

4.7 VEGETATION AND WILDLIFE COMMENTS AND RESPONSES

Comment 4.7.1 (Letter A-4 Neil A. Wilson, AICP, LRC Planning Services, September 21, 2006): Page 4.7-8, the commitment to restrict development of the open space areas should be referenced on the site plan. **[Similar comments were found in the following letter: Letter C-51 Judith Terlizzi (9.14.06)]**

***Response 4.7-1:** As documented in Section 4.7-4, lands to remain as open space are proposed to be protected through legal mechanisms. Mechanisms such as deed covenants, conditions and restrictions are commonly incorporated into property deeds for these purposes. Additionally, the final contract drawings will redundantly note the details of the protection limits and legal mechanisms worked out between the Applicant and the Towns.*

Comment 4.7-2 (Letter A-4 Neil A. Wilson, AICP, LRC Planning Services, September 21, 2006): Page 4.7-9, the restriction on clearing of trees between October 1st to March 30th should be referenced on the site plan.

***Response 4.7-2:** The restrictions on tree clearing will be noted on the final plan set for Planning Board review. Specifically, this restriction will require that each construction phase for final site development be evaluated for removal of potential roosting trees, and, if applicable, these trees will be removed pursuant to the USFWS guidelines.*

Comment 4.7-3 (Letter A-6 Marilyn Shanahan, Chief, SEQRA Coordination Section, September 25, 2006): The DEIS states that older trees on the site are approximately 40 to 50 years old. Please provide additional information on how this determination was made.

***Response 4.7-3:** The project site consists generally of second growth woodlands transected by stone walls associated with pasture limits during the former agricultural usage of the site. The vegetative community in these second growth woodlands are dominated by a canopy layer of medium size trees (<15" to 20" diameter at breast height (dbh)) that have become established since the former fields were allowed to go fallow. It was estimated that the older observed specimens in this community of trees ranged from 40 to 50 years of age although no tree cores were taken for confirmation. This conclusion is also supported by the analysis of aerial photography available from the 1960's, which show the site either still in pasture or in the beginning stages of succession. Assuming tree age-diameter relationships for woods as a whole provides only approximate age estimates that do not take into consideration older and larger trees on a property that may be present due to their location within less disturbed areas of a site, including areas of hedgerows, wetlands and swamps, border boundaries or trees that may have been previously allowed to grow in fields and pastures (wolf trees). Such specimens on a property may be substantially older than the numerically dominant age-class of trees present.*

Comment 4.7-4 (Letter A-6 Marilyn Shanahan, Chief, SEQRA Coordination Section, September 25, 2006): While the forest cover that remains will certainly provide some control of erosion and provide habitat for wildlife, it is not clear that the land is protected from future development or expansion of the retail center. Please explain what measures are in place to assure preservation of forest cover over the long term.

Response 4.7-4: See Response 4.7-1.

Comment 4.7-5 (Letter A-6 Marilyn Shanahan, Chief, SEQRA Coordination Section, September 25, 2006): The DEIS states that “native species will be used for landscaping purposes where possible”. However, the list of species provided in table 4.7-3 consists of approximately 20% European or Asian species, 33% plants that do not naturally occur in our region (though they are native to North America), and another 20% of plants that are listed only by genus, so nativity cannot be determined. DEP urges the applicant to include a higher percentage of native species. More over, DEP urges the applicant to make use of non-invasive species in an attempt maintain the character of the surrounding natural areas.

Response 4.7-5: All species used in the final landscaping plan will be “non-invasive”, i.e., they will not be aggressive, opportunistic species that will eventually dominate over other desirable species. All of the species listed on Table 4.7-3 of the DEIS meet this criteria.

The final landscaping plans developed for this project will also show that all species to be used in areas where site stabilization are proposed will be native species only. Cut banks, detention and water quality treatment basins, and planted buffer areas will receive this treatment.

Foundation plantings, parking lot islands and other areas where plants will be highly stressed will not likely be landscaped using only native species, because most native species can not tolerate the conditions in these areas. Native species will be used where appropriate, but some non-native species will also be required.

