

FINAL ENVIRONMENTAL IMPACT STATEMENT



Town of Brunswick, New York



February 2007

***FINAL  
ENVIRONMENTAL IMPACT STATEMENT***

*Hudson Hills Apartments  
Town of Brunswick, New York*

***Project Sponsor  
Capital District Properties, LLC  
Latham, New York***

***Lead Agency  
Brunswick Town Board  
336 Town Office Road  
Troy, New York 12180  
Attention: Hon. Philip H. Herrington, Supervisor***

***Date of Acceptance by Lead Agency: February 8, 2007***

*January 2007*

**Prepared By:**



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## **Appendices**

- A. Public Record (Written Comments)
- B. Public Record (Transcript of August 3, 2005 Public Hearing)
- C. Public Record (Transcript of January 17, 2006 Public Hearing)
- D. Traffic-Related Comments and Responses
- E. Information Regarding The Modified Hudson Hills Planned Development District
- F. Presentation from January 17, 2006 Public Hearing (including visual assessment)
- G. School Enrollment Projections for the Brunswick Central School District, 2005-2006 School Year
- H. The New York State School Report Card Fiscal Accountability Supplement for Lansingburgh Central School District and Brunswick Central School District (Brittonkill)
- I. Capital District Regional Planning Commission's Capital District Population & Projections



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## 1. Introduction

### 1.1. Introduction

Capital District Properties, LLC (“Applicant”) is proposing the Hudson Hills Planned Development District, a luxury multi-family residential community on 215± acres in the Town of Brunswick (“Project”). The Project site is located on Betts Road and is bound by NYS Route 7 to the south, North Lake Avenue (County Route 144) to the north, and Lord Avenue to the west.

The application for the Planned Development District (PDD) in connection with the Project was originally submitted to the Town of Brunswick on September 9, 2004. The application proposed a total of 1,116 residential units divided into four phases to be built in accordance with market demand (“Original Plan”).

Phase I of the Original Plan consisted of 324 units within 24 buildings. Also proposed during the initial phase was a cherry orchard park and clubhouse featuring a meeting great room, state-of-the-art fitness center and swimming pool. The primary access under Phase I was Betts Road accessing NYS Route 7, as well as an emergency access on Lord Avenue. Phase II consisted of 344 units within 23 buildings. A second access to North Lake Avenue was proposed during this phase. Phase III consisted of 320 units within 22 buildings. The fourth and final phase consisted of 128 units within eight buildings. An Adirondack observation tower was proposed during this phase to afford residents and local school children views of the surrounding vistas, as well as act as a learning center to include dioramas of the surrounding terrain, habitats and wildlife.

The Town of Brunswick Town Board undertook coordination of Lead Agency designation under the State Environmental Quality Review Act (SEQRA) and declared itself Lead Agency in October 2004. The Town Board adopted a Positive Declaration at its November 11, 2004 regular meeting, thereby requiring the preparation of an Environmental Impact Statement (EIS). The Town Board adopted a final written scope for the preparation of the Environmental Impact Statement at its January 13, 2005 regular meeting. The Applicant submitted a preliminary Draft Environmental Impact Statement (DEIS) to the Town Board on March 25, 2005. The DEIS was deemed complete and adequate for public review at the Town Board’s June 9, 2005 regular meeting. A public

hearing was held on August 3, 2005. The transcript of the August 3, 2005 public hearing is attached hereto as Appendix B.

As a result of the comments voiced at the August 3, 2005 public hearing, the Applicant significantly reduced the Original Plan. The reduced modified plan calls for a total of 668 residential units ("Modified Plan"). On December 23, 2005, the Applicant submitted *Information Regarding The Modified Hudson Hills Planned Development District* that contains site plans, as well as a discussion regarding traffic, schools, municipal revenues, earthwork volumes and utilities related to the Modified Plan. *The Information Regarding The Modified Hudson Hills Planned Development District* is attached hereto as Appendix E.

As discussed in the *Information Regarding The Modified Hudson Hills Planned Development District*, the Modified Plan contains 60% of the residences proposed in the Original Plan. The Modified Plan has basically eliminated phases III and IV of the Original Plan. The Modified Plan is a significant reduction and constriction of the Original Plan, yet remains on the entire 215± acres. The Modified Plan is proposed in three distinct phases. The phases are smaller than the phases proposed under the Original Plan. Phase I consists of 248 units, phase II 228 units and phase III 192 units. At the completion of phase I, 95% of the site remains green and density is only one unit per acre. At the completion of phase II, 90% of the site remains green and density is only two units per acre. Even at full build-out, 84% of the site still remains green and density is three units per acre. This translates to approximately 180 of 215 acres left green, the vast majority in its natural state. In addition, the North Lake Avenue access has been eliminated in its entirety. Lastly, the Adirondack observation tower has been eliminated.

On January 17, 2006, a public hearing was held in connection with the Modified Plan. The transcript of the January 17, 2006 public hearing is attached hereto as Appendix C. The Applicant's presentation included various charts and graphs depicting: (1) an impact analysis of the Modified Plan by phase; and (2) the Modified Plan in relation to the Original Plan and the plan permitted as a special use pursuant to the Town of Brunswick Zoning Ordinance. The power point presentation shown at the January 17, 2006 public hearing is attached hereto as Appendix F.

The Modified Plan containing a total of 668 residential units with one access is specifically analyzed in the alternatives section (section 5) of the DEIS. Furthermore, the Modified Plan was also analyzed as an alternative in the Traffic Impact Study contained in the DEIS as Appendix G. Accordingly, it was determined that a Supplemental DEIS was not warranted (See the January 17, 2006 public hearing transcript at pages 2-3 and 137-38).

The comment period for the DEIS closed on February 14, 2006.

On June 5, 2006, the Applicant submitted a draft Final Environmental Impact Statement (FEIS) to the Town of Brunswick Town Board's Special Counsel and Consulting Engineer (Town Board's Consultants) for their review. On September 29, 2006, the Town Board's Consultants issued a comment memorandum. Discussions with, and review by, the Town Board's Consultants resulted in the Applicant's memorandum response dated January 29, 2007 (including letter report from Chazen Engineering & Land Surveying Co., P.C., dated December 6, 2006). The aforementioned documents are attached respectively hereto as Section 3. The order of presentation in the Applicant's response memorandum follows the order of presentation in the Town Board's Consultants' comment memorandum.

The text in Section 2 of the FEIS previously submitted to the Town Board's Consultants has not changed as a result of the comments and responses between the Town Board's Consultants and the Applicant attached hereto as Section 3. This approach permits the reader to identify those areas where the Town believed a more thorough analysis in the FEIS was appropriate. Accordingly, the reader is cautioned to read Section 3 in combination with Section 2 to assure that he/she gets the benefit of the complete analysis provided with respect to any one issue.

## 1.2. Document purpose

On behalf of the Applicant, O'Brien & Gere prepared a Draft Environmental Impact Statement (DEIS) to evaluate potential environmental and socio-economic impacts associated with full build-out of the Project site.

The DEIS was accepted by the Town of Brunswick (Lead Agency) as complete on June 9, 2005 and made available for public and agency review and comment through February 14, 2006. Two public hearings to receive oral comments on the DEIS were held at the Town of Brunswick Community Center on August 3, 2005 and January 17, 2006.

Pursuant to the requirements of the SEQRA and its implementing regulations (6 NYCRR 617), this document, in conjunction with the DEIS (incorporated herein by reference) constitutes the Final Environmental Impact Statement (FEIS).

This document contains the substantive oral and written comments on the DEIS received by the Lead Agency, as well as responses to those comments. The responses to comments, including additional information provided in this document, are intended to supplement, revise, and update the DEIS.

Responses to comments are presented in Section 2 (Responsiveness summary). The public record consisting of written and oral comments

received during the public and agency comment period is included herein as Appendix A. The public record also includes the transcripts of the two public hearings from August 3, 2005 and January 17, 2006, which are included herein as Appendix B and C, respectively.

As discussed at the end of the preceding section, the comments/responses between the Town Board's Consultants and the Applicant regarding the draft FEIS are included herein as Section 3.

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## 2. Responsiveness summary

### 2.1. Project purpose and need

Comment 1: Where is the population and job growth occurring in the Capital District, and how was it determined that this Project was needed to accommodate the growing population? Are there enough people moving into the area to occupy the Project? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.4, 5. Also see February 14, 2006 letter from Timothy Bollinger, 446 McChesney Avenue Extension, p.1; February 14, 2006 letter from Jack and Marianne Derrick, p.2; August 3, 2005 email from Sharon Zankel, p.1; Comment made at the August 3, 2005 public hearing by Tony Kestner, 16 Woodhill Lane, p.23, ln.10-13. Also see comments made at the August 3, 2005 public hearing by Vito Grasso, Pinewoods Avenue, p.31, ln.1-11; Nate Sims, 14 Balton Avenue, Troy, p.44, ln.6 through p.45, ln.10; Karen Haiser, Tamarac Road, p.92, ln 18 through p.93, ln.20. Also see comments made at January 17, 2006 public hearing by Rebecca Kaiser, 398 Monday Lawn Road p.67, ln.10-14; Denny Bailey, Lord Avenue, p.83, ln.23 through p.84, ln.2)

*Response 1:* The determination of the need for the Project is based on detailed studies of the market. The studies include analyses of population trends, employment trends and existing and proposed residential and non-residential development. These evaluations were performed by the Applicant, whose principals are life-long real estate professionals, as well as third-party real estate market experts.

The Capital District Regional Planning Commission is a regional planning and resource center serving Albany, Rensselaer, Saratoga, and Schenectady counties. The Capital District Regional Planning Commission provides objective analysis of data, trends, opportunities, and challenges relevant to the region's economic development and planning communities. The Capital District Regional Planning Commission serves the public and private sectors by promoting

intergovernmental cooperation; communicating, collaborating, and facilitating regional initiatives; and sharing information and fostering dialogues on solutions to regional issues. The Capital District Regional Planning Commission tracks the region's population changes and projects the same with regard to the future. The Capital District Regional Planning Commission's projections attached hereto as Appendix I, show a steady population increase in all four counties in the Capital District over the next thirty-five years. The Capital District Regional Planning Commission data also shows that all four counties in the Capital District have seen a steady increase in job growth over the past forty years. In sum, the Capital District, as a whole, has experienced, and will continue to experience, growth in population and employment. This growth equates to a need for quality housing supply such as the Project.

Attached as Appendix I to the DEIS is a Residential Market Study. The Residential Market Study examines the recent, current and projected growth of the Capital District. Much of this growth is related to the technology-based initiatives advanced by the State of New York. As discussed in the Residential Market Study, one such example relates to International SEMATECH. SEMATECH is a consortium of the world's largest and leading semiconductor manufacturers that teamed with the United States government to advance semiconductor manufacturing technology. SEMATECH was launched in Austin, Texas in 1988. As examined in the Residential Market Study, Austin experienced unprecedented growth, and correlated need for quality housing, as a result of SEMATECH and related technology expansion. In 2002, SEMATECH announced that it would locate its "next generation" R&D center in Albany at the State University. The Residential Market Study looks at the comparison of Austin in the 1980's and 1990's to Albany over the ensuing years as a result of SEMATECH. The number, and quality, of new jobs being created everyday in the Capital District as a result the technology-based initiatives advanced by the State of New York create a need for new quality housing as people move to the area.

The current multi-family rental developments in the Town of Brunswick were built primarily 20+ years ago. The Project will be the newest multi-family community in Brunswick built at a quality exceeding the existing product. In order to protect against overbuilding (i.e. supply exceeding demand), the Project has been

proposed and will be built in three (3) separate and distinct phases. Phase I consists of 248 residential units, phase II 228 units and phase III 192 units. The timing of construction will be dictated by market demand.

**Comment 2:** Did the applicant's market research account for the proposed Wal-Mart Supercenter located adjacent to the Project? What were the conclusions? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.4)

**Response 2:** The market research did not factor in the proposed Wal-Mart store. The Wal-Mart application was not submitted to the Town of Brunswick until after the Project was proposed.

**Comment 3:** What is the basis for the conclusion that "empty nesters" and "young professionals" will occupy such development? Why are there six times more two-bedroom units than one-bedroom? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.2 and 6)

**Response 3:** While the Comment does not pertain to a potential environmental impact under the State Environmental Quality Review Act, a response is provided below.

As discussed in section 2.1 of the DEIS, the Project is designed to accommodate and attract primarily empty nesters and young professionals. With respect to empty nesters, the residences are designed for the person or couple who is downsizing from a single-family home. The large size of many of the residences (almost 1,500 square feet) will make for a smooth transition from a single-family home. The floor plans will read like a single-family home with maximum flow and fenestration. In addition, the attached garages are an amenity usually only associated with a single-family home. The high level of quality of the interior and exterior of the residences will appeal to the person who has taken pride and care in their single-family home for decades.

The same can be said for young professionals. The high level of quality of the interior and exterior of the residences will appeal to discerning individuals. Each residence will contain cable television and high-speed internet connections at multiple locations, individual washer and dryer hook-ups, double-door refrigerator, microwave, dishwasher, garbage disposal, individual high efficiency heating and air conditioning unit, and a patio or balcony. Units will also have wood flooring,

cathedral ceilings, and double vanities in the master baths and walk-in closets.

Both demographics are “renters by choice” and demand as much space as possible in a residence. Consequently, the Project has been designed with mainly two bedroom units, as opposed to just one bedroom.

The first class clubhouse inclusive of a meeting great-room, media center, state-of-the-art fitness center and free-formed gunite swimming pool is an amenity geared toward both aforementioned sectors of the population. Lastly, great care has been taken to design a site that includes vast green space, walking trails, tree-lined streets and sidewalks in an effort to create a true “sense of place” that residents will enjoy calling home.

**Comment 4:** How will occupancy by families with children affect the enrollment projections? Could the estimated number of children be higher? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.2. Also see comment made at January 17, 2006 by Norman Fivel, Wilrose Lane, p.38, ln.17-23; Ray Schmidt, 81 Liberty Road, p.99, ln.11-15; February 14, 2006 letter by Raymond Schmidt, 81 Liberty Road, p.1)

**Response 4:** Section 3.7.2 of the DEIS contains an analysis of the projected number of public school children associated with the Project. The analysis is broken down by phase and is based on figures and calculations contained in the *Fiscal Analysis Guidebook (2nd Edition)* published by the Capital District Regional Planning Commission. The *Information Regarding The Modified Hudson Hills Planned Development District* contains the same analysis with respect to the Modified Plan. The projected impact on the public school system is an estimate based on the Capital District Regional Planning Commission’s facts and figures.

While the actual public school children associated with the Project may vary from the estimate, the Capital District Regional Planning Commission’s historical numbers used in the analysis stem from traditional suburban garden-style apartments. As discussed in section 2.1 of the DEIS, the Project is geared toward empty nesters, young professionals and emerging families, all of whom have no or minimal school age children in the public school system. Therefore, it is anticipated that the Project will have less of an impact on the public school system than estimated utilizing the

Capital District Regional Planning Commission's figures.

Furthermore, in September 2005, the Brunswick Central School District requested that the Capital District Regional Planning Commission prepare a district-wide study of school enrollment projections and impacts. The Capital District Regional Planning Commission's study entitled *School Enrollment Projections for the Brunswick Central School District*, attached hereto as Appendix G, took all residential developments proposed in the Town of Brunswick, including the Project, into account. The study showed that student enrollment in the district has seen a steady decline over the past ten years. Assuming there is no development in the near future, the school district will experience a large drop in enrollment. The study concluded that the district has the capacity to handle not only the Project, but all residential development currently proposed in the Town of Brunswick.

Comment 5: What will be the impact of this Project if the apartments are not rented? (February 14, 2006 letter from Timothy Bollinger, 446 McChesney Avenue Extension, p.1)

**Response 5:** A decrease in the number of tenants will necessarily lead to a correlated decrease in many of the Project's post-construction potential impacts examined in the DEIS including traffic, utilities and schools. Furthermore, a low occupancy rate will cause future phases to not be built since they would be economically unfeasible.

Comment 6: What is the revised estimate of construction jobs based on the Modified Plan? Will local firms be utilized for construction? How will long-term employment be affected upon completion of the Project? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.2)

**Response 6:** The Modified Plan will create the same number of jobs during construction as the Original Plan, approximately 200. The duration of this substantial employment level will be shorten given the reduced scope of the Modified Plan in relation to the Original Plan. Local firms will be utilized to the greatest extent possible during construction. While the reduced scope of the Modified Plan in relation to the Original Plan will lead to a decrease in the number of permanent jobs subsequent to the completion of construction, the total employment is anticipated to remain at approximately 10-15 people. These jobs include property managers, leasing agents, property maintenance and improvement, and various

office positions pertaining to the daily operations of the Project.

## 2.2. Geology

### 2.2.1. Erosion and Sediment Control (E&SC) plan

**Comment 7:** The E&SC Plan (DEIS Appendix C) does not provide sufficient information to determine if it is adequate to effectively mitigate potential geological impacts associated with this development. The E&SC must include a construction phasing plan describing the intended sequence of construction activities? (August 3, 2005 letter from Nancy M. Adams, NYSDEC, p.3, Comment 7)

**Response 7:** The Comment is noted. As a requirement of the *NYSDEC General Permit for Storm Water Discharges Associated with Construction Activity*, the SWPPP will include a construction-phasing plan describing the intended sequence of construction activities. The SWPPP, including the E&SC Plan, will provide for effective mitigation of environmental (and geological) impacts from the Project. The SWPPP and E&SC Plan will be prepared using the *New York State Standards and Specifications for Erosion and Sediment Control*, and will be submitted to the NYSDEC for acceptance. Anticipated mitigation measures to be incorporated into the SWPPP and E&SC plan include silt fencing, limiting the amount of bare soil exposed and other control measures outlined in Section 3.1.5 of the DEIS. The E&SC plan included in Appendix C of the DEIS is for phase I of the Project and is not intended to be the final E&SC Plan for the entire Project.

**Comment 8:** The description of the stabilization practices (page 26 of the DEIS) should agree with the language included in the State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Runoff from Construction Activity (GP-02-01). (August 3, 2005 letter from Nancy M. Adams, NYSDEC, p.3, Comment 8)

**Response 8:** The Comment is noted. As discussed on page 26 of the DEIS (Section 3.1.5. Mitigation), the SWPPP will be prepared in accordance with the SPDES *General Permit for Storm Water Runoff from Construction Activity* (GP-02-01). The SWPPP will include a description of

stabilization practices consistent with the SPDES General Permit and in accordance with the *New York State Standards and Specifications for Erosion and Sediment Control*. These stabilization practices, as outlined in Section 3.1.5 of the DEIS, will include temporary stabilization practices, permanent stabilization practices and temporary erosion control devices which will be removed when the site is stabilized.

### **2.2.2. Permits and approvals**

**Comment 9:** The description of the proposed action (Section 2.3.8) states that for disturbances greater than 1 acre, the contractor will be required to obtain permit coverage under the NYSDEC General Permit for Storm Water Discharges Associated with Construction Activity (GP-02-01). The owner of the property must obtain the permit coverage. (August 3, 2005, 2005 letter from Nancy M. Adams, NYSDEC, p.3, Comment 5)

**Response 9:** The owner will obtain permit coverage.

**Comment 10:** Commencement of construction may not proceed until all Uniform Procedures Act (UPA) permits are issued, but no sooner than 60 business days from the date the Department receives the Notice of Intent (NOI) (if deviations from the standard are necessary). (August 3, 2005, 2005 letter from Nancy M. Adams, NYSDEC, p.3, Comment 5)

**Response 10:** The Comment is noted. Applicable permits and approvals will be obtained, as required, before commencement of construction activities, and if no deviations from the standards are necessary, five days from receipt of Notice of Intent (NOI).

**Comment 11:** What permits and approvals are required for the Project? What approvals have been obtained by the developer through the date of the FEIS? Are any of the approvals conditional, and if so, what are the conditions? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p. 9)

**Response 11:** Tables 4 and 7 entitled Potential Permits, Approvals, and Consistency Reviews contained in Sections 1.5 and 2.5.1 of the DEIS, respectively, summarize the permits and approvals associated with the Project. No discretionary approvals have been obtained to date. Discretionary approvals are expected to be obtained following the completion of the review of the Project pursuant to the

State Environmental Quality Review Act in connection with the requested zone change.

**2.2.3. Off-site material**

**Comment 12:** What is the estimated volume of fill material to be brought on site? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.9)

**Response 12:** As shown in Table 1 below, and as discussed in the *Information Regarding The Modified Hudson Hills Planned Development District* (Appendix E), the estimated cut and fill quantities are calculated based on expected excavation and/or placement of soil required for the construction of buildings and roads at the site. The earthwork involved with the proposed roads of the Modified Plan was estimated by applying the reduced percentage of roadway length from the Modified Plan, to the Original Plan roadway earthwork volume estimates. This reduction in road length and the associated roadway earthwork is approximately 30%.

Proposed buildings at the site were determined to be uphill (require excavation), downhill (requiring fill) or on flat land. See the site plan for the Modified Plan in Appendix E. The estimated amount of fill or excavation was derived from the dimensions of the building and typical parking surrounding the structure and the determination of whether the building would require fill or excavation. As shown in Table 1, the estimated earthwork associated with overall sitework proposed for the Project is approximately balanced, minimizing the amount of fill that needs to be imported to the site. Net fill required is approximately 3.5% of the estimated earthwork volumes for the overall sitework.

**Table 1. Estimated earthwork numbers**

Proposed roads under modified plan.			
Length (ft)	Cut (yd <sup>3</sup> )	Fill (yd <sup>3</sup> )	Overall Net (yd <sup>3</sup> )
14,900	166,795	42,440	124,355
Modified conceptual building layout			
No. of Buildings	Overall Cut (yd <sup>3</sup> )	Overall Fill (yd <sup>3</sup> )	Overall Net (yd <sup>3</sup> )
45	48,220	188,480	140,260 fill required
Overall sitework under modified plan – estimated earthwork numbers			
Overall Cut (yd <sup>3</sup> )	Overall Fill (yd <sup>3</sup> )	Overall Net (yd <sup>3</sup> )	
215,015	230,920	15,905 fill required	

## 2.3. Water resources

### 2.3.1. Storm water

**Comment 13:** Due to the widening of Betts Road, provisions to control the rate of runoff for the 1-year, 10-year and 100-year storm events will be required. (August 3, 2005 letter from Nancy Adams, NYSDEC, p.1, comment 1. Also see February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 28)

**Response 13:** The Comment is noted. It should also be noted that the Betts Road areas contributing runoff to the wetlands are similar for the existing conditions and the proposed conditions, as discussed in Section 3.2.2 of the DEIS. Under the proposed conditions, a minimal increase in runoff to the wetlands is anticipated from the widening of Betts Road. A small portion of the Hudson Hills entrance roadway and the proposed orchard (located below the on-site storm water management facilities) will also contribute runoff to Betts Road, but because most of this area will remain vegetated greenspace only a small increase in runoff is anticipated. The runoff under the proposed conditions will be mitigated (for both quantity and quality), and the resulting discharge to the wetlands will be approximately equal to the existing conditions discharge, as required by the NYSDEC. Runoff from the remainder of the development area will

be managed separately from the Betts Road runoff, via on site storm water facilities.

As described in Section 2.3.7, storm water runoff for the off-site Betts Road area is generally conveyed, via existing roadside swales and culverts, to NYSDEC Wetland (TN-106). The existing drainage system does not include treatment of runoff, prior to discharging to the wetlands. The resulting runoff from the widening of Betts Road will be mitigated to NYSDEC requirements, using dry swales or another type of storm water management facility acceptable to the NYSDEC. The proposed roadway design will account for installation of the required storm water facilities.

