") submitted by 11 New King Street, LLC ("Applicant"). The DEIS was submitted for a proposed project denominated "Park Place at Westchester Airport," essentially for the construction of a parking garage.

The project, as proposed, would consist of an approximately 267,000 sq. ft., five-level, enclosed parking garage. The structure would have a building footprint of approximately 51,000 sq. ft. and would accommodate 1,450 vehicles. The Applicant submitted a site plan application and a zoning petition seeking to amend the North Castle Zoning Code to allow the erection of a parking garage in an area zoned Industrial AA ("IND-AA"), which would require a special permit.

The Planning Board held a public hearing on May 2, 2011.

## SUMMARY OF COMMENTS

[ As the Town Board and the Planning Board are well aware, the location of the proposed project is the Kensico Watershed, which is adjacent to and connected to the Kensico Reservoir, an environmentally sensitive area. The Kensico Reservoir supplies more than 9,000,000 New Yorkers with safe, unfiltered drinking water. The importance of protecting this water supply has been acknowledged and supported by governmental and non-governmental entities at every level, from local to national, for more than a decade. The project under review presents an unacceptable threat to that water supply.]

comment  
8-36

[ Putting aside for the moment certain critical procedural issues addressed below, most people would agree that the most significant threat of pollution to the Kensico Reservoir exists within the relatively small watershed (approximately 10 square miles) surrounding the reservoir, due to the residential, commercial, and industrial development that has occurred in the Kensico Watershed area. A number of protective measures have been introduced to address that concern, including (as relevant to the proposed project) policies designed to limit any further growth at the Westchester County Airport.]

comment  
8-37

[ As set forth in the DEIS, the *raison d'être* for the construction of a parking garage in an area which is not zoned for such a structure is to accommodate vehicular traffic at the Westchester Airport. The Applicant thus seeks to justify all of the attendant negative environmental consequences that would result from such a project, including an increase in traffic, noise, air, and water pollution, in service of a goal that is diametrically opposed to a local policy against growth at the airport. As discussed below, the project cannot be so justified and, moreover, the DEIS is fatally inadequate in addressing environmental issues and in considering alternatives to the new construction proposed.]

comment  
2-15

[ Indeed, the DEIS is legally insufficient in several respects. It is inadequate to meet the hard look standard required under SEQRA, and the potential significant adverse environmental impacts associated with the project cannot be mitigated sufficiently as proposed in the DEIS. The insufficiency of the DEIS has been confirmed by Peter Dermody, a principal hydrogeologist, who concluded based on his evaluation of the DEIS that the proposed parking garage ultimately would have a cumulative impact and cause further degradation of the water quality in the Kensico Watershed and therefore in the Kensico Reservoir. Therefore, the DEIS fails to satisfy the requirements of SEQRA.]

comment  
2-16

## POINT I

### PROCEDURAL ISSUES

#### [ *The Town Planning Board Lacks Jurisdiction to Act as Lead Agency* ]

It is certainly no reflection on the quality and competency of the North Castle Town Planning Board, but in actuality the Planning Board is not the proper entity to conduct environmental review of this action because it is not an "involved agency" and, therefore, cannot be the "lead agency" under SEQRA.

SEQRA regulations define "Lead Agency" as "an *involved* agency principally responsible for undertaking, funding or *approving* an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required." 6 NYCRR 617.2(u) (emphasis added).

An "involved agency" is also a term defined by SEQRA regulations: "Involved agency" means an agency that has jurisdiction by law to fund, approve or directly undertake an action. If an agency will ultimately make a discretionary decision to fund, approve or undertake an action, then it is an 'involved agency' ...." 6 NYCRR 617.2(s).

Comment  
2-16

In the first instance, having the status of an "involved agency" is an indispensable qualification of being the "lead agency." Here, however, as detailed below, the Planning Board is not an "involved agency" because it cannot be said that the Planning Board "will ultimately make a discretionary decision to fund, *approve* or undertake an action" in connection with the project. "Approval" is defined as "a discretionary decision by an agency to issue a permit, certificate, license, lease or other entitlement or to otherwise authorize a proposed project or activity." 6 NYCRR 617.2(e).

As mentioned, since the lead agency must be an involved agency, this requirement is jurisdictional, and the consequences of proceeding without jurisdiction would be a total lack of legal effect of any decision made by the Planning Board. See, Young v. Board of Trustees of the Village of Blasdell, 221 A.D.2d 975, 634 N.Y.S.2d 605 (4<sup>th</sup> Dept. 1995). To avoid wasted effort and resources, a new lead agency should be designated.

SEQRA directs that the lead agency be re-established either by agreement among involved agencies or by requesting that the DEC Commissioner designate the lead agency. See, ECL 8-0111(6) ("In the event that there is a question as to which is the lead agency, any agency may submit the question to the commissioner and the commissioner shall designate the lead agency, giving due consideration to the capacity of such agency to fulfill adequately the requirements of this article"); 6 NYCRR 617.6(b)(6).

#### ***The North Castle Town Board has Primary Approval Responsibility***

Even if the Town Planning Board were an "involved agency" for purposes of the proposed project, SEQRA and its regulations require that the agency having primary approval responsibility act as lead agency for purposes of conducting the environmental review. Here, given that the Applicant submitted a zoning petition seeking to amend the North Castle Zoning Code to allow the erection of a parking garage in an IND-AA area, the Town Code dictates that the Town Board has primary approval responsibility.

Comment  
2-17

As recognized in section 213-68 of the Town Zoning Code, New York Town Law section 265 requires that changes or amendments to the town's zoning code be made by the Town Board in accordance with the procedures set forth in section 265. The proposed project cannot proceed without an amendment of the Town Zoning Code. Should the Town Board amend the Zoning Code, the Planning Board would not be

responsible for any discretionary decisions or approvals. The Amendment would make the Town Board the approval authority for the Special Permit Application and, pursuant to the Town Code, the Town Board's Special Permit review would obviate the need for Site Plan review from the Planning Board. See, Town Code § 213-34.

Comment  
2-17)

Accordingly, under the present circumstances, and unless it develops at some point that another involved agency should be designated, the Town Board must assume lead agency status for purposes of SEQRA review, and the Board cannot delegate that responsibility to an agency that does not have primary approval authority. In that regard, the Practice Commentary accompanying ECL 8-0111 is particularly instructive: ]

In DEC Declaratory Ruling 8-01 (Martin S. Baker, *et al.*) (1984), the Department ruled that a municipality may not delegate to an agency without decision-making power the role of permanent lead agency. This ruling follows the decisions in *Glen Head-Glenwood Landing Civic Council, Inc. v. Town of Oyster Bay*, 88 A.D.2d 484, 453 N.Y.S.2d 732 (2<sup>nd</sup> Dept. 1982) and *Save the Pine Bush, Inc. v. Planning Bd. of City of Albany*, 96 A.D.2d 986, 466 N.Y.S.2d 828 (3<sup>rd</sup> Dept.), appeal dismissed 61 N.Y.2d 668, 472 N.Y.S.2d 89, 460 N.E.2d 230, leave to appeal denied 61 N.Y.2d 602, 472 N.Y.S.2d 1025, 460 N.E.2d 231 (1983). In both those cases a municipality sloughed off on its environmental advisory board the function of preparing EISs, although that agency lacked the authority to render land-use decisions. The courts held SEQRA responsibility must remain where decision-making power rests. To hold otherwise would surely subvert a chief purpose of SEQRA -- to ensure that those making decisions with environmental consequences themselves weigh those consequences. Municipal officials may not do the bureaucratic equivalent of Groucho Marx telling his butler, "Go run around the park; I need the exercise."

Those who fail to learn from history are, says the adage, doomed to repeat it, and the City of New York, having not learned the lesson of *Glen Head* and *Save the Pine Bush*, paid the price in *Coca-Cola Bottling Co. of New York v. Board of Estimate of City of New York*, 72 N.Y.2d 674, 536 N.Y.S.2d 33, 532 N.E.2d 1261 (1988). The Court of Appeals there invalidated the City's practice of shunting environmental review to its departments of environmental protection and city planning in a case where the relevant decision, authorizing the sale of city-owned land, was to be made by the former Board of Estimate. Neither of the two agencies that performed the environmental review was the responsible decision-making agency, the court noted. The Court roundly criticized the City for "transgress[ing] SEQRA's spirit, as well as its form," by "allow[ing] the Board of Estimate -- the governmental entity responsible for the final policy decision to proceed with a project --

to be insulated from consideration of environmental factors.” 72 N.Y.2d at 681-82.

\*\*\*\*

As in the *Coca-Cola* case, the court condemned the practice of foisting environmental quality review onto an agency which lacks decision-making power in *Martin v. Koppelman*, 124 A.D.2d 24, 510 N.Y.S.2d 881 (2<sup>nd</sup> Dept. 1987). The Appellate Division there annulled resolutions of the Suffolk County Legislature that were based on negative declarations adopted by the county's Council on Environmental Quality. The resolutions authorized appropriating funds to expand parking facilities at several railroad stations as part of an electrification project. The court held that, just as in the *Glen Head* case, the county legislature had improperly delegated SEQRA authority to an agency without the power to make the actual decisions on the land use in question. The county's attempt to fund parking areas along the electrified railroad line without proper environmental review was unplugged.

The appellate division reminded us once again that a lead agency must itself weigh a project's environmental impacts. In *Penfield Panorama Area Community, Inc. v. Town of Penfield Planning Bd.*, 253 A.D.2d 342, 688 N.Y.S.2d 848 (4<sup>th</sup> Dept. 1999), the planning board approved a subdivision including two apartment houses on condition that the developer obtain a site remediation plan that met the approval of DEC and the county health department. But the board's EIS, though it acknowledged that hazardous waste deposited on the site was one of the board's “primary areas of concern,” failed to further concern itself with the issue. As the court held, a lead agency may not blithely identify, then waltz away from, a serious environmental impact. The town was obliged to genuinely consider the presence of the hazardous waste before authorizing residential construction on the site, and to minimize its impacts (see ECL § 8-0109[1], [8] and the Commentary at C8-0109:2). Simply advising the developer to seek some answers from other agencies, while allowing the development to proceed, vitiates both the letter and spirit of SEQRA.

[ Additionally, it is noteworthy that the Town Board will be responsible for approvals with respect to matters involving the use of wetlands, whether under Freshwater Wetlands review or under other authority. See, e.g., Town Code section 205-5(C). The project also includes a request for a Tree Removal Permit, the authority over which lies with the Building Inspector (who has not been identified as an involved agency), not with the Planning Board. See, Town Code section 192-2. ]

comment  
2-19

[The proper designation of the Town Board as the Lead Agency for this proposed project is not only necessary, it is particularly significant because of the nature of the environmental impacts involved and the broad scope of Town planning policies and principles that must be considered.]

comment  
2-20

### ***[Referral to Westchester County Planning Department***

It is worth noting at this phase of review that, at the appropriate time, when the lead agency has a "full record" (including all environmental review documents and an FEIS), a referral with respect to the proposed zoning amendment must be made to the Westchester County Planning Department, as required under General Municipal Law 239-m. The County may issue a recommendation, at which point the Town Board would need a majority-plus-one vote in order to pass the amendment. In the event the County does not issue a recommendation within 30 days, the Town could act on a majority vote.]

comment  
2-21

### ***[The DEIS Omits Facts Regarding Wetlands Subject to Regulation***

The DEIS fails to acknowledge that there is a second stream located on the project site and thereby omits information that would bring parts of the project under the jurisdiction of the Department of Environmental Protection ("DEP"). The DEIS acknowledges the presence of "[t]wo streams [that] occur on the project site," one of which it refers to as a "perennial stream," the other of which it says is an "ephemeral drainage channel that is infrequently flooded." Both of these streams are DEP watercourses. In figure 8-2 of the DEIS, it is evident that there are two streams designated by Westchester County that pass through the project site and flow to the Kensico Reservoir. DEIS Figure 8-1, the National Wetland Inventory mapped wetlands, also shows a second stream along the southern boundary of the Project Site.

Indeed, the Town's Wetland Consultant states that this second stream is "a regulated watercourse": "Water was observed within the channel located to the south of the proposed parking garage (partially off-site) and therefore this channel will be considered a regulated watercourse. This determination is based, in part, on the fact that water flow was present more than 48 hours after a rain event." Memorandum to Planning Board from David J. Sessions, RLA, AICP, dated Dec. 29, 2010.

comment  
8-38

Contrary to the DEIS assertion that this "secondary drainage feature does not demonstrate perennial or intermittent flow," Mr. Sessions' observation that the stream exhibited water flow more than 48 hours after a rain event clearly demonstrates that the second watercourse at the southern portion of the site constitutes an Intermittent Stream under the DEP's Watershed Regulations (section 18-16(a)(63). Accordingly, the DEIS fails to properly acknowledge that the DEP has jurisdiction over the second stream.]

[The DEIS asserts further that the secondary stream "would not be directly affected by the development of the project." The DEIS neglects to mention, however, that the proposed parking garage would effectively eliminate the stream's protective buffer areas and probably disturb the stream directly, which is suggested by figure 8-4 in the DEIS. Indeed, the Town Wetland Consultant stated that, "given the proximity of the proposed improvements to the wetland boundary line, it does not appear feasible to

comment  
8-39

construct the building without directly impacting/disturbing the wetland proper.” Memorandum to the Planning Board from David J. Sessions, RLA, AICP, dated Dec. 10, 2010, at 10.]

[The approach taken by the Applicant in the DEIS is contrary to the Town’s own Freshwater Wetlands Law, which expressly states that, “[t]he establishment of regulatory and conservation practices for these [wetland] areas serves to protect the Town by insuring review and regulation of any activity near or on the wetlands that might adversely affect the public health, safety and welfare.” Town Code section 209-3(A)(3). The DEIS should not attempt to avoid the regulatory review applicable to wetlands, especially when those wetland areas are in close proximity to Kensico Reservoir.]

Comment  
8-40

### *[ A Second Kensico Reservoir Stem*

The DEIS does not show the limiting distance from the second Reservoir Stem affecting the site. DEIS Figures 8-1 and 8-2 show two streams that exit the site and immediately enter the Kensico Reservoir. Section 18-16(a)(95) of the Watershed Regulations define a Reservoir Stem as “any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of the reservoir.” The DEIS has erroneously omitted information demonstrating the location of the 300-foot buffer from the second Reservoir Stem in relation to the project site. This omission is likely due to the prohibition against the construction of impervious surfaces within 300 feet of a reservoir stem, as set forth in section 18-39(a)(1) of the Watershed Regulations.]

Comment  
8-41

[The DEIS incorrectly asserts that there is a way around the required buffer area, relying on a limited exception for the expansion of impervious surfaces in buffer areas for existing commercial facilities, which is provided for by Watershed Regulation 18-39(a)(4)(iii). The exception does not apply to the proposed project because the exception applies only to “existing” facilities, not to new construction that takes the place of the existing use at the project site. Another reason why the exception does not apply is that the project would add impervious surfaces to the buffer areas in excess of 25% of the existing use.

Consequently, the Applicant would need to seek a variance from the DEP under Watershed Regulation 18-61. The DEIS is inadequate in that regard, since it does not demonstrate factually that the proposed project could satisfy any of the requirements for a DEP variance, such as:

Comment  
8-42

[d]emonstrate that the variance requested is the minimum necessary to afford relief;

[d]emonstrate that the activity as proposed includes adequate mitigation measures to avoid contamination to or degradation of the water supply which are at least as protective of the water supply as the standards for regulated activities set forth in [the Watershed Regulations]; [or]

[d]emonstrate that . . . compliance [with the Watershed Regulations] would create a substantial hardship due to site conditions or limitations.

Watershed Regulations, 18-61(a)(1) (see DEP Comments, infra, at p. 13-15). ]

[As discussed substantively below, the DEIS fails to articulate mitigation measures with respect to wetlands impacts sufficient to demonstrate that such measures would “protect the watershed just as much as compliance with the regulation from which the applicant seeks a variance.” See, Nilsson v. D.E.P., 8 N.Y.3d 398, 834 N.Y.S.2d 688, 690 (2007) (“[B]efore it grants a variance, DEP must be persuaded that the applicant’s proposed mitigation measures will protect the watershed just as much as compliance with the regulation from which the applicant seeks a variance.”)]

comment  
8-43

[Nor would the Applicant qualify for a “hardship” variance. The DEIS shows one project alternative in which compliance with Watershed Regulations appears feasible. DEIS at 18-29 to 18-34 & fig. 18-5, Alternative “D,” envisions a “no wetland impacts” Project, which apparently is considered to avoid both Town and DEP regulated buffers. If it is possible that the Applicant can comply with the Watershed Regulations, in order to obtain a “hardship” variance, it must be demonstrated that compliance would be “prohibitively expensive.” See, Nilsson, 834 N.Y.S.2d at 691.]

comment  
8-44

Here, however, the DEIS does not contend that Alternative “D” would be prohibitively expensive: “Alternative D would result in economic benefits during construction and during annual operations.” Likewise, the DEIS does not contend that, in the absence of a variance from the DEP, compliance with the regulations would cause the Applicant “substantial hardship.” ]

### *Inadequacy of Project Alternatives*

[Section 617.9 of the SEQRA regulations promulgated by the DEC, entitled “Preparation and Content of Environmental Impact Statements,” provides detailed instructions and guidelines for the EIS process. Particularly for projects like the one proposed, which involve highly sensitive environmental areas, it is essential that, in the first instance, the contents of the EIS comply with 6 NYCRR 617.9(b)(5)(iii), which requires that all draft EISs include: “a statement and evaluation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence.” ]

comment  
18-7

<sup>1</sup> The subsection continues, in pertinent part: “The draft EIS should identify and discuss the following only where applicable and significant: ([a]) reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts; ([b]) those adverse environmental impacts that cannot be avoided or adequately mitigated if the proposed action is implemented; ([c]) any irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented; ([d]) any growth-inducing aspects of the proposed action; ([e]) impacts of the proposed action on the use and conservation of energy (for an electric generating facility, the statement must include a demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent state energy plan); ([f]) impacts of

[ As the Planning Board and Town Board have already seen, the proposed “Park Place at Westchester Airport” project continues to garner widespread criticism for the failure of the DEIS to comply with section 617.9(b)(5)(iii). The Sierra Club must join in that criticism. The substantive issues in that regard are discussed below. Without a complete and accurate “evaluation of the potential significant adverse environmental impacts” of the project, the foundation for SEQRA review is jeopardized. One consequence of this inadequacy of the DEIS is the obfuscation of another indispensable component of compliance with the SEQRA review process – the consideration of project alternatives.