Comment 4.7-6 (Letter A-6 Marilyn Shanahan, Chief, SEQRA Coordination Section, September 25, 2006): It could not be determined from landscaping drawings provided whether species chosen for placement along access road are resistant to snow/ice removal chemicals. The Final EIS should discuss the chosen species ability to survive with these chemicals.

Response 4.7-6: Salt tolerant plants will be used in areas that may be subject to salt spreading and may include the following which are listed on the Cornell Cooperative Extension website (<http://www.cce.cornell.edu/>):

Table 4.7-1: Salt Tolerant Plants			
<i>Shrubs</i>		<i>Trees</i>	
<i>Northern Bayberry</i>	<i>Myrica pennsylvanica</i>	<i>White Oak</i>	<i>Quercus alba</i>
<i>Serviceberry</i>	<i>Amalanchier canadensis</i>	<i>Red Oak</i>	<i>Quecus rubra</i>
<i>Witch Hazel</i>	<i>Hamamelis virginiana</i>	<i>White Spruce</i>	<i>Picea glauca</i>
<i>Chokeberry</i>	<i>Aronia spp</i>	<i>Colorado Blue Spruce</i>	<i>Picea pungens glauca</i>
<i>Winterberry holly</i>	<i>Ilex verticillata</i>	<i>Mugho Pine</i>	<i>Pinus mugho</i>
<i>Cinquefoil</i>	<i>Potentilla spp.</i>	<i>Japanese Black Pine</i>	<i>Pinus thunbergii</i>
<i>Arrowwood</i>	<i>Viburnum dentatum</i>	<i>Birch</i>	<i>Betula spp.</i>
<i>Cotoneaster</i>	<i>Cotoneaster divaricata</i>	<i>Honey Locust</i>	<i>Gleditsia triacanthos</i>

Locations that are most likely to be affected are those areas immediately around the proposed buildings and other pedestrian areas where it is most critical. Therefore those landscaped areas closest to the proposed buildings will use plant species that are most tolerant of occasional salt application. Should salt be used for these areas a typical mixture of approximately seven parts sand and one part salt would be used. The winter maintenance of the access roads and parking lots will remain sand only, unless the town determines at some future date that application of salt in limited areas is desirable for safety reasons.

Comment 4.7-7 (Letter B-2 James Bacon, Attorney for CWCWC and PCCPOS, September 25, 2006): Tim Miller Associates has not demonstrated the expertise to identify endangered and rare species.

Response 4.7-7: *The potential for the presence of rare or endangered species on the site was determined by a physical assessment of the site, and corroborated by requesting the appropriate State and Federal agencies provide input from their databases of known records for all listed species. According to the New York State Department of Environmental Conservation (NYSDEC) Natural Heritage Program (NHP), there are no records of rare or endangered wildlife species known to inhabit the site or nearby areas. As over a year passed since the original response was generated by the NYSDEC NHP a second query was made of the agency. The updated response containing the most current information in the State database indicated there are still "...no known occurrence of rare or state-listed animals, plants, significant natural communities or other significant habitats , on or in the immediate vicinity.." of the project site (Appendix A, Correspondence).*

*When contacted previously, the U.S. Fish and Wildlife Service (USFWS) had stated that the proposed project area is approximately 12 miles from known roost sites of the Federally listed Indiana bat (DEIS Appendix B - Correspondence). Presently the USFWS provides online resources to issue information updates regarding occurrences of Federally-listed threatened or endangered species within the vicinity of proposed project sites. The agencies webpages provide their current best available information regarding Federally-listed species "known or likely" to occur in Putnam County, in the form of a Putnam County-wide species list. The Putnam County list includes five species: bald eagle (*Haliaeetus leucocephalus* - Threatened, but considered for delisting), bog turtle (*Clemmys muhlengergii* - Threatened), Indiana bat (*Myotis sodalis* - Endangered), shortnose sturgeon (*Acipenser brevirostrum* - Endangered, but considered for reclassifying) and New England cottontail (*Sylvilagus transitionalis*, a Candidate species for possible future listing).*

One of these species, the sturgeon, is only present in the Hudson River; and another, the bat, is noted to only be present during summer months in Putnam County. The other three species, the eagle, the turtle and the rabbit have habitat requirements that are not generally met by the characteristics of this site. The New England cottontail is a thicket-dependent species that is expected to be uncommon in the area and, as described in the USFWS Region 5 "Species Assessment and Listing Priority Assignment Form" for the species, is typically associated with extensive shrub thickets developed along "beaver flowage wetlands, idle agricultural lands, power line corridors, railroad right-of-ways, and patches of regenerating forests", none of which are present on the project site.