**Comment 14:** In regards to the widening of Betts Road, evaluate whether the proposed channel systems can be installed within the existing road right-of-way (ROW). (August 3, 2005 letter from Nancy Adams, NYSDEC, p.1, comment 2)

**Response 14:** See the response to Comment 13

**Comment 15:** Additional information is required for the NYSDEC to determine what portions of the Project are eligible for review under the “Interim Strategy for Redevelopment Projects”. (August 3, 2005 letter from Nancy Adams, NYSDEC, p.1, comment 4)

**Response 15:** The Comment is noted. See the response to Comment 13, which describes the anticipated storm water measures to manage runoff resulting from the widening of Betts Road. The decision to apply for approval from the NYSDEC to treat the runoff from the existing portion of Betts Road differently under the *Interim Strategy for Redevelopment Projects* will be coordinated prior to submission of the Notice of Intent (NOI) and SWPPP. The *Interim Strategy for Redevelopment Projects* only applies if storm water plans for existing development necessitate a deviation from the *NYSDEC Technical Standards*.

**Comment 16:** Storm Water Pollution Prevention Plan (SWPPP) must be developed in accordance with permit requirements (GP-02-01) and standards contained in the *New York State Storm Water Management Design Manual* (dated August 2003). Deviations from technical standards require a 60-business day review. (August 3, 2005 letter from Nancy Adams, NYSDEC, p.1, comment 3; p.2, comment 9; p.2, comment 10; p.3, comment 11)

**Response 16:** The Comment is noted. The SWPPP will be developed in accordance with the NYSDEC's *General Permit for Storm Water Discharges Associated with Construction Activities* (GP-02-01) and the *New York State Storm Water Design Manual*, as discussed in Section 2.3.8 of the DEIS. We understand that deviations from technical standards will require a 60-business day review period.

Comment 17: Provide a map clearly identifying the boundaries for each drainage area so that it is clear that all storm water management plans meet the standards outlined in the *New York State Storm Water Design Manual*. (August 3, 2005 letter from Nancy Adams, NYSDEC, p.3, comment 13)

**Response 17:** Maps of the pre-development drainage areas can be found in Appendix E of the DEIS. Maps of the post-development drainage areas relative to the Modified Plan can be found on the site plan attached as Exhibit "2" to the *Information Regarding The Modified Hudson Hills Planned Development District* (Appendix E). Adverse impacts resulting from the Project are anticipated to be mitigated through the use of storm water control measures and are presented in Section 3.1.2 of the DEIS and will be described in the SWPPP. The storm water management measures to be used at the site will be designed in accordance with the *New York State Storm Water Design Manual*.

Comment 18: Identify the assumptions and input and output parameters used in the Soil Conservation Service (SCS) Technical Release No.55 (TR-55) and SCS Technical Release No.20 (TR-20) analyses for pre- and post-development conditions? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 11)

**Response 18:** The pre-development storm water analysis can be found in Appendix E of the DEIS. The post-development storm water analysis relative to the larger Original Plan can also be found in Appendix E of the DEIS. Appendix E of the DEIS also includes a Storm Water Management Report Summary. This summary presents a description of the storm water management system and the methodology used to estimate runoff and the required storm water management facility volumes for mitigating the increase runoff peak flows anticipated from the Project. The summary also includes a detailed description for the existing and proposed drainage areas. Each description includes the assumptions and input parameters used in the hydrologic modeling programs (TR-55 and TR-20). The hydrologic modeling output is

summarized in the summary tables, and the actual output files are included in the DEIS Appendix E. Post-development drainage areas relative to the Modified Plan can be found on the site plan attached as Exhibit "2" to the *Information Regarding The Modified Hudson Hills Planned Development District* (Appendix E). The storm water management measures to be used at the site in connection with the Modified Plan will be designed in accordance with the *New York State Storm Water Design Manual* and in a manner acceptable to the NYSDEC.

**Comment 19:** Identify the changes that the Modified Plan has on post-development drainage and storm water quantity and quality management features? What is the estimated surface area of paved areas? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.10, 11)

**Response 19:** Due to the drastic reduction and constriction of the Modified Plan from the Original Plan, the post-development drainage and storm water quantities are significantly decreased. The estimated surface area of paved areas under full build-out of the Modified Plan has been reduced to approximately 655,000 square feet. The post-development drainage and storm water quality management features remain the same under the Modified Plan as the Original Plan. The measures to be used, regarding both quantity and quality, must be designed in accordance with *New York State Storm Water Design Manual* and in a manner acceptable to the NYSDEC.

**Comment 20:** Several of the storm water control structures shown on the General Concept Site Grading Plan (DEIS, Appendix C, Drawing 2) are shown to be tucked away behind buildings or on sloped areas with limited access. How will these structures be maintained? (August 3, 2005 letter from Nancy Adams, NYSDEC, p.3, comment 14)

**Response 20:** Responsibility for the maintenance of the storm water control structures will be determined during site plan review, and the final grading plan will account for access to these storm water management facilities. The SWPPP will include an operation and maintenance plan for the storm water management system.

**Comment 21:** The FEIS should reference the United States Army Corp of Engineers' (USACOE) standards for use of wetlands as part of a storm water collection system. It would be advisable for the applicant to contact the USACOE.

(August 3, 2005 letter from Nancy Adams, NYSDEC, p.3, comment 15)

**Response 21:** The Comment is noted. To the extent that United States Army Corp of Engineers' (USACOE) approval is required, the USACOE standards will be met in addition to the requirements outlined in the *New York State Storm Water Management Design Manual*.

Comment 22: The applicant should provide pre- (baseline) and post-development analysis of the water quality in the New York State Freshwater Wetland TN-106 and the Troy Reservoir to assess potential construction and post-construction phase impacts. Will the water quality in the proposed storm water detention basins be monitored? The potential impact for contaminants (pesticides /herbicides, fertilizers, salt, petroleum products) leaching from detention basins into ground and surface waters should be addressed. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.7,10,14; Also see substantive comments made at the January 17, 2006 public hearing by Barbara Russo, Colehammer Avenue, ln. p.95 ln.1-4)

**Response 22:** The storm water management system for the Project will be designed and implemented to minimize potential impacts and to comply with NYSDEC standards outlined in the *New York State Storm Water Management Design Manual*. The storm water management and E&SC measures will mitigate quantity and quality of runoff from the site, prior to discharge. As outlined in Section 3.2.3 of the DEIS, anticipated measures may consist of detention/retention basins with sediment forebays designed to remove pollutants from storm water before it leaves the site, or non-structural best management practices (BMPs) designed to reduce the availability of pollutants to runoff. As such, monitoring of Freshwater Wetland TN-106 and the Troy Reservoir is not proposed or required. Runoff from the site is not anticipated to impact the Troy Reservoir. Under the Modified Plan, the northern portion of the Project, including the North Lake Avenue access (closest to the Troy Reservoir) will not be developed, further protecting the reservoir. The closest proposed building under the Modified Plan is approximately 2,000 feet from the Troy Reservoir.

Comment 23: The FEIS should address what impacts storm water runoff will have on neighboring properties including potential impacts to septic systems, well water quality, erosion and flooding. Can post-development storm water runoff be accommodated by down-gradient drainage

structures without adverse impacts to down-gradient property owners? Will the developer post a bond or other security, or otherwise indemnify the Town and/or owners of surrounding properties against adverse impacts on residential water supplies and septic systems? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.9,10,11; See also substantive comments from the January 17, 2006 public hearing by Denny Baily, Lord Avenue, p.81 ln. 15-22; from the August 3, 2005 public hearing by Susan Symanowitz, 416 North Lake Avenue, p. 46 ln.14-15; in the February 14, 2006 letter from Donna Forster, p.3 and February 12, 2006 letter from Denny Baily, Sycaway Bicycle Shop, p.1; February 14, 2006 letter from James W. Peek, 104 Lord Avenue, p.1)

**Response 23:** Sections 3.1.4 and 3.2.2 of the DEIS discuss the potential impacts on adjacent landowners and down-gradient users from storm water. While there is the potential for materials to be transported by storm water runoff to down-gradient lands, the potential for this to occur will be mitigated by implementation and maintenance of E&SC and storm water management features during construction and post-development activities, before the storm water leaves the site. Pre-development (existing) storm water runoff contributions off-site were identified as part of the storm water analysis discussed in Appendix E of the DEIS. As described in the DEIS section 3.2.2, the proposed storm water management facilities have been designed in accordance with the NYSDEC standards, and sized to mitigate the increased runoff peak flows for storm events up through the 100-yr storm, 24-hr storm, such that the peak rate of runoff will not exceed the pre-development conditions. Existing, downstream drainage structures will experience and be able to accommodate the same peak runoff rates as under existing conditions for storm events up through the 100-yr storm. In addition, utilizing existing discharge points is proposed so that down-gradient impacts, including those to wells and septic systems, will be the same post-development as pre-development, protecting adjacent and down-gradient neighbors from adverse impacts from storm water. As such, the Applicant is not proposing a bond or other security in this regard.

**Comment 24:** Identify the location and size of proposed storm water detention basins. Where will storm water go if runoff exceeds the capacity of proposed detention basins?

(February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.11, 11-12)

**Response 24:** See the responses to Comments 17, 18 and 23. In the event that runoff exceeds the required design standards, then storm water runoff will be conveyed to the ultimate discharge point via an emergency overflow route (e.g., open channel). The ultimate discharge points are proposed to be the same as existing discharge points. These emergency overflow routes will be included as a best management practice design element indicated in the *NYSDEC Stormwater Management Design Manual*, to mitigate the impacts of extreme storm water quantities.

Comment 25: The FEIS must include information identifying the type of permanent storm water management facilities, as well as technical material and performance specifications to be adhered to by the contractor when installing components of the E&SC plan. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.11)

**Response 25:** The information provided in Section 3.1.5 of the DEIS describing the types of permanent storm water management facilities is sufficient to address the potential adverse impacts resulting from storm water. Technical specifications are not necessary, nor required, to be included in the Environmental Impact Statement, as part of the State Environmental Quality Review. The contractor will be required to implement and maintain the SWPPP and E&SC plan, and technical specifications during construction, as well as permanent storm water management facilities post construction which will be reviewed and approved by the NYSDEC and Town of Brunswick.

### 2.3.2. Groundwater

Comment 26: The FEIS should indicate that all residences currently located on Betts Road and Wilrose Lane have individual groundwater supply wells. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.10)

**Response 26:** The Comment is noted.

Comment 27: The impact on groundwater from the excavation of foundations, basement and utilities must be addressed in the FEIS. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.10)

**Response 27:** Section 3.2.2 of the DEIS discusses potential adverse impacts on groundwater. It is not anticipated that groundwater will be encountered during the construction phase of the building foundations or during trenching operations because no major excavations are planned, as the buildings will not have basements and the bedrock is deep at the site. The depth to bedrock varies across the site, but is typically greater than 5-feet below grade (USDA SCS 1988)

Comment 28: What is the potential impact on ground and surface waters from sewer system back-ups and overflows? How will potential impacts be monitored and who will be responsible for remediation of such impacts? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.10)

**Response 28:** As required, the sanitary sewer extension will be designed in accordance with standards in the NYSDEC publication *Design Standards for Wastewater Treatment Facilities* (1988) to provide adequate sizing to accommodate peak flows generated by the Project. Further, proposed plans for the sewer extension will be reviewed and approved by the Rensselaer County Department of Public Health and NYSDEC, providing additional protection. Consequently, backups or overflows are not a reasonably anticipated environmental impact.

### **2.3.3. Surface water (Troy Reservoir)**

Comment 29: Is the Project site hydraulically connected to the Troy Reservoir and/or State Freshwater Wetland TN-106? Will Project activities raise or lower the water level in the reservoir and/or wetland? Will flow from the Project site to the reservoir and/or wetland be decreased or increased? How will the Project mitigate potential contaminants from being conveyed off-site? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.14, 14-15)

**Response 29:** An unnamed watercourse flows from the Troy Reservoir, east to west, through the site. Given the direction of the watercourse, away from the Troy Reservoir, there is no potential impact from surface water runoff from the Project to the Troy Reservoir from this watercourse. There is not a watercourse that runs

from the site to wetland TN-106. Accordingly, the Project is not anticipated to impact the water levels of either the Troy Reservoir or TN-106.

**Comment 30:** The types and amounts of pesticides/herbicides, road salt and seal coating, as well as their impact on wetlands, ground and surface water, and wildlife habitat should be identified. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.15; See also substantive comment in February 12, 2005 letter from Denny Baily, Sycaway Bicycles, p.1)

**Response 30:** Site operations and maintenance activities will be outlined in the SWPPP and will be conducted in accordance with the requirements outlined in *New York State Storm Water Management Design Manual*. Storm water management facilities planned for the site will be designed to remove contaminants from runoff before leaving the site. Therefore, adverse impacts to wetlands, ground and surface water, and habitat are not anticipated.

#### **2.3.4. Wetlands**

**Comment 31:** Will the developer post a bond or other security, or otherwise indemnify the Town and/or owners of surrounding properties against adverse impacts upon wetland TN-106 (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.12)

**Response 31:** The developer is not proposing to post a bond or other security or otherwise indemnify the Town and/or owners of surrounding properties against adverse impacts upon wetland TN-106.

**Comment 32:** The FEIS must include a wetland delineation including identification of the boundaries of the proposed widening of Betts Road, and mitigation measures for potential impacts to the wetland TN-106 and 100-foot buffer. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.15)

**Response 32:** A Wetland Delineation Report with respect to the 215± acre site is included with the DEIS as Appendix H. A modification to the existing Betts Road is not required as part of the current review process under the State Environmental Quality Review Act. Any modification to Betts Road that impacts a federal or state regulated wetland will be handled in accordance with the applicable United States Army Corps of Engineers and New York State Department of Environmental

Conservation permit process. In addition, mitigation measures described in Section 3.4.3 of the DEIS will be pursued.

**Comment 33:** A sign was placed at a nearby wetland, “Wildlife Viewing Area”. Was the impact of visitors to the privately owned wetland considered? (Comment made at January 17, 2006 public hearing by William Joyce III, Wyman Lane, p. 121 ln. 3 to p.122 ln.6)

**Response 33:** It is the Applicant’s understanding that the “Wildlife Viewing Area” at TN-106 is sponsored by New York State. Given the dearth of impact the Project will have on TN-106, impacts to visitors viewing TN-106 are not anticipated.

**Comment 34:** How will the construction and operation of the Project and the Wal-Mart Supercenter affect federally protected local wetlands? (April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, p.1)

**Response 34:** The Applicant is not the sponsor of the proposed Wal-Mart Supercenter. The Supercenter is a separate action and is not considered a part of this proposed Project. Each project will be required to minimize impacts to federally-regulated wetlands. In addition, activities within federally-regulated wetlands will require review by and approval from the United States Army Corps of Engineers in accordance with the USACOE Nationwide permit (NWP) or General Permit, if necessary.

## 2.4. Terrestrial and aquatic ecology

### 2.4.1. Vegetative cover

**Comment 35:** Existing wooded and field habitats (buffers) to be retained should be identified, as well as areas to be developed. How much of the proposed development will be manicured lawn? Can the Project be further modified to preserve additional wooded or field habitat? (September 13, 2006 letter from Nancy Adams, NYSDEC, p.1; See also February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 9,12 and comment made at the January 17, 2006

public hearing by Mike Conway, Blue Heron Lane, p. 108 ln.9-10)

**Response 35:** The Modified Plan depicts the wooded and field areas to be left in their natural state, as well as the areas to consist of grass and landscaping. The grass and landscaped regions are the areas immediately around the buildings portrayed by a light/neutral color on the site plan. The wooded and field areas to be preserved are depicted in green. These areas create a natural buffer around the entire boundary of the property. The width of this natural buffer in many areas exceeds 1,000 linear feet. Upon the completion of phase I, 95% of the 215± acre site remains green under the Modified Plan. Upon the completion of phase II, 90% of the site remains green. Upon full build-out, 84% of the entire site still remains green. This translates to 180 of the 215 acres left green. The Modified Plan preserves a tremendous amount of natural area in order to avoid an adverse impact on habitat and vegetation, further modification is neither warranted nor proposed.

**Comment 36:** Explain specifically what is meant by the DEIS reference to “open” and “green” space. What development restrictions will be placed on “open” or “green” space areas? What areas, if any, would be dedicated as forever wild? If none, the developer should consider placing a “forever wild” easement on the undeveloped property and giving administration of such easement to a local land trust such as the Rensselaer-Taconic Land Trust. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 6. See also substantive comments in the February 14, 2006 letter from Mark Sarnacki; August 3, 2005 email from Sharon Zankel, p.2)

**Response 36:** Open space and green space represent areas of the site that are not covered by impervious material such as buildings or roads. The site plan and design of the Project pursuant to the pending Planned Development District application contain the restrictions placed on these areas. Any proposed improvements in these areas would be depicted on the site plans of the Modified Plan attached to the *Information Regarding The Modified Hudson Hills Planned Development District*. The plans do not show any improvements. The only potential improvement is simply a walking trail that has been part of the original proposal from the outset of the Project. The Applicant is not proposing any easements or dedicating this land to a third-party.

#### 2.4.2. Habitat type and rankings

**Comment 37:** The description of the Red Maple-Hardwood Swamp has many species that are characteristic of Silver Maple-Ash Swamp according to Ecological Communities of New York State (1st edition: Reschke 1990, draft 2nd edition: Edinger et al. 2002). Is there a Silver Maple-Ash Swamp, a global, state and county rare natural community, located on the property? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 12)

**Response 37:** As discussed in Section 3.4.1 of the DEIS, a Red Maple-Hardwood Swamp was identified at the proposed site (Table 11 of the DEIS), which was confirmed by on-site visual reconnaissance. A Silver Maple-Ash Swamp was not identified. This determination was further confirmed by a review of the New York Natural Heritage Program files by the NYSDEC and the agency's determination that there are no significant natural communities (e.g., Silver Maple-Ash Swamp) occurring on the site (see Appendix D of the DEIS)

#### 2.4.3. Flora and fauna

**Comment 38:** What measures are being taken to avoid impact to the two "county rare" plants, *Cornus florida* and *C. stolonifera*, and their associated habitat? If impacts occur, what mitigation is proposed? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 12)

**Response 38:** The flowering dogwood, *Cornus florida*, and red-osier dogwood, *C. stolonifera*, are not state or federal listed rare, threatened or endangered species. However, these species are considered rare in Rensselaer County. Leaving the vast majority of the site (approximately 80-90% of the site depending on the phase) undisturbed and in its natural state will protect occurrences of flowering dogwood and red-osier dogwood.

**Comment 39:** The impact on adjacent wildlife (including migratory birds) and habitats from the increase populations of other species that can thrive around human development, such as raccoons and skunks must be addressed. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 14)

**Response 39:** Human development is already present in the area. Displacement of common species is expected as a result of the conversion of the cultivated field habitat, including field sparrow, song sparrow, woodchuck and other rodents. Species that are better adapted to mowed lawn and trees will be expected to increase, including gray squirrel, American robin, and mourning dove. As discussed in the DEIS, buffer areas along the site perimeter will be maintained to prevent fragmentation of habitats and facilitate continued access by fauna between adjacent properties.

Comment 40: The impact on terrestrial and aquatic ecology from widening Betts Road and from the increased traffic that will result on Betts Road as a result of the Modified Plan must be addressed. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 14,15)

**Response 40:** The widening of Betts Road is not anticipated to have a significant adverse impact on terrestrial and aquatic ecology. Further, the Modified Plan will result in fewer residences being constructed and a smaller impacted area, as well as leaving 84% of the site green even after full build-out. Consequently, the Modified Plan will leave most of the ecology in place.

#### 2.4.4. Migratory birds

Comment 41: The FEIS must address potential Project impacts on migratory birds in the area of the Project site and adjacent wetlands (*i.e.*, TN-106). Will Project activities be in compliance with the Migratory Bird Treaty Act? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p. 13-14)

**Response 41:** Section 3.4.1 of the DEIS describes the migratory species anticipated to inhabit the Project site. The same species could be anticipated to inhabit nearby wetlands, as well as other migratory species common to emergent wetlands. The Project does not violate the Migratory Bird Treaty Act because it will not kill, take, sell, trade, etc. migratory bird species. Efforts will be made during construction so as to not disturb or destroy the nests of migratory bird species. Importantly, leaving the vast majority of the site (approximately 80-90% of the site depending on the phase) undisturbed and in its natural state averts potential significant adverse impacts on migratory birds.

#### 2.4.5. Endangered and threatened species

Comment 42: The presence or absence of rare endangered or threatened species or critical habitats should be confirmed through a field survey conducted by an independent biologist. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.13)

**Response 42:** As discussed in Section 3.4.1 of the DEIS, there are no known occurrences of state or federal listed rare, threatened or endangered animal or plants, significant natural communities, or other significant habitats on or in the immediate vicinity of the Project site. Habitats were identified through a combination of review of aerial photography and on-site reconnaissance by O'Brien and Gere and Ecological Solutions.

The absence of critical habitat or rare, endangered or threatened species was further confirmed by correspondence from the NYSDEC Natural Heritage Program and United States Fish and Wildlife Services. Correspondence from each agency was included as Appendix D of the DEIS.

Comment 43: Additional information is needed regarding the types of species that currently use State Freshwater Wetland TN-106 (February 13, 2006 letter from Michael Conway, 11 Blue Heron Lane, p.1)

**Response 43:** An on-site reconnaissance was not performed at TN-106 because it was outside of the 215± acre Project area. However, according to the NYSDEC Natural Heritage Program *Ecological Communities of New York State, 2<sup>nd</sup> Edition*, the following species may be found to use deep emergent marshes:

- Red-winged blackbird (*Agelaius phoeniceus*), marsh wren (*Cistothorus palustris*), bullfrog (*Rana catesbeiana*) and painted turtle (*Chrysemys picta*) are species that may be found in deep emergent marshes.
- American bittern (*Botaurus lentiginosus*), Virginia rail (*Rallus limicola*) and pied-billed grebe (*Podilymbus podiceps*) are species rarely found in some deep emergent marshes.

#### **2.4.6. Orchard**

**Comment 44:** What provisions, if any, will be made for fertilization, irrigation, pest control and maintenance of the orchard, and who will be responsible for paying for these services? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.5)

**Response 44:** The type, schedule and level of fertilization, irrigation, pest control and maintenance of the orchard will be determined by the Project owner in accordance with applicable local, state and federal requirements.

**Comment 45:** What variety and size of cherry tree will be planted? How long will it take for the trees to grow to a size that will provide a suitable buffer? Will the measurement and quality of the plantings conform to American Association of nurserymen (AAN) standards? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.5)

**Response 45:** As described in section 2.1.2 of the DEIS, approximately three acres will be planted with approximately 1,200 flowering cherry, near the entrance off of Betts Road, as a Memorial Garden. The cherry orchard is proposed as a vegetative buffer between the Project and adjacent land uses (See Section 3.8.2 of the DEIS). Prior to planting, the variety, size, and exact location of the cherry trees will be finalized, giving consideration that the cherry orchard will serve both as a buffer and as a memorial garden. Conformance with any standards, such as AAN, will be left to the discretion of the horticulturists that design and implement the cherry orchard.

## **2.5. Transportation**

Comments and responses to transportation related questions were drafted by Creighton Manning & Associates on behalf of CDP and are included as Appendix D.

## **2.6. Air Quality**

### **2.6.1. Air quality**

**Comment 46:** Is a bus stop or some other type of public transportation proposed for the site? If so, where would the bus stop be

positioned? Is a carpool lot proposed? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.3)

**Response 46:** At this time, neither a bus stop nor a car pool lot is proposed in connection with the Project.

Comment 47: The assessment of air quality impacts on adjacent residential properties resulting from vehicle emissions must be analyzed using a realistic estimate of the number of vehicles per unit? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.12)

**Response 47:** The Traffic Impact Study attached to the DEIS as Appendix G contains an Air Quality Assessment. The Air Quality Assessment was performed by Creighton Manning and Associates, a professional engineering firm specializing in the traffic and highway field. The assessment of air quality impacts on adjacent residential properties resulting from vehicle emissions has been analyzed using realistic estimates of the number of vehicles per unit. The calculations are based on accepted standards generated by The Institute of Transportation Engineers (ITE) and contained in the publication *Trip Generation, 7<sup>th</sup> Edition*. Importantly, the traffic volumes, and correlated air quality impacts, have decrease by approximately 40% as a result of the reduction of the Original Plan to the Modified Plan.