Section 617.9(b)(5)(v) of DEC regulations requires that the DEIS include:

a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative. The no action alternative discussion should evaluate the adverse or beneficial site changes that are likely to occur in the reasonably foreseeable future, in the absence of the proposed action. 6 NYCRR 617.9(b)(5)(v).

Comment  
18-8

As expressed in the “2010 SEQRA Handbook” (3<sup>rd</sup> Edition 2010), published by the DEC Division of Environmental Permits, the purpose of this regulation is to evoke an investigation into “means to avoid or reduce one or more identified potentially adverse environmental impacts” – “The greater the impacts, the greater the need to discuss alternatives.” ]

[ Apart from a “no action alternative,” the DEIS reviews only alternative size parking facilities. There is no discussion of alternative uses presently permitted in accordance with the principal uses in the IND-AA Zoning District. This is a critical omission.

Since the regulations state that the EIS should “evaluate all reasonable alternatives,” the applicant should evaluate alternatives consistent with the current permitted use – even if the alternative use is different in nature from the project proposed. As indicated in the 2010 SEQR Handbook, “[c]onsideration of an entirely different use or action may be reasonable ... [when] the proposed action does not conform to the current zoning of the site, in which case comparison to the use allowed under the existing zoning may be informative.” ]

Comment  
18-9

[ Of particular importance in consideration of alternatives to the proposed project is the application of the Freshwater Wetlands Act, ECL Article 24. Given the critical nature

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the proposed action on solid waste management and its consistency with the state or locally adopted solid waste management plan; ...”

of the potential impacts upon wetlands, steep slopes, water courses, wetland buffers, the Kensico Watershed, and ultimately the Kensico Reservoir, the DEIS must take into consideration that, under ECL Article 24, certain freshwater permits may be granted only if the proposed action is "the only practical alternative that could accomplish the applicant's objective and [there is] no practical alternative on a site that is not a freshwater wetland or adjacent area." See, 6 NYCRR 663.5(e)(2), 662.6(b)(4); and see, 6 NYCRR 63.5(f)(2) (defining "practical alternative").

comment  
18-10

Another significant omission from the DEIS is directly related to the reasons given for the construction of parking garage in the first instance. The DEIS should contain a discussion of a non-parking alternative for the site, because evidence suggests that airport parking is available at SUNY Purchase, which includes or would include a shuttle between the SUNY Purchase parking areas and the Westchester County Airport. Given the applicant's claim for the need for additional airport parking at peak travel times, it is likely that parking availability on the SUNY Purchase campus would be sufficient to handle that need.

comment  
13-63

The omission of the alternatives mentioned above is a sufficient basis for rejecting the DEIS in this instance.

comment  
18-11

#### ***DEIS Failure to Fully Address the Effect of a Zoning Amendment and Growth-Inducing Aspects of the Proposed Project***

The DEIS fails to give proper consideration to the wide range of potential effects that would result from the granting of the Applicant's petition for an amendment of the Town's Zoning Code. Such an amendment would open up the area to additional uses and would have growth-inducing impacts beyond the immediate effect upon activity at the Westchester Airport.<sup>2</sup>

The law is settled that, "[t]o comply with SEQRA, the Town Board must consider the environmental concerns that are reasonably likely to result from, or are dependent on, [proposed zoning] amendments." Eggert v Town Bd. of Town of Westfield, 217 A.D.2d 975, 630 N.Y.S.2d 179, 181 (4th Dept. 1995); accord, Fisher v. Giuliani, 280 A.D.2d 13, 720 N.Y.S.2d 50 (1st Dept. 2001); Brew v Hess, 124 A.D.2d 962, 508 N.Y.S.2d 712 (3d Dept. 1986). "[T]he decision to amend [a] zoning ordinance commit[s] the Town Board to a definite course of future conduct by permitting previously prohibited uses subject to obtaining a special use permit." Eggert, 630 N.Y.S.2d at 181. Accordingly, "[t]o comply with SEQRA, the Town Board [is] required to address the potential environmental effects of the amendments, at least on a conceptual basis." Id., at 181. "A municipality should

comment  
22-5

<sup>2</sup> The proposed zoning amendment would alter dramatically the nature of the existing IND-AA zoned area. For example, accommodating the proposed project would: double the maximum allowable height, from 30 feet to 60 feet; double the maximum allowable building coverage, from 30% to 60%; eliminate the Floor Area Ratio (FAR) requirement; and reduce the side yard set back, from 50' to 10'.

consider the most intensive uses allowable under the proposed zoning to judge potential impacts.” “SEQRA Handbook,” at 182.<sup>3</sup>

[The DEIS contains only one rather sparse paragraph addressed to these issues (DEIS, at 22-2), in which it states: “[s]ince adjacent existing parcels that meet the [prescribed] development criteria are substantially developed, no significant growth-inducing aspects are anticipated from the proposed zoning amendment.” Without more, the DEIS is woefully insufficient to meet the “hard look” standard for review of potential environmental impacts.]

comment  
22-6

[It is not mere speculation to anticipate the precedential effect of a zoning amendment. The effect also reaches beyond the immediate area, since an amendment may impact other zoning districts within the Town. For example, since the requested amendment would establish a maximum height and coverage allowance beyond what is permissible in any district in the town, future development likely will expect equivalent allowances for their projects. The DEIS is silent regarding these concerns.]

comment  
22-7

#### *U.S. Army Corps of Engineers Review*

[The DEIS raises a question with respect to the need for review by the U.S. Army Corps of Engineers (“ACOE”) of potential environmental impacts of the project on federally protected wetlands. While the DEIS states that the Applicant may obtain a Nationwide Permit from the ACOE (DEIS at 1-2), it is likely that individualized review by the ACOE will be necessary and that such permit will be unavailable.]

comment  
8-45

[The DEIS recognizes ACOE jurisdiction over wetlands at the site, including Wetlands “A” (“Forested wetlands, a perennial stream, and an additional drainage feature were found to constitute regulated surface water resources at the Town and Federal level”). However, the ACOE have not yet confirmed the boundaries of resources under its jurisdiction.]

comment  
8-46

[The Project purportedly would impact approximately 0.13 acres of regulated wetlands, since a portion of the garage would be located in Wetland “A” (DEIS fig. 8-4). The DEIS incorrectly assumes the availability of Nationwide Permit 39 (for Commercial and Institutional Developments involving less than ½ acre of disturbance). General Condition 19 of the Nationwide Program disallows certain Nationwide Permits (including NWP 39) in Designated Critical Resources Waters “for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.” 72 Fed. Reg. 11092, 11193 (March 12, 2007). The East of Hudson Watershed (including the Kensico Reservoir Watershed) has been designated as Critical Resource Waters (DEP,

comment  
8-47

<sup>3</sup> The regulation quoted above (footnote 1) expressly directs consideration of any “growth-inducing aspects of the proposed project” associated with potential adverse environmental impacts, but a zoning change adds another dimension to this concern, since it sets a precedent. As observed in the DEC SEQRA Handbook: “Keep in mind that rezoning itself may be more significant from the standpoint of SEQR than the individual permitting of projects since a zoning change triggers a change in the allowable use of land and ostensibly individual projects consistent with that change will be considered in the future in the rezoned area.”

Wetlands in the Watersheds of the New York City Water Supply System, at 19), which means that “individual, project-specific permits are required for many activities.”]

[Under the individualized “Public Interest Review” conducted by the ACOE, (33 CFR § 320.4(a)), “[t]he decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest.” The DEIS does not contain a basis for meeting the criteria for such a permit.

comment

8-48

The ACOE regulations specifically apply to “[w]etlands [that are] considered to perform functions important to the public interest,” which include those at the project site: “Wetlands the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;” and “Wetlands which serve significant water purification functions.” 33 C.F.R. § 320.4(b)(2).]

[Because the proposed project would have adverse impacts upon natural drainage characteristics, sedimentation patterns, and other environmental characteristics of wetlands connected to the Kensico Reservoir, the ACOE likely would be compelled to deny the permit request.”]

comment  
8-49

[Additionally, the DEC would need to make an individualized Water Quality Certification determination for purposes of an ACOE permit, pursuant to the federal Clean Water Act. As discussed in Keating v. F.E.R.C., 927 F.2d 616, 622 (D.C. Cir. 1991), “The states remain, under the Clean Water Act, the ‘prime bulwark in the effort to abate water pollution,’ and Congress expressly empowered them to impose and enforce water quality standards that are more stringent than those required by federal law [citations omitted].”]

comment  
8-50

In enacting the Clean Water Act, Congress expressly declared its intention that states have the “primary” responsibility for preventing water pollution within their jurisdictions:

It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter.

33 U.S.C. § 1251(b). As noted in Keating, “One of the *primary mechanisms* through which the states may assert the broad authority reserved to them is the certification requirement set out in section 401 of the Act.” 927 F.2d at 622.

<sup>4</sup> The Project’s ACOE application would be subject to review under the National Environmental Policy Act (“NEPA”).

[ Since the DEC will afford a Water Quality Certification only if it can determine that the project will not violate relevant regulatory requirements intended to preserve water quality (6 NYCRR 608.9), the DEIS should contain a discussion of the proposed project's ability to satisfy each of the listed criteria.]

comment  
8-51

## POINT II

### SUBSTANTIVE ISSUES

#### ***The DEIS Understates the Project's Most Significant Adverse Impacts on Wetlands and the Region's Potable Water Supply***

[ At the outset, we note that this discussion is presented with the awareness of the nature of the growing criticism of the proposed project, as well as the authoritative bases and sources of opposition, with which the Sierra Club fundamentally agrees. The threat to the Kensico Watershed is too great. And notwithstanding the attempts by the drafters of the DEIS to persuade that this project will actually improve the environmental quality of the project area, there are simpler, more direct, and less risky means to accomplish that goal.]

comment  
2-25

As mentioned previously, we retained Dermody Consulting to conduct a review of the DEIS and have received the comments of Peter Dermody, a principal hydrogeologist, who has opined on the insufficiency of the DEIS. Ultimately, he concludes that the proposed parking garage would have a cumulative impact and cause further degradation of the water quality in the Kensico Watershed and thus in the Kensico Reservoir. At our request, Mr. Dermody has sent his comments directly to the Board.

We also have obtained a copy of the comments sent to you by the NYC Department of Environmental Protection ("DEP"), in a letter dated May 23, 2011. DEP reviewed the site plan and the DEIS, as a result of which DEP expresses a wide range of "concerns about potential water quality impacts resulting from the project":

In particular, DEP is concerned about the project's potential for turbidity and increased pollutant loading, particularly phosphorus, in to the Kensico reservoir, disturbance of steep slopes and wetland buffers, and the lack of "green infrastructure" practices. The location of certain stormwater management practices within wetland/watercourse areas may degrade the buffer's beneficial water quality attributes. Further, there is a lack of information regarding mitigation of groundwater and stormwater impacts, construction and sequencing and various other concerns detailed below.

[ Without repeating all of the lengthy analysis set forth in its letter, we adopt DEP's comments and incorporate them herein as our own. That being said, and acknowledging that there will be some repetition at, we offer the following for the Board's consideration.

The Town Planning Board, the Town Board, and the Town Conservation Board obviously are well aware of the environmentally sensitive nature of the Kensico Watershed and the staggering importance of maintaining water quality in the Kensico Reservoir – the source of drinking water for millions of New Yorkers, including those within the local area. After all, one of the reasons the Planning Board issued a Positive Declaration requiring the EIS is that “[t]he proposed construction is to occur wholly within the Kensico Reservoir Watershed.”

Comment

8-52

Indeed, it may fairly be said that the Town’s commitment to environmental protection is truly impressive. One example is the creation of the Kensico Watershed Improvement Committee (“KWIC”), in which the Town partnered with five major corporations on Route 120 for the express purpose of “protect[ing] the Kensico Reservoir from potential water quality threats associated with the corporate and roadway uses in the King Street Corridor” – the precise location of the proposed project. This committee authored the “King Street Corridor Management Plan” in 2001, in which it very pertinently states, “careful planning for new development [is one of two] extremely important components of the management plan.” As such, one would expect the project sponsors to be familiar with the Plan and to discuss the project’s consistency with the Plan’s objectives. Unfortunately, the DEIS contains no reference to the Committee or to the Plan. ]

### *The Impacts on Natural Resources*

[ Peter Dermody has advised the Sierra Club that, among other things, building the structure at the proposed location will require: ]

Comment  
8-53

- the destruction of 5,700 square feet of wetlands as so designated by the Town and by the USCOA;
- the disturbance of 80,000 square feet of the 100-foot wetlands buffer area, less than half of which the project proposes to re-vegetate;
- encroachment within the 300-foot protection zone around a NYSDEP-regulated Reservoir Stem – a stream or other water body that discharges into the Kensico Reservoir;
- construction on land located within approximately 600 feet of the Kensico Reservoir;
- a potential threat to DEC Class A streams present at the north, south, and west boundaries of the project site;
- the erection of two stormwater basins and a wetland area into which the basins will drain in an area in which the depth to groundwater appears to be less than three feet, thereby creating circumstances under which stormwater contaminated with numerous petroleum constituents and hazardous substances associated with anti-freeze have a high potential for percolating downward and contaminating groundwater that flows into streams connected to the Kensico Reservoir.

The DEP, in its letter, states that the proposed stormwater control measures will not mitigate the project's effect on groundwater because those measures ameliorate "only a limited subset of the range of functions provided by the lost wetland and cannot be considered true mitigation for the loss of the wetland's other functions." Other inadequacies of the DEIS mentioned by the DEP include: the absence of a discussion of how stormwater control measures will mitigate increases of dissolved phosphorus; the failure to address additional pollutants, such as nitrogen, suspended solids, "biological oxygen demand," and "fecal coliform loading;" and pre- and post-development drainage area maps for analysis of the significant quantity of new impervious surfaces.

The DEP goes even further in stating "DEP consistently discourages" stormwater management practices within 100 feet of a wetland buffer and, therefore, "it is recommended that the applicant choose an alternative that avoids all impacts to the wetland and wetland buffer." The DEP notes a significant omission from the DEIS, which overlooks the fact that "DEP's review and approval of a Stormwater Pollution Plan (SWPP) is required for construction of a new commercial project resulting in a creation of impervious surfaces totaling 40,000 square feet (not 50,000 square feet) in size." Watershed regulations will also require a variance to accommodate the proposed projects "expansion of impervious surfaces in excess of 25 percent." Consequently, the DEP recommends that project alternatives should be explored in greater detail "that minimize impervious surfaces, as well as in fact wetlands, the reservoirs stem and all buffers."

#### *Application of The Town's Freshwater Wetlands Law*

It is likely that the Town Board will deny a Wetlands Permit for the Project. In adopting North Castle's Freshwater Wetlands and Drainage Law, the Town Board stated that "[w]etland areas should be protected from encroachment, spoiling, polluting, or obliteration stemming from . . . commercial development . . . and/or disregard for natural resources." Town Code § 209-3(A)(1).

The Freshwater Wetlands Law (Town Code § 209-3(A)(1)) recognizes that wetlands provide multiple beneficial functions, including: "[p]roviding drainage, flood control, and natural storage for water;" "[p]rotecting and purifying surface and subsurface water resources by sediment trapping, nutrient removal and chemical and biological detoxification;" "[r]echarging, storing groundwater (including aquifers and surface waters,) and maintaining stream flow;" and "[m]itigating the effects of erosion by serving as natural sedimentation areas and filter basins." The Freshwater Wetlands Law requires that the Town Board "**shall** deny the permit if":

The proposed activity **may** threaten public health and safety . . . can cause nuisances, impair public rights to the enjoyment of public waters . . . or violate other federal, state or local laws and regulations [or] It finds that the detriment to the public good by the factors listed in this section would occur on the issuance of the permit outweighs the nonmonetary public benefits associated with the activity.

*Comment*  
8-54

Town Code, § 209-7(B)(3). In the absence of much more developed mitigation measures, the proposed project clearly violates the threshold set in this section. Accordingly, the Board would be constrained to deny the issuance of a wetlands permit.]

[The DEIS asserts that the project's wetland buffer "disturbances are primarily for the proposed construction of the stormwater management basins." In fact, more than half of the proposed parking facility would be located within the 100-foot buffer zone. The DEP already has articulated that the DEIS is inadequate in dealing with the functional value of the buffers that the project would eradicate. Contrary to the justification given in the DEIS,<sup>5</sup> the Project would triple the amount of impervious surfaces in the buffer area. There are presently 12,132 square feet of impervious surfaces in the buffer. The Project would add 21,354 square feet of impervious surfaces to the buffer area, for a total of 33,486 square feet.]

comment

8-55

As the Town Wetland Consultant has observed, "this section completely downplays the extent of improvements proposed within the wetland buffer, proximity of these improvements to the wetland boundary line and potential impacts." (Memorandum to the Planning Board from David J. Sessions, RLA, AICP, dated Dec. 10, 2010, at 2.)]

[Moreover, the DEIS was accepted as complete without a final wetland analysis. In the absence of new information that will be obtained in the Spring of 2011, the public are denied the opportunity to comment or object to the new information. *See, Citizens Against Retail Sprawl ex. rel. Ciancio v. Giza*, 280 A.D.2d 234, 722 N.Y.S.2d 645 (4<sup>th</sup> Dep't 2001). The boundaries of all streams and wetlands were field-delineated in the spring and fall of 2008. The Town inspected the wetland boundary in December 2010 and subsequently made preliminary modifications to the boundary. The wetland boundary is expected to be confirmed in the growing season (i.e., spring 2011). However, potential impacts were assessed based on the preliminary Town-delineated wetland boundary.]

comment

8-56

### Significant Potential Adverse Traffic Impacts

The DEIS includes a Traffic Impact Study (TIS), which evaluates the Existing Conditions, No Build Conditions, and Build Conditions of the proposed project. The TIS considers trip generation, project generated distribution patterns, parking, and site circulation characteristics associated with the construction of a proposed 1,450 space park-and-fly parking structure on New King Street. Traffic counts were conducted at the airport during the 2008 and 2009 Thanksgiving Holidays (peak travel periods). It is claimed that the parking demand at the airport during peak travel periods currently exceeds its parking capacity.

<sup>5</sup> (See DEIS at 8-14 "At the present time, the existing impervious surface and lawn in the wetland buffer is 35,269 square feet (12,132 square feet impervious + 23,137 square feet of lawn. This is *similar to* the impervious surface and porous pavers proposed in the wetland buffer which is 39,255 square feet." (emphasis added).)