Prime nesting habitat for the bald eagle includes large (generally super-canopy trees, especially white pines) on the shores of or in close proximity to open water. The NYSDEC keeps records of bald eagle nests sites and none were identified in the area of the project site.

Regarding Indiana bats, the U.S. Fish and Wildlife Service reports that the proposed project area is approximately 12 miles from known roost sites and approximately 32 miles from known hibernacula. The NYSDEC has documented that female bats have traveled up to 40 miles from their wintering hibernacula to roosting sites in the area and that they are capable of flying much greater distances. The site does contain limited potential roosting/maternity trees (trees with exfoliating bark and/or split branches or trunks) and limited potential foraging habitat (upland forest canopy). Potential roosting/maternity trees, however, are few and far between on the subject site, and the observed trees have little direct exposure to solar radiation (roosts warmed by sunlight are preferred to those in the shade). This species generally roosts in several trees in relatively close proximity over the summer months. Although not preferred habitat, Indiana bats do forage in upland forest canopies, with which the site is over 75 percent covered.

*During a habitat assessment in March of 2006, observations were made regarding the numbers of potential maternity/roosting trees on the Patterson Crossing Retail Center property, and their location relative to solar exposure and other habitat requirements. Special care was taken to search for black locust (*Robinia pseudoacacia*), shagbark hickory (*Carya ovata*) and standing dead trees (snags), which are the preferred roosting/maternity trees used by this bat species due to the overhanging or peeling bark and the presence of cracks and splits in the snags.*

Only a very small number of shagbark hickories were observed, with many of these trees being less than 6 inches dbh. Small black locusts were observed, and standing dead trees are uncommon. The conclusion of this site evaluation is that, while some potential roosting trees do exist, the site has a very low probability of supporting Indiana bats.

As detailed in Section 4.7 of the DEIS, on-site investigations of potential habitat for the Indiana bat and other regionally present rare or endangered reptile and amphibian species were conducted by a team of biologists led by Steve Marino of Tim Miller Associates, Inc. who is a Senior Biologist, a certified Professional Wetland Scientist with a degree in Biology and has over 21 years of experience in the assessment of wetlands and terrestrial ecology. The site was investigated for the potential presence of rare and endangered species on a number of days in the spring and summer of 2005, and none were found. Primary wildlife survey dates were 3/22/05, 3/29/05, 4/13/05, 5/10/05, 6/1/05 and 6/2/05. Additional observations were made on 1/18/05, 5/3/05, 5/17/05, 7/21/05 and 8/9/05.

No individuals of the species that are listed as endangered or threatened were observed during the on-site assessment of habitats for the species under consideration.

Comment 4.7-8 (Letter B-2 James Bacon, Attorney for CWCWC and PCCPOS, September 25, 2006): The lead agency should require the applicant to conduct appropriate studies as directed by Hudsonia's Biodiversity Assessment Manual and require that qualified personnel conduct the searches, such as a Certified Biologist.

Response 4.7-8: All studies were done in accordance with the adopted DEIS scope for this Project.

With respect to the suggestion that the Lead Agency require a Certified Biologist to carry out the studies, the following is noted as provided by the Wildlife Society: "The program for certification of wildlife biologists is a service provided by The Wildlife Society for its members, as well as nonmembers and the public, who may desire a peer evaluation statement. Certification constitutes recognition by The Wildlife Society that, to its best knowledge, an applicant meets the minimum educational, experience, and ethical standards adopted by the Society for professional wildlife biologists. Certification does not constitute a guarantee that the applicant meets a certain standard of competence or possesses certain knowledge." (The Wildlife Society, 2007).