#### **2.6.2. Dust**

Comment 48: The type of dust control measures to be employed during excavation, grading and planting of the orchard and memorial garden should be identified. How long will these measures be utilized and who will be responsible for their implementation? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.5. Also see February 13, 2006 letter from Michael Conway, 11 Blue Heron Lane, p.1)

**Response 48:** See section 3.3.3 of the DEIS for a description of the steps that will be taken to minimize dust generation during construction activities. The contractor will be responsible for incorporating dust mitigation for the length of the construction period.

### 2.6.3. Construction impacts

Comment 49: What is the anticipated schedule of “work hours” and days of work during each phase of construction? Whose will be responsible for enforcing the schedule? (Brunswick Smart Growth, February 14, 2006 letter, p.12)

**Response 49:** It is anticipated that construction activities will be conducted between 7 a.m. to 5 p.m., Monday through Friday. Construction may also be conducted on Saturdays depending on the schedule determined by the Construction Manager. The General Contractor will be responsible for determining work hours.

## 2.7. Land use and zoning

### 2.7.1. Existing land use plan

Comment 50: The Project does not have a major impact on County plans and local consideration shall prevail. (Robert L. Pasinella, Rensselaer County Dept. of Economic Development and Planning, p.1)

**Response 50:** The Comment is noted.

Comment 51: How is the Project consistent with the Town’s Comprehensive Plan? How does it accomplish the goals of the Plan such as protecting the surrounding natural resources, and filling the needs of low and fixed income residents? Will the Project be consistent with the existing setting? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.25. Also see February 14, 2006 letter from Donna Forster, p.3; February 9, 2006 letter from Donald and Susan Symanowicz, 416 North Lake Avenue, p.1; April 6, 2005 letter from K. Keyser, p. 1; December 31, 2004 letter from Donald and Susan Symanowicz, 416 N. Lake Ave., p.1; January 5, 2005 letter from Christine and Richard D. Salmon, 190 North Lake Avenue, p.1; August 10, 2005 letter from Joseph Durkin, p.1)

**Response 51:** The Project is consistent with the Town of Brunswick’s Comprehensive Plan dated February 6, 2001, as well as the existing setting. Consistency with the Comprehensive Plan and the existing setting will be discussed separately below.

As a preface, the Comprehensive Plan acknowledges that “growth is inevitable” and should remain in stride with the Town’s land use and development objectives set forth in the Comprehensive Plan (See the Town of Brunswick’s Comprehensive Plan at p. 8). Furthermore, “development will broaden the tax base of both the Town and County, helping to offset the need for increased taxes” (p.6).

First, the Comprehensive Plan specifically calls for new multi-family housing “to fulfill a critical need which now exists” (p. 51). The Comprehensive Plan calls for promoting such multi-family housing where the infrastructure can support same (p. 6, 8). The Project is located in the area of town most capable of supporting it, the Route 7 commercial corridor.

Second, the Comprehensive plan advances the need for new, quality housing for “empty nesters” (p. 15, 49). “Seniors should be afforded an option to continue to reside in good quality housing in the Town when maintaining a single-family residence becomes undesirable” (p. 49). As discussed in response to Comment 3, the residences are designed for the older person or couple who is downsizing from a single-family home. The large size of the residences (almost 1,500 square feet) will make for a smooth transition from a single-family home. The floor plans will read like a single-family home with maximum flow and fenestration. In addition, the attached garages are an amenity usually only associated with a single-family home. The high level of quality of the interior and exterior of the residences will appeal to the person who has taken pride and care in their single-family home for decades.

The first class clubhouse inclusive of a meeting great-room, media center, state-of-the-art fitness center and swimming pool is an amenity geared toward the discerning aging baby boomers. Furthermore, great care has been taken to design a site that includes vast green space, walking trails, tree-lined streets and sidewalks in an effort to create a true “sense of place”.

Third, the Comprehensive Plan promotes the use of natural buffers between new development and existing development (p. 17). The Project, under the reduced Modified Plan, leaves a very large natural buffer around the entire boundary of the property thereby buffering the Project from the existing adjacent development. The

width of this natural buffer in many areas exceeds 1,000 linear feet.

Fourth, the Comprehensive Plan promotes the use of natural buffers in general, open space and blending development with the natural surroundings (p. 8, 13, 20). Upon the completion of phase I, 95% of the 215 acre site remains green under the Modified Plan. Upon the completion of phase II, 90% of the site remains green. Upon full build-out, 84% of the entire site still remains green. This translates to 180 of the 215 acres left green. The vast majority of the green space will be preserved in its natural state.

Fifth, the aforementioned large areas of green, natural space associated with the Project support the Comprehensive Plan's goal of preserving vegetation, wetlands and habitat (p.8, 18). The Project has clearly been designed to promote and protect the surrounding natural resources.

Sixth, the Comprehensive Plan encourages trails and pathways in residential communities (p. 35). As previously mentioned, great care has been taken to design a site that includes sidewalks throughout, as well as walking trails in the vast natural areas.

Seventh, the Comprehensive Plan embraces and encourages recycling (p. 22). The Project has a recycling center on site in order to recycle the maximum amount of solid waste possible.

Lastly, the Comprehensive Plan encourages the use of Planned Development Districts as a land use development tool (p. 6). The Project is proposed as a Planned Development District.

The Project will be consistent with the existing setting due to the large portion of the property remaining untouched in its natural state. This is especially true with respect to the natural buffer along the boundary of the entire site. It should be kept in mind that an existing multi-family development, the Apartments at Brunswick, is located immediately adjacent to the Project. Therefore, the Project is not proposed in an area that is unfamiliar with similar uses since the adjacent Apartments at Brunswick are over 20 years old. Moreover, the Town of Brunswick Zoning Ordinance (Second Amendment) permits multiple-family dwellings, such as the Project, in all zoning districts as a special use.

With regard to the Project filling the needs of low and fixed income residents, the Project is not designed to fill that housing need. The Project will fill a need for new, quality multi-family housing. Not every project needs to be geared toward low and fixed income residents. Conversely, responsible growth calls for a variety of housing to fill the various types of residential needs.

**Comment 52:** Is the Project considered “High Density Residential Housing” as defined in the Town of Brunswick Comprehensive Plan? (December 31, 2004 letter from Donald and Susan Symanowicz, 416 N. Lake Avenue, p.1)

**Response 52:** The Town of Brunswick Comprehensive Plan does not define “high density residential housing”. No further response is warranted.

#### **2.7.2. Zoning**

**Comment 53:** There should not be construction in an A-40 zone? (Comment made at August 3, 2005 public hearing by Tony Kestner, 16 Woodhill Lane, p.23, ln.4-7. Also see January 22, 2006 letter by Joseph Cioffi Jr., 23 Norfolk Street, p.1)

**Response 53:** Under the Town of Brunswick Zoning Ordinance and Comprehensive Plan, construction is permitted in the A-40 zoning district. See also the response to Comment 51.

**Comment 54:** It is improper to review the PDD application using the existing zoning and land use regulations, which date from the 1950s, when town residents are expressing a desire for new regulations. (February 3, 2006 letter from Louis Hutter, p.2, comment 3)

**Response 54:** The Project is appropriately being reviewed under the existing Town of Brunswick Zoning Ordinance and Comprehensive Plan. Importantly, the Comprehensive Plan is only five years old.

The existing Zoning Ordinance places the ultimate responsibility of reviewing PDD applications with the Town Board, with a referral to the Zoning Board of Appeals. The Ordinance requires the applicant to submit all plans, drawings and documents necessary for a full understanding of the proposed PDD. The criteria to be examined during the approval process includes the need for the proposed PDD, impact on the character of the

area and safeguards provided to minimize potential impacts on the surrounding area. Finally, a PDD can not be established until a hearing is held to allow for sufficient public input.

The existing Zoning Ordinance (Second Amendment) also permits multiple-family dwellings, such as the Project, in all zoning districts as a special use. However, the Applicant has chosen to proceed as a Planned Development District because, as discussed in response to Comment 51, the Comprehensive Plan encourages the use of Planned Development Districts as a land use development tool. Proceeding as a Planned Development District gives the Town Board more flexibility and control over the application and site plan than if the Project was submitted as a special use permit application.

**Comment 55:** What is the justification for changing the present zoning where the proposed Project is located? (April 6, 2005 letter by Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p.1) (141)

**Response 55:** As noted above in response to Comment 51, the Town of Brunswick Comprehensive Plan encourages the use of Planned Development Districts as a land use development tool. The Project will fulfill a housing need that currently exists in the Town of Brunswick, and this need will only increase as the area continues to grow as discussed in response to Comment 1. The Project will create a quality vibrant multi-family community in the Town of Brunswick. The Project will also provide a viable alternative to conventional single-family tract subdivision home ownership. The Project is further designed to advance the conservation of natural buffers, green space, open space, vegetation and wildlife.

## 2.8. Community resources

### 2.8.1. Potable water/sanitary sewer

**Comment 56:** Will extension of the water and sewer districts require that residents within these districts be taxed for the additional costs, even if they chose not to connect? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.7)

**Response 56:** This decision rests within the discretion of the applicable taxing authority.

Comment 57: What is the estimated cost to the Town for construction, operation and maintenance of the new water and sewer lines and associated improvements? What portion of the costs of the improvements will be borne by the developer now and later in taxes? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.7, 8, 26, 27, 28. Also see January 5, 2005 letter from Christine and Richard D. Salmon, 190 North Lake Avenue, p.2)

**Response 57:** Final costs of the on- and off-site improvements to extend the Town's water and sewer system have not been determined at this time. The construction cost will ultimately be borne by the developer by means of out-of-pocket payments, special assessments or other funding mechanism or sources. Once the lines are dedicated, the operation and maintenance become the responsibility of the owner.

Comment 58: What will be the boundaries of the new water and sewer districts proposed as part of this Project? How are water and sewer districts established? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.7, 26, 28)

**Response 58:** As described in Section 3.7 of the DEIS, the developer intends to extend the existing Town of Brunswick potable water system and the Rensselaer County Sewer District to the project site, in accordance with applicable state and local requirements. The exact district boundaries are undetermined at this point given that the Project is still being reviewed under the State Environmental Quality Review Act. See Section 3.7.1 of the DEIS for a description of existing and proposed water and sewer infrastructure.

Comment 59: How does the impact on water and sewer service differ in the Project's proposed Modified Plan from the Original Plan proposal? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.8-9)

**Response 59:** The Modified Plan is a 40% reduction in residential units compared to the Original Plan. As discussed in the *Information Regarding The Modified Hudson Hills Planned Development District* (Appendix E), while the water consumption rate will be as originally identified in

the DEIS, (93 GPD per unit) the anticipated average daily flow demand for the Project under the Modified Plan is 115,878 GPD, compared to 193,270 GPD expected in the Original Plan.

As also discussed in the *Information Regarding The Modified Hudson Hills Planned Development District* (Appendix E), peak flows to occur in the sanitary sewer system were calculated in the DEIS based upon The New York State Department of Environmental Conservation (NYSDEC) publication *Design Standards for Wastewater Treatment Facilities (1988)* identified as follows:

<u>Phase</u>	<u>Peak Flow</u>
I	200 gpm ( gallons per minute)
I +II	414 gpm
I + II + III	613 gpm
I – IV combined	693 gpm

The reduction in the overall unit count from the original number of 1,116 to 668 will result in a corresponding reduction in projected peak sanitary flows. The condition forecast in the DEIS presented a maximum condition. Similar to the overall impact being less with a reduced number of units, the projected peak flows are less in each phase than originally forecast since the total units in each phase now proposed is less than the original plan.

<u>Phase (Modified Plan)</u>	<u>Peak Flow</u>
I	53 gpm ( gallons per minute)
I +II	285 gpm
I + II + III	405 gpm

In sum, the impact to water and sewer services under the Modified Plan is significantly reduced as a result of the major reduction in the number of residential dwelling units.

Comment 60: What is the overall capacity of the current potable water system, the existing demand and the additional fire demand? Were other water usage accounted for, such as swimming pool, lawn sprinklers, etc when the Project's water demand was calculated? What are these additional demands? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.26. Also see comment made at August 3, 2005 public hearing by Dillon Keenan, 62 Moonlawn, p.41 ln. 9-24; and in the January 22, 2006 letter from Joseph Cioffi Jr., 23 Norfolk Street, Troy, p. 2)

**Response 60:** The existing capacity of the potable water system is 370,000 ± (average daily flow), with an existing 12-inch line and existing 2 MG storage tank. See Section 3.7.1 of the DEIS for a description of the potable water system, including demands.

The projected peak demand is based on water usage at similar multi-family developments. See the *Report to Determine Estimated Water Use for Hudson Preserve Apartments Town of Colonie Albany County, New York* in Appendix L of the DEIS for an estimation of water usage. Sufficient capacity to meet the water demand for the Project is anticipated.

Comment 61: What were the results of the testing of the 16-inch main along North Lake Avenue? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.26)

**Response 61:** The results for the water main fire flow test along North Lake Avenue were as follows:

- Static pressure – 120 psi,
- Residual pressure – 107 psi
- Flow – 1,520 gpm

Comment 62: Does the Phase II water main connect to the 12-inch water main to the Brunswick system located off McChesney Avenue, or to the Troy system at Betts Road? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.26)

**Response 62:** The Phase II water main connection to the 12-inch water main will be to the Town of Brunswick system.

Comment 63: Will the pressure-reducing pit be moved west of the connection on Betts Road? If so, how far past this connection does the Troy system extend and what will be the associated increased demand from users between this connection and terminus of the Troy system? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.26)

**Response 63:** A new pressure-reducing valve pit (to connect the Town of Brunswick water system to the City of Troy water system) is anticipated to be located on Hoosick Road, west of the Betts Road intersection, and will be designed to adequately accommodate the increase in demand associated with the Project. The system currently terminates east of Betts Road, however the system will

be looped in conjunction with the Project. Increased demands unrelated to the Project are unknown and any future increase in demand will be addressed by associated future users.

**Comment 64:** Were the Town's Water Department, Town Engineer, and NYSDOT contacted for information related to the potable water system and what correspondences are available? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.27)

**Response 64:** Myron VanDyke from the Town's Water Department and Town of Brunswick Engineer Mark Kestner provided information related to the existing Town of Brunswick and City of Troy water systems. The Town Engineer was further consulted regarding the conceptual design of the proposed water system extension to the Project. The New York State Department of Transportation (NYSDOT) will be contacted during detailed design to discuss work that may occur in the NYS Route 7 right-of-way.

**Comment 65:** What is the status of the current wastewater system and how will the wastewater treatment plant be impacted by an increase in wastewater discharge? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.27. Also see comment made at August 3, 2005 public hearing by Dillon Keenan, 62 Moonlawn, p.42 ln. 1 through p.43 ln.5)

**Response 65:** The Town Engineer provided information on existing sewer lines and the Troy Wastewater Treatment Plant (Section 3.7 of the DEIS). The City of Troy provided existing flow data. Section 3.7.1 of the DEIS describes the current status of the Rensselaer sanitary sewer system. No significant impacts to the system are expected as a result of this project.

**Comment 66:** How will the cost sharing portion of the upgrade from the existing 8-inch gravity sewer to the 12-inch gravity sewer and the existing 6-inch force main to the 8-inch force main be determined? What are the associated costs for upgrading these utilities? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.27)

**Response 66:** These potential upgrades are not contemplated until the latter phases of the Project. While the exact costs associated with the upgrades have not been calculated with specificity, the cost of any upgrades required as a direct result of the Project shall be at no cost to the Town.

**Comment 67:** What is the capacity of the existing pump station and wet well? Will the pump station and wet well need to be upgraded, and if so, what will be the cost to the developer and to the Town? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.27)

**Response 67:** The existing pump station and wet well does not have a flow meter, therefore existing capacity is not recorded. The Town of Brunswick provided information on the pump station hours of operation, as well as the pump curve data, which was used to estimate historical flow. Table 15 of the DEIS lists the necessary sanitary sewer system improvements, which includes a planned upgrade to the existing McChesney Avenue Extension pumping station pumps. The Applicant will contribute to other necessary upgrades in addition to the extension of the water and sanitary sewer lines (*i.e.*, sewer pump station) in an amount proportional to the level of improvement directly related to the Project. The actual amount of the cost to be borne by the Applicant will be determined once the plans and costs of the upgrade are determined

**Comment 68:** Will the 12-inch sewer line on Hoosick Road be of adequate size for the Project? If not, what will be the cost to replace it? (January 22, 2006 letter from Joseph Cioffi Jr., 23 Norfolk Street, Troy, p. 2)

**Response 68:** As described in Section 3.7 of the DEIS, the recently installed 12-inch sewer line on Hoosick Road will have sufficient capacity to receive the sanitary flows from the Town pumping station, including the projected sanitary flows from the Project.

**Comment 69:** In the Town of Brunswick and the City of Troy, the roads, schools, firehouses, churches, gravity sewer system, the entire current infrastructure was built on the basis that a gravity sewer system was in place. Introducing pumped sewer systems to a mostly gravity sewer system will have expensive consequences? (January 22, 2006 letter from Joseph Cioffi Jr., 23 Norfolk Street, Troy, p. 4)

**Response 69:** The Comment is noted. The topography of the area is not conducive to using only gravity sanitary sewers. Pumps allow sewage to be conveyed to the Town of Brunswick sanitary pumping station and ultimately to the Rensselaer Wastewater Treatment Plant from areas that otherwise could not be served by gravity sewers alone. Further, the Town of Brunswick Comprehensive

Plan encourages the extension of sanitary sewers to the Project site as a way to protect the Town's groundwater surface and other natural resources.

**Comment 70:** Can the City of Troy sanitary sewer withstand the continual demand of increasing urban development? What would be the cost to the Town of Brunswick residents should the Troy Sewer system fail? (February 14, 2006 letter from Mark Sarnacki, 2 Robin Lane, p. 2)

**Response 70:** Sewer improvements, outlined in Section Table 15 of the DEIS, are proposed to adequately handle sanitary flows from the Project. Implementation of these improvements will mitigate Project-related impacts to the existing system. The impacts of other undefined possible future developments and potential city system failure scenarios cost analysis are not required to be addressed in the Environmental Impact Statement.

### **2.8.2. Electricity**

**Comment 71:** For 668 units, electric heat, at 30 KW per unit peak, is 20,040 KW (20.04 Megawatts). This will require a 66Kv pole line to a substation. This exceeds the capacity of existing lines. (January 22, 2006 letter from Joseph Cioffi Jr., 23 Norfolk Street, Troy, p. 3)

**Response 71:** Included in Appendix D of the DEIS is a correspondence from Niagara Mohawk/National Grid stating that Niagara Mohawk/National Grid will meet the Project's electric loads. No further response is warranted.

### **2.8.3. Police, Fire and Ambulance Services**

**Comment 72:** If the fire departments needs additional equipment, who will be responsible for paying these costs? Has the local fire departments and rescue services indicated that their existing equipment and manpower are sufficient to effectively service the three-level apartment buildings? How would additional development affect the departments? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.28, 29-30, 30, 31. Also see comments made at August 3, 2005 public hearing by Pete Meskoskey, 168 Town Office Road p.20 ln. 7 through p.51, ln. 8; February 14, 2006 letter from Donna Forster, p.3; April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p.1)

**Response 72:** As discussed in sections 3.7.1 and 3.7.2 of the DEIS, on March 5, 2005, the Applicant met with representatives, including the department chiefs and assistant chiefs, from the two fire departments with jurisdiction over the Project, Brunswick Fire Company #1 and The Volunteer Fire Company of Center Brunswick, to review and discuss the Project. The departments confirmed that they can serve the proposed development without an increase in budget. Therefore, additional costs are not anticipated. Importantly, the departments are members of the Rensselaer County Mutual Aid Program, receiving support from other local fire departments and emergency services when necessary.

At the time of the meeting, the Project was proposed at the original size of 1,116 residential units. The Project has been reduced by 40% to a total of 668 residential units upon full build-out. If adequate service can be provided to the Project at its original size, it follows that adequate service can be provided under the Modified Plan since it is only 60% of the size of the Original Plan. The emergency secondary access remains as part of the Modified Plan based on the meeting.

The Project does not include any true three story buildings since the building design has a third level only when the building is built into the side of an existing hill. See the Site Sections drawing in the original *Application to Establish a PDD for Hudson Hills Apartments* attached to the DEIS as Appendix A.

The Applicant is unaware of how any additional unrelated development would effect the departments since the Applicant is not proposing any further development in the Town of Brunswick.

**Comment 73:** Is there written confirmation from the police, fire and ambulance services that they each will be able to adequately serve the development without an increase in their respective budgets? Was the Modified Plan discussed with local emergency service providers? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.28, 31. Also see April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p. 1)

**Response 73:** As discussed below, the necessary agencies have been consulted regarding the Project. Written comments have not been received.

Fire Service: See the response to the preceding comment.

Ambulance Service: In March 2005, the Applicant spoke with Mohawk Ambulance Vice President James McPartlan regarding the Project. Mohawk Ambulance is a private entity and therefore the public budget inquiry is inapplicable. Mr. McPartlan advised that Mohawk Ambulance can provide adequate service to the Project.

Police Service: In March 2005, the Applicant spoke with Rensselaer County UnderSheriff Patrick Russo regarding the Project. UnderSheriff Russo advised that the Rensselaer County Sheriff's Department does not assume an increase in demand for its services based on new residential development and takes a wait and see approach regarding additional services. In March 2005, the Applicant spoke with Sargent Lewis of the New York State Police regarding the Project. Sargent Lewis advised that the New York State Police do not assume an increase in demand for its services based on new residential development and make any decisions regarding additional services after the housing has been constructed.

Importantly, the Rensselaer County Public Safety Department provides resource management for fire and emergency management services. Services are coordinated with the Rensselaer County Sheriff's Department. The County also operates a 9-1-1 center, which administers the County Mutual Aid Program.

Given the responses from the various agencies as outlined above, the Modified Plan was provided only to the fire departments under covering correspondence of January 3, 2006. No further comments have been received to date.

Comment 74: What type of fire and police service will the Project require? What security systems installed in the apartments might require police or fire response? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.29-30. Also see February 14, 2006 letter from Kathy Betzinger and Phil Nicholas, p.3)

**Response 74:** Fire and police services customarily associated with a residential development is anticipated. It is not anticipated that the residential units will be constructed with individual security systems linked to an alarm company or local emergency service agencies, which might require an emergency response.

**Comment 75:** What has the local fire companies estimated to be the optimal numbers of volunteers required to deliver effective service? How will the Project aid in increasing the number of volunteers (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.31. Also see February 13, 2006 letter from Donna Forster, p.2-3; August 3, 2005 email from Sharon Zankel, p3)

**Response 75:** While the Comment does not pertain to a potential environmental impact under the State Environmental Quality Review Act, a response is provided as follows. The Applicant is not aware of the optimal number of volunteers estimated by the fire departments. The Project will increase the number of potential volunteers by adding to the resident base of the Town of Brunswick.

**Comment 76:** How much of the Project's estimated taxes will be allocated for fire service? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p. 30)

**Response 76:** While the Applicant does not control the allocation of public funds, according to the Town of Brunswick Assessor's Office, the tax rate associated with Brunswick Fire Company #1 is \$5.00 per \$1,000 of assessed value and the tax rate associated with The Volunteer Fire Company of Center Brunswick is \$5.90 per \$1,000 of assessed value.

**Comment 77:** How many more calls to the police might be anticipated from residents of the Project? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.30, 31)

**Response 77:** A quantifiable response to this Comment can not be given. The customary number of calls associated with a residential community can be anticipated.