The TIS found that the construction of the Park Place garage would provide relief to the existing high demand for airport parking by providing an additional 1,450 parking spaces. The greater availability of parking would encourage many travelers who currently take taxis, limousines, or are dropped off/picked up at the airport to drive themselves to the airport, thus reducing the number of trips to the airport. The DEIS submits that drivers would also spend less time traveling between the various airport parking facilities looking for parking spaces. It is further claimed that the usage of the Park Place garage would also reduce the number of vehicle trips actually entering the airport terminal area as a limited number of shuttle buses would transport passengers from the Park Place garage to the airport terminal. As demonstrated by the trip generation calculations included in Chapter 13, "Traffic and Transportation," the DEIS states that the result will be an overall reduction in the number of vehicle trips across the traffic network. Therefore it is claimed that there are no adverse traffic impacts that would require mitigation.

The Town's traffic consultants, Frederick P. Clark Associates, Inc. (FP Clark), conducted a supplemental traffic analysis to confirm the results of the TIS. The supplemental analysis considered a worst-case scenario whereby the proposed project would attract new travelers to Westchester County Airport, potentially increasing traffic in the study area. The FP Clark study concluded that even with this conservative analysis (i.e., a net increase in traffic), the proposed project would not result in significant adverse traffic impacts (see Appendix J for the TIS and supplemental analysis).

[A previously indicated, the project is conceptually incompatible with the policy against growth or expansion of the Westchester Airport.] The DEIS contends that the project would result in a reduction of vehicle trips to and from the airport. The Town's traffic consultant rejected this contention, noting that "the proposed Garage may increase demand and result in travelers now having the option of driving to the Airport for flights." (F.P. Clarke Letter at 8.) Mr. Clarke concludes that "the proposed facility could generate 200 new vehicle trips, plus 18 shuttle bus trip ends and 195 vehicle trip ends plus 18 shuttle bus trip ends during weekday morning and afternoon peak hours, respectively." ]

comment  
22-B

[Based on the Town Consultant's projections, the Project would exacerbate existing "F" Level of Service (LOS) levels at three critical intersections: Airport Road and Route 120; Airport Road and the I-684 northbound ramps, and Airport Road and the I-684 southbound ramps. The Town's Comprehensive Plan already expresses concerns that the "Route 120 at Airport Access Road/I-684 Interchange 2" suffers from "[l]imited traffic capacity – high traffic volume." ]

comment  
13-64

[The New York City Environmental Quality Review (CEQR) Technical Manual establishes a standard for determining whether an intersection would be "significantly impacted" by traffic from a project and require mitigation. As the CEQR Manual notes, LOS F describes unacceptable, failing conditions: "LOS F typically describes ever increasing delays as queues begin to form. This is considered to be unacceptable to most drivers. This condition often occurs with oversaturation, i.e., when arrival flow rates exceed the capacity of the intersection."

The CEQR Technical Manual establishes that a three (3) second delay increase at an existing LOS F intersection poses a significant impact that must be mitigated. (See CEQR Technical Manual at 16-53 (stating that at signalized intersections, "[f]or a lane group with LOS F under the No-Action condition, an increase in projected delay of 3.0 or more seconds should be considered significant. . . . For unsignalized intersections the same criteria as for signalized intersections would apply."))

comment  
13-65

The requisite mitigation would, at a minimum, compel the Applicant to bring conditions at the three LOS F intersections to within 3 seconds of the No-Build condition. The CEQR Manual establishes that appropriate mitigation requires that "Action-with-Mitigation" condition produces insignificant LOS degradation as compared to the "No-Action" condition. A 3 second delay at an LOS F intersection is deemed significant. Thus, mitigation must make the "build" condition have an insignificant impact (i.e., less than 3 seconds).

[The DEIS simply fails to analyze or propose adequate mitigation of these conditions and is therefore deficient. These omissions make it impossible for SEQRA review under the hard look standard. The project's significant adverse traffic impacts are a critical defect. SEQRA requires that the DEIS explore all means necessary to mitigate a project's significant adverse impacts to the maximum extent practicable. See 6 NYCRR 617.11(d).]

comment  
13-66

### POINT III

#### ZONING AND LAND USE ISSUES

[In light of all of the foregoing concerns identified with respect to the DEIS, we must oppose the Applicant's request for an amendment to the Town's Zoning Code to permit the construction of a parking garage in the IND-AA zoned area. Although we anticipate addressing our concerns to the Town Board, we take this opportunity to make our position clear. Obviously, the zoning amendment is indispensable for the proposed project to proceed. However, based on the information available to date, the DEIS provides neither sufficient analysis nor sufficient mitigation of adverse environmental impacts upon the Kensico Watershed to justify the threats posed by the project.]

comment  
3-13

#### *The Town of North Castle Comprehensive Plan*

[Any zoning change must be in accordance with a comprehensive plan (Town Law Section 263). The Town of North Castle Comprehensive Plan Update, adopted in 1996, states, in pertinent part, at page IV-41:

Due to the importance of preserving the residential character of the Town and minimizing the impact of airport disturbance on neighboring residential communities, any expansion of the airport facilities and services leading to increased commercial flights and related noise is not recommended.

comment  
3-14

For reasons already stated, the proposed zoning amendment is inconsistent with the goals and objectives of the Town's Comprehensive Plan, as well as other regional laws and policies, including Resolution 245-2003 of the Westchester County Board of Legislators, N.Y.S. Assembly Resolution N. 1654, N.Y.S. Senate Resolution No. J5435m, which opposes any land use change which would tend to support an increase in the size of the Airport.]

comment

3-14

### [Spot Zoning

Similarly, in an effort to downplay the growth-inducing impacts of the Amendment, the DEIS effectively concedes that the Applicant's goal is to engage in illegal "spot zoning." As the Board knows, spot zoning is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners." Yellow Lantern Kampground v. Town of Cortlandville, 279 A.D.2d 6, 716 N.Y.S.2d 786, 788-89 (3d Dept. 2000), quoting Rodgers v. Village of Tarrytown, 302 N.Y. 115, 96 N.E.2d 731 (1951). The ultimate test is "whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community." Yellow Lantern, 716 N.Y.S.2d at 789 (citation omitted).

The DEIS essentially admits that the Applicant's goal is to single out the Site. The DEIS asserts that the Site would be the only parcel that could benefit from the proposed zoning change. (See DEIS at 22-2.) Moreover, the proposed Zoning Amendment is inconsistent with the Town's Comprehensive Plan. As the DEIS recognizes, "North Castle opposes any expansion of the airport." (DEIS at 3-5.) The Town's Comprehensive Plan unequivocally states that "any expansion" of the Airport is not recommended, stating at IV-41:

comment

3-15

Due to the importance of preserving the residential character of the Town and minimizing the impact of airport disturbance on neighboring residential communities, any expansion of the airport facilities and services leading to increased flights and related noise is not recommended.

The Lead Agency should consider the propriety of the Applicant's effort to single out its Site for special classification solely for its own benefit, and to the detriment of other owners.]

### [Segmentation

Since a portion of 7 New King Street (Lot 13 A) owned by JAM Airport, LLC is being used for the project, in addition to a subdivision approval for Lot 13 A [discussed above], the DEIS should address what is contemplated for the balance of Lot 13 A and its subdivision. 6 N.Y.C.R.R. Sections 617.2 (ag) and 617.3 (g)(1).]

comment

3-16

### [The Project Site

There are two parcels which are in the application to achieve the 30% maximum coverage requirement: 11 King Street, Parcel 14 B which is also known on the tax assessment map as Section 3 Block 14, lot 14 B which appears to be owned by 11 New King Street, LLC, which is 2.47 acres; and, a 0.87 acre portion of 7 New King St., which is 2.47 acres; and, a 0.87 acre portion of 7 New King St., which is a 4.20 acre parcel owned by Jam Airport LLC known on the tax assessment map as section 3, Block 4, Lot 13 A.

comment

3-17

Since Lot 14 B is within the 300 foot buffer from the Reservoir and another portion is in a Town regulated wetland as well as a Federal watercourse, and steep slope which only permits 25% of the land area in such regulated areas to be used for purposes of FAR it is apparent that 0.86 acre of Lot 13 A owned by Jam Airport LLC was needed to achieve the combined land area of 3.34 to achieve the FAR of 267,000 square feet.

### ["Open Area Development"]

Section 213.21 of the Town of North Castle Zoning Code requires 200 feet of street frontage on Old King Street. The Project Site has only 24 feet of frontage or 12% of the required frontage or an 88% reduction or variance from the requirement. Footnote "O" to the 200 frontage requirement states "These requirements may be varied or reduced in connection with the approval of the site plan by the Planning Board where the size and/or shape of existing lots may warrant or require it." In addition to a potential invalid usurpation of powers of the zoning board, this lack of frontage nevertheless constitutes an "open area development" under NY Town Law section 280-a. (For a general discussion of Open Area Developments, see Albert J. Pirro, Jr., "The Open Development Area As A Planning and Zoning Device," The Westchester County Bar Journal, Spring 1988).

comment

3-18

[NY Town Law section 280-a defines the word "access" to mean that the plot on which such structure is proposed to be erected directly abuts on a street or highway and has sufficient frontage "to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and, a frontage of fifteen feet shall presumptively be sufficient for that purpose." Town Law section 280-a (5). Consequently, Town Law section 280-a mandates the provision of improved and adequate access as issuance of a building permit. The constitutionality of section 280-a was sustained in *Brons v. Smith* 304 NY 164, 169-170 (1952).

comment

3-19

[The issuance of a building permit has two prerequisites. First, the street or highway must meet the requirements of section 280-a(1); and second, must be suitably improved or such improvements must be bonded. NY Town Law section 280-a(1). The mandate that the street or highway be suitably improved must comply with standards or specifications of the Town Board. NY Town Law section 280-a(2). An appeal from a denial of the building permit may, pursuant to NY Town Law section 280-a(3) to the Zoning Board of Appeals which Board must use the same standards referred to in NY Town Law section 267-b(3), the "balancing of hardship" standard and criteria therein.]

comment

3-20

[An alternative to the access requirements of Town Law sections 280-a(1) and (2) exist where the Town Board has, by resolution created one or more "open development

areas" pursuant to section 280-a(4). However, not only must the resolution include the subject property as an "open development area" but the resolution must first be referred to the Planning Board by the Town Board for a recommendation. Only after this process is complete is the Planning Board authorized to provide special limitations prescribed by general or special rules of the Planning Board. *Worthington v. Planning Board of the Town of Carmel*, 131 A.D.2d 466, 515 NYS2d 880 (2d Dep't 1987).

Comment  
3-21

### **"Flag Lot" Frontage on Old King Street**

The Site Plan indicates that the Project Site is a "Flag Lot" (See DEIS Figure 2-3). While the Zoning Code of the Town of North Castle does not prohibit developments on "flag lots", it remains that the IND-AA Zone requires 50 feet of frontage along Old King Street where the subject site only has 24 feet which is the only access point to the project designed to accommodate airport passenger vehicles entering and exiting the site as well as the projected 14 bus trips to and from the airport during am and pm peak hours.

Comment  
3-22

Further, the 24 foot access frontage runs 240 feet to the majority of the project site where the 267,000 square foot parking structure with accommodation for 1,450 vehicles will be housed. Importantly, the access drive is over a regulated culvert which appears to be a protected watercourse.

Comment  
3-23

While fifteen (15) feet has under NY Town Law section 280-a is presumptively adequate frontage for an "Open Development Area" there remains a need for approval by either the North Castle Town Board or the Zoning Board which sets forth approval standards for an "Open Development Area" in either instance. This is not discussed in the DEIS.

Comment  
3-24

### **Inadequate Aesthetic or Visual Analysis**

As indicated above, the visual impact of the 56-foot high structure was limited in the DEIS to ¼ mile. Because the structure will impact homes on Old King Street and in Greenwich, the DEIS provides insufficient analysis of the project's potential adverse visual impacts. All visual impacts – the change in physical appearance of the project site, the height of the proposed structure, and the proposed screening – are lawful concerns that the DEIS should address.

Comment  
4-2

The existing character of the immediate study area, which is dominated by office buildings and transportation uses (I-684 and Westchester County Airport), does not excuse the absence of a discussion in the DEIS of the visual impacts upon other zoned areas and potential from vantage points such as Greenwich, CT. The landscape plan along property boundaries does not shield the building at a height anything close to 56 feet.

Comment  
4-3

Finally, it should be noted that visual impacts may form the basis of a denial for SEQRA review purposes. See, *Lane Construction Corp. v. Cahill*, 270 A.D.2d 609, 704 N.Y.S.2d 687 (3d Dept. 2000).

Comment  
4-4

### *Adverse Impacts on Greenwich*

[The DEC has clearly indicated that municipalities have the responsibility to consider impacts of a proposal, even if they fall outside their jurisdictional boundaries:

Does a municipal board have to consider extraterritorial environmental impacts, for example: impacts occurring in an adjoining municipality?"

Yes. For example, a planning board reviewing a cellular communications tower visible from a neighboring community should consider the aesthetic impact of the tower on the neighboring community. . . . [Another] example would be a community reviewing a shopping plaza that generates traffic on an adjoining community's roadway system. In that case, the host community's review should consider the traffic on the adjoining community.

comment

4-5

(SEQR Handbook at 177.) The DEIS, however, trivializes the visual and community character impacts the Project would have on the nearby residential community in Greenwich.]

[The DEIS irrationally downplays, for example, the Project's visual impacts on the proximate residential community, stating that "[t]here are also some nearby residential uses, but these uses are typically found interspersed among dense vegetation that would screen views of the parking facility." (DEIS at 4-2). It similarly states that the homes on King Street "are generally surrounded by dense vegetation and allow for few if any views of the project site and existing buildings." (DEIS at 4-4.) The DEIS provides no analyses to support these statements.]

comment

4-7

[The DEIS, for example, provides no photo-simulation to show how the Project would appear from King Street in Connecticut. It also does not consider conditions during winter/leaves off condition, when the vegetation that ostensibly provides screening is not there.]

comment  
4-9

[The reality is that this nearly sixty foot (60') Project would loom over the residences on King Street in Greenwich year round. Obviously, this impact would be compounded if other projects seek to develop in the IND-AA District in line with the expanded bulk requirements under the proposed zoning amendment.]

comment  
4-11

[The DEIS also ignores the community character impacts the Project would have on the adjacent residential community in Greenwich. It incorrectly states, for example, that "[t]he area immediately surrounding the project site is dominated by transportation, business, and commercial land uses," completely ignoring area residents. (DEIS at 3-1.) In contrast, the DEIS is sensitive to North Castle's desire to protect its single family residential neighborhoods, noting that "the Town desires to protect the qualities of a rural community or 'quiet suburb', characterized largely by low- to medium-density single –

comment

4-13

family neighborhoods.” (DEIS at 3-5.) It is unclear why the immediately proximate residential neighborhood in Greenwich does not deserve the same consideration.

#### POINT IV

#### MISCELLANEOUS ISSUES

##### *Title Report*

We bring to the Board’s attention that, while the DEIS attached a title report with respect to 11 New King Street, also identified as Section 3, Block 4, Lot 14 B, there is no title report for 7 New King Street, also known as Section 3, Block 4, Lot 13 A, which is actually part of the project site. This is a matter that should be addressed by the Applicant, since information about the second property may affect the analysis with regard to Open Area Development. The existence of an easement raises questions about the use of these properties for ingress and egress.

comment  
2-22

##### *Information Identified as Missing From The DEIS Must Be Made Available for Public Review*

Although we anticipate that a DEIS will need to be re-submitted to the newly designated lead agency, we bring to the Board’s attention protocol in a situation as exists here, in which a significant amount of information is absent from the DEIS which is necessary for environmental review. Typically, this would call for the the submission of a Supplemental EIS. See, e.g., Environmental Impact Review in New York § 3.09[4], at 3-160 (“If the lead agency learns of important new issues about significant adverse environmental effects regarding the proposed action in the course of receiving public comments [on a DEIS], the lead agency must require the preparation of a supplemental EIS in order to solicit additional public comments on the new issues.”).

comment  
2-23

Most importantly, the lead agency is required under SEQRA to provide an opportunity for further public review of the supplemental information. The omission of required information from a DEIS cannot be remedied by simply adding the information on at a later stage of the review process. See, Webster Assoc. v. Town of Webster, 59 N.Y.2d 220, 228, 464 N.Y.S.2d 431 (1983).

[ In conclusion, on behalf of the Sierra Club, I urge you to address first and foremost the need for re-assignment of a lead agency to undertake the SEQRA review process. Now that the Board has received input from various authoritative sources, it appears sensible to suggest that the Applicant revise the DEIS before submitting it to the lead agency. We hope that you find our comments useful, as we know you share our concerns for the protection of the Kensico Watershed and the Kensico Reservoir. Under all of the circumstances discussed above, we simply cannot give our support to the proposed project. We appreciate your attention to our concerns. ]

Comment  
2-24

Very truly yours,

**RICHARD J. LIPPES & ASSOCIATES**



**RICHARD J. LIPPES**

RJL/mtp



CROTON WATERSHED  
CLEAN WATER COALITION, INC.

9 Old Corner Road, Bedford, NY 10506  
Ph: 914-234-3179 Fax: 914-234-6139 [crotonwatershed@aol.com](mailto:crotonwatershed@aol.com), [www.newyorkwater.org](http://www.newyorkwater.org)



May 31st, 2011

Adam Kaufman AICP, Director of Planning  
Town of North Castle, Annex Building  
17 Bedford Road  
Armonk, NY 10504

Re: Armonk Airport Garage

Dear Mr. Kaufman,

The Croton Watershed Clean Water Coalition, Inc. (CWCWC) is a not-for-profit coalition of over 50 groups - environmental, religious, housing and community - throughout NYC, Westchester and Putnam Counties. Our primary purpose is the protection of NYC's high quality of its drinking water by protecting the watersheds that are responsible for this unsurpassed water quality. More recently, we have extended our activities to other parts of NYS whose water resources are threatened by high-volume, horizontal hydrofracturing in the Marcellus Shale play.