It would appear that the background of the personnel and the reputation of the firm carrying out the work is at least, if not more meaningful than the aforementioned certification. The biologists at Tim Miller Associates, who work regularly with NYSDEC, USFWS and the US Army Corps of Engineers staff, have conducted numerous habitat assessments and wildlife surveys in seven counties in the lower Hudson Valley, and have over 40 years combined experience in this area.

Comment 4.7-9 (Letter B-6 Ann Fanizzi, Chair, Putnam County Coalition to Preserve Open Space, September 25, 2006): Therefore, in the DEIS, rodents underwent a metamorphosis and euphemistically became "nuisance animals". In the Scoping Document, however, there was a clear indication that rodents were the object of attention. On page 20, sub-category B, the Scoping Document states: "Discuss the potential increase in rodent or scavenger populations and then under "C" Mitigation Measures - identify methods that will be used to control rodents and other scavengers such as the use of containers with lids.

Response 4.7-9: Nuisance animals would include rodents, raccoons, sea gulls, opossums, chipmunks and squirrels, among others.

Section 4-10 (Utilities) of the DEIS states that all of the refuse storage facilities would be screened and covered in order to minimize potential impacts relating to nuisance animals, the description of which includes rodent populations. If necessary, supplemental measures, which may include additional fencing and the use of traps, would be employed to reduce rodent populations on the property.

For food service operations within the proposed development, the compliance with Putnam County Department of Health Food Service Protection Program regulations, designed to protect the public health from adverse impacts of the operation of food service facilities, would be implemented. Inspections conducted by the Department of Health are expected to enforce all applicable regulations related to refuse handling and storage and pest control at these facilities.

Comment 4.7-10 (Letter B-9 Christopher M. Wilde, Staff Attorney & Watershed Program Director, William Wegner Watershed Analyst, September 25, 2006): The proposed mitigation measures are weak when viewed in the context that restricting disturbance to 68.4 acres of the project site is not mitigation at all, but is merely the destruction of 68.4 acres of wildlife habitat. While it is commendable that the applicant proposes the dedication of restricted open space, preservation of forest cover and stream buffers, and landscaping with native vegetation for wildlife habitat, a discussion of the true impacts to wildlife and effective mitigation practices is lacking.

Response 4.7-10: *It may be a misnomer to suggest that restricting disturbance to that needed to implement the plan is a mitigation measure. What is more accurate is to say that when land development occurs, the conditions will change from an un-built environment dominated by trees, shrubs, pervious soils, etc., to a built environment with trees, shrubs, and impervious surface. In the case of the Patterson Crossing Retail Center, no more disturbance is proposed than is absolutely necessary to implement the proposed plan and develop the land consistent with the Towns' zoning designation of the subject site.*

Nonetheless, each of the potential mitigation items identified in the SEQRA Scoping document for the project's potential impacts to wildlife were addressed within the DEIS. These items included: dedication of restricted open space, removal of minimum amounts of forest cover, preservation of clusters of trees wherever possible, preservation of vegetative buffers along stream banks, and provision of landscaped areas with native vegetation that provides high quality wildlife habitat. It should be noted that the 63.75 acres of disturbance includes approximately 32.75 acres that are proposed to be revegetated and would be available as wildlife habitat, albeit altered from its existing condition, post-development.

Comment 4.7-11 (Letter B-9 Christopher M. Wilde, Staff Attorney & Watershed Program Director, William Wegner Watershed Analyst, September 25, 2006): The applicant claims that upon their return from migration, "most migratory [bird] species will adaptively seek other nearby or regionally available environments in response to alterations to this property."⁴⁷ While this may be true, the DEIS provides no documentation that the bird populations of "nearby" or "regionally available" habitats are not already saturated to their carrying capacities. Similarly, the DEIS provides no documentation demonstrating that the displacement of birds from their territories on the subject property has no impact on their ability to survive and reproduce. On the contrary, displacement is a potential cause of population decline.⁴⁸