#### **2.8.4. Waste management**

**Comment 78:** Where will the waste transfer station for resident's garbage be located at the Project Site? Will it be enclosed, and if so, how? How will the garbage be stored and handled? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.28)

**Response 78:** The Project does not involve a “waste transfer station”. Household garbage generated by the Project is handled via a recycling center. The recycling center concentrates the proper disposal of trash within the community into one centrally located facility. The facility encourages and facilitates recycling to the greatest extent possible. The exact location of the recycling center under the Modified Plan has not been determined and is a site plan issue for the Planning Board to examine during the site plan review process subsequent to the requested zone change. The recycling facility consists of a mini compactor with a forty yard roll-off container and a twenty yard recycling container (separating glass, plastic and newspaper and cardboard). The facility is enclosed with siding and shingled roof to match the residential buildings.

Comment 79: What are the impacts on municipal solid waste and recycling programs? How much trash/garbage will the apartments produce and where will it go? (August 3, 2005 email from Sharon Zankel, p.2)

**Response 79:** As explained in Section 3.7.2 of the DEIS, it is assumed that each unit will generate four pounds of waste per day, approximately 2.2 tons of municipal solid waste per day for the Project under the Original Plan as fully built-out. The Modified Plan has reduced the projected amount of waste anticipated to be generated by 40%. A private waste company will be utilized to transport and dispose of the waste in a permitted landfill.

With respect to recycling, as discussed above in response to the preceding comment, the Project facilitates recycling by having a recycling center. The recycling center concentrates the proper disposal of trash within the community into one centrally located facility. The recycling facility consists of a mini compactor with a forty yard roll-off container and a twenty yard recycling container (separating glass, plastic and newspaper and cardboard). The facility is enclosed with siding and shingled roof to match the residential buildings.

### 2.8.5. Public Schools/School Districts

Comment 80: The Brunswick Central School District cannot accommodate the increase in the number of school children that will result from the building of the proposed Project. What changes will be needed by the Brittonkill School District to accommodate the

additional enrollment and how much will those changes cost? If enrollment increases by over 200 students, then a new school will have to be built. (October 6, 2005 letter from Debra DuJack, Board President, Brunswick Central School District, p.1. Also see January 22, 2006 letter from Joseph Cioffi Jr., 23 Norfolk Street, Troy, p. 2; comments made at the August 3, 2005 public hearing by Donna Forster, p.39 ln.9-24; February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.29; February 14, 2006 letter from Jack and Marianne Derrick, p.2 and December 31, 2004 letter from Donald and Susan Symanowicz, 416 N. Lake Avenue, p.2)

**Response 80:** See the response to Comment 4 that discusses the Brunswick Central School District's ability to accommodate the projected increase in student population associated with the Project based on The Capital District Regional Planning Commission's 2005 study *School Enrollment Projections for the Brunswick Central School District*.

Comment 81: What will be the impact on the bussing of school children? Will traffic affect the number of buses needed, the bus routes or time of travel? (Comments made at January 17, 2006 public hearing by Martha Walsh, 148 Brunswick Road, p.85, ln. 2-12. Also see February 15, 2006 e mail by Peter Murdoch, p.1)

**Response 81:** While the Comment does not pertain to a potential environmental impact under the State Environmental Quality Review Act, a response is provided as follows. See the response to Comment 4 that discusses the school district's ability to accommodate the projected increase in student population associated with the Project based on The Capital District Regional Planning Commission's 2005 study *School Enrollment Projections for the Brunswick Central School District*. Daily operations of the district, including specific transportation matters, are within the discretion of the district's administration and outside of the control of the Applicant.

Comment 82: Will the developer put any restrictions in place that would limit rental to only young professionals and "empty nesters" to limit the number of school children? If not, what is the maximum number of students that could live in the Project and attend Brittonkill and Lansingburgh schools? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.29)

**Response 82:** As discussed in section 2.1 of the DEIS and in response to Comments 3 and 4, the Project is designed to attract and accommodate three specific “renter-by-choice” demographics of the overall population: (1) young professionals who are choosing to rent rather than own a home; (2) empty-nesters who are downsizing from a single-family home; and (3) young emerging families with child of pre-public school age who are on there way to home ownership. However, the Project will not be restricted to certain demographics or stereotypes.

Comment 83: What is the approximate cost to educate and bus each student? How much will each apartment unit contribute in school and property taxes toward these costs? If the cost to educate each student is greater than the per unit contribution by the developer, where will the funding for the difference come from? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.29. Also see February 14, 2006 letter from Donna Forster, p.2; August 3, 2005 email from Sharon Zankel, p.2; December 31, 2004 letter from Donald and Susan Symanowicz, 416 N. Lake Ave, p.2)

**Response 83:** *The New York State School Report Card Fiscal Accountability Supplement* for each school district in New York contains the approximate cost to educate a student. The most recent available *New York State School Report Card Fiscal Accountability Supplement* for Brunswick Central School District and Lansingburgh Central School District are attached hereto as Appendix H. The approximate general education expenditures per student is \$6,696 in the Brunswick Central School District and \$6,222 in the Lansingburgh Central School District.

Section 3.7.2 of the DEIS contains a projected tax analysis of the Project based on existing multi-family residential developments in the Town of Brunswick. If constructed today, the Project would generate approximately \$1,354 per unit in annual tax revenue. Using a conservative annual escalator of 5%, based on historical data, the annual tax revenue generated by the Project increases over the next decade (i.e. projected full build-out for analysis purposes) to approximately \$2,031 per unit. Accordingly, the total annual tax revenue generated by the Project upon completion is projected at more than \$1.3 million.

If the cost to educate each student is greater than the tax revenue generated by the Project, the funding difference is made up by the tax base of the school district. However, it is not anticipated that the total cost to

educate the students residing in the Project will equal, or exceed, the tax revenue generated by the Project. In fact, it is anticipated that the tax revenue generated by the Project will outweigh educational expenditures per student. The Project is designed specifically for empty nesters, young professionals and emerging families, all of whom have no or minimal school age children in the public school system.

**Comment 84:** Was the increase in enrollment resulting from the Modified Plan discussed with the Lansingburgh school district? With an entrance onto to Route 7, how will these children be transported to the Lansingburgh school district? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.29.)

**Response 84:** As discussed in *The Information Regarding The Modified Hudson Hills Planned Development District*, due to the layout of the site plan of the Modified Plan in relation to the school district boundary lines, only a small percentage of the students generated by the Project at full build-out (approximately 16%) would be in the Lansingburgh Central School District. Even at full build-out, this correlates to only approximately twenty-one students and a 1% projected increase to the Lansingburgh Central School District student body. Based on all published reports of the lack of any capacity issues within the Lansingburgh Central School District, there did not exist a need to discuss the specific projections with the district.

Daily operations of the district, including specific transportation matters, are within the discretion of the district's administration and out of the control of the Applicant.

**Comment 85:** Did the school children projection use a Gaussian distribution (bell curve), and if so, what is the variance for the distribution? (February 14, 2006 letter from Raymond Schmidt, 81 Liberty Road, p.1)

**Response 85:** The public school children projections are based upon the *Fiscal Analysis Guidebook (2nd Edition)* and *School Enrollment Projections for the Brunswick Central School District* published by the Capital District Regional Planning Commission. This data did not come from the Applicant. Therefore, the Applicant is unaware of the distribution and variance thereof. However, the Capital District Regional Planning Commission is an independent regional planning and resource center serving the four county Capital District that provides

objective analysis of data, trends, opportunities, and challenges relevant to the region's economic development and planning.

Furthermore, as discussed in response to Comment 4, the *School Enrollment Projections for the Brunswick Central School District* study concludes that student enrollment in the district has seen a steady decline over the past ten years. Assuming there is no development in the near future, the school district will experience a large drop in enrollment. In sum, the district has the capacity to handle not only the Project, but all residential development currently proposed in the town of Brunswick.

**Comment 86:** An increase in enrollment to near capacity may have a significant impact on the wastewater treatment plan. (February 15, 2006 email from Teresa Snyder, Superintendent of Schools, Brunswick Central School District, p.1)

**Response 86:** According to The Capital District Regional Planning Commission's 2005 study (*School Enrollment Projections for the Brunswick Central School District*), the projected number of public school children generated by the Project in the Brunswick Central School District does not place the district at or near capacity. Consequently, the wastewater treatment plant issue is not germane to this FEIS.

**Comment 87:** Will the developer set aside land or funding to assist the Brunswick Central School District with additional classrooms should more children than expected enroll in the Brunswick School District from the Project? (February 14, 2006 email from Peter Murdoch, p.1)

**Response 87:** According to The Capital District Regional Planning Commission's 2005 study, *School Enrollment Projections for the Brunswick Central School District*, the projected number of public school children generated by the Project in the Brunswick Central School District does not place the district at or near capacity. Accordingly, the Applicant is not proposing any set asides.

**Comment 88:** An increase in school property taxes will force property owners, who can no longer afford the taxes, to sell large parcels resulting in a loss of open space. (February 14, 2006 letter from Mark Sarnacki, 2 Robin Lane, p.1)

**Response 88:** As discussed in response to Comment 83, it is anticipated that the total projected annual school taxes

generated by the Project will exceed the projected approximate annual cost to educate all public school children generated by the Project. In addition, according to The Capital District Regional Planning Commission's 2005 study *School Enrollment Projections for the Brunswick Central School District*, the projected number of public school children generated by the Project in the Brunswick Central School District does not place the district at or near capacity. Therefore, the Project should not result in an increase in school taxes to property owners.

#### **2.8.6. Recreational facilities**

**Comment 89:** The Town of Brunswick already has a Veterans Memorial Park. Gatherings at the cherry orchard would be a duplication of traditional services (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.5. Also see August 3, 2006 email from Sharon Zankel, p.3)

**Response 89:** The Comment is noted. The cherry orchard and memorial garden gives the Town of Brunswick residents an alternative for ceremonial events.

**Comment 90:** Will the open spaces at the Project be available to the community in addition to apartment residents? Will the developer offer any further public amenities, such as hiking trails, to Brunswick residents? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.6. Also see August 3, 2005 email from Sharon Zankel, p.2)

**Response 90:** The Applicant anticipates utilizing the cherry orchard and related facilities for public town-wide public gathering on holidays such as the 4<sup>th</sup> of July, Veteran's Day, Flag Day and Memorial Day. Otherwise, the amenities of the Project are for the use of the Project's residents.

**Comment 91:** What impact will the Project's residents put on the Town's recreational facilities, specifically the impact on the summer youth program? (August 3, 2005 email from Sharon Zankel, p.2)

**Response 91:** All residential development inevitably has some impact on municipal recreational facilities. However, the degree of the impact varies. Significant impacts on the Town of Brunswick's recreational facilities are not anticipated given the extensive and varied on-site amenities of

Project such as the clubhouse including a state-of-the-art fitness center, pool and meeting rooms; walking trails; hiking trails and park-like setting of the cherry orchard.

A significant impact specifically on the summer youth program is not anticipated. As discussed in section 2.1 of the DEIS and in response to Comments 3 and 4, the Project is designed to attract and accommodate three specific “renter-by-choice” demographics of the overall population: (1) young professionals who are choosing to rent rather than own a home; (2) empty-nesters who are downsizing from a single-family home; and (3) young emerging families with child of pre-public school age who are on there way to home ownership. All three segments of the population have no or minimal children who would utilize the summer youth program.

Lastly, any impacts to the Town of Brunswick’s recreational facilities, including the summer youth program, will be offset by the taxes generated by the Project.

**Comment 92:** Instead of investing in a fire tower, the developer should consider developing outdoor learning labs at the onsite natural areas or nearby wetlands? Has the developer considered establishing community gardens? (August 3, 2005 email from Sharon Zankel, p.2)

**Response 92:** The Project originally entailed an Adirondack observation tower that included a nature-oriented learning center to be utilized by town school children. This public amenity has been eliminated from the Modified Plan due to public opposition at the initial August 3, 2005 public hearing. Other public children-oriented natural learning centers, labs or gardens were not proposed for concern of further public opposition to same.

**Comment 93:** What will be the hours of operation of the clubhouse, media center, fitness center and swimming pool? Who will be responsible for the operation and maintenance of these facilities? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.1)

**Response 93:** The anticipated hours of the clubhouse, with media center, are Monday through Friday 8:30 a.m. to 6 p.m., Saturday 10 a.m. to 5 p.m. and Sunday 11 a.m. to 5 p.m. The fitness center is anticipated to be available 24 hours a day to the residents via a swipe card access system. The anticipated daily hours of the pool during the summer months are 11 a.m. to 7 p.m. Responsibility for

the operation and maintenance of the facilities will lie with the owner/operator of the Project.

### **2.8.7. Sidewalks**

**Comment 94:** Residents would like sidewalks if traffic continues to increase on North Lake Avenue. (February 14, 2006 letter from Kathy Betzinger and Phil Nicholas, 1 Valley View Drive, p.2)

**Response 94:** Along with the reduction in the number of residences, the site access from North Lake Avenue has also been eliminated to reduce traffic impacts associated with North Lake Avenue.

### **2.8.8. Road repair**

**Comment 95:** What will be the cost to the Town for increased road building, road repairs and road resurfacing? (April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p.)

**Response 95:** The taxes and other revenue generated by the Project are anticipated to offset any increase in the costs of road repair, road building or road resurfacing. The Traffic Impact Study included as Appendix G of the DEIS evaluates the expected trip generation, distribution and assignment of the residents of the Project. The number of vehicle trips generated by the Project should not have a significant impact on Town appropriations for road building, road repair or road resurfacing. The costs associated with modifications to Betts Road will be borne by the Applicant at no cost to the Town. Notably, with the elimination of the North Lake Avenue access, all ingress and egress of the Project will be via the main New York State controlled corridor, the recently improved Route 7.

### **2.8.9. Municipal revenues**

**Comment 96:** What will the tax on the property be prior to completion of phase I and through the phases? What is the basis for the 30% increase in per unit tax projections based on existing multi-family communities? Will tax incentive

programs be utilized? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.5)

**Response 96:** As discussed in response to Comment 83, section 3.7.2 of the DEIS contains a projected tax analysis of the Project based on existing multi-family residential developments in the Town of Brunswick. While the level of taxes to be assessed during construction can not be accurately predicted, post construction taxes can be estimated. If constructed today, the Project would generate approximately \$1,354.44 per unit in annual tax revenue. Using a conservative annual escalator of 5%, based on historical data, the annual tax revenue generated by the Project increases over the next decade to Project completion to approximately \$2,031 per unit. While the timing of each phase is dependent upon market driven conditions such as product demand, the following completion dates are assumed for this analysis: Phase I completed in 2008, phase II completed in 2011 and phase III completed in 2015.

At the completion of phase I (248 units), the projected annual tax revenue generated by the Project (approximately \$1,568 per unit) is \$388,864. At the completion of phase II (476 cumulative units), the projected annual tax revenue generated by the Project (approximately \$1,815 per unit) is \$863,940. At the completion of phase III (668 cumulative units), the projected annual tax revenue generated by the Project (approximately \$2,031 per unit) is \$1,356,708.

As a general rule, taxes are based on, among other things, assessed value. It follows that a new luxury multi-family community, such as the Project, pays more taxes than older existing multi-family communities. An analysis was performed on the tax basis of the existing multi-family developments in the Town of Brunswick. In order to predict the estimated taxes associated with the Project, an escalator was required to be applied to the equation. Based on the age of the existing multi-family communities in Brunswick and the taxes basis of these developments in comparison to the tax basis of existing and new multi-family developments in other areas of the Capital District (because a comparable property to the Project does not currently exist in the Town of Brunswick) a conservative 30% escalator was utilized. Lastly, the Applicant has not assessed the possibility of incentives.

Comment 97: What are the anticipated costs resulting from this Project, such as schools water, sewer, and police and fire protection and how do they compare to the anticipated revenue provided from the Project? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.28. Also see April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p.1; December 31, 2004 letter from Donald and Susan Symanowicz, p.2; January 5, 2005 letter from Christine and Richard D. Salmon, 190 North Lake Avenue, p.2 )

**Response 97:** With respect to the public school system, see response to Comment 83. With respect to police and fire protection, see response to Comment 72 and 73. With respect to utilities, the cost of any upgrades required by the Project shall not be at any cost to the Town.

Comment 98: Taxes paid by the PDD should not be considered. Town taxes are a small fraction of the total property taxes that I pay, and development is generally tax neutral, with additional taxes from development generally offset by additional government services that are necessary. (February 3, 2006 letter from Louis Hutter, 228 White Church Road, p. 2.)

**Response 98:** The Comment is noted. A further response is not warranted.

Comment 99: Does the projected revenue include Veteran's exemptions or STAR credits? (January 20, 2006 letter from Tom Ogden, p.1)

**Response 99:** Veteran's exemptions and the STAR program do not apply to the owner of a multi-family residential community such as the Project.

Comment 100: How much of the proposed tax revenue is expected to enhance existing community services or create new ones? (August 3, 2005 email from Sharon Zankel, p.2)

**Response 100:** This decision rests with the Town of Brunswick governing officials and is not in the control of the Applicant.

Comment 101: What is the differences in the level of town and school services required by the Project's residents to single-family homeowners in Brunswick, and how does the tax revenue generated per apartment unit compare to the property tax paid by a single-family

homeowner?(February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.2)

**Response 101:** Single-family residential development generally has more of an impact than multi-family residential development on town and school services. The proposed multi-family Project consists of residences containing only one and two bedrooms. In comparison, single-family homes contain three, four and five bedrooms. This necessarily equates to more people per residence in a single-family development than a multi-family community.

Single-family development with multiple school age children per house has a much greater impact on the public school system than a multi-family community, such as the Project, that is designed to accommodate empty nesters, young professionals and emerging families, all of whom have no or minimal school age children in the public school system.

The same is true with respect to town services. Single family home development producing two parents, multiple children and several automobiles per household has a greater impact than a luxury multi-family community with only one and two bedroom residences. Single-family home development has a greater impact on services such roads, potable water, sanitary sewer, electric, garbage, emergency services and recreational facilities. Importantly, the multi-family Project is proposed as phased over a decade or more, thereby lessening the direct effects of potential impacts.

Projected taxes generated by the proposed multi-family Project are discussed above in response to Comment 83 and section 3.7.2 of the DEIS. The Project, if constructed today, would generate approximately \$1,354 per unit in annual tax revenue. Using a conservative annual escalator of 5%, based on historical data, the annual tax revenue generated by the Project increases over the next decade (i.e. projected full build-out for analysis purposes) to approximately \$2,031 per unit. Accordingly, the total annual tax revenue generated by the Project upon completion is projected at more than \$1.3 million.

It is difficult to accurately project the taxes generated by an unspecified conceptual single-family home development because this calculation is based on the assessed value of the homes. This obviously varies drastically between single-family home developments. It is likely that, on a per unit basis, a single family home

development would generate more tax revenue than a multi-family development. However, the increased tax revenue is offset by the increased impacts and demands associated with single-family residential development.

Comment 102: How does the proposed Modified Plan change the tax revenue estimates? (February 14, 2006 letter from Rebecca Kaiser, President, Brunswick Smart Growth, p.3)

**Response 102:** The projected tax analysis calculates the anticipated revenue on a per residential unit basis. The tax revenue estimates for the Original Plan of 1,116 residential units and the Modified Plan of 668 residential units are adjusted accordingly.

Comment 103: Will the developer post a performance bond or other fund in case the developer defaults on the Project or the projected revenue is not achieved? (January 20, 2006 letter from Tom Ogden, p. 1)

**Response 103:** It is industry standard that the lender providing construction and permanent financing for the Project provides safeguards to ensure completion and operation of the Project. Consequently, the Applicant is not proposing any further bond or fund.

## 2.9. Cultural resources

### 2.9.1. Aesthetics/viewshed

Comment 104: Will the proposed buildings be made with quality material? What will these structures look like in ten years? (February 14, 2006 letter from Holly Bollinger, 446 McChesney Avenue Extension, p.1)

**Response 104:** Yes. Section 2.3.3 of the DEIS lists the high quality building materials that will be used to construct the buildings proposed for the site. The interior and exterior of these buildings will be designed to maintain their integrity and appearance for more than ten years.

Comment 105: Regarding the visual assessment, what will the view from North Lake Avenue be during the winter months when the small tree is leafless? What will the anticipated

light glare look like from North Lake Avenue? (February 3, 2006 letter from Louis Hutter, p.3.)

**Response 105:** A Visual Assessment of the Original Plan is attached as Appendix F of the DEIS and the anticipated impacts to the viewshed are discussed in Section 3.8.2. A Visual Assessment associated with the Modified Plan is attached hereto as Appendix F. The Modified Plan eliminates the North Lake Avenue entrance and no longer proposes buildings in the northern portion of the site anywhere near North Lake Avenue. As depicted in the Visual Assessment (Appendix F), the Modified Plan will not have a significant adverse impact on the views from North Lake Avenue, regardless of the season.

The elimination of the North Lake Avenue entrance and buildings in the northern portion of the site anywhere near North Lake Avenue also negates any potential for significant light glare in the North Lake Avenue area. Furthermore, under the Modified Plan, the closest residential building to North Lake Avenue is approximately ¼ of a mile.

**Comment 106:** Who will be responsible for capital repair to the structures and facilities comprising the Project, and what assurances are there that sufficient moneys will be available to make capital repairs and improvements when required? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.2. Also see February 13, 2006 letter from Peter Meskoskey, 168 Town Office Road, p.1)

**Response 106:** The owner of the Project will be responsible for repair to the Project structures and facilities. Assurances in this regard are outside of the scope of the review under the State Environmental Quality Review Act.

**Comment 107:** Will additional parking areas be created for guest parking? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.7)

**Response 107:** Section 2.3.5 of the DEIS describes the parking that will be provided on-site. A typical parking diagram for a 16-plex is provided in Appendix N of the DEIS. As shown in Appendix N of the DEIS, guest parking is available at every building.

**Comment 108:** How does the developer propose to conceal the two-story buildings from residents on North Lake Avenue considering the Project is proposed to be sited on an elevation that rises above North Lake Avenue. (January

5, 2005 letter from Christine and Richard D. Salmon, 190 North Lake Avenue, p.1)

**Response 108:** See response to Comment 105 and the Visual Assessment associated with the Modified Plan (Appendix F).

Comment 109: The proposed “Adirondack fire tower” of phase 4 will be visible not only from North Lake Avenue, but also to anyone within several miles of it. (January 5, 2005 letter from Christine and Richard D. Salmon, 190 North Lake Avenue, p.1)

**Response 109:** The “Adirondack fire tower” has been removed from the Project at the request of the public.

### **2.9.2. Historic and archeological resources**

Comment 110: There are no building or archeological concerns with your Project. The historical use (1854-1870) of the property was residential/agricultural. The Rensselaer County Natural Resources inventory (NRI), compiled about 1989, indicates no known burial grounds or designated landmarks exist on or near the subject area. Town records indicate the inn of Nathan Betts was the place of the first town meeting. I believe this inn may have existed on or near the subject site. If you come across information, which may substantiate this, I would appreciate your sharing it with me. The site should be identified with a roadside historic marker, and that would not be incompatible with any planned construction. (March 25, 2005 email from Sharon Zankel, Brunswick Historian, p.1 (July 12, 2005 letter from Ruth Pierpont, NYS Office of Parks, Recreation and Historic Preservation, p.1)

**Response 110:** The Comment is noted.

### **2.9.3. Noise**

Comment 111: Will the construction of the Project cause noise pollution? (Comment made at August 3, 2005 public hearing by Susan Symanowitz, 416 North Lake Avenue, 46, ln.14-21. Also see May 7, 2005 letter from Michael Conway, 11 Blue Heron Lane, p.1)

**Response 111:** As discussed in sections 3.8.2 and 3.8.3 of the DEIS, noise will be generated during construction but will be

mitigated with the use of appropriate measures. Moreover, the extensive amount of natural, open space and buffer area (*i.e.*, setbacks) will further minimize any adverse impacts of noise from construction on the surrounding area.