[In our opinion, the proposed 1,450-vehicle garage, with car-wash facilities, in close proximity to Rye Lake, will pose an unacceptable threat to the integrity of NYC's drinking water. For example, there is no indication, no real proof that over the long term, the detention basin/artificial wetland system, created to prevent storm water discharge from entering the reservoir, would be effective.]

comment  
9-19

[It is of overriding importance that the Rye Lake/Kensico Reservoir system that acts as a settling reservoir for NYC water prior to its entry into the Hillview Reservoir, the drinking water source for 8 million people, not be the recipient of excessive particulate pollution that requires heavy alum treatment in order to settle it. The alum prevents particulates from accessing the Hillview, but too much alum has its own problems. As recently as February 2011, there was a problem with turbidity in the Kensico Reservoir.]

comment  
9-20

[Particulate pollution would negate the huge expenditures that have been lavished on the Hillview Reservoir in order to comply with the Administrative Order (AO) first issued in March 1996. The main requirement for compliance is the installation of a cover over the

Coalition members: ADK Mohican \* Audubon Society: Bedford, Bronx River/Sound Shore, Central Westchester, Hudson River, Saw Mill River groups \* Bedford Barrow Commerce Block Association \* Bedford Garden Club \* Bronx Greens \* Catskill Heritage Alliance \* Church of Holy Apostles \* Citizens for Equal Environmental Protection (CEEP) \* Clean Water for the Bronx \* Coalition for the Preservation of Rolling Greens \* Concerned Citizens for Open Space \* Concerned Residents of Carmel-Mahopac \* Concerned Residents of Kent \* Concerned Residents of Southeast \* Council of Chelsea Block Associations \* Croton Heights Community Association \* Dickerson Mountain Preservation Association \* Diocesan Missionary & Church Extension Society \* Episcopal Diocese of New York \* Federated Conservationists of Westchester County (FCWC) \* Friends of the Great Swamp (FrOGS) \* Friends of Hudson River Sloop Clearwater \* Friends of Hudson River Sloop Clearwater - NYC \* George Nikitovich, et al \* Goldens Bridge Community Association \* Grassroots \* Hands Across the Border (HAB) \* Housing Development Fund Cooperative Council (HDFC) \* Hudson River Sloop Clearwater \* Huntersville Association \* INTERLOC \* Jay Heritage Center \* Junior League of Westchester-on-Hudson \* Lake Dutchess Association, Inc. \* Metropolitan Council on Housing \* Putnam County Coalition to Preserve Open Space \* Queens Civic Congress \* Regional Review League - Bedford \* Rusticus Garden Club \* Sierra Club: Atlantic Chapter, Lower Hudson, NYC, Ramapo-Catskill Groups \* Regional Review League - Bedford \* Rusticus Garden Club \* Shorewalkers, Inc. \* Southern Yorktown Homeowners' Association \* Teatown Lake Reservation, Inc. \* Trout Unlimited: Croton Watershed and NYC Chapters \* Westchester Land Trust \* Yorktown Land Trust

Hillview. The sum total of the various projects needed to comply with the AO exceeds \$1 billion.

It would be the height of folly to negate the hoped-for results of these major expenditures by allowing an industrial enterprise, such as the proposed garage, to be constructed in such close proximity to the Rye Lake/Kensico Reservoir. If one such industrial enterprise is permitted, why not others? ]

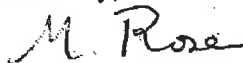
comment  
9  
200-21

[ DEP has spent considerable sums to build storm water devices in the Reservoir's watershed in order to diminish pollution. Their effectiveness would be curtailed by the proposed garage.

comment  
9-22

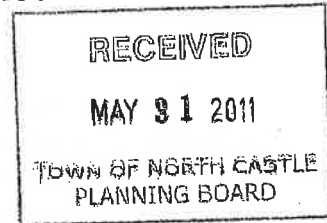
We urge the Armonk Planning Board to oppose this unneeded, destructive proposal. ]

Sincerely,



Marian H. Rose, Ph.D.  
Director

**Dermody Consulting**  
**Geologists and Environmental Scientists**  
32 Chichester Avenue, Center Moriches, NY 11934  
Tel 631.878.3510 Fax 631.878.3560



May 27, 2011

Mr. Adam Kaufman, AICP  
Director of Planning  
Town of North Castle  
17 Bedford Road  
Armonk, New York 10504-1898

Re: **Park Place at Westchester Airport**  
**11 New King Street**  
**North Castle, New York**

Dear Mr. Kaufman:

[Dermody Consulting has reviewed the Draft Environmental Impact Statement (DEIS) prepared by AKRF, Inc. dated March 28, 2011 regarding the above-referenced proposed project. Based on our review, it is our opinion that there are likely to be significant environmental impacts associated with this proposed project. In addition, due to the recent addition of a new parking facility/shuttle, the need for the proposed parking garage should now be questioned.]

comment  
2-14

[The proposed project consists of the construction of a 1,450 vehicle parking garage and car wash within a 3.34-acre property. The garage will consist of a five-level parking structure with a structural footprint of 51,000 square feet. Stormwater collected from the garage area will be discharged to detention basins and finally to a small wetland that is proposed to be constructed. The car wash wastewater will reportedly be discharged to the municipal sewer system.]

comment  
9-17

[Building this structure at this location will require:

- The destruction of 5,700 square feet of Town of North Castle-designated and US Army Corps of Engineers-designated wetlands.
- 80,000 square feet of the 100-foot wetlands buffer area will also be disturbed [although a portion (44 percent) will be re-vegetated].

comment

8-34

list referenced

in 8-53

- The project requires encroachment within the 300-foot protection zone around a New York City Department of Environmental Protection (NYCDEP) Reservoir Stem (a reservoir stem is a stream or other water body that flows into, or is hydraulically connected to, a reservoir) and, therefore, requires a variance from NYSDEP to disturb and construct in this zone.
- The proposed project site potentially threatens the New York State Department of Environmental Conservation Class A streams that are present at the north, south, and west site boundaries. Class A streams are designated as streams used for drinking water supply. These streams discharge directly to the Kensico Reservoir, which is used to supply drinking water to nine million people. The Kensico Reservoir is approximately 600 feet from the proposed project property.]

comment

8-34

[The Town of North Castle and the United States Army Corps of Engineers prohibit the disturbance of designated wetlands and wetlands buffer area. The NYCDEP prohibits disturbance to areas within 300 feet of a reservoir stem or a NYCDEP-designated watercourse. Therefore, the construction of this project will require permits and variances to allow the circumvention of these layers of environmental regulations that have been established for the protection of both the wetlands and the water quality within the reservoir.]

comment

8-35

[In addition, the project proposes to convey stormwater generated on the impervious parking areas to two stormwater basins that will be constructed. These basins will include a detention basin for the settling of suspended sediment and a sand filter basin. The stormwater will then be directed to a wetland that is to be constructed. It is a well established fact that parking lot stormwater runoff contains numerous petroleum constituents and hazardous substances associated with antifreeze. Over time, these contaminants accumulate in the area where they are discharged. The two detention basins and wetlands are proposed to be constructed in an area where the depth to groundwater appears to be less than three feet. Therefore, the contamination that will be directed to the detention basins and wetland has a high potential to percolate downward through the soil and impact the groundwater. Groundwater in this area will flow and discharge to the adjacent streams and Kensico Reservoir. This issue was not addressed in the DEIS.]

comment

9-18

[It is also important to note that the need for this proposed project is not adequately established in the DEIS. It is clear that a parking shortage exists, however, the need for the construction of a garage that will accommodate 1,450 vehicles has not been established. Based on the DEIS, the current parking garage at the airport has a capacity of 1,100 vehicles and an overflow parking area with a capacity of 400 vehicles. Therefore, the total parking capacity at present is 1,500 vehicles. The DEIS states that there is a need for 3,000 total spaces at the airport. However, there is essentially no scientific analysis and vague documentation to confirm this assertion. In addition, the traffic study performed for the airport during peak travel periods (the Thanksgiving holiday period) in 2008 and 2009 found that "the garage was at capacity and the overflow

comment

13-47

May 27, 2011

parking lot was at or near capacity during certain times of the day." This indicates that even during peak travel periods, there were only sporadic periods when the parking areas are at capacity and the traffic study did not estimate the capacity shortfall. Other evaluations (reported by the Sierra Club in a letter to Ms. Peg Michaelman of the North Castle Planning Board dated September 14, 2009, and from the current owner of the existing parking garage) suggest that the parking shortfall is 400 to 500 vehicle spaces.]

[As of April 1, 2011, a new, additional parking facility/airport shuttle known as Purchase Park 2 Fly formally commenced operation. Based on information obtained from Mr. Shomari Williams, Operations Coordinator for Purchase Park 2 Fly, they currently provide parking for 350 vehicles and have significant capacity for expansion, if necessary. This information was not included in the DEIS.]

13-462?

Based on this information, the need for an additional parking garage to accommodate 1,450 vehicles has not been established. If the construction of the garage initially results in an excess that may be regularly well over 1,000 vehicle parking spaces, there is clearly a significant growth-inducing impact. Continued growth would have a further and cumulative impact that would result in further degradation of the water quality of the Kensico Reservoir. This issue has not been addressed in the DEIS.

Comment

13-48

In summary, it can be concluded that the parking shortage will be reduced (and the parking shortage may even be eliminated) by the addition of a minimum of 350 vehicle spaces at the Purchase Park 2 Fly facility. This may remove the need to destroy wetlands, wetland buffer areas, encroach into reservoir stem zones, and potentially impact Class A streams to construct what may be a superfluous and growth-inducing parking garage.]

Thank you for your consideration of these issues.

Very truly yours,



Peter Dermody, C.P.G.

Principal Hydrogeologist



## TOWN OF GREENWICH

Office of First Selectman (203) 622-7710 Fax (203) 622-3793

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Peter J. Tesei  
First Selectman

May 23, 2011

Adam R. Kaufman, AICP  
Director of Planning  
Town of North Castle  
17 Bedford Road  
Armonk, NY 10504  
[akaufman@northcastleny.com](mailto:akaufman@northcastleny.com)

SENT VIA EMAIL

Dear Mr. Kaufman

The Town of Greenwich wishes to have this letter incorporated into the public hearing on the DEIS of the New King Street Parking Garage.

Having attended the public meeting on Monday May 9 I understand that all written comments must be submitted by the end of the day, Wednesday June 1, 2011.

[The comments and questions from the Town of Greenwich are based on the Town's concerns of additional traffic on King Street in Greenwich, Gateway Lane and Rye Lake Road in Greenwich from people seeking access to the new 1450 parking space garage on New King Street. Our residents, particularly those within the Northwest Greenwich Association area, are concerned that there will be an increase in peak hour traffic on our roads due to this new parking garage at the same time as existing peak hour traffic exists for Brunswick School and Convent of the Sacred Heart school traffic, in addition to the public school bus traffic on King Street.]

comment

13-43

[The need for this new parking garage is not well documented and there are several issues and questions that have been raised by our Traffic Engineering Consultant that Greenwich would like to see addressed. These concerns are noted in two reports found attached to this communication dated May 10, 2011 and May 13, 2011.]

comment

13-44

Best Regards,

Peter J. Tesei  
First Selectman

CC: Diane Fox, Greenwich Town Planner  
Erica Purnell

PJT:dca

# Memorandum



Date: May 13, 2011

To: Diane Fox

From: James W. Ford, PE

BETA Project #: 3908

Subject: Supplemental Report Parking Garage

In response to your phone call of May 12, 2011 We have reviewed the two issues you noted and offer the following supplemental information.

1. [ Airport Parking Requirements and use of surplus parking.

In our initial memorandum the probable parking needs for the airport use were presented based on available reference material. That analysis indicates that the proposed action in the DEIS would, based on published norms for parking at similar sized airports, result in a significant number of excess spaces. While no specific data on parking occupancy and frequency of capacity constraints was presented it was noted that the Garage at the Airport filled frequently and the overflow parking lot was near capacity in such instances. It appears that parking is constrained but the degree to which this condition presents itself is not clear. Most airports have similar issues in holiday periods. That said, it appears that Westchester County Airport with its total of 1100 garage spaces and 400 surface overflow spaces is provided with close to the number of parking spaces that would be expected at similar facilities.

Comment

The proposed action will add 1450 spaces to this number which will probably not all be utilized for Airport Parking a majority of the time. There could easily be 1000 vacant spaces in this garage most of the time if it were to rely on airport parking solely. In our earlier memo I indicated this excess could support additional development in the area. Looking at the surrounding land use this would likely be support uses for the airport. Office, light manufacturing or shipping uses come to mind. More detailed information on the available abutting land would be needed to estimate this potential, but 1000 spaces could support something on the order of 340,000 square feet of adjacent office development.

13-40

We would caution that this assessment of excess parking is based on available reference information. However no analysis in the DEIS Traffic Section was presented to establish Parking Demand.]

2. [ Potential for increased traffic on King Street and Gateway Lane in Greenwich.

The Traffic Section of the DEIS comes to the conclusion that the net traffic impact of this action would be a reduction in trips. Insufficient information was presented in the DEIS to enable us to confirm this analysis.

Examining the potential airport bound trips which would be occurring to the new garage location we note that it has its' only access on New King Street. This is a one-way road connecting with NYS Route 120.

Comment

According to the regional distribution of traffic in the DEIS some 45% of trips to the airport are assigned to King Street and Rye Lake Road in Greenwich. These trips turn left to Rye Lake from northbound King Street and travel around the roundabout at Airport Road to enter the parking at the terminal. Should a significant redistribution of trips be made to the new garage location the restricted travel patterns on New King Street (One Way) and congestion at Airport Road and I-684 ramps makes the use of Gateway Lane and King Street much more attractive.

13-41

# Memorandum

May 13, 2011

Diane Fox

2 of 2

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In examining the SYNCHRO files which were provided by the Town we found that significant queuing occurred on I-684 exit Ramp and the adjacent intersection. The LOS results presented in the DEIS may be not achievable due to queuing. Congestion in this area, should traffic be destined from the new facility, would most likely divert to access King Street from Gateway Lane.

This would not be an issue for the entering trips to the new garage but rather occur for the return trip. Even in off peak conditions it is likely that this effect will occur just from a travel time reduction basis.

We trust this information further clarifies our report and would be pleased to provide additional comment on any remaining questions you may have.

# Memorandum



Date: May 10, 2011

To: Diane Fox

From: James W. Friel BETA Project #: 3908

Subject: Parking Garage Proposal Westchester

We have completed our review of the data and reports prepared by AKRF relative to the Westchester County Airport and the proposed 1450 space parking garage development.

In undertaking this study we have reviewed the DEIS and supplemental data provided to the Town of Greenwich under an FOI request. We obtained and reviewed the Frederick Clark memo dated 2/23/2011 and responses of AKRF.

These reviews have led to some additional areas of inquiry which we believe would be beneficial in understanding the Traffic impacts of this proposal.

This memo presents a series of questions. Many may be already answered but we were not able to document the information in the material which we were provided.

We are focusing our questions to the relative sections of the Traffic Chapter (13) of the DEIS.

## Page 13-1

### Introduction.

The statement is made that the Garage and overflow lots are "at or near capacity" during Holiday periods. What is the customary occupancy profile for the Airport Garage and overflow parking? This data should be available for the facility.

Comment  
13-18

### Background Growth.

The growth rate of 2.5% seems very conservative. Have historical counts showed this growth? Was that data reviewed in developing the study?

Comment  
13-19

## Page 13-2

### Project Trip Generation.

The DEIS states that three airport parking facilities (Columbus, OH, Denver, CO, and Pittsburgh, PA) were used to validate the Park Place estimates. No relevant statistics about the airports or the location and usage of the facilities were provided other than computer entrance and exit data. We would suggest that to confirm relevance of the data the statistics on the three airports be presented in comparison to Westchester County to confirm. Such data as total parking, enplanements on daily and holiday periods would be suitable for this comparison. Similarly the location size and relationship to primary parking for each airport would be needed. If the sites are capacity constrained data on the frequency should be documented.

Comment  
13-20

What was the number of trips for Shuttle or pick up and drop off activity at the Westchester Terminal? This data is essential to confirm calculations on the transfer of trips. Also, comparison of the total number of these trips in

# Memorandum

May 10, 2011  
Diane Fox  
2 of 4

relation to the adequately parked comparables stated would confirm that a higher number of pick up and drop off trips is occurring. This would support the hypothesis that these trips would shift and in fact result in reduced area travel. We have not found such documentation in the material provided.

comment  
13-21

[ Detailed calculations should be submitted substantiating the trip reductions and shifts taken. We could not find this information in the material we received. Breakdown should be by private passenger, Limo, Shuttle and Bus. We are presuming that differentiation can be made between arrivals and enplaning passengers. This should be relatively easy for shuttles and transit.

comment  
13-22

[ Data on the logic and supporting calculations for assignment to the Park Place garage should be provided.

comment 13-23

[ How was the number of shuttle bus trips to the new facility determined?

comment 13-24

[ While we can understand the logic proposed in reducing trips for the new facility it should be better documented. Little substantiation is provided in the material provided for review.

comment 13-25

[ Page 13-3

Project Vehicle Distribution

The methodology of using existing travel patterns is acceptable.

comment 13-26

[ Traffic Conditions

Substantiation of these statements will be achieved when information noted on Parking Occupancy, arrival and discharge profiles and other data noted is clarified.

comment  
13-27

[ Conclusion

The provision of some 1450 additional parking spaces will support airport operations. Depending on cost factors and convenience these spaces could replace some shuttle trips. More analysis detail is needed to confirm this conclusion.

comment  
13-28

[ B. Existing Conditions

We concur that the intersections selected represent the appropriate analysis locations.

comment 13-29

[ Page 13-5

Intersection Capacity analysis Methodology

Synchro is an appropriate tool to analyze capacity and LOS as well as delays, queuing and other operations concerns.

comment  
13-30

[ Page 13-7 Traffic Conditions

Comparison of ATR data and Manual Turning counts revealed some discrepancies on Rye Lake Road. Data in this area used in Synchro Models should be confirmed.

comment  
13-31

# Memorandum

May 10, 2011

Diane Fox

3 of 4

[Figure 2008 Existing Traffic volumes

Verify Rye Lake and King Street, Rye Lake and Airport Road. Figure and volumes for Roundabout appear incorrect.]

comment  
13-32

[In examining the Synchro network for this project it appears that the operations at Rye Lake and King Street intersection may be assuming a free right turn on Rye Lake Ave. approaching King street. We do not believe this is the case and analysis should be confirmed with the Town Signal Plan.]

comment  
13-33

[Page 13-10 Parking Conditions.

Documentation on actual parking occupancy on time of day basis should be provided to substantiate analysis conclusions. Statements are subjective. Perhaps the County or airport has a study on this subject which could support the stated results.]

comment  
13-34

[2012 No Build Traffic Volumes.