Response 4.7-11: *Comment noted. The proposed construction of the site will alter wildlife habitat. A reduction in habitat will result in the local loss or displacement of wildlife relying upon said habitat. There have been no recorded reports that nearby habitats are saturated to their carrying capacities from local, State or Federal agencies that would monitor these conditions and areas of the site will remain available for local relocation of some individuals. As demonstrated by the short list of bird and animal species that were actually observed on this site, the property does not support a large population or high biodiversity of wildlife species. All of the species observed are common in the local and regional ecosystems. Displacement of individuals to adjacent properties, particularly for the bird species, is likely, but the*

effect on the overall population is expected to be negligible. Loss of other individuals, through predation, human interaction or loss of habitat, may also occur. This is not, however, to suggest that the loss of regionally common wildlife habitat and diminished site wildlife populations of common local species can be characterized as a significant adverse environmental impact for purposes of SEQRA. None of the species observed have highly specialized habitat requirements.

It should be noted that just northeast of the project site is the roughly 800 acre Wonder Lake State Park (Passive) and other large properties that provide higher quality, more contiguous habitat for wildlife.

Comment 4.7-12 (Letter B-9 Christopher M. Wilde, Staff Attorney & Watershed Program Director, William Wegner Watershed Analyst, September 25, 2006): The applicant broadly and erroneously assumes that the destruction and fragmentation of wildlife habitat will merely cause birds and other wildlife to vacate their defended territories to establish new ones elsewhere, but this naive approach fails to consider local and regional population dynamics, competition with conspecifics and other ecological parameters that affect a species' ability to survive and reproduce. Even if species "relocate to similar habitats off-site, with bird species able to fly in search of new habitat and terrestrial species restricted to overland movements,"⁴⁹ "the extirpation of wildlife species from their breeding and feeding territories attends potential population declines that must be researched and addressed.

Response 4.7-12: *Comment noted. See Response 4.7-11. It is beyond the scope of this analysis and the intent of SEQRA to address wide scale population dynamics on a regional scale. Based on the site work that has been concluded to date, no rare or unusual species were observed on or expected to utilize this site; the possible displacement of certain individuals of locally common species is not expected to have a regional impact on the population of these species.*

Comment 4.7-13 (Letter B-9 Christopher M. Wilde, Staff Attorney & Watershed Program Director, William Wegner Watershed Analyst, September 25, 2006): In addition, the DEIS fails to address the impacts of habitat fragmentation. While the applicant proposes the preservation of open space, forest cover and buffers, there is no proposal to preserve the habitat corridors upon which wildlife rely in their daily and seasonal movements. Rather than isolating habitat in pockets on the proposed wastewater" disposal field and along streambanks, the applicant should offer to mitigate fragmentation of existing habitat by retaining or creating corridors.

Response 4.7-13: *A review of an aerial photo depicting the site and the surrounding areas is revealing as to the potential for wildlife corridors near the Patterson Crossing Retail Center site (see FEIS Figure 4.7-1). The site is isolated from other wildlife habitat to the east by Interstate 84 and to the west and northwest by substantial and moderately dense residential development. NYS Route 311 and the DPW facility presents an additional constraint to wildlife movement to the north of the site. There is a potential wildlife corridor along Interstate 84 that trends generally towards the south, which would remain. This area is transected by Fair Street immediately to the south and Bullet Hole Road further south which act as barriers to the movement of some species. The project site is not considered to function as a significant wildlife corridor between off-site habitat areas. The single corridor habitat identified for the*

site was along the channel of the Middle Branch Croton River and this habitat is to be retained.

Due to the topographic complexities of locating the proposed development on the site, all trees within the central developed portion of the property will be removed, equal to the limits of disturbance as shown on the site plans. There are no practical provisions to create wildlife corridors across this central portion of the site, although the open space lands that are to be retained around the perimeter of the site will represent a mostly contiguous area of wooded cover that could provide corridors for on-site movement of some species of wildlife around the developed area of the site.

Comment 4.7-14 (Letter C-1 Carol F Arnold , September 21, 2006): Further concerns include the destruction of thousands of trees and the leveling of a large hillside. This will negatively impact the environment and the habitats of birds and animals. Trees act as a buffer and are filtering agents against harmful pollution, including light and noise pollution.