**Comment 112:** Was the impact of a thermal inversion considered? What will be the resulting noise impact of the operation of air handlers under thermal inversion conditions? (Comment made at the August 3, 2005 public hearing by Henry Scranton, 14 Kestner Lane p.62 ln.1 through p.63 ln.19. Also see comment made at January 17, 2006 public hearing by Henry Scranton, p. 101, ln. 20 through p. 103, ln. 21)

**Response 112:** Noise resulting from the operating of air handling units during a thermal inversion may occur. The reduced number of units proposed in the Modified Plan will reduce the impact and likelihood of a thermal inversion. However unlikely it is to occur, in the event a thermal inversion does occur, vegetative buffers will mitigate the resulting noise impact on adjacent neighbors.

#### **2.9.4. Lighting**

**Comment 113:** What will the level of light trespass be? How will light trespass be mitigated? (Comment made at August 3, 2005 public hearing by Henry Scranton, p.63, ln.19 through p.64, ln.1. Also see comment made at January 17, 2006 public hearing by Henry Scranton, 4 Kestner Lane, p. 104, ln.1-2; February 3, 2006 letter from Louis Hutter, 228 White Church Road, p.2-3)

**Response 113:** As indicated in Section 2.3.9 of the DEIS, lighting will be provided at building entrances and walkways, as well as in parking areas and along access drives. To mitigate potential impacts from spillover, lighting will be designed to comply with guidelines and recommendations of the Illuminating Engineering Society of North America (IESNA) and American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) 90.1-2004 while working with the "Dark Sky" initiative which seeks to reduce light pollution. Lighting will be designed to eliminate potential for off-site spillover (*i.e.*, shields, 45° maximum cutoff, lower watt non-glare fixtures). The extensive natural vegetative buffer will further lessen the adverse impact of light on adjacent properties.

Comment 114: Was the elimination of street lighting or down lighting considered as an alternative? (Comment made at January 17, 2006 public hearing by Mike Conway, Blue Heron Lane, 9.112, ln.3-6) (231)

**Response 114:** See the response to the preceding Comment.

Comment 115: How will the flagpole, gazebo, orchard, clubhouse and memorial gardens be illuminated? What is the visual impact of the lighting of these on the residences on Wilrose Lane and Betts Road? (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p31)

**Response 115:** The flagpole will be illuminated with one light in accordance with the Federal Flag Code. Lighting of site amenities, including the gazebo, orchard, clubhouse and memorial gardens, will be established as part of site plan review. The lighting will be designed to avoid significant adverse impact on the adjacent properties.

#### **2.9.5. Community character**

Comment 116: The proposed multi-family Planned Development District is not consistent with the character of the surrounding agriculture lands and nearby neighborhood. The addition of the proposed Project will change the community character from rural to urban. (Comment made at August 3, 2005 public hearing by Joseph Durkin, Maple Avenue, Eagle Mills, p.28, ln.19 through p.30, ln.5. Also see comments made at August 3, 2005 public hearing by Henry Scranton, 14 Kestner Lane, p.65, ln.4-6; Norman Fivel, p.38, ln.1-14; Susan Symanowitz, North Lake Avenue, p.45, ln.20-24; and Russell Ziemba, 1813 Highland Avenue, Troy, p.97, ln. 2-6. Also see February 4, 2006 letter from Dr. and Mrs. Thomas V. Casey, p.1; February 13, 2006 letter from Michael Conway, 11 Blue Heron Lane, p.1; August 26, 2005 letter from Heinrich Medicus, 1 The Knoll, East Acres, p.1; February 14, 2006 letter from Martha E. Walsh, 418 Brunswick Road, p.1; August 10, 2005 letter from Joseph Durkin, p.1)

**Response 116:** The Project will be consistent with the character of the surrounding area and nearby neighborhood. The vast majority of the site will remain in its natural state as open green space. This is especially true with respect to the extensive natural buffer around the entire site. Furthermore, an existing multi-family development, the

Apartments at Brunswick, is located immediately adjacent to the Project. Therefore, the Project is not proposed in an area that is unfamiliar with similar uses since the adjacent apartments are over 20 years old. The Route 7 commercial corridor is the most developed area of Brunswick consisting of automobile dealerships, big box and strip mall development and a variety of commercial, office and retail. Hence, the Project is not inconsistent with the character of the nearby land and will not adversely impact same or change the character of the area.

Comment 117: How will the extension of the sewer line further down NYS Route 7 impact the rate of urban/rural sprawl in the Town? (February 14, 2006 letter from Mark Sarnacki, 2 Robin Lane, p.2)

**Response 117:** The sewer line will be extended from the existing sanitary manhole located at the intersection of Betts Road and NYS Route 7, as described in Section 3.7.2 of the DEIS, and this extension is not anticipated to have an effect on the rate of “sprawl” in the Town of Brunswick.

Comment 118: Can the Project be downsized to fit with the rural character of the surrounding area? (Comment made at August 3, 2005 public hearing by Bill Stein, 92 Willet, Albany, p.96, ln.14-17. Also see February 14, 2006 letter from Mark Sarnacki, p.1-2)

**Response 118:** The Project has been downsized from 1,116 units to 668 units. This significant reduction of the number of residences (40%) remains on all 215± acres. The result is a decrease in number of buildings, impervious material and overall environmental impacts.

Comment 119: How will the residents living at the proposed Project differ with the current residents of the Town of Brunswick? (February 3, 2006 letter from Louis Hutter, p.4)

**Response 119:** The anticipated residents of the Project are consistent with the existing residents of the Town of Brunswick. The Project’s design and layout are tailored to empty-nesters, young professionals, and young emerging families, all which already reside in the Town of Brunswick. The Project offers a housing alternative to current town residents.

Comment 120: This is to voice my strong opposition to the scale of development proposed in the 1,100 unit development planned for Betts Road, over to Lake Avenue, as well as

the Wal-Mart Superstore. (August 16, 2005 email from Ted Mallin, p.1)

**Response 120:** The Comment is noted. The number of residential dwelling units has been reduced by 40%, thereby decreasing the overall environmental impacts. The Wal-Mart Supercenter is a separate and distinct project not proposed by the Applicant.

Comment 121: The impact of empty nesters or senior units is essentially the same over time as single family housing. (February 14, 2006 letter from Mark Sarnacki, p.1)

**Response 121:** The Comment is noted. See also the response to Comment 101.

#### 2.9.6. Property values

Comment 122: How will adjacent property values be impacted? Are the mitigation plans sufficient to protect neighboring properties? (Comment made at August 3, 2006 public hearing by Pete Meskoskey, 168 Town Office Road, p.49, ln. 16 through p.50, ln. 6. Also see February 13, 2006 letter from Michael Conway, 11 Blue Heron Lane, p.1; December 31, 2004 letter from Donald and Susan Symanowicz, 416 North Lake Avenue, p.2; February 9, 2006 letter from Donald and Susan Symanowicz, 416 N. Lake Ave., p.1)

**Response 122:** A study entitled *Price Effects of Apartments on Nearby Single-Family Detached Residential Homes* is included with the DEIS as Appendix K. As discussed in the study, multi-family development does not necessarily negatively impact adjacent property values. Various aspects of multi-family development are analyzed to determine the effect, if any, on existing adjacent residential property values. These factors include the development's overall quality, density and extent of buffers.

Luxury multi-family development with desired amenities, such as the Project, have much less of an impact than lower quality communities. Developments with lower density (i.e. size in relation to land area) have less of an impact than denser multi-family communities. The use of buffers around the property boundaries is a major factor in avoiding adverse impacts on adjacent single-family property values. Multi-family development in an area that already contains same has less of an impact on the value of adjacent single-family homes

than areas that do not already contain multi-family development. Brunswick has several existing apartment developments, including one immediately adjacent to the Project.

In sum, a significant adverse impact is not anticipated with respect to the value of adjacent single-family residential properties due to the quality and nature of the Project. Moreover, the Project includes the following design considerations that will further mitigate negative impacts on adjacent land uses:

- Vast natural buffers between the Project and adjacent residential land uses;
- Use of a low density design to preserve significant green/open space and having less of an impact on the existing view shed corridor;
- Substantial on-site amenities.

Comment 123: The traffic problems on Hoosick Street, and the subsequent need to expand the street to five lanes, is resulting in the loss of businesses, lowered property values and a loss in property tax revenue for the Town. (February 14, 2006 letter from Kathy Betzinger and Phil Nicholas, 1 Valley View Drive, p.4)

**Response 123:** The Comment represents the commenter's opinion. Alternatively, the increased traffic may be anticipated to increase business on Hoosick Street, with corresponding increases in the property values of Hoosick Street businesses.

Comment 124: What impacts will residents walking through neighboring properties have? (January 30, 2006 letter from Dr. Yusuf N. Silk, M.D., p.1)

**Response 124:** Persistent trespassing is not an anticipated impact.

### **2.9.7. Cumulative impacts**

Comment 125: What are the cumulative impacts of all the proposed developments proposed for the Town of Brunswick, specifically impacts on groundwater, surface water and storm water due to increased impervious surfaces, impacts on utilities, school enrollment or impacts on wetlands and wildlife. (February 14, 2006 letter from Rebecca J. Kaiser, President, Brunswick Smart Growth, p.9, 12,16, 27, 27-28, 29) Also see comment made at January 17, 2006 public hearing by Susan Hayes, 11

Westlane Road p.68, ln.6-13; Judy Armstrong, 172 North Lake Avenue, p.79, ln. 8-12; Mike Keenan, 43 Madonna Lake Road, Grafton p.85, ln. 22 through p.86, ln.1; Bernard Fleishman, Colehammer Avenue, p.94, ln.4-11; Barbara Russo, Colehammer Avenue, p.96, ln.3-22; Ray Schmidt, 81 Liberty Road, p.101, ln. 7-16; William Joyce III, 13 Wyman Lane p.122, ln.21-24; Eric Lundy, Colehammer Avenue, p. 125, ln.2-8; Vito Colangelo, 377 Brunswick Road, p. 126, ln.21 through p.127, ln.1; and in February 14, 2006 letter from Kathy Betzinger and Phil Nicholas, 1 Valley View Drive, p.1; February 3, 2006 letter from Louis Hutter, 228 White Church Road, p.1; January 12, 2006 letter from Rebecca Kaiser, p.1; February 14, 2006 letter from Mark Sarnacki, 2 Robin Lane, p.1; February 14, 2006 letter from Ray Schmidt, 81 Liberty Road, p.1; January 11, 2006 letter from Janice Tefft, 187 McChesney Ave, p.1; August 3, 2005 email from Sharon Zankel, p.1; may 7, 2005 letter from Michael & Cherie Conway, 11 Blue Heron Lane, p.1; May 7, 2005 letter from Mark & Mary Gensickiy, 9 Heather Ridge Road; Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, 11 Westlane Road, p.1; May 7, 2005 letter from Yusuf and Christine M. Silk, Capital District Surgical Associates, P.L.L.C., p.1; April 6, 2005 letter from Rev. Dr. Charles W. Haynes & Susan B. Hoff-Haynes, p.1; January 25, 2006 letter from Mark Gregory, Transportation Concepts, LLP, p.2)

**Response 125:** Section 7.3 of the DEIS is devoted to the cumulative assessment analysis. The Project is the only proposal pending before the Town of Brunswick that involves or is proposed by the Applicant. An analysis of the potential cumulative impacts of the Project and the other projects pending in the Town of Brunswick is not required because the projects are not related, dependent on one another or included in a long-range planning process. However, given the adjacency of the Project and the proposed Wal-Mart store at the northwesterly corner of Route 7 and Betts Road, the DEIS contained a cumulative assessment analysis for the Project and Wal-Mart.

The Route 7 commercial corridor has seen, and continues to see, considerable growth. Accordingly, it can reasonably be expected that additional development will be proposed in the vicinity of the Project, such as the pending Wal-Mart facility immediately south of the Project. The Wal-Mart PDD application was submitted after the Applicant's PDD application in regard to the Project. At the time of the submission of this FEIS and to the best of the Applicant's knowledge, Wal-Mart's

DEIS had neither been submitted nor accepted. Below is a discussion, separated by topic, pertaining to the potential cumulative impacts.

Utilities: Growth in the NYS Route 7 corridor will cumulatively impact existing infrastructure by utilizing available capacities (i.e., water, sewer, electric, natural gas, etc.). Energy-related utilities are sized to anticipate growth and have sufficient existing capacity to serve the Project and other proposed projects along Route 7 such as Wal-Mart. Phased water and sewer improvements proposed for the Project will increase the overall reliability and capacity of the Town's systems and minimize potential cumulative impacts from other growth.

Vegetation, Wildlife and Wetlands: No significant adverse impacts on vegetation, wildlife or wetlands are anticipated from cumulative development on and adjacent to the Project site. No critical habitats, critical environmental areas or endangered/threatened species were identified in the area. As indicated in Section 3.4 of the DEIS, the Project will displace common species associated with old field habitat (field sparrow, song sparrow, bobolink and various other rodents), but provide habitat for additional common species (gray squirrel, American robin, mourning dove, mockingbird). In addition, the Project maintains a very large portion of the existing habitats along the site periphery to act as buffers to adjacent land uses. These buffers will preserve corridors (i.e. edge habitat) to minimize cumulative impacts such as segmentation of on and off site habitat and vegetation. With respect to wetlands, each project must abide by the regulations set forth by the applicable governmental agency (NYSDEC and ACOE) in order to make certain that the impacts do not exceed those permitted by law. Therefore, significant cumulative impacts are not anticipated.

Traffic: As discussed in the DEIS, a sensitivity analysis was conducted to analyze the impact of closing the existing Wal-Mart and constructing a new Wal-Mart on the northwest corner of the NYS Route 7/Betts Road intersection. The cumulative analysis was completed for the full build-out of the originally proposed Project and a fully operational 204,000 square foot super center. Tables 4.5 and 4.6 in Appendix G of the DEIS summarize the results of the levels of service analysis for three intersection geometries at the proposed Wal-Mart driveway intersection with NYS Route 7, the NYS Route 7/Betts Road intersection, and the Betts Road/Wal-Mart Access intersection. The three

geometries at the NYS Route 7/Wal-Mart Access intersection which were analyzed are 1) full access; 2) restrict left-turns exiting Wal-Mart; and 3) allow right-turns in and right turns out only.

The data shows that regardless of the geometry of the NYS Route 7/Wal-Mart Access intersection, individual left and right turn lanes should be constructed on the southbound Betts Road approach to NYS Route 7 to accommodate the increased traffic from Wal-Mart at the intersection. A traffic signal at the NYS Route 7/Betts Road intersection would also likely be necessary.

As indicated in the Scoping Document (Appendix B of the DEIS), to the extent the Wal-Mart application proceeds and the Town Board acts as Lead Agency, the contemplated Environmental Impact Statement for that project should be required to assume this Project has been fully built out. Therefore, in preparing the Wal-Mart EIS, the projected impacts of the Project will be incorporated into the no-build/existing condition. This is a reasonable approach for the Town Board to use to identify and examine the total impacts resulting from both projects while at the same time recognizing that they are two separate and independent projects.

Visual Impacts: A Visual Assessment associated with the Original Plan is attached to the DEIS as Appendix F. The Applicant performed a further visual assessment based on the Modified Plan (Appendix F). The proposed Wal-Mart facility is proposed at a lower elevation than the Project. Views from North Lake Avenue and the Town Beach would not be cumulatively impacted by both projects since the Wal-Mart location is situated along NYS Route 7. Based on existing elevation differences, the Wal-Mart project would not be visible from those locations. Cumulative impacts from NYS Route 7 would be minimal since views from the highway to the Project are influenced by commercial land uses that currently exist along this corridor.

Impervious Surface Increase (ground, surface and storm water): Each project will have to comply with all applicable regulations regarding ground, surface and storm water. The stringent requirements and standards associated with these environmental subjects ensure that, cumulatively, multiple projects will not have adverse impacts greater than each project individually.

Community Character: As discussed in response to comment 51, the Project is proposed in an area

designated for growth in the Town's Comprehensive Plan. Growth within this corridor is consistent with the Town's Comprehensive Plan, as well as existing development, and would not have a significant adverse cumulative impact on the character of the community.

Schools: The proposed Wal-Mart, as a retail store, does not add to any impact on the public school system. With respect to the other unrelated residential Planned District Districts currently pending before the Town Board, as discussed in response to Comment 4, the Capital District Regional Planning Commission's study *School Enrollment Projections for the Brunswick Central School District* took all residential developments proposed in the Town of Brunswick into account when assessing the district. The study concluded that the district has the capacity to handle not only the Project, but all residential development currently proposed in the town of Brunswick.

**Comment 126:** More 'far reaching' roadway issues and historic traffic trends are more easily discussed as part of the cumulative analyses process. (January 25, 2006 letter from Mark Gregory, Transportation Concepts, LLP, p.2)

**Response 126:** See the response to the preceding Comment. No further response is warranted.

### 2.9.8. Alternatives

**Comment 127:** Did the developer consider alternative types of development for the site that would decrease density while providing more housing options for the Town? Has the development of single-family homes or hobby farms been considered? (July 5, 2005 letter from Robert L. Pasinella, Rensselaer County Department of Economic Development and Planning, p.1. Also see comment made at August 3, 2005 Public Hearing by Russell Ziemba, 1813 Highland Avenue, Troy, p.98, In.7-16; Connie Steinbach, 5 Lindsay Drive, p.68, In.20-24 and comment made at January 17, 2006 Public Hearing by Eric Lundy, Colehammer Avenue, p.126, In.1-12, Mark Lane, 322 North Lake Avenue, 9-124, In.6-8) (140)

**Response 127:** Section 5 of the DEIS analyzes alternatives. The Applicant not only considered decreasing the density, but actually reduced the overall plan 40% through the Modified Plan. The Applicant is not proposing types of housing other than upscale rentals because the various other types (single-family, townhouse, condominium) are currently being proposed in connection with other

Planned Development Districts currently pending before the Town Board. The objective and goal of the Applicant is to provide the type of housing it specializes in and is lacking in the Town of Brunswick, new luxury multi-family rental housing. Please note that the Modified Plan is an alternative scale examined in Section 5 of the DEIS.

Agricultural alternative uses such as hobby farming is not economically feasible given the costs in comparison to the revenues. These types of uses also have impacts such as property-wide chemical application, plowing, tilling, etc. that may be greater than the proposed residential use. These uses produce much less tax revenue than the proposed residential Project.

Developing the site in accordance with the uses permitted under the existing zoning would not significantly reduce most of the impacts associated with the Project. Other uses would not allow the site to be similarly developed with the same large amount of open green space left to act as a natural buffer and corridor. Instead of a green community with well thought-out clustered multi-family housing, the site would be susceptible to sprawl and large amounts of impervious surface such as blacktop throughout the land.

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### **3. Town Comments/Applicant Responses**

As stated at the end of Section 1.1, on June 5, 2006, the Applicant submitted a draft FEIS to the Town of Brunswick Town Board's Special Counsel and Consulting Engineer for review. On September 29, 2006, the Town Board's Consultants issued a comment memorandum. Discussions with, and review by, the Town Board's Special Counsel and Consulting Engineer have resulted in the Applicant's memorandum response dated January 23, 2007 (including letter report by Chazen Engineering & Land Surveying Co. dated December 6, 2006). The aforementioned documents are attached respectively hereto in Section 3. The order of presentation in the Applicant's response memorandum follows the order of presentation in the Town Board's Consultant's comment memorandum.

The text in Section 2 of the FEIS previously submitted to the Town Board's Consultants has not changed as a result of the comments and responses between the Town Board's Consultants and the Applicant attached hereto as Section 3. This approach permits the reader to identify those areas where the Town believed a more thorough analysis in the FEIS was appropriate. Accordingly, the reader is cautioned to read Section 3 in combination with Section 2 to assure that he/she has the benefit of the complete analysis provided with respect to any one issue.

### **3.1. Town Comment Letter**

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## MEMORANDUM

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**To:** Capital District Properties, LLC

**From:** Andrew W. Gilchrist, Esq., special counsel to Brunswick Town Board  
Mark Kestner, P.E., consulting engineer to Brunswick Town Board

**Date:** September 29, 2006

**Re:** Comments on Hudson Hills Final Environmental Impact Statement

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Upon review of the proposed Final Environment Impact Statement submitted by Capital District Properties, LLC concerning the Hudson Hills Planned Development District, dated June, 2006 and prepared by O'Brien & Gere Engineers, Inc., the Brunswick Town Board provides the following comments:

1. At Section 2.2.3, Comment 12, pertaining to the estimated earthwork in terms of cuts and fills, the FEIS states that the estimated earthwork associated with overall site work proposed for the project is approximately balanced, minimizing the amount of fill that needs to be imported to the site. Table 1 goes through calculations for total excavation and grading, including the road system and building layout. The total amount of earthwork is estimated at 215,015 cubic yards of cut, and 230,920 cubic yards of fill, netting an overall amount of 15,905 cubic yards of material required to be imported to the site to meet final grade. This table does show that there is a significant amount of earthwork proposed for the site, with well over 200,000 cubic yards of soil being moved on the site. However, the FEIS does not address how the material will be handled on site, including whether it will be stockpiled on the site during the construction. The FEIS does not correlate this amount of earthwork with construction sequencing. Please identify the extent of earthwork per construction phase, and if material is to be stockpiled on site, identify its projected location and duration. Finally, how does this correlate with the New York State Stormwater Guidelines, which limit the amount of excavated area open at any one time to a maximum of 5 acres?
2. At Section 2.3, Comment 20, the FEIS states that responsibility for the long term maintenance of the stormwater control structures will be determined during the site review process. Please note that the long term ownership and maintenance responsibility for the onsite stormwater detention facilities will remain with the property owner, and will not be the responsibility of the Town. The FEIS should reflect this.
3. At Section 2.3.4, Comment 32, the FEIS states that a modification to the existing Betts Road is not required as part of the current review process under SEQRA. However, all issues associated with access to and from the proposed project site are

being reviewed by the Town Board pursuant to SEQRA in connection with the environmental review of the current action. In this regard, the response to Comment 32 is incorrect. The Town Board will review all proposed modifications to Betts Road as part of the SEQRA review on the current action, including State and federal wetland impacts and stormwater issues. In this regard, issues associated with proposed modifications to Betts Road and infrastructure installation must be addressed as part of the current SEQRA review.

4. At Section 2.4.1, Comment 36, the FEIS states that while the open space and green space is presented on the concept site plan, the Applicant is not proposing any easements or dedicating this land to a third party. Please be advised that the Town Board will be determining the need for a conservation easement which permanently restricts the future use of the open space and green space as depicted on the concept site plan.
5. At Section 2.4.3, Comment 38, the FEIS states that approximately 80-90% of the site will be left undisturbed and in its natural state which will protect against any impact to the flowering dogwood and red-osier dogwood, which are considered rare species in Rensselaer County. However, the FEIS does not state whether either of these species exist on that part of the site which will be part of the grading plan, or whether these species are limited to the area that will remain open and green space. This should be clarified.
6. At Section 2.5, all comments and responses related to transportation are included as Appendix D to the FEIS. However, in two sections of the response to transportation comments, specifically at No. 7 and No. 19, the FEIS states that Betts Road will be improved as discussed in Section 2.3.6 of the DEIS. Section 2.3.6 of the DEIS indicated that Betts Road will be improved to Town's specifications. However, given its status as a highway by use under Highway Law §189, the FEIS must address the fact that Betts Road cannot be improved to Town specifications absent the Applicant obtaining the legal authority to do so, either through title or easement. The FEIS must address the fact that the Applicant is currently not proposing to improve Betts Road to Town specifications, and the impact of the current plan for Betts Road on the overall project.
7. At Section 2.8.1, Comment 56, the FEIS response to be clarified to state that all costs associated with infrastructure for potable water and sanitary sewer will be borne by the Applicant, at no cost to the Town and no cost to adjacent properties or properties within the existing water or sewer districts for capital improvements.
8. At Section 2.8.1, Comment 57, the FEIS response addresses final costs for on-site and off-site improvements for water and sewer as being borne by the Applicant, but does use the term "special assessments or other funding mechanisms or sources". Please clarify this response. Also, the comment raised the issue of future operation and maintenance costs for water and sewer lines and associated improvements. Please describe future anticipated operation and maintenance costs for such improvements. Also, is the Applicant proposing to dedicate the entire infrastructure improvements, or will any part of the infrastructure (i.e. pump stations) located on the project site remain privately owned and operated? Please clarify.