Projections appear correctly made. Resolution of count data with ATR may affect this analysis.]

comment  
13-35

[Page 13-14 Accident analysis appears adequate and does not reveal any concerns in New York.

Applicant should request similar data for intersection in Connecticut for consistency.]

comment 13-36

## [D. Probable Impacts of the Proposed Project.

More detail is necessary to substantiate the basis that is put forward in this DEIS. While, in fact, the conclusions indicate a net decrease in volume projected to the airport as a result of this parking facility, this goal will be dependant on many factors. Information on the Westchester County Airport Web Page indicates that some 1.9 million passengers are served annually on 32,000 commercial flights. In addition there are some 70,000 corporate flights annually. We will not repeat the issues noted earlier but rather indicate that determining the probable traffic impact of the proposed Park Place Garage may justify additional actions.]

comment  
13-37

[We consulted a report by the Eno Foundation entitled *Parking*. This report, developed by Robert Weant and Herbert Levinson of Connecticut in 1990, has long been considered a definitive source on parking. Concerning airports, the report indicates the ranges for required parking at public airports. Data is given for parking demand and mix of travel for several airports. Figure 6.9 of that report indicates the range of Public Parking Spaces required to service a range of originating passengers. The data noted on the Web for Westchester County Airport would indicate that parking would be needed to accommodate some 1.0 million originating passengers. Based on this number the expected spaces which would be necessary for the airport would be on the order of 1500. Obviously the business flight traffic would have impact on this number but at face value the airport provides approximately the number of spaces in the garage and overflow lot that would be expected. Parking demand at airports can vary widely and be especially restricted during holiday periods. While the ENO report is somewhat dated it does indicate that adding the Park Place Garage to the total would bring the airport at a level of parking approximately justifying some 2.0 million originating passengers. Data was also provided in the Eno report on the parking generation rates for enplaning passengers on a weekday and weekend. The Eno figures noted that on average Parking Generation was at the level of .44 spaces per enplaning passenger on a weekday and .89 spaces per enplaning passenger on weekends. Another Parking Generation factor which was presented was the based on the number of Daily Airplane Movements. This figure indicated some 8.56 spaces per Daily Airplane Movement on a weekday and up to 14.83 spaces on the weekend. Assuming that there would be at least 150 commercial airplane

comment  
13-38

# Memorandum

May 10, 2011

Diane Fox

4 of 4

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movements a day (in or out) the parking demand of about 1300 vehicles would be indicated. This is consistent with the range noted in the initial analysis based on enplaning passengers.

comment

The above paragraph seems to indicate that 1450 additional spaces will move the available parking at the airport beyond what is traditionally provided. That would indicate the new garage may have some additional capacity that will not be taken up by airport demand. This analysis is based on studies and generation factors that may not be totally similar to Westchester Airport. They do suggest that the New Garage facility may be able to support additional development in its vicinity should that occur.]

13-38

[We recommend more definitive evaluation of the passenger demand and commercial operations at the main Terminal. Documentation of existing shuttle operations, Taxi and Limo services should be included to ascertain the potential for diversion of these passengers to park in the new facility.

comment

The concepts presented in the DEIS could well be valid but need additional documentation to support the conclusions presented.]

13-39

Please contact our office if you have further questions.

STATE OF NEW YORK  
TOWN OF NORTH CASTLE

X-----X

Public Hearing Before The Planning Board  
of North Castle, New York, in Connection  
with an Application in Relation to Park  
Place at Westchester Airport.

X-----X

May 2, 2011  
7:00 p.m.

H.C. Crittenden  
Middle School  
10 MacDonald Avenue  
Armonk, New York

BOARD MEMBERS:

John Delano, Chairman  
Steve Sauro  
Jane Black  
Beata Tatka  
Guy Mezzancello

STAFF MEMBERS:

Adam Kaufman  
Town Planner

Roland Baroni, Esq.  
Town Counsel

Valerie Desimone  
Planning Board Secretary

REPORTED BY: Lori Ann Sacco  
Official Court Reporter

CHAIRMAN DELANO: Good evening. Welcome to the May 2nd meeting of the Planning Board of the Town of North Castle. We're holding a public hearing this evening. I'll read the public notice. Bear with me.

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 [State Environmental Qualify Review Act] of the Environmental Conservation Law.

A Draft Environmental Impact Statement has been completed and accepted by the Town of North Castle Planning Board, acting as lead agency for the proposed action described below. Comments on the DEIS are requested and will be accepted by the contact person identified below. It will be Mr. Kaufman, I believe. It will be accepted until 15 days after the close of the SEQRA hearing or such later date as may be announced this evening by the Planning Board. A public hearing on the DEIS is scheduled to begin this evening at 7:00 o'clock or soon thereafter at this building, at H.C. Crittenden Middle School, 10 MacDonald Avenue, Armonk, New York.

The name of the action is Park Place at Westchester Airport.

Planning Board has determined this to be a Type I Action under SEQRA.

Description of the action is identified as 11 New King Street, LLC proposes to construct a multilevel automated parking structure at 11 New King Street in the Town of North Castle, Westchester County to alleviate an existing parking shortage at Westchester County Airport.

The proposed parking facility would be called Park Place at Westchester Airport. In conjunction with the site plan application, the applicant has submitted a zoning petition to amend the Town of North

Castle zoning code to allow parking structures in the Industrial AA zoning district with a special permit.

The project site comprises two tax map parcels that are located in the southern portion of the Town of North Castle adjacent to Westchester County Airport near the Connecticut state line. The proposed project would involve construction of an approximately 267,000 square foot five level enclosed automated parking structure with a building footprint of approximately 51,000 square feet. The parking facility would provide space to accommodate 1,450 vehicles.

UNIDENTIFIED SPEAKER: Make it bigger.

CHAIRMAN DELANO: Please. A few comments on the conduct of our hearing tonight. Comments received at tonight's SEQRA hearing will become part of the official record. All comments made tonight will be responded to by the lead agency in the final EIS, and thus may affect agency findings and decisions on the project. Since we have a stenographic record, we have a stenographer here with us this evening, it will also become part of the, your comments will also become part of the official record on the EIS and the transcript as well will become part of the record.

If you wish to speak and you haven't signed up with Valerie here, the lady in red, in the front row, please come up and sign up with Valerie.

Just some general ground rules before we get started. We ask that everyone treat each other with mutual respect, courtesy and be patient as the hearing moves forward. Please help maintain an atmosphere where everyone feels comfortable and welcome, regardless of his or her position on the project. Do not interrupt others while they are speaking.

Please remain quiet so the stenographer can hear. Please leave the room for any side bar discussions. Please refrain from addressing the audience or asking for audience participation. And as well turn off your cell phones. Set them to vibrate.

Another matter of housekeeping, I guess, the emergency exits are at the rear and over here (indicating). With that, I don't know that we can get a recap. Maybe Mr. Null can give us a recap as to how we got here and why they're here.

MR. NULL: Good evening, Mr. Chairman, members of the Planning Board. Thank you very much for opening the hearing tonight. My name is William Null. I'm a member of the firm of Cuddy and Feder. I'm here tonight on behalf of 11 New King Street, LLC. With me is Nanette Bourne with AKRF, who prepared the Draft Environmental Impact Statement. That Draft Environmental Impact Statement was submitted and reviewed by this Board and accepted as complete. It's been posted on the website. It's been available for public review.

We did, as you noted, send out, publish the requisite notice for this hearing. And the opportunity now is for the public to be able to comment on that DEIS and submit comments for a period of time after the close of the public hearing, whenever that may be, subject to this Board's determination.

We did submit initially a petition to the Board of Trustees requesting amendment to the industrial district, in which this property is situated, to create a special permit to allow for commercial parking garages to be constructed. The size and scale of the parking garage as you described is about 55,000 square feet, five levels, and it is proposed to contain about 1,450 vehicles.

There is an existing parking

shortage at Westchester County Airport. The proximity of this site to the airport is intended to address that existing need. There have been studies completed that are part of the DEIS that indicate both the rationale behind this and the projected impacts, traffic wise as well as any effect on the site itself, tree removal, adjacency to wetlands effects on storm water management issues, et cetera. There is a considerable amount of detail in that DEIS. As I said, it's available for public review. Many of you may have reviewed it.

There are two sites involved in this application at 11 New King Street. Lot 14B is 2.47 acres. These slides indicate what the SEQRA process is about. What the next steps are. Just so I can go through it somewhat. As I said, we published the Draft Environmental Impact Statement. Written comments are received until at least 15 days following the close of the public hearing subject to this Board's determination of that timing.

The Town Board, by the way, when it received the petition, did refer it to the Planning Board for recommendation. Town Board has not acted upon it. The Town Board cannot act upon it until this Board reaches environmental determination under SEQRA, and thereafter the Town Board can act one way or another as it chooses. And the application itself for the -- for the parking facility will be subject to site plan review. And presumptively, if the Town Board adopts the zoning amendment, to a special permit as well. Those standards are set forth in the DEIS. We've attached the petition. We've attached site plans that indicate the design and nature of the improvements and as well as descriptions of the potential impacts.

This slide just shows generally SEQRA status. Once the comments made tonight in the format here -- Roland, correct me, Mr. Chairman, the purpose of this hearing is to get public comment. We

will not respond to those comments or questions tonight with answers. The format for that is for a Final Environmental Impact Statement to be prepared, which again will be a document to be reviewed by the Planning Board, its consultants and then determined whether or not it's complete. If something more needs to be done to address to its satisfaction, the Final Environmental Impact Statement responds to questions that have been raised here. That will then be published and circulated before the Planning Board can take any action under SEQRA.

And as I said, once the Planning Board goes through the SEQRA process, it would then be able to act on the substantive application of the site plan, and the Town Board will be able to act on the zoning but not before.

The purpose here is to record comments, which is why we have a stenographer. To have people -- To give people the opportunity to speak. But the fact that you've spoken doesn't stop you from being able to submit something in writing afterwards or for those people who are not able to attend, to submit written comments.

As I said, the purpose of this building is to provide parking in a situation where, among other things, Westchester County is, on its own website for the airport, is noting the insufficiency of the parking and just trying to discourage people from parking there. As a result of that, many people take car services or have people drive them to the airport. Take taxis, limousines, et cetera. So when that happens, the vehicle comes, drops them off and leaves and then comes back to pick them up and leaves. That's four trips. If those same people drove themselves and were able to park conveniently, it would be reduced to two trips. So, there is a detailed traffic study in the Environmental Impact

Statement.

The way this site would operate is for people being able to drop their cars at the site. Have a van bring them to the airport terminal. Drop them off. When people arrive, there would be -- we would know when they were arriving. We would be able to have a van go and pick them up. People would call us when they arrive at the airport. They would be met and brought back to the facility.

The contemplated operation of the garage is through an automated system. It would mean that the cars are not being self parked. They are not being driven in, circulating around, looking for available spaces. Instead what happens is they are being dropped off. Cars are then shut off. They are being shuttled to spaces internal to the parking facility. And it can hold 1,450 vehicles.

In that way the cars are secure. They're off. We don't have the fumes, exhaust that would typically be experienced by vehicles driving around and looking for parking spaces. And the analysis of the impacts, as I said, are in the Draft Environmental Impact Statement.

On this site currently is a 9,700 square foot office building. As I said, this is in an industrial district. The use of a commercial parking garage we believe is consistent with the Comprehensive Plan for the Town of North Castle. Of course it's not my role to reach that determination. It's for the Town to do so. But in our review, in an industrial district, is a consistent issue here.

We would be applying for a wetland permit for effecting the buffer area and some wetland area. There is a range. We've delineated a smaller amount than the Town's consultants. That's going to be verified and validated once the

vegetation presents itself sufficiently in the next few weeks, and that report will come back to the Planning Board.

New York City DEP is also involved because they are the lead agency in the watercourse. There are significant storm water management improvements being proposed on the adjacent 1.20 acre parcel. That's Lot 13A, which is immediately to the north of this site. And it will -- it will address both storm water management, quality and quantity, not just for this site, but for one of the buildings and parking areas that's not currently remediate.

As I said, 51,000 square foot footprint. 267,000 square foot floor area overall. Fifty-six to 60 feet tall. Talked about the shuttle bus. We intend to have a clean fuel vehicle that shuttles passengers back and forth as needed.

Based on the analysis in the Draft Environmental Impact Statement, we believe there will be reduced traffic and exhaust emissions. There will be some wetland impact and wetland enhancement. There is already a disturbed area of the site, the 9,700 foot square office building as well as the adjacent parking area. And there is fill on the site. It also extends beyond that parking area that is part of the disturbance in the site. Mitigation measures are detailed in the DEIS. There are some potential visual impacts. Simulated renderings in the DEIS as well for people to review and evaluate.

I apologize we don't have the larger screen and have the smaller screen, but there are -- these visuals that I'm showing you right now, the renderings, this shows from the north looking towards the site. The airport would be behind, effectively behind, the south of this site. And there is a landscape buffer, existing trees between the site and Route 120 as well as between the site and King Street.

These are simulated images of summer and winter visibility. If you were, you know, at a height, you could actually see these. The hard part about doing the visuals is you're not necessarily ever in a position where you would see these renderings exactly as it is. What we wanted to do was give a worst case scenario. Again, summer and winter. This is from King Street.

This slide just goes through the various issues that are addressed in the DEIS. Land use, zoning and public policy, visual resources, cultural resources, natural resources, geology, soils, topography and slopes, water resources, community facilities and services, infrastructure and utilities, economic conditions, traffic and transportation, air quality and greenhouse gas emissions, noise, hazardous materials, alternatives. There are several alternatives. Basically different size parking facilities on the site. And then a section addresses unavoidable adverse impacts as well as irreversible and irretrievable commitment of resources, impacts on use and conservation of energy and growth-inducing aspects.

There will be enhanced tax revenues to the Town should this be built as compared to the 9,700 square foot office building that's there. That's detailed in the report as well. Unlike many buildings, this does not generate school children. This does not generate significant traffic on its own. It's taking traffic that is going to the airport, and that's detailed in the analysis.

There would be written comments, if the hearing were to be closed tonight, would be due by May 17th, and the information would be sent to Adam Kaufman. Mr. Kaufman is the Director of Planning for the Town of North Castle, Town Hall, 17 Bedford Road, Armonk, New York, 10504.

We are not going to go through a more detailed presentation, since the real purpose of tonight's meeting is to provide the public with an opportunity to speak and to comment. I turn it back to you, Mr. Chairman, unless you have questions of me. And I thank you for the opportunity to be able to have this time. Thank you.

CHAIRMAN DELANO: Thank you, Mr. Null. Anyone on the Board have any questions for Mr. Null?

(No response.)

CHAIRMAN DELANO: No questions. We'll open it up for public comment. I apologize in advance for all of the mispronunciations I will make this evening. Some of you may have mispronounced my name as Delano. It's actually Delano.

First on the list is Peter Tesei, First Selectman, Town Hall, Town of Greenwich. Good evening. How are you doing?

MR. TESEI: Good, thanks.

CHAIRMAN DELANO: If that works, let's try it.

MR. TESEI: Good evening.

CHAIRMAN DELANO: Good evening.

MR. TESEI: Thank you for the opportunity to attend. My name is Peter Tesei. I am the First Selectmen for the Town of Greenwich. It has been a pleasure to work with many of you and your representatives over the course of the past several years and addressing concerns of mutual interests to our communities.

I'm here tonight primarily to first learn more about the proposed

development. I've only been aware of it for the past week. So, I want to gain more knowledge about it. But in understanding the initial elements of the proposal, on behalf of our residents, [I am concerned about the potential exposure it provides to future opportunities for use by those who utilize the airport. And we know that the airport presently operates on a voluntary agreement on the cap of the number of passengers. And my concern is that this potentially could increase the potential for expansion of that going forward. Of course it is voluntary, as I said. And this agreement is contingent upon multi party cooperation.]

comment  
2-1

In terms of our residents, I would just say if there are those from Greenwich here, would you please stand so the folks who are in the room can see.

[As you can see, we have several residents who live within close proximity who are concerned about the impact not only this proposal will have but what opportunities it would provide for greater expansion of the use of the airport and all of the ancillary impacts that that use would have on not only the Town but on the overall region.]

comment  
2-2

[So, I understand you have a job to do. Certainly I respect it. It's always been about balance and serving in these positions, and I know that you will favorably balance all of these competing interests in the interest of the greater good. Thank you.]

comment  
2-3

CHAIRMAN DELANO: Thank you. Next from Hollywood, Kate Hudson, or is she from the Riverkeeper? Good evening.

MS. HUDSON: Good evening, Mr. Chairman and members of the Planning Board. My name is Kathy Hudson, and I am the Watershed Program Director for Riverkeeper. We are a member supported watchdog organization dedicated to

defending the Hudson River and its tributaries and protecting the unfiltered drinking water supply of 9,000,000 New York City residents and Hudson Valley residents.

[The scale and proximity of the proposed Park Place project adjacent to Rye Lake, which is an arm of the Kensico Reservoir, raises several significant issues for Riverkeeper, including impacts to wetland and wetland buffer areas and to water quality as a result of storm water runoff. The Kensico is the terminal reservoir for the Catskill Watershed, which typically provides 40 percent of the unfiltered drinking water supply to 9,000,000 New York City and upstate consumers. According to the Park Place DEIS, the project would be sited only 600 feet from Rye Lake and proposes disturbance of on-site town regulated wetlands and buffers, and the buffer of a New York City DEP regulated watercourse.]

comment  
8-2

[First, of particular concern to Riverkeeper is the applicant's plan to use proposed storm water management areas to serve as mitigation for the disturbance and for the permanent adverse impacts to on-site wetlands and buffers. While the applicant has expressed willingness to work with the lead agency to identify and develop an offsite wetland mitigation plan, neither that plan nor the final on site wetland mitigation plan are presented in the DEIS for public review and comment pursuant to the requirements of SEQRA. Moreover, the delineation of the wetland boundaries is still under discussion between the applicant and the Town, with the potential for increasing the impacts to wetland and wetland buffer areas beyond those currently identified in the DEIS. These uncertainties render informed review of the proposed project and current DEIS extremely difficult, if not impossible.]

comment  
8-3

[Secondly, although a portion of the project site has already been disturbed by pre-existing development, the

removal of forests and the addition of 33,500 square feet of impervious surfaces in buffer areas is new development that will increase storm water volume and velocity flowing off site. The DEIS first claims that storm water control measures and water quality treatment features of the project would have a beneficial impact on the quality of water that drains into the Kensico Reservoir, and then, on the very same page, the DEIS states that the predevelopment flow conditions, which are described as uncontrolled and untreated, existing runoff, will be the same post development. It would appear from this language that negative existing runoff conditions, with the potential to adversely impacts Kensico Reservoir water quality, will continue after construction of this project.]

comment  
9-1

These are just some of our major concerns with the Park Place DEIS. [We will be submitting detailed written comments by the close of the comment period, which we would ask be extended by this board to permit consideration of and comments on the additional, hopefully forthcoming information regarding wetland delineation and mitigation. We feel that the public should have an opportunity to comment on both of those issues. And obviously those are not included in the current DEIS. Our comments will discuss these and other water quality issues which have the potential to impact the New York City reservoir system's capacity to continue to provide unfiltered drinking water to half the population of New York State. Thank you for the opportunity to appear here this evening and provide comments on the proposed project.]

comment  
8-4

CHAIRMAN DELANO: Thank you, Ms. Hudson. Next up is Michael Zarin, Zarin and Steinmetz.