Response 4.7-14: *Comment noted. The proposed construction of the site will result in the removal of trees as noted in the DEIS. The development envelope has been minimized to the maximum extent practicable thereby limiting the number of trees to be removed. Refer to Response 4.7-10 for additional text regarding the preservation and replanting of lands on the project site.*

Comment 4.7-15 (Letter C-15 Suzannah C. Glidden, Chair Hands across the Border, September 12, 2006): And what of consideration for our wildlife habitat, where are the wildlife to go? The developer suggest that there is a large tract of land across Route 84. They are to make their way across Route 84, alive? Not likely. **[Similar comment was found in the following letter: Letter C-51 Judith Terlizzi (9.14.06)]**

Response 4.7-15: *Land bound wildlife that are unlikely to cross Interstate 84 may migrate along the western bounds of this highway to wooded parcels located generally to the south and possibly the northeast. These areas offer similar habitat and are less fragmented than the subject site (refer to FEIS Figure 4.7-1). As described in the DEIS, minimal use of the site by reptiles, amphibians and mammals was observed by biologists during site evaluations and wildlife inventories. Bird species that were observed can certainly re-locate as necessary to other nearby open space parcels.*

Comment 4.7-16 (Letter C-28 Ray Mainiero, Submitted September 13, 2006): The DEIS states the biologists followed "the route of the transits generally followed the existing dirt roads on the site in a zigzag pattern". This was done to observe potential endangered species such as the "Bog Turtle" the "Mud Turtle", etc. Was there ever randomized creation of 10x10m plots with detailed observations of each plot to quantify and identify the population of existing species? The existing table is for a normal habitat found in Putnam County. It does not apply specifically to this site. **[Similar comments were expressed by the following members of the public during DEIS public hearings: Public Hearing, Ray Mainiero (9.13.06)]**

Response 4.7-16: *The scope for the DEIS did not require the use of quadrats, to evaluate the potential habitat on this site. Trapping and marking of animals would be necessary in order to quantify the wildlife populations on the site, and no such*

activities were undertaken or required. The wildlife species specifically observed on the site were identified in DEIS Table 4.7-1, Wildlife List by an asterisk after the species common name. Only these species were observed after numerous site visits. The additional species listed were included for disclosure of those species that, in the opinion of the biologists, are likely to use the site, even if they were not observed. Most important to an analysis of this type is the evaluation of the site for use by threatened or endangered species, and this was discussed in detail in the DEIS; summarizing, none were found.

Comment 4.7-17 (Letter C-28 Ray Mainiero, Submitted September 13, 2006): Were observations made during all seasons of the year? Were any migratory animals observed during these times? Is this a possible corridor for migrating animals during spring and winter months? Was any observation of this done? **[Similar comments were expressed by the following members of the public during DEIS public hearings: Public Hearing, Ray Mainiero (9.13.06)]**

***Response 4.7-17:** The site was visited on several occasions between mid-January and early August of 2005 when wildlife and habitat observations were made. For specific observation dates, see Response 4.7-7. Migrating animals were observed on or from the site during the course of the year and those species are included in the Wildlife List (Table 4.7-1) in the DEIS. Refer to Response 4.7-13 for information on wildlife corridors.*

Comment 4.7-18 (Letter C-28 Ray Mainiero, Submitted September 13, 2006): Table 4.7.1 (Wildlife List), section 4.7.3: This table indicates that there were only five mammal species observed on this site! How thorough an investigation was it if only "five mammal species" were observed on a 90 acre plot? How can we be assured that it was an accurate and comprehensive study of the entire ecosystem? **[Similar comments were expressed by the following members of the public during DEIS public hearings: Public Hearing, Ray Mainiero (9.13.06)]**

***Response 4.7-18:** Table 4.7-1 of the DEIS lists the eight mammal species that were observed on the site. As trapping was not conducted during the wildlife investigations, the species listed represent primarily the larger mammal species that are active during daylight hours. Smaller, cryptic or nocturnal mammals are also expected to be present on the site, and provision is made for the probable presence of many of these species by their inclusion on the DEIS Wildlife List (Table 4.7-1) which includes species that could potentially inhabit the site.*