9. At Section 2.8.1, Comment 59, the FEIS response provides revised peak flow calculations for the sanitary sewer system based on the reduction of the total number of units from 1,116 to 668. Please be advised that the Town engineer is continuing his review concerning such calculations.
10. At Section 2.8.1, Comment 60, raises the question of the existing capacity of the potable water system. The Town engineer is continuing his review of the data provided, and additional comment may be forthcoming.
11. At Section 2.8.1, Comment 61, the FEIS response discusses a fire flow test performed on North Lake Avenue. Please identify the specific hydrant location tested on North Lake Avenue.
12. At Section 2.8.1, Comment 65, the FEIS response should include total capacity at the Rensselaer County Waste Water Treatment Plant, what flow is currently being handled at the Rensselaer County WWTP, and whether adequate excess capacity exists for the anticipated flows from this project.
13. At Section 2.8.5, Comment 81, in response to a question concerning the impact of busing of school children, the FEIS merely states that daily operations of the district, including specific transportation matters, are within the discretion of the district's administration and outside the control of the Applicant. However, the FEIS should address the potential impacts associated with school bus traffic on Betts Road, particularly in light of two (2) school districts servicing the project.
14. At Section 2.8.5, Comment 83, the FEIS projects potential real property tax analysis on a per unit basis. However, the FEIS fails to allocate that potential tax between County, Town, and School District tax. Further, the FEIS fails to calculate a worst case scenario in terms of potential school children and the cost to educate on a per student basis per school district, as compared to the allocated school tax portion of the total tax generation projections. The FEIS should present that information to the Town Board.
15. At Section 2.9.3, Comment 112, the FEIS provides a response to a comment concerning the potential impact of a thermal inversion in terms of noise impact from the operation of air handlers. The response is general, and provides no specific analysis concerning potential noise impact. The FEIS states that vegetative buffers will mitigate the resulting noise impacts on adjacent neighbors without any analysis. This response should be supplemented with more detailed technical information.
16. The Brunswick Town Board reserves the right to supplement these comments as its review of the Hudson Hills application continues.

AWG/tla

### **3.2. Capital District Properties, LLC Response**

## MEMORANDUM

**To: Andrew W. Gilchrist, Esq., special counsel to Brunswick Town Board and Mark Kestner, P.E., consulting engineer to Brunswick Town Board**

**From: Capital District Properties, LLC**

**Date: January 29, 2007**

**Re: Response to Town's Comments on Hudson Hills Final Environmental Impact Statement**

Please allow this to act as a response to the Town of Brunswick's September 29, 2006 Comment Memorandum regarding the Final Environmental Impact Statement, dated June 2006, submitted by Capital District Properties, LLC ("Applicant") in connection with the proposed Hudson Hills Planned Development District ("Project"). This response has been prepared using the same numeric listing introduced in Town's September 29, 2006 Comment Memorandum. With respect to comments requiring engineering or other qualified professional input, such input was sought in formulating the appropriate response. Input was received from O'Brien & Gere Engineers, Inc., Bette & Cring, LLC, and Creighton Manning Engineering, LLP.

### **1. Earthwork**

Table 1 contained in Response 12 of the FEIS depicts the estimated earthwork associated with the construction of the entire Project. The following earthwork activities are anticipated, by construction phase:

- Phase I - 1/3 of the overall road network is to be installed and approximately 40% of the buildings (18) are to be constructed, requiring the importation of fill material. Given this, it is estimated that nearly all fill material to be imported from off-site (15,905 cubic yards) will be imported during Phase I construction activities. This phase is also anticipated to involve hauling of soils generated from on-site cut areas to on-site fill areas, with temporary and long-term stockpiling and no additional need for importation of soils from off-site.
- Phase II - Nearly 1/2 of the overall road network is to be installed and approximately 15 buildings are to be constructed. It is estimated that Phase II earthwork activities will generate sufficient fill material to allow for the proposed road and building construction scheduled for this phase. This phase is anticipated to involve hauling of soils generated from on-site cut areas to on-site fill areas, with temporary stockpiling and no additional need for importation of soils from off-site.
- Phase III - The availability of soil from roadwork exceeds the demand for fill required for remaining building construction. Consequently, fill import is not anticipated to

achieve grades. This phase is anticipated to involve hauling of soils generated from on-site cuts areas to on-site fill areas, with temporary stockpiling and no additional need for importation of soils from off-site.

The above detail identifies the sequencing of earthwork to be conducted on-site. The objective is to balance the excavated or cut soil with the soil used for fill material, and to minimize the hauling distances from excavated areas to fill areas. The handling of the soils will follow a procedure replicated in each phase of the Project.

Stockpile locations shall generally be situated within the work limits of the particular development phase and situated on ground generally disturbed and intended for grading at later stages of construction. Areas that will not be utilized for stockpiling include steep slopes, wetlands, undisturbed areas and areas outside of the phase under construction. Specific projected locations will be established in connection with the preparation of the Stormwater Pollution Prevention Plan (SWPPP). The Phase I construction timeframe is approximately 24 months. During this time, two to three areas are anticipated to be used for stockpiling of soils, for varying durations.

Stockpile locations shall be stabilized by means identified in an approved SWPPP that is created in conformance with New York State Department of Environmental Conservation (NYSDEC) regulations. Specifically, a Surface Pollution Discharge Elimination System (SDPES) General Permit (GP-02-01) must be issued for the discharges associated with construction activity.

Regarding the surface disturbance of greater than five acres at any particular time and in accordance with New York State Stormwater Guidelines, an applicant may disturb more than five acres following the approval of the NYSDEC. An applicant must complete a SWPPP that complies with the requirements of GP-02-01 prior to submission of the Notice of Intent (NOI). If the NOI applicant elects to disturb greater than five acres at one time during construction, an applicant shall indicate this on the NOI and allow a 60 business day period after NYSDEC certification of receipt of the completed NOI, before initiating construction activity. An applicant must receive written approval from the NYSDEC regional office to disturb greater than five acres at one time. An applicant must provide the NYSDEC regional office with a detailed construction sequencing plan as part of the review process. Such approvals are routinely granted upon a determination by NYSDEC that the SWPPP and other relevant information conform to published guidelines. In the event NYSDEC approval is not obtained, construction sequencing will be managed to meet applicable requirements.

## **2. Stormwater Facilities**

The Applicant acknowledges that ownership and maintenance of the on-site stormwater detention facilities will remain the responsibility of the property owner and will not be the responsibility of the Town of Brunswick.

### **3. Betts Road**

This response is to comment #3 and #6.

Betts Road is a highway by use pursuant to New York State Highway Law §189. The proposed improved road consists of two 12' travel lanes and two 2' shoulders. The proposed road fits within the existing right-of-way. See the survey prepared by the Chazen Companies dated July 31, 2006 entitled "Map Showing Existing Conditions and Measured R.O.W. Betts Road" attached hereto as Attachment 1.

Betts Road is not proposed to be dedicated as a Town highway. The Applicant is proposing to widen Betts Road to permit it to handle the projected future traffic. See the Creighton Manning Engineering memorandum attached hereto as Attachment 2.

The Applicant is proposing to construct utility infrastructure within the existing right-of-way. To the extent rights must be acquired from others to locate the infrastructure as outlined in Section 3.7.2 of the DEIS, the Applicant shall be responsible as between it and the Town for the costs of doing so. The Applicant will use commercially reasonable efforts to acquire any such rights. If the necessary rights cannot be acquired, other alternatives exist. The alternatives include other options to acquire any necessary rights and to relocate such infrastructure. While the establishment of public water and sewer in this manner is clearly in the best interests of the Town, there are other more costly and less beneficial alternatives available to provide water and sewer service to the Project.

With respect to utilities within or along Betts Road, there are existing electric and telephone lines along Betts Road. These are owned and operated by the respective regulated utilities. Those utilities are responsible for those interests and, to the extent needed or desired, have the legal power to acquire additional interests. The Applicant is prepared to coordinate with such utilities to make such service available to the Project.

The Applicant has also proposed that the Town extend its existing water and sewer districts to include the Project, including the area of Betts Road. Assuming the Town does so, the Applicant intends that Town water and sewer lines be constructed within the Betts Road right-of-way. See Town Law §198.

With respect to water service, as proposed, the Applicant will own the rights necessary to accommodate planned water needs for Phases I and the vast majority of Phase II. The water line will be run from North Lake Avenue directly to the Project lands. Thereafter, the Applicant has proposed to loop the water system using lines on Betts Road to connect to the lines along North Lake Avenue to the lines currently existing along the Route 7 corridor. A loop function enhances the efficiency and reliability of the entire public water system by, among others, offering multiple supply paths that enable the system to remain pressurized in the event of localized service loss.

In the event rights are needed and unavailable to the Applicant, the loop concept could be abandoned and the proposed water line from North Lake Avenue used to serve the entire

Project. The pipe sizing at North Lake Avenue is sufficient to do so. Adequate pressures, including fire flows, to accommodate Phase III would be established through the use of an on-site booster pumping system. The system would entail either one pump station or individual booster pumps in the final buildings of the Project.

There would be no significant adverse environmental impacts associated with individual booster pumps. Similarly, there would be no significant adverse environmental impacts associated with a single on-site pump station. A small utility building would typically be constructed to house the pumps used to increase pressure. The structure would sit on an area approximately 30' x 30'. The pump operation would be occasional as it operates to meet varying demands. The operation of the pump from within the pump-house walls would not present a discernible level of noise above ambient conditions. In sum, from visual, audio and operational perspective, there are no significant adverse impacts associated with the booster pump.

Reliance on booster pumps rather than a looped system will deprive the Town of an opportunity to enhance the operations of its public water system and to permit nearby property owners to connect into the public system.

With regard to sanitary sewer, the existing Betts Road right-of-way has been identified as the location for the sewer line to service the Project. Existing piping on Route 7 would be used in Phase I with the Applicant contributing to upgrades to the existing Town-owned pump station on McChesney Avenue Extension. The piping along and around Route 7 would be replaced with larger piping by the Applicant to accommodate Phases II and III, to the extent constructed.

If Betts Road is not available, the Applicant will own the rights needed to connect into an existing sewer main along North Lake Avenue. According to the Town of Brunswick Utility Superintendent, the line currently has sufficient capacity. Connecting the Project to the existing sewer service will require the installation of a force main from the site to the line on North Lake Avenue.

Another alternative is to establish a force main connection from the Project site to Lord Avenue and Duncan Lane. Attached hereto as Attachment 3 is a map prepared by Chazen Companies dated October 27, 2006 entitled "Alternate Utility Connection" depicting the alternatives.

There are no significant environmental impacts associated with either of the above sewer service alternatives. Impacts associated with alternatives include the potential that existing sewer lines be removed and replaced with larger pipe sizes. Such action will require the usual and customary work.

Construction of sewer utilities other than as proposed along Betts Road would eliminate the proposed multiple and significant upgrades and improvements to the existing public sewer system, which the Town would otherwise obtain at no cost.

#### **4. Open Space and Green Space**

The Applicant acknowledges that the Town Board is considering the need for a conservation easement with respect to the open space and green space.

#### **5. Flora and Fauna**

The Wetland Delineation Report included in the DEIS as Appendix H discusses the presence of red-osier dogwood (*Cornus stolonifera*) and flowering dogwood (*Cornus florida*) in delineated wetlands at the site. These dogwood species are generally characteristic of wetlands, riparian zones and forest lands. As described in the Wetland Delineation Report, a “large portion” of the 215 acre site was actively farmed cornfields. Red-osier and flowering dogwoods would not typically be expected to be found in areas of agriculture production. Construction within wetlands at the site has not been proposed, and the areas where red-osier and flowering dogwoods have been identified (*i.e.*, wetlands) are not where building or road construction is proposed. Instead, the Applicant is focusing development to areas of former agriculture production. Therefore, it is not anticipated that the Project will impact red-osier or flower dogwoods that may exist at the site. Importantly, these dogwood species are not state or federally listed rare, threatened or endangered.

#### **6. Betts Road**

Please see response to #3 above.

#### **7. Infrastructure Costs**

All costs associated with the construction of the infrastructure needed to establish suitable potable water and sanitary sewer for the Project will be borne by the Applicant, at no cost to the Town. The Applicant will further provide, at its cost and expense, tap-in facilities for the benefit of landowners along the proposed utility extension service route that do not have such service but desire same.

#### **8. Infrastructure Improvements**

Clarification is sought regarding the reference in Section 2.8.1, Response 57 to “special assessments or other funding mechanisms or sources” in connection with water and sewer costs. As stated in Response 57 of the FEIS, water and sewer system construction costs will “ultimately be borne by the developer by means of out-of-pocket payments, special assessments or other funding mechanism or sources.” The statement is intended to reflect the numerous funding sources which may be applied to these improvements and the Applicant is reserving the right to pursue any such funding mechanisms other than asking the Town to pay. For example, there may be special state or federal loan or grant programs available. Additionally, the costs to construct improvements may be financable by the water or sewer district itself to be repaid by assessments against the benefited properties (*i.e.* the Applicant and other properties connecting to such lines). In any event,

operational costs will always be assessed against benefited properties – those would not be borne solely by the Applicant.

With respect to on and off-site infrastructure, the Applicant is proposing to dedicate all such improvements to the Town of Brunswick. Below is a discussion regarding anticipated operation and maintenance costs.

As described in Section 3.7.2 of the DEIS, on and off-site water system improvements necessary to serve the Project generally consist of:

- On-site potable water mains and laterals to provide domestic water and fire protection demands;
- 12-inch watermain along North Lake Avenue (1300 lf) – Phase I;
- 12-inch watermain along Betts Road (1500 lf) – Phases II & III;
- Relocation of the pressure reducing valve located on McChesney Avenue – Phases II & III.

As described in Section 3.7.2 of the DEIS, on and off-site sewer system improvements necessary to serve the Project generally consist of:

- On-site pumping stations, force mains and gravity lines;
- 8-inch diameter force main sewer along Betts Road – Phase I;
- Pumping station (subgrade pumps, above-grade control panel) located in the vicinity of the clubhouse – Phase I.

The operating and maintenance costs of the improvements described above depend on several factors associated with the system, including service area, service population, age, material and fluctuating energy costs. Level of maintenance, salaries, fringe benefits, and budget may also affect the cost of maintaining such systems. According to the US Environmental Protection Agency, the labor costs of a typical sanitary force main system account for 85-95% of the total operation and maintenance costs and is dependent on the force main length. Operation and maintenance of pressure sewers tasks may include inspecting, maintaining and repairing grinder pumps; miscellaneous line and manhole repairs; maintenance and repair of the pressure reducing valve and line cleaning activities. Average annual operation and maintenance costs, according to the USEPA, usually vary from \$2 to \$6 per linear foot, depending on the size and number of appurtenances installed on the force main (US EPA Wastewater Fact Sheet: Sewers, Force Main 2000).

Tasks related to the regular operation and maintenance of a water system can include: annual flushing, valve exercising, hydrant painting and valve repair. A review of the projected operating and maintenance costs of a selection of O'Brien & Gere's municipal potable water system clients found that projected operation and maintenance costs for potable water systems range from \$0.66 to \$16.90 per linear foot.

Upgrades to the existing Town of Brunswick facilities are also proposed, including:

- Upgrade to existing McChesney Avenue Extension pumping station pumps – Phase I;
- Upgrade of the existing 8-inch diameter sewer to a 12-inch diameter gravity sewer (3350 lf) from Betts Road/NYS Route 7 intersection of the McChesney Avenue Extension pumping station – Phase II & III;
- Upgrade of the existing 6-inch diameter force main to a new 8-inch diameter force main (2400 lf) from McChesney Avenue Extension pumping station to the sanitary manhole on NYS Route 7 – Phases II & III.

Proposed upgrades to the existing Town-owned sewer lines and appurtenances are not anticipated to result in significant increases in operation and maintenance costs.

### **9. Sanitary Sewer Flow Calculations**

A response is not requested.

### **10. Potable Water Capacity**

A response is not requested.

### **11. Fire Flow Test**

The hydrant tested was on Blue Heron Lane, off North Lake Avenue. Please see the results memorandum prepared by RBM Guardian Fire Protection, Inc. as Attachment 4.

### **12. Rensselaer County WWTP Capacity**

Based on data published on the US Environmental Protection Agency Permit Compliance System (PCS) (<http://www.epa.gov/enviro/html/pcs/index.html>), from February 2001 to June 2006, the average wastewater flow treated at the Rensselaer County Wastewater Treatment Plant was 17.7 MGD (million gallons per day), with a maximum monthly average of 23.6 MGD (March 2003) and a minimum monthly average of 13.2 MGD (November 2001). According to a discussion with the Rensselaer County WWTP, the design capacity of the plant is 60 MGD.

The projected peak sanitary flows for the Modified Plan are considerably less than originally forecast in the DEIS since the total units in each phase now proposed in the FEIS is less than the original plan. Projected peak flows of the Modified Plan were provided in Appendix E of the FEIS and are as follows:

Phase I	153 gpm (gallons per minute)	0.22 MGD
Phase I + II	285 gpm	0.41 MGD
Phase I + II + III	405 gpm	0.58 MGD

Accordingly, capacity is expected to be available at the Rensselaer County WWTP to accept the anticipated flows from the Project.

### **13. School Bus Traffic**

The improvements to Betts Road as discussed above in Response #3 will facilitate any increased school bus traffic stemming from the Project. See also the Creighton Manning Engineering memorandum attached hereto as Attachment 2.

At the Town's request, the following "worst case scenario" has been analyzed. It is a "worst case scenario" because it is based on the Capital District Regional Planning Commission's historical numbers stemming from traditional suburban garden-style apartments. The Project is not a traditional suburban garden-style apartment development. The Project is designed specifically for empty nesters, young professionals and emerging families, all of whom have no or minimal school aged children in the public school system. Therefore, much fewer public school children are expected to result from the Project. Even the "worst case scenario" illustrates minimal impacts from the projected school bus traffic. Moreover, it lies within the purview of the school districts to enhance the efficiency of student transportation to further reduce any potential impacts.

Section 3.7.2 of the DEIS contains an analysis of the projected number of public school children associated with the Project. The analysis is broken down by phase and is based on figures and calculations contained in the *Fiscal Analysis Guidebook (2<sup>nd</sup> Edition)* published by the Capital District Regional Planning Commission. The *Information Regarding The Modified Hudson Hills Planned Development District* attached to the FEIS as Appendix E contains the same analysis with respect to the Modified Plan. The total estimated number of public school students generated by the Project upon full build out under the Modified Proposed Plan is 131.

The site is split between the Brunswick and Lansingburg Central School Districts. Based on the geographical layout of the Modified Plan, the Project site is split between school districts in the following manner; 84% of the total projected school children are in Brunswick and 16% are in Lansingburgh. Accordingly, 21 public school children are anticipated to attend Lansingburgh with the remaining 110 students attending Brunswick.

According to the Brunswick CSD Transportation Department, the Brunswick elementary school students are picked up from approximately 7:45-8:30 a.m. and returned home at approximately 3:25-4:30 p.m. The Brunswick secondary school students are picked up from approximately 6:45-7:30 a.m. and returned home at approximately 2:00-3:00 p.m. The Brunswick busses can transport up to 66 students per bus. Therefore, even upon completion of the final phase of the Project, the transportation needs could be accommodated with two busses. Importantly, of the four travel times, only one is during the peak hours discussed in the Traffic Impact Study attached to the DEIS as Appendix G.

According to the Lansingburgh CSD Transportation Department, the Lansingburgh elementary school students are picked up from approximately 8:00-8:45 a.m. and returned home at approximately 3:00-4:00 p.m. The Lansingburgh secondary school students are picked up from approximately 6:45-7:30 a.m. and returned home at approximately 2:30-3:00 p.m. The Lansingburgh elementary school busses can transport up to 66 students and the secondary school busses hold 44 students. With only a total of 21 students upon completion of the final phase of the Project, the transportation needs are significantly less than Brunswick and can be accommodated with minimal bus traffic. Moreover, as with Brunswick, of the four travel times, only one is during the peak hour.

#### **14. Tax Analysis**

The following is the projected tax revenue generated by the Project broken down by County, Town and School tax, as requested. The analysis further calculates the cost to educate a student, as compared to the allocated school tax portion of the total tax generation projections, and provides an updated worst-case-scenario based on actual operating statistics of a luxury multi-family community virtually identical to the Project, Hudson Preserve in the Town of Colonie.

Section 3.7.2 of the DEIS contains a projected tax analysis of the Project based on existing multi-family residential developments in the Town of Brunswick. The *Information Regarding The Modified Hudson Hills Planned Development District* attached to the FEIS as Appendix E contains the same analysis with respect to the Modified Plan. Of the projected total tax revenue, 65% is dedicated to the applicable school district, while the 35% remaining tax revenue is shared by the County and Town on an approximately 60%/40% split respectively, depending on the applicable special district charges.

If construction commenced this year (2007), the first phase could be completed in two years (2009). While the construction schedule for the remaining phases is market dependent, for analysis purposes we will assume Phase II is completed four years thereafter (2013) and Phase III completed four years after the completion of Phase III (2017). Using a conservative annual escalator of 5%, based on historical data, the annual total tax revenue generated by the Project under the Modified Plan upon the completion of Phase I is approximately \$370,264; upon completion of Phase II is approximately \$863,464; and upon completion of Phase III is approximately \$1,472,940. These numbers have been updated to reflect a more accurate construction schedule because the DEIS was submitted almost two years ago and the *Information Regarding The Modified Hudson Hills Planned Development District* was submitted over a year ago.

Of the above approximate total tax dollars, the following revenue is allocated to the schools: Phase I = \$240,671; Phase II = \$561,251; and Phase III = \$957,411. The remaining revenue is realized by the Town and County: Phase I = \$129,593; Phase II = \$302,213; and Phase III = \$515,529.

Accordingly, the total tax revenue generated by the Project upon completion is projected at almost \$1,500,000 per year. Of the \$1,500,000 paid in taxes every year, almost \$1,000,000 will go to the school districts, over \$200,00 will be paid to the Town of Brunswick and over \$300,000 will go to Rensselaer County. These figures will inevitably increase every year.

Based on the New York State School Report Card Fiscal Accountability Supplement attached to the FEIS as Appendix H, the approximate cost to educate a child in the Brunswick Central School District is \$6,700 per student, and the approximate cost to educate a child in the Lansingburgh Central School District is \$6,200 per student. Based on the geographical layout of the site plan of the Modified Plan in connection with the school district boundary lines, the Project site is split between school districts in the following manner; 84% of the total projected school children are in Brunswick and 16% are in Lansingburgh. Using a blended rate with the aforementioned percentages, the present approximate cost to educate a child associated with the Project is \$6,620 per student. Utilizing an annual escalator of 5%, the cost to educate a child at the anticipated full build out time of ten years is approximately \$10,784.

Each type of residential development is designed and constructed to attract specific segment(s) of the general population. Therefore, in order to forecast the anticipated number of public school children generated by the Project in the most reasonable and accurate manner, it is important to utilize historical data generated by like and similar residential development of equivalent design and quality. Consequently, the Project must be compared with a new top-of-the-market luxury multi-family community, as opposed to the traditional suburban garden-style apartments built in the Capital District over the last forty years. New upscale multi-family developments generate less school children than existing multi-family developments of lesser quality. Moreover, luxury multi-family communities that limit their residences to one and two bedroom floor plans generate less school age children than traditional apartment complexes with three (and more) bedroom units.