MR. ZARIN: Good evening. My name is Michael Zarin with the law firm of Zarin and Steinmetz, and I represent

Westchester Airport Associates, L.P.

[I guess I would like to just give brief introduction with respect to, I've done enough of this, that I appreciate the complexities of this project and the position you're all in, sitting where you are, trying to understand and come to grips with -- with the impacts and a project that has been presented in detail, and quite competently, including a very competent consultant team on behalf of the applicant. And I don't want to seem overly critical or preachy, but Westchester Airport Associates does believe that expanding the airport beyond the boundaries at this location presents too many unmitigable adverse impacts that should give great pause to the Town before it approves this project.]

comment  
2-4

I would like to beg your indulgence with respect to the length of my presentation. We did a very lengthy review of the DEIS. Again it was done by consultants, who we have high respect for, and we spent a great deal of time and would like to touch on very briefly a plethora of issues in relation to that.

I also have with me this evening Greg Fleischer from Carpenter Environmental Associates, who will elaborate on the wetland impact, and Bernie Adler from Adler Associates, who will elaborate on potential traffic impacts.

I guess as an initial issue and one that is somewhat interesting is I guess [there is a question whether the Planning Board has improperly assumed lead agency with respect to this project. It appears that the proposed zoning amendment would create a new special use category for parking garages in this district and, in fact, require the Town Board to rule on this special permit.]

comment  
3-1

Under the Town Code, Section 213-34, it would appear that a special permit review supersedes the need for site

plan review. So, again I would defer to -- to -- you know, your experts in unraveling, Mr. Baroni and Mr. Kaufman unraveling this issue, but I'm not sure the Planning Board would necessarily continue to have site plan review under the proposed zoning amendment, and as such also not have -- not have jurisdiction under the fresh water wetland under Section 205-5(c).<sup>3</sup>

comment  
3-1  
cont'd

So, the question I guess would become whether the Planning Board has any jurisdiction over this application under the proposed zoning regulation. Therefore, it may be improper and in violation of a case that I'm sure counsel is well aware, Coca-Cola Bottling v. New York, that the Town Board is improperly delegating its lead agency authority to the Planning Board in this case.]

[With respect to the many wetland issues, again there is -- we have experts who can elaborate on those as well as I assume DEP and Corps of Engineers and others will make their concerns known and have an opportunity to be on the site and delineate and provide their input. But as this Board I think realized in its issuance of the positive declaration, the proposed construction is to put a hole within the Kensico River Watershed, and is one of the primary potential adverse impacts in this project.]

comment  
8-5

I guess initially when we were going through some of the relevant material, we came upon [reference in the Town's records to the King Street corridor management plan. References which sets forth sound environmental practices for the corporations and the Town to manage their facilities in ways that prevent contamination of the Kensico Reservoir. And I guess this plan was completed in the fall of 2000 with quote "full support of the five corporations in the Town in this area". And the various corporations all pledged to minimize water quality threats by voluntarily implementing the pollution prevention mediation practices contained in

comment  
3-2

the plan and periodically re-evaluating and updating the plan. Unless we missed it, I guess we didn't see any reference in the DEIS in this plan, which would seem to be a major relevant document in this particular area.]

[We're also very aware of your own fresh water wetlands and drainage law, which is a particularly strong amendment in relation to other municipalities. In fact, mandates that the approval authority shall deny a wetland permit if the proposed activity may threaten public health and safety, can cause nuance, nuisances, impair public rights, enjoyment of public waters or violate other federal, state or local laws and regulations or it finds that the detriment to the public good by the fact it's listed in this section would occur and the issuance of the permit outweigh the nonmonetary public benefits associated with the activity.]

Comment  
8-6

[Again, we would submit that under the conditions of this site and the encroachment in very sensitive wetlands, that the reviewing board, whether it's the Town Board in this case or the Planning Board, maintains its jurisdiction, would not be able to find that. If so, it's not even discretionary but mandatory that the permit be denied. I think when -- as Carpenter Environmental Associates will elaborate, the proposal almost eliminates the entire storm water catchment area. It's three times more impervious surfaces in the buffer areas than currently under the existing and would eliminate significant percentages of the on-site wetland buffers.]

Comment  
8-7

There is also a premise in the DEIS that really has a fundamental impact on an assumption on the impact of this project. [There is, we would submit, two watercourses on this site. There is the wetland, I believe it's wetland B, and then there is another area that's called the ephemeral drainage channel, which I guess

comment  
8-8

submitted, it falls outside of DEP's jurisdiction. We would submit, and I guess when DEP has a chance to make its own determination, that this would be classified as an intermittent stream under DEP's regulations. If so, then the almost half of the entire facility is within the hundred foot buffer of that DEP wetland. And we would respectfully submit that the DEP could not issue a variance based on their criteria. We also believe that it would not meet any of the exceptions under DEP regulations for an existing commercial facility in light of that, the existing facility as being abandoned or the impervious threshold conditions, which is also another exception.]

[We believe the DEIS also inaccurately states that the project obtained a nationwide permit from the U.S. Army Corps of Engineers. Again, the Army Corps still needs to, I suspect, to get out to the site and go through its own delineation, perform its own delineation. The DEIS posits that it would be eligible for Nationwide Permit 39, which stands for commercial and institutional developments involving less than half an acre of disturbance. However, general condition 19 of this nationwide permit disallows specifically certain nationwide permits, including Nationwide Permit 39, in what's titled "Designated Critical Resource Waters". The east of Hudson watershed, excuse me, including the Kensico Reservoir watershed, has been designated as a critical resource watershed, and therefore would require an individualized Army Corps permit. And again we would respectfully submit that it could not meet the conditions, the very onerous conditions of a public interest review under the Army Corps of Engineer regs as well as not meet the DEC's individualized water quality certification determination, which is triggered by the Army Corps individual permit.]

comment  
8-9

We also -- Switching a little

bit with respect to SEQRA and the zoning. [We would again respectfully submit that there really is somewhat lacking analysis of the cumulative impacts of the proposed zoning and the impact that -- the growth inducing impacts that could be caused in other parcels within the IND-AA zone. Concededly while there is existing development and existing disturbance on various of those lots, they could easily, just like in this proposal, either be assembled or abandoned, and there could be, I don't want to use the word proliferation, because it's a limited site, but there could be additional large garages or other structures, setting a precedent that could be built on this site, and would be an expansion, an improper expansion of airport facilities outside its borders.]

comment

22-1

[As this board knows, the proposed zoning rather radically departures from the existing requirements of the zone. It doubles the allowable height from 30 to 60 feet. It doubles the maximum allowable buildable coverage from 30 to 60 percent. Eliminates any FAR and reduces setback. And again the North Castle Environmental Quality Review Act Law, to its credit, specifically mandates the site. The EIS sets forth a description of all growth inducing assets of the proposed action where applicable and significant. Here we would submit that the precedent that would be created by the zoning amendment for additional intense development in this zone would be triggered.]

comment

3-35

We also believe that there is [many aspects of this application that really fall pretty close to the doctrine of spot zoning. And I won't get into the whole definition or legal authority on that. But the DEIS correctly asserts that this site would be the only parcel that potentially could benefit or would directly benefit from the proposed zoning change. Again, we think others may, through precedent or growth inducing impact, but again this -- if you -- and I don't need to

comment

3-3

to lay this out or lecture this board, because you're more familiar with this proposal than I am, but this zoning was really tailored to meet this project and this application and this one parcel. And that really has many of the elements of spot zoning.]

[It's also, we would submit, contrary to the DEIS, inconsistent with the Town's comprehensive plan. And I think DEIS, again to its credit, recognizes this, that North Castle opposes any expansion of the airport. And the Town's Comprehensive Plan unequivocally states that quote "Any expansion of the airport is not recommended". Again, we would submit that that's exactly what this application is for, is a de facto expansion of the airport and its facilities.]

comment  
3-4

[Also we question whether the Town Board would even have the authority to approve the project with respect to its limitations that the town code puts on, excuse me, flag lots, flag sites. Section 213-21 of the town code establishes a 200 foot frontage requirement in this district. And I believe the Town Board lacks the authority under relevant law and the code to grant variances from the frontage requirement. Only your board has the authority to waive that. We think the authority for this application is going to be within the Town Board under its special permit, and it does not, we would submit, have that authority to grant variances for frontage requirements. Again, Mr. Adler will elaborate on this point, but I think it's -- it's important enough for me to at least touch upon, because it does have some legal implication. That's with respect to traffic.]

comment  
3-5

[Put aside the differences we have in some of the assumptions that are made with respect to the reduction in vehicle trips, but if you accept your own consultant's report that this may generate 200 new vehicle trips, plus 18 shuttle bus

trips and 195 vehicle trips, plus 18, I'm sorry, plus 18 shuttle bus trips, this would significantly exacerbate as the DEIS elaborates or concedes existing F levels of service at three of the critical intersections, of which I travel down 684 every morning. Many of you probably do. Or maybe you are even caught in those queues along the ramp.]

comment  
13-2

[We're not sure where the DEIS is coming up with the conclusion that if a traffic -- if traffic conditions exacerbate an F, and it's a very expensive mitigation, that the applicant is not required to mitigate those. The CEQR technical manual, which I'm sure Mr. Kaufman is aware of, is the preeminent CEQR, SEQRA technical manual that was in fact prepared, it's an excellent document, by Nanette's firm, AKRF, that is used throughout the state to provide some uniformity in doing technical analysis and SEQRA. And that establishes that a three second delay increase at an existing level of service F intersection poses a significant impact that must be mitigated. And when you go to the manual, and you can start at page 16-53 and work your way around the manual, the manual is pretty clear, as I have been at least in my practice over the years, where I probably most often sat in the applicant's seat or as special counsel for -- for municipalities, that if an applicant exacerbates an F condition, they have to at least bring that condition back to the existing F condition. The fact that it's failing now and it's significantly exacerbated is not a free pass of any kind. And the fact that the mitigation may be regional and expensive to mitigate is also -- in my experience I've not seen it used as a means for classifying something as an unmitigable impact.]

comment  
13-3

[With respect to the impact on Greenwich, we've been involved in a number, over the years, quote, unquote "intermunicipal issues" with SEQRA where SEQRA applications impact more than the

comment  
3-6

host community. And clearly I think Greenwich is probably, the houses along King Street, at minimum are some of the most impacted -- impacted homes. And we would submit that this facility is going to have a pretty significant impact on the community character.]

[We try to at least picture what the height and mass and density in a leave off condition would be. I think there was one good photograph that really captured that. One of the winter photographs. It's a large, massive structure that's really going to be in the face of those -- those houses, and really changes the character of that neighborhood. And while they were, I think, representative and accurate photo simulations from Route 120 and from 684, it was really not the same type of treatment from those houses to really capture the character, the photo simulation, the type of work that your consultants and we all know how to perform.]

comment  
4-1

[Finally, I think there is an alternative here also that needs to be studied. Under ordinary conditions, possibly no, but under the conditions here. And that's -- that's the alternative for what would be the -- what would be the impact of an alternative for additional parking at Westchester Airport, you know, within the boundaries of the airport itself. Obviously my client has an interest, vested interest in that. But putting that aside, you know, in full disclosure, but putting that aside that is a possible, reasonable alternative. And the SEQRA handbook is very clear that typically you cannot make a private applicant, I would believe the first one to scream, you can't make me study land I don't control or land that is not consistent with my objective. But the DEC SEQRA handbook does state that where you have a discussion of alternative site for proposed action would be reasonable and circumstances, including any case where the

Comment  
18-1

suitability of the site for the type of action proposed is a critical issue, in which case a conceptual discussion of other siting should be required. And I think the issue of the impact of expanding beyond the airport boundaries, which I don't need to tell this board or this town, has been one of having a long history of discussion and a long history of controversy and analysis is a critical issue. Certainly one of the alternatives is -- is maintaining and expanding parking on site. And that probably would be studied as an alternative.]

[Finally, while there was some, and Bill referred to it, discussion of a rationale for the parking, I think everyone would concede that there is a need for additional parking with respect to the airport. I'm not sure there was the appropriate market study or analysis justifying a 1,400 car garage. And that was -- that would be something that I would respectfully submit should be of critical analysis for this board in determining the need and rationale for this proposal.]

comment  
13-4

So, with that said, we will provide my comments in written format and do thank you for your patience today and my long-windedness. And I commend you on the work you have done and the work you have ahead. Thank you very much.

CHAIRMAN DELANO: Thank you, Mr. Zarin. Next is Greg Fleischer, Carpenter Environmental.

MR. FLEISCHER: Good evening. My name is Greg Fleischer. I'm with Carpenter Environmental Associates. I'm a professional scientist.

CHAIRMAN DELANO: Could you go closer to the mike.

MR. FLEISCHER: I'm here on behalf of Westchester Associates. What I'm here to discuss tonight -- I would like to

thank you for the opportunity to speak tonight, Mr. Chairman and members of the board.

I would like to elaborate a little more of what Mr. Zarin spoken about with regard to wetland. I'll get right into it. There are a lot of impacts to wetlands and watercourses associated with this site. And I think it's important to understand the number of watercourses and the amount of impacts and how they are going to effect the very nearby Kensico watershed.

So, what I have in front of me here is figure eight one, and this is a map of the reservoir and the central watercourses that are mapped by the national wetland inventory and are present in and around the site. Okay. And what you know and what was brought about in the DEIS was that we have a linear wetland that runs into a perennial watercourse, which traverses the eastern portion of the site. It runs along the north of the site, and empties into a perennial watercourse, which drains into the Kensico Reservoir.

Comment  
8-10

In addition, you have another perennial wetland located along the south of the site. This is where you have discussion, and I know you're in the process of providing or doing some more detailed work with regard to wetland delineation. This the ephemeral watercourse that the DEIS recognizes. This watercourse drains into an NWI mapped intermittent watercourse. This is something the DEIS doesn't really give a lot of attention to, and I think it's important that the board makes note of this.

This particular linear wetland was not really discussed in terms of DEP regulation. This would, in our opinion, qualify as a reservoir send, as it is directly contributory to the Kensico Reservoir. I think this is important,

because you would have a 500 foot extension out, for jurisdiction out from the reservoir. And then from there, once you determine the status of that technically ephemeral watercourse, you could have a potential to have 100 foot limiting distance off of that particular watercourse, which extends the southern boundary of the site. I think that again would certainly increase the buffer area that's already present on the site. And that is currently regulated both by the Town and by the DEP.]

Going further, [I would like to draw your attention to their existing conditions map. I'm sorry if you can't all see this on the other side there, but this is about as big as I can make it. What you're looking at is your delineation, which is in yellow, which is the town delineated wetlands, okay. It's important to really realize all the interconnectivity that exists in and around the site, okay. Again, you have your perennial watercourse, its associated wetland, okay, which drains through this portion of the perennial watercourse, which is a Class A DEC regulated watercourse, and then again through a 60 inch culvert and down into the reservoir.

On the southern portion, this is an illustration of the ephemeral watercourse and its connectivity to wetland A. Wetland A is the bridge between this ephemeral watercourse and this ephemeral watercourse that you have on the southern boundary of the site. I think it's important to understand, because of the hydro connection of the different watercourses and wetland and the potential impact that could result from the development.

comment  
8-11

Now, when looking at this wetland, you can see in the current conditions, although you can't see too well, is that there is a large area (pointing) of undeveloped forested buffer

area, and that is within the 100 foot town regulated area, okay. And this provides, along with the grass areas that are present on the site, a significant amount of buffer. And I think that is counter to the DEIS, which states that currently most of the storm water just runs off the site untreated. And I think when you're looking, when you take a hard look at this particular image, you're going to see that you have well over 100 feet in both instances for trees, for the shrubs, for the grass. It all filters out, that water. That water falls on the site. It goes through the grass. It gets deposited. Okay. The rest of the water runs through the underbrush and down to the wetland, where it's stored and it's filtered and goes to groundwater recharged. That's a really significant buffer. It's the reason that the Town has regulations for buffers. It's a reason for it to be maintained.

[Now, in moving forward, I would like to discuss pretty much the way the post storm water and the pre storm water balances on the site effect the wetlands and the watercourses.

What you have here is a figure from the DEIS which explains or shows the site sectioned into three separate parcels. And this is where the storm water on the site currently falls and where it pretty much drains to, okay. So, you have here pre one (indicating), okay, which drains the eastern portion of the site out to the perennial watercourse. You have -- I'm sorry, that's pre three. You have pre two, which drains mainly the center of the site, out to the perennial watercourse and also to wetland A. And then you have pre one, which basically deals with the majority of this area on the south of the site, which is directly related to that ephemeral possibly intermittent watercourse. And these areas are very important. And what it is showing is that water is again falling on the site, going through the grass structure, going through the wooded

(comment  
9-2)

structure, everything I said before, and going into the watercourse. There is plenty of natural treatment, natural filtering going on in the site. I don't think the DEIS should persuade you otherwise.

The trouble here is when you go to the post development storm water structures. This is the secondary map demonstrating how the storm water will be moved about on -- on the site, okay, post development. The large pink object in the middle is your parking garage. As you can see, the parking garage has eliminated, okay, has literally eliminated everything that was in pre one in terms of the hydrological connection, okay. All that area that was collecting all of that storm water and bringing it near that ephemeral watercourse, down into wetland A, where it's being filtered, and through the culvert, okay, and out into the Kensico River, I'm sorry, Kensico Reservoir. So, you have a huge reduction, okay, post development in the amount of water that is physically reaching this portion of wetland A and that ephemeral watercourse.