Comment 4.7-19 (Letter C-28 Ray Mainiero, Submitted September 13, 2006): How many trees will be cut down? What are their approximate average diameters? How old are they? Think of all the niche systems that will be destroyed when these trees are cut down. Think of the impact that will have on all the plants and animals in this area of Putnam County. We are handing over our precious environment to greedy developers, who has the audacity to substitute 5 gallon sized trees to replace what we now have! **[Similar comments were expressed by the following members of the public during DEIS public hearings: [Public Hearing, Ray Mainiero (9.13.06)]**

***Response 4.7-19:** A tree survey was not required for the DEIS by the Scope adopted by the Lead Agency. As such it is not known exactly how many trees will be*

removed to accommodate the development proposal. It is noted that the DEIS identified the site as predominantly a second growth forest dominated by a mix of deciduous trees including red maple, white oak, sycamore and American beech with an average age of approximately 40 to 50 years. It is acknowledged that impacts to trees and the habitat they provide will be associated with the proposed construction of the site. Refer also to Response 4.7-3.

Comment 4.7-20 (Letter C-28 Ray Mainiero, Submitted September 13, 2006): Mr. Camarda stated at a recent meeting that the displayed species would migrate to another habitat. This is simply false. Each habitat has its own existing species occupying an already existing niche and cannot simply be displaced by an incoming species. They will compete on the availability of food productivity, and one will die as a result. (As a biology teacher of 38 years I have gone on many field trips, and even though I am not an expert, I can guarantee you that the average person will observe more mammal species than those mentioned, simply by taking a casual stroll through this site).

Response 4.7-20: *Comment noted. As documented in Response 4.7-3, it is acknowledged that impacts will be associated with the proposed construction of the site. Competition for ecological niches occurs often in nature; the commentor assumes that all existing open space in eastern Putnam County is saturated for all wildlife species. The Applicant knows of no studies that come to that conclusion.*

Please also see Responses 4.7-12 and 4.7-18.

Comment 4.7-21 (Letter C-41 David G. Reeves, September 22, 2006): Under “Dedication of Restricted Open Space” the text notes that while all open space on the project will remain in private ownership, they will be dedicated as open space through the incorporation of legal mechanisms (e.g. Deed restrictions). Since these open space areas do not yet appear to be specifically indicated on any mapping, the DEIS documents should somehow highlight these area (e.g., by reference to the Post Development Vegetated Areas shown on DEIS Figure 4.7-2), or on the Site Plans. Subsequently, under the continued development of the Site plans, metes and bounds descriptions of these areas designated as either “open space”, “reservation” or “undeveloped” should be included, which could also be referenced in any legal documentation for the project.

Response 4.7-21: *Refer to DEIS Figure 4-7.2, Post Development Vegetated Areas as well as the site plans for areas to remain undisturbed. Appropriate legal descriptions for those areas to remain intact shall be drafted upon the Town’s preferred mechanism. Final site plan approval will specifically identify those areas that will be included within the deed restricted areas.*

Comment 4.7-22 (Letter C-43 Julia Rellou, August 23, 2006): The risk of soil erosion and sedimentation into the drinking water supply risk that even the best management practices cannot adequately mitigate; the destruction and fragmentation of wildlife habitat; the loss and displacement of wildlife; resulting in animal population decline or being marginalized into areas closer to nearby residential zones; the cumulative impact of losing this forest on local precipitation and soil fertility; and the negative interaction between land and water systems along this ecotone, are all unacceptable high risks that this projects DEIS does not adequately mitigate.

Response 4.7-22: Refer to responses 4.7-14 and 4.7-15.

Comment 4.7-23 (Letter C-44 Peter Riebold, September 22, 2006): This paragraph states that the eastern hog nose snake is adaptable to new fields, pastures, and suburban areas and should continue to survive on this parcel. That is of course if it can survive the onslaught of the bulldozers!