The previous analyses of the projected number of public school children associated with the Project contained in Section 3.7.2 of the DEIS and The *Information Regarding The Modified Hudson Hills Planned Development District* attached to the FEIS as Appendix E are based on the Capital District Regional Planning Commission's historical numbers associated with older traditional suburban garden-style apartments. The CDRPC's numbers were used in the prior analyses because, at that time, there was not a property truly comparable to the Project built and occupied in this area. A like and similar property is now available for a more accurate comparison and worst-case-scenario assessment.

The Hudson Preserve luxury multi-family community in the Town of Colonie was designed in the same vein as the Project. Hudson Preserve has strikingly similar design, character, unit mix and target demographic as the Project. Like the Project, Hudson Preserve is a luxury apartment community catering primarily to empty-nesters and young professionals. Both groups are accustomed to, and demand, quality housing. Importantly, both groups typically have no, or minimal, school aged children in the public school

system. Because Hudson Preserve and the Project are of similar design, character, unit mix and target demographic, it is reasonable to rely in its actual generation of school age children to estimate the number of school age children associated with the Project.

Hudson Preserve has a total of 348 luxury residences. Full build-out of Hudson Preserve will be completed later this year. The first 176 residences of Hudson Preserve are currently occupied. A total of only ten children live in the 176 residences. Of the ten total children, six are school age. This number is a result of the management staff's personal knowledge of the school age children living in Hudson Preserve, as well as counting the children at the school bus stop located at the Management Office.

Dividing six school age children by the total number of occupied residential units (176), calculates to .03 school age children per unit. Hence, upon completion of all 348 units it can be anticipated that Hudson Preserve will generate only ten school age children (348 x .03).

Utilizing this same ratio, the anticipated number of school age children generated by the Project is as follows:

- Phase I (.03 x 248) = 8 children
  - Phase II (.03 x 228) = 7 children
  - Phase III (.03 x 192) = 6 children
- TOTAL: 21 children

Consequently, upon full build-out under the Modified Plan, the Project is anticipated to generate approximately 21 school age children. In order to remain conservative, the results of the analysis have not been discounted for the fact that not all of these school age children will attend public school.

Multiplying the number of total anticipated school age children (21) by the cost to educate a child at the anticipated full build out time of ten years (\$10,784) results in a total annual cost of approximately \$226,464 to the school districts. However, as previously discussed, the Project will generate approximately \$957,411 in school tax revenue at that same time. Therefore, upon completion, the districts will realize an annual surplus of over \$730,000.

In order to provide a worst-case-scenario, we have assumed that the school age children generated by the Project will be double that of Hudson Preserve (i.e. .06 children per unit). Multiplying .06 by the total number of residential units at full build-out of the Project (668) would result in a total of 42 school age children. Were this scenario to occur, however unlikely it is, there would still be a significant annual tax revenue surplus to the school districts. The annual cost to educate the 42 children would be \$452,928 (42 x \$10,784) while the annual school tax revenue, as previously discussed, remains \$957,411. Therefore, even under a worst-case-scenario, the school districts would realize an annual surplus of \$504,483 (\$957,411 - 452,928).

Moreover, the school districts will see a surplus as long as the total number of public school children generated by the Project is less than 88. In order to reach this number, the public school children associated with the Project would have to be more than four times the anticipated students based on the projections stemming from the Hudson Preserve. Based on Hudson Preserve's actual operations and the Project's similarity to it, it is unreasonable to expect these numbers. In sum, the school districts will experience a significant monetary benefit from the Project each and every year.

### **15. Thermal Inversion**

Upon completion of the Modified Plan that contains 60% of the residences proposed in the Original Plan, 32 16-unit and 13 12-unit buildings will be located on the 215 +/- acre site. Each building will be equipped with independently controlled, high efficiency forced air gas furnaces and a split system cooling system. A split system consists of two units – an indoor unit, which is a fan-coil that provides cooling and an outdoor unit which contains a compressor and a coil for absorbing heat. Small split systems are commonly sold as domestic air-conditioners. One split system condensing/air handling unit, similar to those used for single-family residential homes, is anticipated to be installed for each residential unit. The original comment addresses the noise impact of rooftop air handlers, which are not proposed for the Project. The system will be placed on the ground, around each building, in the vicinity of the residential dwelling unit it is serving.

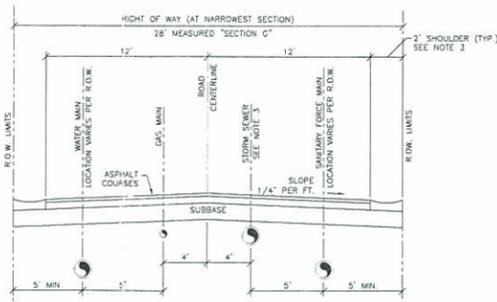
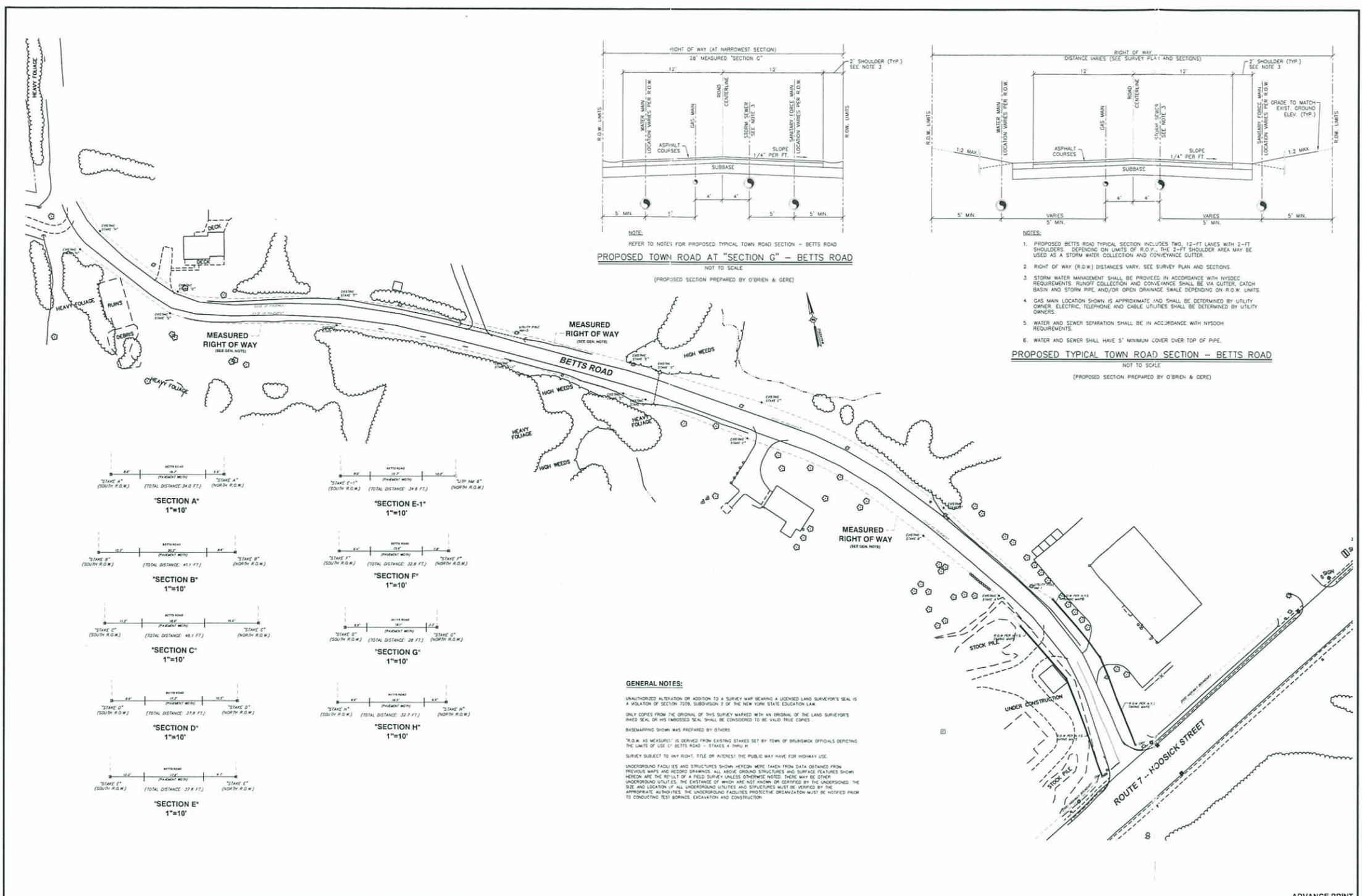
The Weighted Sound Level specification of the proposed split systems indicates that the systems have a standard rating of 70 dBA. This is usually measured at three feet from the unit. These systems will be separated from each other and are not anticipated to be acoustically compact sources. The largest proposed building will have 16 split systems. The anticipated noise impact per building is not anticipated to exceed 52 dBA at 100 feet. According to the Trace R&D Center at the University of Wisconsin-Madison (<http://trace.wisc.edu/docs/2004-About-db/>), this is equivalent to a quiet suburban area or a dishwasher in the next room. Further, the proposed residential buildings will be located much further than 100 feet from nearby residences and the resulting sound impact to these neighbors from the split systems is therefore anticipated to be much less than 50 dBA.

### **16. Supplemental Comments**

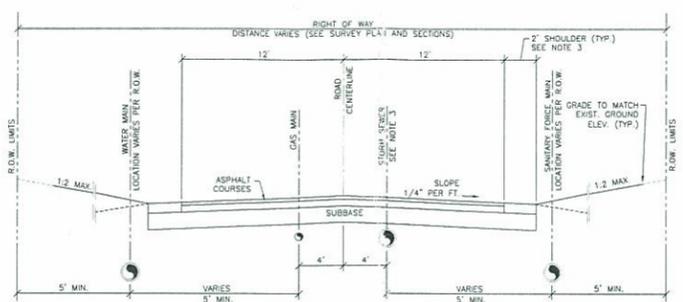
A response is not requested.

# ATTACHMENT 1

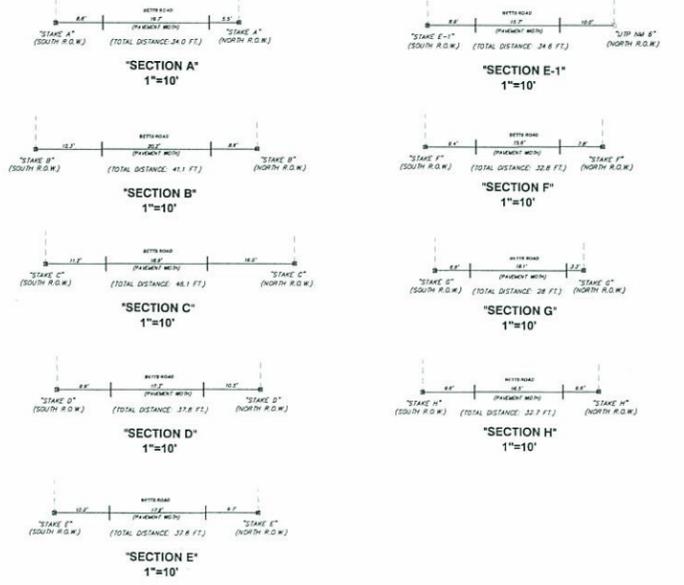
Survey prepared by the Chazen Companies entitled *Map Showing Existing Conditions and Measured R.O.W. Betts Road* and dated July 31, 2006



PROPOSED TOWN ROAD AT "SECTION G" - BETTS ROAD  
NOT TO SCALE  
(PROPOSED SECTION PREPARED BY O'BRIEN & GERE)



NOTES:  
1. PROPOSED BETTS ROAD TYPICAL SECTION INCLUDES TWO, 12-FT LANES WITH 2-FT SHOULDERS. DEPENDING ON LIMITS OF R.O.W., THE 2-FT SHOULDER AREA MAY BE USED AS A STORM WATER COLLECTION AND CONVEYANCE GUTTER.  
2. RIGHT OF WAY (R.O.W.) DISTANCES VARY. SEE SURVEY PLAN AND SECTIONS.  
3. STORM WATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH NYSDEC REQUIREMENTS. RUNOFF COLLECTION AND CONVEYANCE SHALL BE VIA GUTTER, CATCH BASIN AND STORM PIPE AND/OR OPEN DRAINAGE SWALE DEPENDING ON R.O.W. LIMITS.  
4. GAS MAIN LOCATION SHOWN IS APPROXIMATE AND SHALL BE DETERMINED BY UTILITY OWNERS. ELECTRIC, TELEPHONE AND CABLE UTILITIES SHALL BE DETERMINED BY UTILITY OWNERS.  
5. WATER AND SEWER SEPARATION SHALL BE IN ACCORDANCE WITH NYSDEC REQUIREMENTS.  
6. WATER AND SEWER SHALL HAVE 5' MINIMUM COVER OVER TOP OF PIPE.  
PROPOSED TYPICAL TOWN ROAD SECTION - BETTS ROAD  
NOT TO SCALE  
(PROPOSED SECTION PREPARED BY O'BRIEN & GERE)



**GENERAL NOTES:**  
UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 2206, SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.  
ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S INKED SEAL OR HIS FINGERSEAL SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.  
BASEMAPPING SHOWN WAS PREPARED BY OTHERS.  
"R.O.W. AS MEASURED" IS DERIVED FROM EXISTING STAKES SET BY TOWN OF BRUNSWICK OFFICIALS DEPICTING THE LIMITS OF USE OF BETTS ROAD - STAKES A THRU H.  
SURVEY SUBJECT TO ANY RIGHT, TITLE OR INTEREST THE PUBLIC MAY HAVE FOR HIGHWAY USE.  
UNDERGROUND FACILITIES AND STRUCTURES SHOWN HEREON WERE TAKEN FROM DATA OBTAINED FROM PREVIOUS MAPS AND RECORD DRAWINGS. ALL ABOVE GROUND STRUCTURES AND SURFACE FEATURES SHOWN HEREON ARE THE RESULT OF A FIELD SURVEY UNLESS OTHERWISE NOTED. THERE MAY BE OTHER UNDERGROUND UTILITIES. THE EXISTENCE OF WHICH ARE NOT SHOWN OR CERTIFIED BY THE UNDERSIGNED. THE SIZE AND LOCATION OF ALL UNDERGROUND UTILITIES AND STRUCTURES MUST BE VERIFIED BY THE APPROPRIATE AGENCIES. THE UNDERSIGNED FACILITIES PROTECTIVE ORGANIZATION MUST BE NOTIFIED PRIOR TO CONDUCTING TEST BORINGS, EXCAVATION AND CONSTRUCTION.

ADVANCE PRINT

<p>ALL RIGHTS RESERVED. COPY OR REPRODUCTION OF THIS MAP OR ANY PART THEREOF WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER, SHALL BE PROHIBITED. ALTERATION OF THIS DRAWING EXCEPT BY A LICENSED P.E. IS UNLAWFUL. THIS ALLOCATION IS A P.E. SEAL BE PROVIDED AND BEAR THE APPROPRIATE SEAL, SIGNATURE AND DATE OF ALTERATION.</p>	<p><b>THE Chazen COMPANIES</b> Engineers/Surveyors Planners Environmental Scientists</p>	<p><b>CHAZEN ENGINEERING &amp; LAND SURVEYING CO., P.C.</b></p> <p>Delaware County Office 111 Main Street, 12th Floor Pittsburgh, PA 15222 Phone: (412) 261-1500</p> <p>Delaware County Office 111 Main Street, 12th Floor Pittsburgh, PA 15222 Phone: (412) 261-1500</p> <p>Delaware County Office 111 Main Street, 12th Floor Pittsburgh, PA 15222 Phone: (412) 261-1500</p> <p>Delaware County Office 111 Main Street, 12th Floor Pittsburgh, PA 15222 Phone: (412) 261-1500</p>	<p>CAPITAL DISTRICT PROPERTIES <b>MAP SHOWING EXISTING CONDITIONS - AND MEASURED R.O.W. BETTS ROAD</b> TOWN OF BRUNSWICK, RENESSAELAER COUNTY, NEW YORK</p>	<p>Drawn: WPA Date: 7-21-06 Scale: 1"=40' Project No.: 0504C 01 Sheet No.: SP1 1 OF 1</p>
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Small text at the bottom left corner, likely containing project details or a disclaimer.

## **ATTACHMENT 2**

Creighton Manning Engineering, LLP memorandum dated November 21, 2006



17 COMPUTER DRIVE WEST ❖ ALBANY, NY 12205  
PHONE 518-446-0396 ❖ FAX 518-446-0397

# Memo

**To:** Thomas Johnson  
**From:** Thomas Baird  
**CC:**  
**Date:** November 21, 2006  
**Re:** Betts Road  
**Project:** Hudson Hills - Brunswick

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An evaluation was conducted to assess the sufficiency of the proposed twenty eight foot (28') wide Betts Road in relation to the expected traffic associated with the proposed Hudson Hills Planned Development District. The current proposed roadway is twenty eight feet (28') wide, paved with asphalt and includes twelve foot (12') wide travel lanes and two foot (2') wide asphalt shoulders.

Given the setting of the project area and the desire to minimize impacts to the adjacent property owners, it is prudent to assess whether there are other design alternatives within the existing right-of-way. Narrowing of the proposed travel lanes to ten feet (10') with four foot (4') shoulders is a reasonable, and probably more, appropriate alternative. Reducing the travel lane width with pavement striping will give motorists a narrower feeling roadway instead of a wide open feeling that can be experienced with wide travel lanes and shoulders typically found on state highways. The narrower road width will help keep speeds down, accommodate anticipated traffic volumes, and still accommodate heavy vehicles, including school buses. Such width is an acceptable roadway width, according to the National Network of Designated Truck Access Highways. The remaining four foot (4') wide shoulders on both sides of Betts Road will accommodate the occasional pedestrian or bicyclist.

With such an alternative design, the twenty eight foot (28') wide roadway is sufficient to accommodate the expected traffic associated with the Hudson Hills Planned Development District.

## ATTACHMENT 3

Map prepared by the Chazen Companies entitled *Alternate Utility Connection* and dated  
October 27, 2006



## **ATTACHMENT 4**

RBM Guardian Fire Protection, Inc. hydrant flow test results dated February 10, 2005

# R B M GUARDIAN FIRE PROTECTION, INC.

8 Enterprise Drive  
Albany, New York 12204  
Telephone (518) 463-4340 Fax (518) 463-4378

February 10th, 2005

To: Capital District Properties, LLC.  
29 Century Hill Drive - Suite 201  
Latham, New York 12110

Attn: Paul Fleming  
Fax # 786-1012

From: Ralph D. Young / Matt Wilms

Re: Flow Test Summary For Hydrants

As per your request, please find the results of the Hydrant Flow Tests:

TEST #1 - Dated Performed: 01/05/2005  
Performed by: RBM Guardian Fire Protection, Inc. & Brunswick Water Dept.  
Street Name: McChesney Avenue  
Size of Main: 12" - Fed by 8" Main  
STATIC 96 PSI  
2 1/2 Hosemonster 40 pitot 1149 GPM @ 36 PSI

TEST #2 - Dated Performed: 01/05/2005  
Performed by: RBM Guardian Fire Protection, Inc. & Brunswick Water Dept.  
Street Name: Hoosick Street & Betts Road  
Size of Main: 12" - Low Pressure  
STATIC 40 PSI  
ONLY STATIC WAS CONDUCTED

TEST #3 - Dated Performed: 02/03/2005  
Performed by: RBM Guardian Fire Protection, Inc. & Brunswick Water Dept.  
Street Name: Blue Heron Lane - off North Lake Road  
Size of Main: 8" - Fed by 16" Main on North Lake Road  
STATIC 120 PSI (Bottom of Hill)  
2 1/2 Hosemonster 70 pitot 1520 GPM @ 107 PSI (Flowed Top of Hill)  
STATIC 90 PSI (Top of Hill)

REMARKS: The error on Test #2 for the Static has been corrected.

If you have any questions, please do not hesitate to call me.

cc: O'Brien & Gere - Gary R. Stuart (Faxed Only 452-9525)  
Kestner Engineers, PC - Mark L. Kestner (Faxed Only 273-7583)

### **3.3. Betts Road Wetland Report**

# CHAZEN ENGINEERING & LAND SURVEYING Co., P.C.

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*Dutchess County Office*  
Phone: (845) 454-3980

*100 Glen Street, Suite 3D, Glens Falls, New York 12801*  
*Phone: (518) 812-0513 Fax: (518) 812-2205*  
Web: [www.chazencompanies.com](http://www.chazencompanies.com)

*Capital District Office*  
Phone: (518) 273-0055

*Orange County Office*  
Phone: (845) 567-1133

December 5, 2006

Paul Fleming  
General Manager  
Capital District Properties  
26 Century Hill Drive, Suite 201  
Latham, NY 12110

*Re: Hudson Hills Planned Development District  
Town of Brunswick, Rensselaer County  
TCC Job # 505AC.01*

Dear Mr. Fleming:

On September 29, 2006 you received comments from the Town of Brunswick's representatives on the Final Environmental Impact Statement for the Hudson Hills Planned Development District project. Comment Number 3 requested that Capital District Properties provide additional information about the widening of Betts Road, particularly as it relates to wetland and stormwater issues. Upgrades to the road are proposed to occur as part of the Hudson Hills development.

You contacted The Chazen Companies (TCC) and its staff of wetland scientists to assist you with addressing the Town's comments. TCC is a consulting firm with significant experience in providing professional wetland services to private and public entities, including delineating wetlands, assessing wetland functions and values, and evaluating wetland impacts. I am a certified wetland scientist with over 20 years of experience, including five years with the United States Army Corps of Engineers (ACOE) wetland regulatory program and 15 years in wetland consulting.

The purpose of this letter is to describe the existing conditions, the proposed conditions, and assess the potential environmental impacts associated with widening Betts Road.

### Existing Conditions

Betts Road currently averages approximately 18 feet in width. It is a paved road that exists as a by-use road maintained by the town. A by-use road right-of-way is not defined by actual town ownership of land but instead is generally defined by the area, including pavement and shoulders, routinely maintained or utilized by the town (e.g., mowing, cutting tree branches, shoveling snow, and installing signs). Although the existing road has some ditches, it does not have a formal stormwater management system.

In the vicinity of Betts Road and as discussed in Section 3.2.2 of the DEIS, there is a New York State open water wetland (TN-106) on the northwest side of New York State Route 7 and east of Betts Road. Wetland TN-106 is a Class II wetland that is comprised of open water surrounded by emergent marsh vegetation.

In order to more fully evaluate the presence of wetlands, the boundaries of wetlands near Betts Road were delineated by Ecological Solutions, LLC on August 4, 2006. The wetland delineation was completed in accordance with the ACOE requirements<sup>1</sup>. Delineated wetland boundaries are identified on the survey map provided in Attachment 1. In November 2006, TCC conducted a site visit to document the site conditions. The wetlands are described below, and photographs of the wetlands are provided in Attachment 2.

Wetland A: Wetland A is located on the southwestern side of Betts Road. The portion of the wetland adjacent to the road is a shallow emergent marsh community<sup>2</sup> adjacent to a perennial stream. The total size of Wetland A is approximately 3 acres. The dominant vegetation in the wetland is broad leaf cattail (*Typha latifolia*), reed canary grass (*Phalaris arundinacea*), purple loosestrife (*Lythrum salicaria*), sensitive fern (*Onoclea sensibilis*), and sedges (*Carex* sp.). In addition to the herbaceous vegetation, there were several black willow (*Salix nigra*) trees present. The wetlands were saturated at the surface during the November 2006 site visit, and the soils had positive indicators for hydric conditions (e.g., low chroma with oxidized root channels).

Wetland B: Wetland B is located on the northeastern side of Betts Road. The total size of Wetland B is approximately 27 acres. The wetland is contiguous with

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<sup>1</sup> U.S. Army Corps of Engineers. 1987. Wetlands Delineation Manual, Technical Report Y-87-1.