*Comment*  
*9-2*

Where pre two was, they now have a proposed basin, okay. So, what we've done here or what they have done is essentially eliminated that entire hundred foot buffer, okay. Going to be excavating out, removing that soil and going to be eliminating that entire natural filter. But the worst part of it is, is that this entire wetland A, over here (indicating), you're going to be cutting the hydrological flow of that wetland by more than half, okay. The same goes for the area that was designed as pre one. So, half of this water (indicating) is no longer reaching this wetland. So, the wetland doesn't serve to buffer. It doesn't serve to treat the water. It doesn't serve to distribute the water to either the perennial watercourse or intermittent watercourse, which drains to the Kensico Reservoir. It's providing a natural function in its

natural state and it's being removed.  
That's important.]

[Now discussing this further, another thing that should be noted is that you have the reduction in the area where we're getting hydraulics to the wetland and ephemeral watercourse. The remainder of the site, all of that water is now being concentrated. Okay. Everything that's in that water, every constituent, whether it's physical, whether it's chemical, whether it's a biological constituent, gets moved and transported to this series of basins, okay (indicating).

These basins, okay, are taking all this area that says post two E, G, goes to B, A, all of them goes to one discharge point, DP2. So, water that was being disbursed throughout the entire site is now concentrated into one spot at virtually one discharge point. Discharge point one, barely any water, at least half of what was there prior. Discharge point three, a huge reduction in the amount of water that is going to the perennial watercourse and existing wetland.

Comment  
9-3

The impact to the buffer, the wetland, the watercourse all fall on this project. This project sits in the Kensico Reservoir watershed. As Mr. Zarin stated before, it's part of the Hudson watershed. All of these watercourses and wetlands work together. They interconnect to filter and process the water that falls on that site, and it then goes forth to the Kensico Reservoir.

I think it's important for the board to really consider the impacts of any disturbances to those buffers, be it your town buffer, the DEP hundred foot offset, or any of those other measures. Of course when Corps comes out to look at the site, get some type of jurisdictional determination, some characterization of that ephemeral watercourse. So, it will make your decision easier as far as

deciding what exactly exists on the site.  
Thank you for your time.]

CHAIRMAN DELANO: Thank you,  
Mr. Fleischer. Next is Bernard Adler,  
Adler traffic consultant.

MR. ADLER: Good evening.  
For the record, my name is Bernard Adler.  
I'm a licensed professional engineer in the  
State of New York along with New Jersey and  
Connecticut. I'm the past Commissioner of  
Traffic for the City of White Plains. Past  
president of the metropolitan section of  
the Institute of Transportation Engineers,  
which is the professional society of the  
transportation professional. I also sat on  
the International Board of Directors of  
ITE. And I have been a past adjunct  
professor of civil engineering at Manhattan  
College, where I focused on transportation,  
planning and traffic engineering.

I'm going to focus on traffic.  
I've been doing this for about almost 50  
years. So, my focus is only going to be on  
traffic. I'm going to talk about three  
areas. First one is need. The second one  
is traffic issues. And the third is site  
issues.

[As Mr. Zarin had mentioned, it  
is not clear from the DEIS that there is a  
need for 1,450 spaces. There is no marked  
study. There is no pro forma. There is a  
number of inferences as to specifics  
regarding the number of spaces that are  
available, but the identity of 1,450 is  
really not clear. Maybe they need only 700  
spaces for all I know.]

Comment

13-5

[In addition, we've already in  
recent Journal News, there is an article  
about Purchase College providing shuttle  
services where they have approximately 500  
spaces, where they will provide  
transportation, shuttle services from  
Purchase, Purchase College to the airport.  
Right now that's a nominal number, about \$5  
a day. And that's going to go up in June

Comment

13-6

to about \$15 a day. But the addition of 500 spaces off site may be another mitigating factor as to the need for this entire project.]

[The traffic study that was prepared by AKRF addresses the traffic issue in a rather simplistic mode in terms of eliminating a good majority of all the trips that are coming into the site or going out of the site and just subtracting them from the transportation system. It really does not justify the number or the percentages of how many cars should be dropped.

comment

13-7

We recognize that four trips could become two trips, but how many of them are to be captured. How many of them are going to be -- How many people are going to eliminate the use of taxis, limos and private cars to provide transportation to the airport? That has not been identified.]

[However, the supplemental transportation study, which was done by the Town's traffic consultant, looked at a case where 200 cars could be added to the airport, which is a function of growth, increase demand, and we agree that that should be the level that should be analyzed.]

comment

13-81

[In his analysis, Mr. Galante found that there -- there were three intersections, as Mr. Zarin noted, that are at failed commission. The first one is the intersection of Airport Road at Route 120. The second and the third are the north and southbound ramps of 684.

If you look at the southbound, the intersection of Airport Road and Route 120, as the traffic increases, the southbound movement becomes an F level of service with a delay of -- an increase delay of 25 seconds to a failed condition of 92.8 seconds. But on the eastbound approach, which is the approach from 684

from Kensico, there is a calculated queue of 1,045 feet to get to Airport Road. And that's an increase of 380 vehicles in the morning peak. And in the evening peak it's 589 cars, which is an increase of 138 feet.

Now, the interesting part about it is there is only 100 feet between the southbound -- the northbound ramps and Airport Road. Well, I'm not sure where those cars are going to be able to store except they are going to block the northbound ramps and the southbound ramps. And low and behold, that's exactly what they do. In fact, the northbound ramps on 684 are experiencing currently F levels of service. In the morning peak hour the ramp delays are increasing to 170 seconds, 169.5 seconds. That's an increase of 56.8 seconds. It's going from two minutes delay to three minutes delay. And that's just adding traffic to the stream. There is no identity of whether or not mitigation is done there. There is no hard look at that intersection as to whether the ramp has to be improved. It's just left there.

comment  
13-8

On the southbound ramps of 684 the delays are so large that they can't even calculate the queue. It's now measured in terms of what we call a V to C ratio, volume-to-capacity ratio. It is traditionally most one. So that the number of cars wanting to go through is equal to the capacity of the intersection. When you get more than one, then the demand is higher than capacity and the delays increase.

So, the level of congestion on the southbound ramps, the volume capacity ratio goes from 3.79 to 4.65. That's 3.8 times the capacity to four and a half times the capacity. And the increase is a 22 percent increase. Nothing is addressed there.

In the evening the delay goes from a volume-to-capacity ratio of 5.64 to 7.49. Five and a half times what the

intersection will allow to seven and a half times. Those are monumental numbers. It's a 33 percent increase, and it is not addressed. This is the -- this 800 pound gorilla in the room that is just ignored. It just said this has to be addressed, but nobody is looking at it. The volumes are increasing. The delays are increasing. The levels of service are increasing. The intersection is not addressed. It's been ignored by the town's consultant and it's been ignored by the applicant.]

[The standard engineering practices would require that mitigation, as Mr. Zarin pointed out, mitigation should at least bring the levels of service back to where they were in the no build condition. That is not there. It is not addressed.]

Comment  
13-9

The last issue that I would like to address, and I didn't want to get into all the details, which we will put into our correspondence, relates to site plan issues. In this case I really didn't want to get into the improper signage, the wrong letter size of signs. It has to do with how the sign works. For example, the first thing the DEIS -- [the first thing that struck us, it talks about 99 cars coming in the morning and 84 cars coming in the afternoon. And there is storage for about 16 cars. Nowhere in the DEIS does it address how this automated system works. How the people who are getting out of their cars with luggage and with families are going to be able to be accommodated in the short time frame that they are projecting to be able to get out of the cars so that the cars don't spill back, not only spill back to the access point where the buses are going to come returning, but spilling back to New King Street. That's a major concern.]

Comment  
13-10

[In addition, the design is a little bit switched. Usually for a one way road we design the entrance before the exit so that there is no conflict. In this case the entrance is on the far side. The near

Comment  
13-11

side is the exit. So, therefore, the cars coming out are always in conflict with the cars that are coming in. It's -- it's just the wrong way to do things.]

[There is a location within the site that has emerged of the shuttle buses in two lanes at the same time as the exit from all the cars that are coming out and all three lanes are coming into one lane, and it's almost an impossible access point. This is a dangerous conflict.]

comment  
13-12  
12

[The last area that we've addressed here has to do with a grass paver area, which provides access to some pocket wetland areas. This road, while I understand grass pavers, and grass pavers are a fine idea, does not allow for cars to get in, turn around, come back. If they come back, how are they going to come back into the system, because they are now facing in the wrong direction of all the cars that are coming into the system.]

comment  
13-13

These are just some of the points that we will address. Some of the major concerns that we have with respect to the need, the traffic issues and the site plan. Thank you.

CHAIRMAN DELANO: Thank you.  
Next speaker is Tania Vernon.

MS. VERNON: Members of the board, thank you for permitting me to speak on such an important issue. There is a bigger issue being confronted tonight aside -- aside from whether or not to green light the parking structure, which would benefit the property owner and to some extent provide some modest tax receipts to the Town of North Castle, [the bigger issue which I hope you do not lose sight of, namely 9,000,000 New Yorkers. That is the number of people that rely on the Kensico watershed for their drinking water.

(comment  
8-12)

Your decision as to whether this project is permitted to move forward

or not is a referendum. In the interest of economic gains for very few. This decision has everything to do with what we value. Do we value ensuring safe drinking water? Further expanding the parking capacity to the airport will no doubt lead to expansion of the level of activity of this airport in terms of the number of flights coming into and out of the airport. This will significantly raise the level of noise and air pollution beyond the existing levels. Again, I ask you, what do we value and what are we willing to sacrifice?

The ramifications of your decision will impact people living in North Castle, Westchester and New York City for generations to come. It is time for you to be bold and make a stand. Stand for your children, for your children's children. Stand for your neighbors. Stand for those people who are not aware of what harm can come to them and their families who will be effected if the Kensico were no longer a viable source of drinking water.

Comment  
8-12

The time to draw a line in the sand is now. Do not allow this proposal to move forward. You may feel that the potential risks to our water and the environment associated with this project is acceptable. If you do feel this way, I remind you again 9,000,000 people would be effected.

If we allow this project to proceed and something harmful, God forbid, were to happen, then we as a group need to bear some responsibility. Sometimes progress is not measured by what we do but what we do not do.

Do you realize that what we are doing here is to promote urbanization? And that is a big question. Is that what we want? Thank you.

CHAIRMAN DELANO: Thank you, Ms. Vernon. Next is Julius Shultz from Sierra Club.

MR. SHULTZ: My name is Julius Shultz. I live on Old Orchard Street, across from our neighbors of North Castle. I represent the Sierra Club, both the Atlantic chapter, which comprises New York State and the lower Hudson group, which comprises Westchester, Putnam and Rockland counties.

[It is our opinion that there will be significant environmental impact created by this proposed project. It will also encourage expansion of the Westchester County Airport because its purpose is to service a supposed need for overflow parking at the airport.]

comment  
2-5

[The project calls for the construction of an automated 1,450 vehicle parking garage and car wash. It is to be built within a three acre property, designated by several government agencies as environmentally sensitive. If constructed it will destroy 5,700 square feet of Town of North Castle wetlands. Disturb 80,000 square feet of the 100 feet wetlands area. Encroach on the 300 feet protection zone around the Kensico Reservoir. Threaten New York State DEC Class A streams. Violate environmental laws of North Castle, the Army Corps of Engineers, the NYCDEP and New York State DEC. It requires a zoning change from the Town of North Castle.]

comment  
8-13

[The Westchester County Airport has a parking garage for 1,250 vehicles. The need for an additional 1,450 parking spaces has not been proved, and I don't think it can be proved. Based on our own observation at certain peak days and hours there is a need for additional parking spaces, but never more than 400.]

comment  
13-14

[The Westchester County Airport is 250 yards from the Kensico Reservoir and Westchester County and New York State are aware that this poses threats to the drinking water of 9,000,000 New York residents. Westchester County passed a

comment  
2-6

resolution for non expansion of the airport and no additional parking. Similar resolutions were enacted by the New York State Assembly and New York State Senate.]

[The project proposes to convey storm water generated in the parking area to two detention basins to be created within the wetland buffer zone. It is an established fact that parking lot one runoff contains numerous petroleum constituents and toxic chemicals associated with antifreeze. Over time these constituents accumulate in the area where they are discharged and often they exceed the DEC soil cleanup objectives and remediation of the soil is then required.]

comment

9-4

[This project also requires a zoning amendment. Present zoning allows for private parking and local business use but not for a huge parking structure that affects traffic and needs more municipal services such as police, fire department, street cleaning, road repair, et cetera.]

comment

10-1

[In our opinion this project is wrong for the Town of North Castle, the airport and the Kensico Reservoir.]

comment 2-7

Further comments will be made from my associates today and in writing before May 17th. I thank you very much.

CHAIRMAN DELANO: Thank you, Mr. Shultz. Next is Pete Dermody, Dermody Consulting.

MR. DERMODY: Good evening. My name is Peter Dermody. I'm a principal hydrogeologist with Dermody Consulting. I have a bachelor degree from Hofstra University and master's from Adelphi University, and I have 24 years experience as a hydrogeologist.

I would like to make three comments. The first comment is that [we've all talked about the destruction of the wetlands, the wetland buffer areas, the

encroachment on the reservoir system and the proximity of Class A streams in the vicinity of the site. Those destruction of the areas and encroachment on those areas is going to require permits or variances from New York State Department of Environmental Conservation, DEP, Army Corps of Engineers and Town of North Castle. So, there are several layers of environmental regulations that are put in place specifically for the purpose of protecting areas such as this that need to be pierced or circumvented in order to construct this project. We think there is no more important water body to protect than the Kensico Reservoir.]

Comment  
8-14

[Our second point is, is that a point that we think was absent from the DEIS was the issue of petroleum contamination. Any time there is a project that entails the construction of impermeable services over which automobiles is going to traffic, there is going to be leakage of automobile fluids onto those roadways and parking areas. And in this particular case the storm water that is generated from this project that comes in contact with this material is going to pick up this petroleum contamination and convey it in this case to a couple of detention basins and then into a wetland area. The problem with this is that although parking lots across the country and roadways across the country are all used to having petroleum contamination, and we live with it, in this particular case since the depth to groundwater is so shallow, the contamination that is entrained in the storm water is going to get into these detention basins and wetland areas and be almost in direct contact with the groundwater and could contaminate the groundwater supply below the site. And all groundwater is moving in, in the direction of Kensico.

Comment  
9-5

So, although we do tolerate parking lot runoff and the contamination that it generates in most areas, it should

be a higher level of alarm in this particular area because of the presence of Kensico Reservoir, that it shouldn't be necessarily tolerated in this area, because there is going to be petroleum contamination accumulating in these basins over time, and that is going to generate groundwater contamination.]

[The last point I would like to make is regarding the growth inducing impacts. First of all I want to say that the 1,450 parking space, vehicle parking spaces that are proposed for this project have not been adequately shown to be necessary based on our analysis. We see very little scientific information on which we could determine the validity of the need for 1,450 vehicles. In fact, we know that there are several other parties who are saying that the need for parking is 400 to 500 spaces. And we also know that there is the additional parking, sorry, as others have said, that the SUNY Purchase parking is going to contribute parking areas that may mitigate the need for having this parking lot.]

Comment

13-15

[So, therefore, we would like to see a much more thorough analysis of where that number came from and why we need 1,450 spaces, because as we all know, if there are additional parking spaces, which in this it could easily generate 1,000 additional parking spaces, there is certainly going to be growth inducing impacts. And it's going to create -- The thing that is limiting growth right now is the fact that there is limited parking. If that is alleviated and there is 1,000 parking spaces that are sitting around for a few years, certainly that's going to be very attractive for other businesses and entities to move into this area. Thanks a lot.]

Comment

22-2

CHAIRMAN DELANO: Thank you Mr. Dermody. Next up is Ed Glassman.

MR. GLASSMAN: [Good evening.

I'm not from an architectural group, an environmental group, but somebody that lives in the area and has used the airport for many years. But I can't help but observe, we're talking about the construction of a structure in a fairly fragile ecosystem and one that seems fraught with a variety of issues. And I'm sure that there is lots of good guidance about how you as a group are suppose to interpret these applications. But I also would hope that you use this opportunity to step back for a moment and think about the responsibility of the Planning Board in giving guidance to the overall town. Because the fundamental issue here is a lot less about parking garage and much more about the growth of the Westchester County Airport. And that seems to me to be the real issue that will be really fantastic for the Planning Board to provide some guidance on.

So, if we have these voluntary constraints that are being adhered to by the airport, why not use this as an opportunity to go back to them and say, given the idea that you need more parking, how about going to fix constraints rather than voluntary constraints and really putting some planning in place for the future growth of the airport. You know, you'll decide as you will about what to do about this parking structure, but I think a more significant threat to our community is the growth of that airport.

I have to say that I use that airport. I use that airport regularly. So, I certainly wouldn't say gee, we shouldn't have an airport here. I also don't aspire to see it become an airport of much bigger size and much more frequent usage, with a lot more flights going over our community. I would ask that the board use this opportunity to use its power and influence in guidance for the Town Board on what should be done about a very large potential problem, which is the continued growth of Westchester County Airport.

Comment  
22-3

Thank you.]

CHAIRMAN DELANO: Thank you, Mr. Glassman. Next, Robert Porto.

MR. PORTO: Thank you. I'm not even a good speaker. That was great. Thank you. My name is Robert A. Porto. I'm here on behalf of my family and neighbors in Harrison, New York. [Do any of you use the water from the Kensico up here? Does Armonk?

CHAIRMAN DELANO: I do.

MR. PORTO: You do.

CHAIRMAN DELANO: I live in North White Plains.

MR. PORTO: I don't know if that's a hundred percent, but it's a hundred percent for us. This is the issue (indicating). It is about water. You know, we live on that water. I washed my face with that water this morning. It's not filtered. That is the problem. You can make money by taxing the heck out of parking. I know you can add lots of sales tax. You can get really up there.

Comment  
8-15

We use the water. And I'm sure some residents of Armonk, who perhaps even moved here because of the airport, might use the garage. You know, I realize that. The problem is that the garage is probably one of the last buildings you want near the water. I mean, that is a sensitive area. These people are smart. They study water. It's all going right into the reservoir.

Do you know why Caribbean water is clean when you go to St. John? Because it's filtered. It doesn't runoff. It's filtered through the earth, in the sand in particular. And I 100 percent believe that it will entice more people to use the airport even with the TCA in place. There is room in the transportation

agreement to add more flights my understanding. Yes, it is.