Response 4.7-23: *A phased sequence of construction is proposed which will minimize the impacts related to the development of the project site. One of the advantages to phasing construction is that the process enables wildlife to migrate to less active areas of the site or to other appropriate habitats off site. Species tolerant of human habitat and activity will return to the site post construction. The eastern hog nose snake, if present under the existing conditions, will continue to utilize the undisturbed habitat or even some of the areas proposed for revegetation.*

Comment 4.7-24 (Letter C-44 Peter Riebold, September 22, 2006): These paragraphs discuss the displacement and disturbance to the wildlife populations resident on the project site. The first paragraph notes that “Most wildlife movement from this site would be expected to move north south and east beyond Interstate 84 of the property.” The second paragraph states “The proximity of this site to other woodlands is expected to provide alternative habitat for most of these species.” It must be noted that many animals will indeed flee east onto Interstate 84 or north onto Route 311 where they would be slaughtered by highway traffic. They would also pose a hazard to drivers on both roads creating a potential for serious injury. It must also be noted that several large tracts of land in the immediate area are zoned C 1 or I and that the town of Patterson is favorable to the development of these parcels with large commercial or industrial projects. These parcels include a C 1 zone on Route 311 east of Fair Street a smaller C 1 zone on Ludingtonville Road north of Route 311 and a large I zone straddling Interstate 84 from the Kent town line east to Fair Street. Development of these parcels would destroy much of the similar alternative habitat that wildlife might seek as they are displaced from the Patterson Crossing site.

Response 4.7-24: *As described above, the phased construction of the site is also likely to result in the phased movement of wildlife from disturbed areas on the site to undisturbed areas on and off site. Based on instinct, wildlife migrating away from the site during development will usually avoid other hazards, including roadways when they are heavily traveled. As noted in other responses, this site is not heavily populated by any species, therefore a mass exodus of a large number of site animals toward Route 84 is unlikely. Refer also to response 4.7-15.*

This project can not assume what, if any, future development may occur on other commercial and industrial zoned parcel in the two Towns; nor is it the responsibility of the Applicant to mitigate impacts associated with any potential future projects in consideration of this project. Each development proposal will be required to go through its own environmental review at which time its impacts will be assessed.

Comment 4.7-25 (Letter C-44 Peter Riebold, September 22, 2006): Since the developer would retain ownership of the undeveloped areas and will not deed conservation rights to the towns or to a conservation organization there is no guarantee that these areas will not be developed in the future. And, as noted above in the comments for DEIS Page 4.4-11, Section 4.4.4 “Mitigation”, Sub Section “Potential SSTS Impacts”, the DEIS already alludes

to future building on the Patterson Crossing site after the initial project has been completed. The nature of any deed restriction and any other legal mechanisms must be clearly stated in the DEIS.

***Response 4.7-25:** Refer to responses 4.7-1 and 4.7-21. There is a greater tax benefit to the Town in the applicant retaining private ownership of those lands proposed to remain undisturbed and legally protected from future development as the property would remain on the assessment rolls.*

Comment 4.7-27 (Comment number not used):

Comment 4.7-28 (Letter #C-4, Elena Bao, September 25, 2006): The DEC in this 1/17/05 letter states they cannot provide a definitive statement on the presence or absence of rare or state-listed species, natural communities, or other significant habitats with regard to the project site. Betty A. Ketchum recommended that the Applicant re-contact her agency if the project was still under development in 1/06 for an updated response. The Applicant did not follow the DEC's recommendations and has not re-contacted this agency for an updated assessment. An updated response from the DEC is required in order for this DEIS to be complete.

***Response 4.7-28:** The updated letter from the Natural Heritage Program (dated 4/5/07) is included with this FEIS. Independent of the NYSDEC's involvement, the Applicant's consultant also conducted a habitat evaluation for State listed species in the DEIS.*



Figure 4.7-1: Aerial Photograph of Project Site
Patterson Crossing Retail Center
Town of Patterson and Town of Kent,
Putnam County, New York
Source: NYS GIS Clearinghouse, 2004 Aerial
Scale: 1 inch = 560 feet