<sup>2</sup> Edinger, G.J., D.J. Evans, S. Gebauer, T.G. Howard, D.M. Hunt, and A.M. Olivero (editors). 2002. Ecological Communities of New York State. Second Edition. A revised and expanded edition of Carol Reschke's Ecological Communities of New York State. (Draft for review). New York Natural Heritage Program, New York State Department of Environmental Conservation, Albany, NY. 136 pgs.

the NYSDEC mapped wetland TN-106. The portion of the wetland adjacent to the road is a shallow emergent marsh community<sup>3</sup>. The dominant vegetation is broad leaf cattail, reed canary grass, purple loosestrife, sensitive fern, and arrowleaf tearthumb (*Polygonum sagittatum*). The wetlands were saturated at the surface during the site visit in November 2006, and the soils had positive indicators for hydric conditions (e.g., low chroma with oxidized root channels). This shallow emergent marsh borders a deep emergent marsh<sup>4</sup>.

Wetland A is hydrologically connected to Wetland B via a corrugated plastic pipe underneath the road. The stream has a soft bottom and is surrounded by emergent wetlands. The stream is approximately 2 feet wide on the east and west sides of Betts Road. Because the stream is mapped as a Class C stream<sup>5</sup> by the NYSDEC, it is not regulated by the NYSDEC under 6 NYCRR 608.2. This stream would be regulated by the ACOE under Section 404 of the Clean Water Act. Authorization would be required for the expansion of Betts Road if stream impacts are proposed.

A jurisdictional determination and wetland verification of the wetland boundaries will be sought from the ACOE and NYSDEC, respectively, as part of the overall project permitting process. Due to the hydrological connection of Wetland A and Wetland B to “waters of the United States,” it is presumed that Wetland A and B would be subject to regulation under Section 404 of the Clean Water Act. Similarly, due to the close proximity of Wetland A and Wetland B to Wetland TN-106, it is presumed that the wetlands and the 100 foot adjacent area surrounding the wetland would be regulated by the NYSDEC under the Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law).

Wetlands are generally recognized for providing particular wetland functions and values, which can typically be grouped into three general categories: flooding, erosion, and stormwater control; biofiltration (sediment, nutrient, and pollution removal); and wildlife habitat. Compared to similar wetland types, both Wetland A and Wetland B have moderate to high value of the functions listed above. However, the portions of the wetlands located within the road right-of-way have been impacted by road maintenance practices (e.g., mowing, salting, snow plowing) and, therefore, have lower functions and values than the larger wetland complex.

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Stream ID: A10P863-784

### Nature of Encroachments

The proposed project involves widening Betts Road to 28 feet and will include two travel lanes, shoulders, and drainage. All improvements will be contained within the existing right-of-way. In order to conservatively estimate the amount of impacts, it is presumed that there will be modifications required within the entire road right-of-way. In the vicinity of the stream and wetlands, the right-of-way is approximately 38 feet wide.

The road expansion may necessitate the lengthening of the culvert underneath Betts Road. On the west side of Betts Road, the culvert extends beyond the road right-of-way; therefore, this portion of the stream will not be impacted by the road widening. On the eastern side of Betts Road, the stream extends about 3 feet beyond the culvert within the road right-of-way. Therefore, it is presumed that 3 feet of stream will be culverted in connection with the road expansion.

The road expansion may require grading, fill, or temporary disturbance to wetlands within the right-of-way. The figure provided in Attachment 3 illustrates the wetland boundaries, road right-of-way limits, and potential impacts. The impacts to Wetland A will be 0.008 acre (330 square feet). The proposed impacts to Wetland B are 0.002 acre (100 square feet). Impacting these fringe areas will result in only a minimal (0.03%) loss of the overall wetland system (0.01 acres of approximately 30 acres) and will not impact the overall functions and values of the larger wetland complex. Further, the impacts to the wetlands are all associated with emergent wetlands within the right-of-way. As such, these wetlands have been previously impacted by road maintenance practices (e.g., mowing, salting, snow plowing).

As it is presumed that Wetland A and Wetland B are NYSDEC wetlands, the roadway expansion will result in impacts to the NYSDEC 100-foot adjacent area. All of the adjacent area impacts will be to either paved road or maintained road right-of-way. As a result, the adjacent area to be impacted is low quality, and the impacts will be minor.

The stormwater plan for the roadway improvements will be designed in accordance with all applicable regulations to address water quality and quantity. By implementing a modern roadway design with a comprehensive stormwater system, the quality of the runoff received by the wetlands will be improved over the existing conditions. Therefore, there will be no significant indirect impacts to wetlands as a result of the roadway development. Also, as discussed in Section 3.4.3 of the DEIS, wetland encroachments, including those related to Betts Road, will follow guidelines established in the *New York Soil Erosion and Sediment*

*Control Guidebook: Reducing the Impacts of Stormwater Runoff from New Development* to protect wetland quality. Any temporary wetland disturbances will be restored to pre-construction contours and reseeded.

The impact of approximately 430 square feet of wetlands to expand an existing roadway within the confines of an existing maintained right-of-way will not be a significant impact. These impacts represent less than a 0.03% loss of the overall wetland area of TN-106. The wetland impacts will not significantly impact the overall functions and values provided by Wetland TN-106.

### Regulatory Implications

Even though there are no significant impacts, and thus no mitigation measures required under SEQRA, compliance with regulatory requirements will provide an even higher level of protection to the environment.

As discussed above, both Wetland A and Wetland B would be regulated by the ACOE under Section 404 of the Clean Water Act. Further, it is presumed that the NYSDEC would regulate Wetland A, Wetland B, and the 100 foot adjacent area. Authorization would be required for any discharge of dredged material into these wetlands, such as for the expansion of Betts Road. The proposed impacts from the residential development and the road widening will cumulatively total 0.19 acres. The project impacts will require that an ACOE Nationwide Permit, a NYSDEC Section 401 Water Quality Certification, and a NYSDEC Article 24 Freshwater Wetland Permit be obtained for disturbance to federal and state wetlands and 100 foot adjacent areas.

A joint permit application will be prepared and submitted to both the ACOE (for Section 404 permits) and the NYSDEC (for Section 401 Water Quality Certificate and Article 24 Freshwater Wetland Permit). Both agencies will review the permit application to ensure that the project complies with their respective permitting requirements, including the need to avoid and minimize impacts to wetlands the maximum extent practical, and, for the US Army Corps of Engineers (ACOE), to compensate for unavoidable wetland impacts. Construction performed in accordance with the permits issued by the ACOE and NYSDEC will minimize impacts related to the wetland areas.

In this particular situation, the proposed activity is the widening of Betts Road for vehicular safety purposes. The current road is quite narrow and substandard. The proposed project will widen the roadway in order to reduce safety concerns for travel. Thus, the project is required to improve public safety and welfare.

Because the road already exists and is bound on both sides of the road by either state or federal wetlands, there are no other alignments or configurations that would be practicable and still accomplish the Applicant's objectives, yet completely avoid impacts to wetlands and/or the 100 foot adjacent area of any state wetlands.

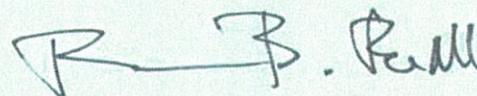
The proposed activity minimizes degradation to wetlands. The road alignment utilizes existing fills associated with the existing road, to the maximum extent practicable. The road realignment balances the need to avoid wetland impacts with the need to improve the alignment for safety purposes.

The proposed project meets a pressing social need, associated with road safety. Given the minimal impacts to wetlands, due to the reuse of the existing roadway corridor, the loss of any wetland benefits is outweighed by the need for road safety.

Conclusion

In summary, the expansion of Betts Road has the potential to result in minor impacts (0.03% of the Wetland A and Wetland B complex) to wetlands already degraded by roadway maintenance activities. The wetland and adjacent area impact will be permitted by the ACOE and NYSDEC as part of a joint permit application process. The minor nature of the impacts, the commitment to designing a stormwater system to address water quality and quantity issues, and the need to obtain wetland permits should allow the lead agency to determine that the impacts associated with the road widening are not significant. Please feel to call me at (518) 812-0513 if you need any additional information or have any questions.

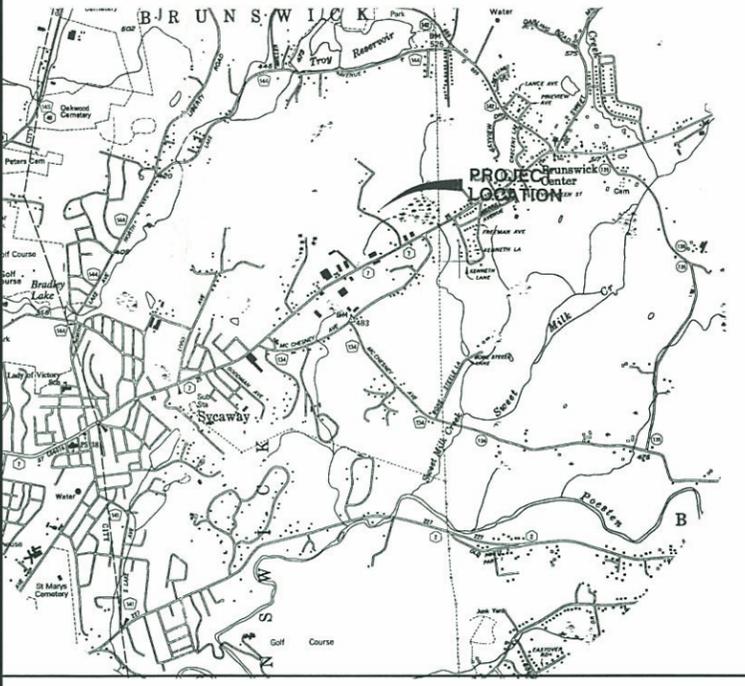
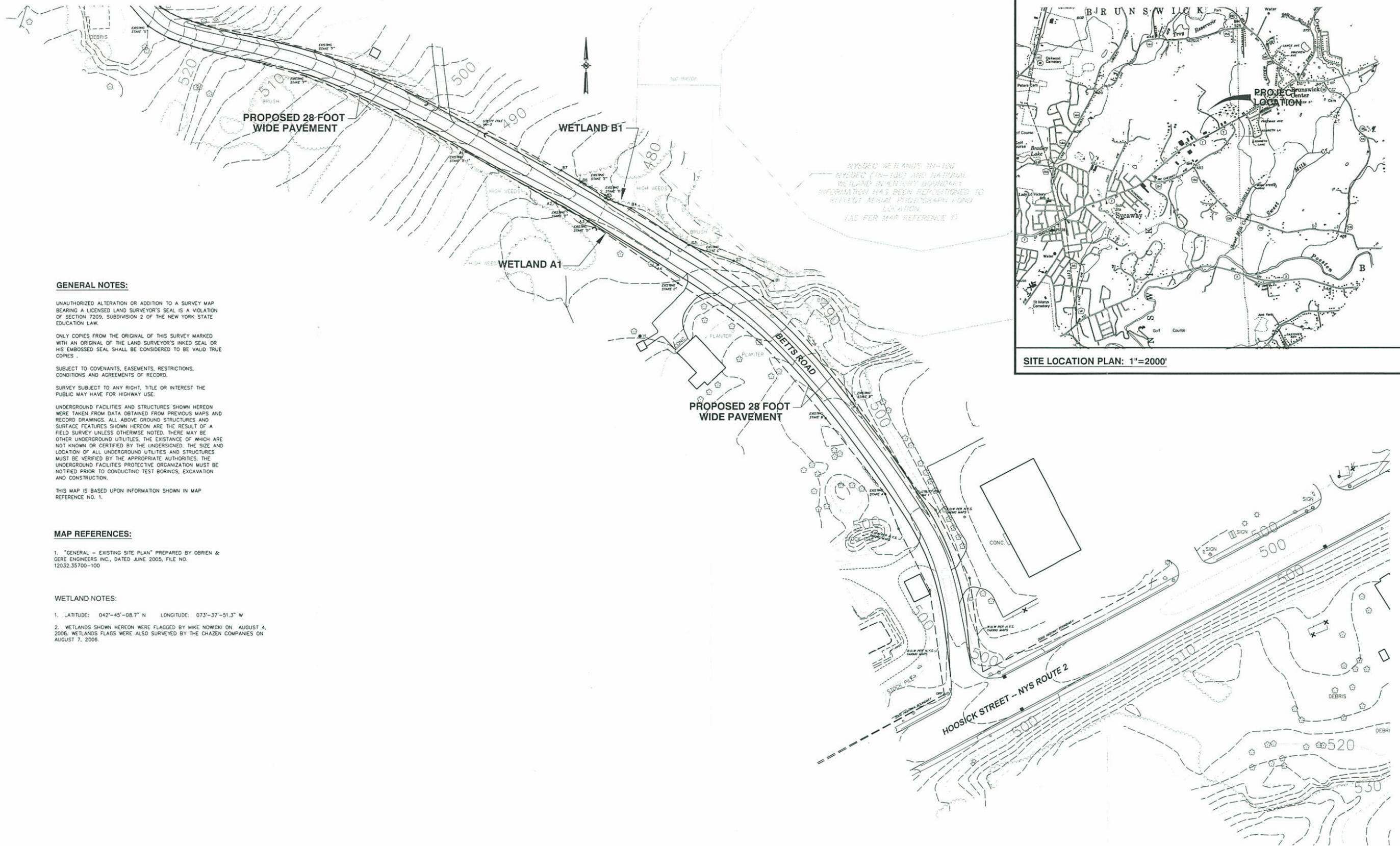
Sincerely,



Barbara B. Beall, PWS  
Manager, Wetland Services

MAK/Enclosures

**Attachment 1:  
Wetland Delineation Map**



SITE LOCATION PLAN: 1"=2000'

**GENERAL NOTES:**

UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

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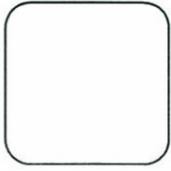
**MAP REFERENCES:**

1. "GENERAL - EXISTING SITE PLAN" PREPARED BY OBRIEN & GERE ENGINEERS INC., DATED JUNE 2005, FILE NO. 12032.35700-100

**WETLAND NOTES:**

1. LATITUDE: 042°-45'-08.7" N LONGITUDE: 073°-37'-51.3" W
2. WETLANDS SHOWN HEREON WERE FLAGGED BY MIKE NOWICKI ON AUGUST 4, 2006. WETLANDS FLAGS WERE ALSO SURVEYED BY THE CHAZEN COMPANIES ON AUGUST 7, 2006.

HYDRED WETLANDS (H-100) HYDRED (H-100) AND NATURAL WETLAND (N-100) BOUNDARIES INFORMATION HAS BEEN REPOSITIONED TO REFLECT AERIAL PHOTOGRAPHY AND LOCATION (AS PER MAP REFERENCE 1)



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**THE Chazen COMPANIES**  
Engineers/Surveyors  
Planners  
Environmental Scientists

**CHAZEN ENGINEERING & LAND SURVEYING CO., P.C.**

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 Orange County Office: 356 Newell Avenue, Newburgh, New York 12550, Phone: (845) 567-1133  
 North Country Office: 100 Dan Street, Glens Falls, New York 12801, Phone: (518) 812-0513

rev.	date	description
3	11-16-06	PROPOSED PAVEMENT ADDED
2	9-25-06	RESUBMITTED FOR COMMENTS
1	8/30/06	REVISIONS PER COMMENTS

CAPITAL DISTRICT PROPERTIES

**WETLAND MAP  
BETTS ROAD**

TOWN OF BRUNSWICK, RENSSELAER COUNTY, NEW YORK

drawn VPA	checked VPA
date 8-10-06	scale 1"=40'
project no. 505AC.01	sheet no. SP1
1 OF 1	

**Attachment 2:  
Site Photographs**



Photo #1

Description: View looking northwest along Betts Road.



Photo #2

Description: View looking south along Betts Road towards Route 7. Open water associated with TN-106 can be seen in far left of photo.



Photo #3

Description: View looking southeast from east edge of road into TN-106.



Photo #4

Description: View looking directly east from edge of Betts Road shoulder into TN-106.



Photo #5

Description: View looking northeast along eastern edge of Betts Road.



Photo #6

Description: Continuation of Photo 5, view looking northeast.



Photo #7

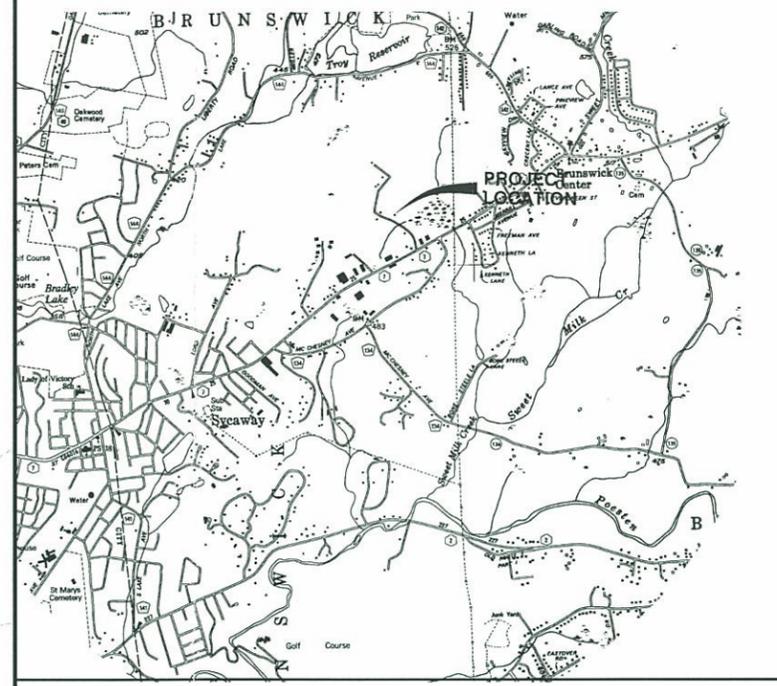
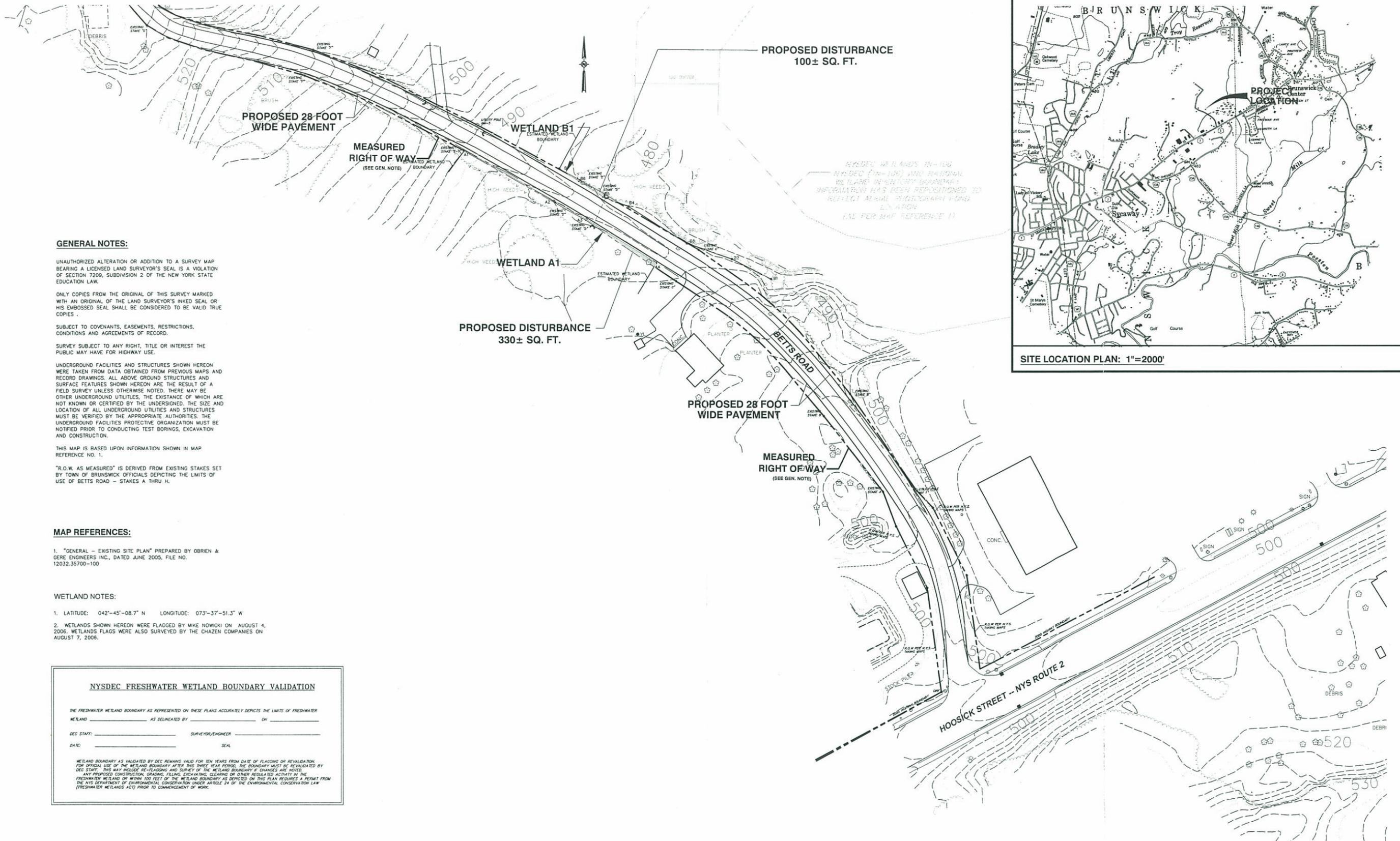
Description: View looking south towards Route 7 from west side of Betts Road.



Photo #8

Description: Continuation of Photo 7, view to south into wetland associated with stream from west side of Betts Road.

**Attachment 3:  
Wetland Impact Plan**



SITE LOCATION PLAN: 1"=2000'

**GENERAL NOTES:**

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"R.O.W. AS MEASURED" IS DERIVED FROM EXISTING STAKES SET BY TOWN OF BRUNSWICK OFFICIALS DEPICTING THE LIMITS OF USE OF BETTS ROAD - STAKES A THRU H.

**MAP REFERENCES:**

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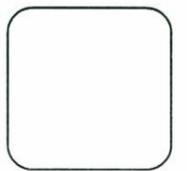
**NYSDEC FRESHWATER WETLAND BOUNDARY VALIDATION**

THE FRESHWATER WETLAND BOUNDARY AS REPRESENTED ON THESE PLANS ACCURATELY DEPICTS THE LIMITS OF FRESHWATER WETLAND \_\_\_\_\_ AS DELINEATED BY \_\_\_\_\_ ON \_\_\_\_\_

DEC STAFF: \_\_\_\_\_ SURVEYOR/ENGINEER

DATE: \_\_\_\_\_ SEAL

WETLAND BOUNDARY AS VALIDATED BY DEC REMAINS VALID FOR TEN YEARS FROM DATE OF FLAGGING OR REVALIDATION. FOR OFFICIAL USE OF THE WETLAND BOUNDARY AFTER THIS THREE YEAR PERIOD, THE BOUNDARY MUST BE REVALIDATED BY DEC STAFF. THIS MAY INCLUDE RE-FLAGGING AND SURVEY OF THE WETLAND BOUNDARY IF CHANGES ARE NOTED. ANY PROPOSED CONSTRUCTION, DRAINAGE, FILLING, EXCAVATING, CLEARING OR OTHER REGULATED ACTIVITY IN THE FRESHWATER WETLAND OR WITHIN 100 FEET OF THE WETLAND BOUNDARY AS DEPICTED ON THIS PLAN REQUIRES A PERMIT FROM THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER ARTICLE 24 OF THE ENVIRONMENTAL CONSERVATION LAW (FRESHWATER WETLANDS ACT) PRIOR TO COMMENCEMENT OF WORK.



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**NYSDEC WETLAND MAP  
BETTS ROAD**

TOWN OF BRUNSWICK, RENSSELAER COUNTY, NEW YORK

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