Both will quantitatively increase the pollution of the water that 900 people live with. Do you believe the garage won't impact the water supply? Somebody even said oh, look at the site and, you know, there is some speculation that the building would actually improve it. It won't, let me tell you. It's a parking garage in the wrong place. ~~It~~

You know, I was going to bring three bottles of water, one of them from the Kensico before the airport, one from today and one from the Kensico garage area. I don't think anybody would pick that last bottle, you know. It would, at least today, be better than the garage. Think about it. I hope you agree with that, because that's the last place I want a garage.

*Comment  
8-15 cont'd*

So, the question for me is, how do I close the gap and make you honorable board members and Town Board members directly accountable to Westchester and New York City residents that use the water? I'm a little guy. I'm a programmer. Do I understand -- Do I stand outside of Grand Central Station with petitions to stop Armonk, Bedford and New Castle from allowing this? Maybe. Do I put the board members' pictures and names on the web, mass e-mails, get to the top of Google, so when they Google your name, this comes up? I mean, I don't want to do this. I don't even want to be here tonight in a sense. I want to be on my couch. Anyway, or do I fall shame on you and give the facts. I mean, I don't know. I mean, I'm -- unfortunately I'm going to have to put it on you folks. I'll go with you, Mr. Kaufman. We'll put seven.

You know, I'm going to -- you're the 15 people who are the Planning Board, the Town Board and Planning Board. I can sense you are good people, the way

Armonk works and stuff like that. You seem to be way ahead of Harrison in my opinion. I'm going to have to -- You know, I'm a little guy. So, all I can do, I will. People that know me unfortunately will know that I can do it. So, please, do the right thing.

I mean, you have 9,000,000 people. I mean, why would you step into this? You know, don't implicate yourself. I know it's big money. You know, as Connie might have said, it's maybe big money, but it's not going to be worth it. I'll just keep on it. Once it's done, it's going to be hard to go back. And I'm going to make it -- You know, I'll fight for my family and just verbally within the law, but I feel like I can make a difference. And please don't get into this. There is other ways to make money. Thank you.]

CHAIRMAN DELANO: Next is Karen Shultz, Sierra Club.

MS. SHULTZ: [First of all, thank you very much for your time in allowing me to speak. I want to inspire everybody to read a book which inspired me in 1997 from Riverkeeper actually. It was called "The Culture of Mismanagement" by Robert Kennedy, 1997. This book inspired me to drop my life, which I loved by the way, to get involved in this issue. In this book Bobby Kennedy called it, placement of the Westchester County Airport a historical disaster. And I have copies of this. Someone wants the page that it comes from, you can ask me.

*Comment  
22-4)*

I want to say as a grandmother and as a former member of a board, CWC's board and a long time member of Sierra Club, how can you let a historical disaster grow? It doesn't make sense. So I'm here today to remind everybody about the placement of this airport, as many people have said, 250 yards from a water supply. It's 85 percent of Westchester's water and 90 percent of New York City's water. So, I

ask you to protect that.

Now I also want to tell you my husband mentioned the resolutions that were passed, historically admitting that this airport was -- is in the wrong place. These resolutions, again passed by the County Board of Legislatures, by the State Senate, non partisan, by the State Assembly, also non partisan, were passed historically admitting that the airport should never grow. And the definition of no growth included, and we took the definition that it should not grow in footprint or capacity in quoting no additional parking, flights, hangers or heavier planes. And I have before -- I have a letter from the DEP which is also historic. It was the first time that they really gave us a fabulous letter. Their letter was stronger than Sierra's Club letter, which is amazing, asking for the same thing, no additional parking. Because every increase in this airport is going to increase the danger and likelihood of accidents to a reservoir that cannot be replaced.

Comment  
22-4

I would like to pass these handouts out to the board, so you might have the benefit of reading some of these, the wise letters in here. This packet includes also a letter from the EPA, Environmental Protection Agency, which says hey, we agree with everything in the DEP letter. So, we not only have a letter from the DEP, but we have a letter from the EPA. I want to remind you that because of the law, FAA does not even have to report their air emissions. So, as this airport increases, and we hope it doesn't, if we increase the parking, we know there will be more planes. As this increases, it's also very detrimental to the health of our citizens, especially since all the environmental law is based on the average size now. It doesn't take into consideration women, pregnant women, seniors or especially children. So that by increasing air emissions over this county,

it's going to be very, very difficult for babies in Armonk as well as the rest of the area to -- to avoid increased health costs.

In this packet I have the three resolutions from the county, the state and the state assembly and the state senate. And I know that Armonk is suppose to be independent, but we're asking you to think how important is it to have a sustainable environment. And we really think that one town should join with all of us in protecting the drinking water supply.

*Comment  
22-4)*

We also want to remind you that Kensico is -- was trying to avoid filtration. In 1997 Bobby Kennedy had said that the cost of filtration was billions. I'm sure it's increased since, his numbers. And there will be millions in costs to maintain this system every year. So, when we think of the negative, possible negative economic impacts to the citizens of Westchester and New York City, and all of our towns that are using this water, let's consider that. Because in California, when you have an institution like an airport, I've been told by an environmental lawyer, you not only have to do the economic benefits of the institution, like the airport, but you have to also consider the negative impacts to the environment. And that I don't think we've done.

So, I want you to please, please help us. Keep these resolutions so that we can keep the pledge and the promise of our county and our state. Please help join with us to make sure this airport does not expand. I thank you very much for your time. ] And, Adam, may I please ask you if I could pass these out to you.

MR. KAUFMAN: Sure.

MS. SHULTZ: Thank you.

CHAIRMAN DELANO: Thank you,  
Ms. Shultz. Next speaker is Cynthia Garcia.

MS. GARCIA: My name is Cynthia Garcia. I'm a project manager with the New York City Department of Environmental Protection, Bureau of Water Supply. I am here this evening to inform the board that DEP has a number of concerns on the DEIS for the 11 Park Place multilevel parking facility project that is proposed for development wholly within the City of New York's Kensico Reservoir watershed.

[Protection of the City of New York's watershed and reservoirs is one of DEP's primary responsibilities. DEP has regulatory review and approval authority pursuant to the rules and regulations for the protection from contamination, degradation and pollution of the New York City water supply and its sources, known as the Watershed Regulations, for certain activities located in the watershed, including the proposed Park Place multilevel parking facility. This project is located in very close proximity to the Kensico Reservoir. You all heard that. In fact, the western boundary is only about 1,000 feet from the shoreline of the reservoir. Kensico provides one of the last impoundments of water from the City's Catskill and Delaware reservoir systems prior to entering the City's water distribution system. On average, 90 percent of the water supply for 8,000,000 New York City residents passes through Kensico each day. In addition, many communities in Westchester County are served by the Westchester Joint Water Works intake located in Kensico, approximately 5,000 feet from the proposed project site. The communities served by this intake include Harrison, West Harrison, Mamaroneck, Rye and Larchmont. DEP has prioritized watershed protection in the Kensico basin to ensure the continued success of DEP's efforts to reduce non-point source pollution, including soil erosion that causes turbidity and degrades water quality, and to preserve existing natural features that contribute to water

comment  
8-16

quality protection.]

[DEP intends to fully participate in the SEQRA process for this action. Our detailed written comments on the project's draft DEIS will be submitted to this board as lead agency in the SEQRA review. DEP expects this board to take the requisite hard look at the entire DEIS and project proposal as required by the SEQRA environmental review procedures. In particular, this board must identify any potential significant adverse impacts to the Kensico Reservoir and the New York City water supply. If any such potential impacts are identified, the board (and other involved agencies, including DEP) may issue findings to approve the project as proposed only if the environmental review provides for sufficient mitigation to avoid or minimize such impacts to the maximum extent practicable. DEP, as an involved agency, and this board, as lead agency, should continue to have an ongoing dialogue during the entire SEQRA review and DEP is prepared to offer its assistance.]

Comment

8-17

[There are several areas of environmental concern that will be identified in DEP's written comments regarding the project's DEIS. These include the extent of new impervious surfaces near watercourses, proposed vegetation removal and soil disturbance within the 300 foot buffer of Kensico Reservoir stem, adequate erosion and sediment control during the project's construction phase, post construction storm water practices, and other project -- excuse me -- other potential impacts on long-term water quality in the Kensico basin.]

Comment

8-18

[After SEQRA is completed, the project, as proposed, will require DEP's regulatory review and discretionary approval of a storm water pollution prevention plan and a sewer connection plan to the sanitary sewer system. Further, the project may not comply with the watershed

Comment

8-19

regulations regarding the amount and location of certain impervious surfaces. In that case, a variance from the watershed regulations would be required in order for the project to proceed as planned. A DEP variance, which is also a discretionary approval, requires a showing of hardship and sufficient mitigation measures which are at least as protective of the water supply as standards in the watershed regulations.]

DEP thanks the Planning Board for this opportunity to provide public comment, and we look forward to working with you in the future.

CHAIRMAN DELANO: Mr. Richard Finamore.

MR. FINAMORE: Thank you. I'm going to pass.

CHAIRMAN DELANO: Thank you, Mr. Finamore. Eleanor Herman. She's gone. Eleanor, she's not with us.

Doug Manconelli.

MR. MANCONELLI: Thank you for the opportunity to let me speak tonight. My name is Doug Manconelli. [I've been a resident of Armonk for the past 26 years. The gentleman who made the original presentation spoke very eloquently about adding roughly 1,400 spaces to the parking garage. Basically adding a parking garage for HPN. And those spaces would thereby decrease traffic to the area.

Comment  
13-16

I would respectfully disagree with that, because I seriously feel that those people that are slated to be coming to the airport are really not using it right now. There is a lot of people who, like myself, opt to go to other places, such as LaGuardia or Newark or other airports other than using HPN.

The additional spaces would in

essence increase commuter traffic to the area, and thereby increase the overall traffic to the airport, knowing that we will be increasing the size of the airport, which has been slowly occurring over the years. So, the biggest issue that we're facing right now is really the traffic to the airport, the spacing and the cars coming into the area are going to be an issue. The increase to the airport traffic is another issue. And that will net to larger noise pollution, water pollution, air pollution.

So, while I sincerely support the idea of increasing tax revenue to the area, I do not feel this is the best way to do it. So, I would strongly ask you to consider not approving this motion. So, thank you very much for your time. ]

CHAIRMAN DELANO: Is there anyone else who would care to speak? Please come up to the microphone. Identify yourself for the record.

MR. PORTO: Her eyes. Smart as a whip but her eyes.

MS. HELD: Thirteen years ago, when I moved to Harrison --

CHAIRMAN DELANO: Excuse me, ma'am. Your name.

MS. HELD: Lucille Held. I lived in Harrison 15 years ago. Fifty-five years ago, when I moved here, and then I went to Rhode Island with a job. I went by plane via the Westchester Airport. I had to go -- come off the plane, step on a lane, because it was such a little airport, with such little planes.

[The only thing that we all know today and in 55 years we've progressed to DNAs and everything else, we know one thing that is very important, that our humanity is somewhere along the line disappearing. We can analyze today the oil

that's coming off the roads. We can also analyze the fact that there is water not being absorbed. We are so mechanical and so well educated and so scientific.

The thing we haven't spoken about today is the humanity of this. The fact that with all of the pressures, the unbelievable pressures that have come upon us with the condition of the world, where is our peace. When I lie in my bed with a gigantic window looking out over the land that I have, I see planes coming, almost looking as if they are coming into my house.

We are not stupid people, and we know that once you build a garage for more than you need, the need will become more than we need. No more planes, which we will have eventually. So, I beg of you, for the peace and quiet and few years that we can have peace and quiet, has been progressively losing it, I beg of you to remember that we want peace. We don't want the airport. We don't want the garages, because they will make more noise. And after all, New York City was once farmland. And let's keep Westchester in some sort of a situation where there is peace, so when we come home at night, we do not hear the drone of airports, et cetera, et cetera. Thank you.]

CHAIRMAN DELANO: Thank you. Anyone else care to participate?

MS. MC MENAMIN: Thank you for the opportunity to speak this evening. My name is Ingrid McMenamin. [I'm a past president of the Northwest Greenwich Association. I served on the board for over 15 years. And we're all stewards of the land. And we're all here for a very short period of time. Even though Kensico Reservoir is manmade, we still have a stewardship to preserve the water for New York City and to preserve the land that's around it.]

comment  
2-52

comment  
2-8

[You are members of the planning and Zoning Board. You're only here for a short period of time. The citizens of your community have entrusted in you to preserve -- to be the stewards. Planning means you look forward. And zoning means you have a compliance of mandate by your participation in these boards.]

comment  
2-9

You also don't have to accept an application that comes before you. You have the right to review it. But our question, when we come to these meetings, is if we weren't here to safeguard what we feel is the precious reservoir and resource, would you have any incentive to look at these issues?]

[By today's code that airport would never be there. By today's codes that parking garage wouldn't be there either. I do enjoy the services of Armonk. I do pay my taxes when I go there. I do pay my taxes when I go to the airport. I do not benefit from water, even though my home is right around the corner. As much of Greenwich is in the northwest area, we do not benefit from the water that is there, but we do see the high volume of traffic.]

comment  
2-10

[I've worked for the last ten years with New York State DOT to get this whole area of exit two reconfigured. It took ten years for both states to sign an agreement to remediate some of the traffic. But they did not look at the traffic impact of the volume of those exits. It's a dangerous human position, which this gentleman did mention before, level F or level seven, something like that. But we need to look at our community, working together for the quality of life for our residents. We all live here. More importantly, we need to leave a positive impact for our future generations, that we're bold leaders in a very troubled time to say that we need to preserve the resources that we have. Thank you very

comment  
13-17

much.]

CHAIRMAN DELANO: Thank you.  
Whose next?

(No response.)

CHAIRMAN DELANO: Anybody?  
Going once. Twice. Sold. Thank you one  
and all for attending this evening's  
session.

What's the pleasure of the  
board; to keep the hearing open? Would  
anyone care to opine. Jane?

MS. BLACK: It appears that  
there is nobody else in the audience who  
wants to add more comments. I suggest we  
close the public hearing.

CHAIRMAN DELANO: Steve?

MR. SAURO: Just for --

MR. BARONI: You would be  
extending the comment period.

MS. BLACK: What about  
extending?

CHAIRMAN DELANO: The comment  
period will be, it's going to be 15 days  
past whenever we close the hearing, whether  
it be tonight or continue the hearing.

Steve, any particular feelings  
on that.

MR. SAURO: I heard a few  
people -- a few people had mentioned that  
they had concerns or additional concerns or  
comments. As long as they have an  
opportunity to give us those comments for  
another 15 days, I would accept them for  
the 15 days. If that requires us closing  
it now, let's close it now, as long as they  
have the opportunity to comment.

CHAIRMAN DELANO: Beata

Tatka?

MS. TATKA: I agree.

CHAIRMAN DELANO: Guy?

MR. MEZZANCELLO: I agree.

CHAIRMAN DELANO: The consensus of the board seems to entertain a motion to close the public hearing. Anyone want to make that motion?

MS. BLACK: I will.

CHAIRMAN DELANO: Could we get a second on the motion?

MS. TATKA: Second on the motion.

CHAIRMAN DELANO: Question by the audience. Could you come up to the microphone, please.

MS. DESIMONE: All in favor.

CHAIRMAN DELANO: We're going to take the question here.

MS. HUDSON: [The concern that we have is that there is information that's not included in the DEIS right now that should be made available to the public. In particular, the delineation of the wetland, which is still a discussion between the applicant and the Town. Depending on that delineation, that could expand the amount of impact.

Comment

2-11

In addition, there doesn't seem to be a final description of what the on site or off site wetland mitigation plan would be. That seems also subject to discussion.

So, we would strongly recommend, whatever you decide to do with respect to closing the public hearing, that you extend the comment period until that

information has been made available. And your board does have the discretion to extend the comment period beyond the 15 minimum days required.]

MR. BARONI: You've already determined DEIS complete. There won't be any additional information before the comment period ends. You can make those comments. They will be addressed in the FEIS. There won't be any additional information coming in on the DEIS.

MS. HUDSON: When the delineation of the wetland occurs, is that information outside the DEIS?

MR. BARONI: That will be made part of the FEIS.

MS. HUDSON: There is no opportunity for the public to comment on that?

MR. BARONI: You can comment on it, absolutely.

CHAIRMAN DELANO: There is a comment period on the FEIS under SEQRA.

MS. HUDSON: I thought the FEIS was the final?

CHAIRMAN DELANO: There is public comment period on the FEIS under SEQRA.

MR. BARONI: Of course there will be the site plan application as well and the sub special permit application.

MS. HUDSON: My understanding is the final will be accompanied by findings. Is that not the case?

MR. BARONI: Findings will occur after the FEIS.

MS. HUDSON: All right.

CHAIRMAN DELANO: Anyone else? All in favor of the motion to -- to close the public hearing?

MR. SAURO: Aye.

MS. BLACK: Aye.

MR. MEZZANCELLO: Aye.

MS. TATKA: Aye.

CHAIRMAN DELANO: Aye.  
Motion carries. Thank you.

Comment period, board, what's your pleasure on the comment period? Currently it's advertised 15 days. The minimum of 15 days. In light of some of the comments that were raised this evening, I don't know if the board wants to extend that a little bit. Give us a number.

MR. SAURO: I wouldn't mind extending it either.

CHAIRMAN DELANO: I'm hearing 30.

MS. BLACK: Thirty.

MR. MEZZANCELLO: Thirty days.

CHAIRMAN DELANO: Someone make that motion.

MS. BLACK: I'll make that motion.

CHAIRMAN DELANO: Second?

MS. TATKA: Second.

CHAIRMAN DELANO: All in favor? Aye.

MR. SAURO: Aye.

MS. BLACK: Aye.

MR. MEZZANCELLO: Aye.

MS. TATKA: Aye.

CHAIRMAN DELANO: Any  
opposed?

(No response.)

CHAIRMAN DELANO: Motion  
carries. Thirty days on the comment  
period.

MR. NULL: Thank you very  
much.

CHAIRMAN DELANO: Thank you.  
There being no other business in front of  
the board this evening, I would like to  
entertain a motion to adjourn.

MS. BLACK: I will make that  
motion.

CHAIRMAN DELANO: The motion  
is made. Seconded. And we're adjourned.

(Time concluded: 9:05 p.m.)

ooOoo

Certified to be a true and  
accurate transcript of the above-captioned  
stenographic minutes.

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Lori Ann Sacco  
Official Court Reporter