

**PATTERSON CROSSING RETAIL CENTER**  
**FINAL ENVIRONMENTAL IMPACT STATEMENT**

**VOLUME II**

**NYS ROUTE 311 at INTERSTATE 84 EXIT 18**

**Towns of Patterson and Kent, Putnam County, New York**

Project Sponsor: Patterson Crossing Realty, LLC  
1699 Route 6, Suite 1  
Carmel, NY 10512  
Contact: Paul A. Camarda  
Tel. (845) 228-1400

Lead Agency: Town of Patterson Planning Board  
P.O. Box 470  
1142 Route 311  
Patterson, NY 12563  
Contact: Richard Williams Sr., Town Planner  
Tel. (845) 878-6500

Prepared By: TIM MILLER ASSOCIATES, Inc.  
10 North Street  
Cold Spring, New York 10516  
Contact: Tim Miller, AICP  
Tel. (845) 265-4400

Project Engineer: Insite Engineering,  
Surveying & Landscape Architecture, P.C.  
3 Garrett Place  
Carmel, NY 10512  
Contact: Jefferey Contelmo, P.E.  
Tel. (845) 225-9690

Lead Agency Acceptance Date: \_\_\_\_\_

Public Hearing Date: \_\_\_\_\_

Deadline for Receipt of Public Comments: \_\_\_\_\_

**June 12, 2008**



**Project Consultants**  
for  
**Patterson Crossing Retail Center FEIS**

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Cornwall, New York 12518  
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Fax. (845) 534-3314

Cultural Resources Consultant  
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Geotechnical Consultant  
GEODESIGN INCORPORATED  
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Middlebury, CT 06762  
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Lighting Consultant  
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One Half Crossbar Road  
Hastings-On-Hudson, NY 10706  
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Tel: (914) 693-7427  
Fax: (914) 693-7451



**PATTERSON CROSSING RETAIL CENTER**  
**Final Environmental Impact Statement**

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***Volume II***

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Appendix A  
CORRESPONDENCE



TOWN OF KENT

Planning Board

770 Route 52

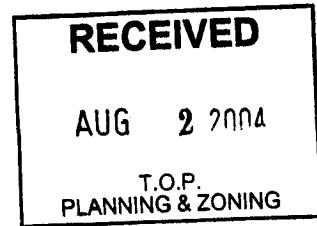
Carmel, New York 10512

(845) 225-7802

Fax (845) 228-0019

July 29, 2004

VIA FIRST CLASS MAIL RETURN RECEIPT  
and  
VIA FAX: 914-878-2019



Hon. Herb Schech, Chairman  
Town of Patterson Planning Board  
Town Hall  
1142 Route 311  
Patterson, New York 12563

*Re: Notice of Intent For Designation of Lead Agency  
Patterson Crossing Retail Center  
New York State Route 311*

Dear Chairman Schech:

This letter is in reply to the Notice of Intent For Designation of Lead Agency mailed on July 2, 2004 concerning the above referenced application. Please be advised that the Town of Kent Planning Board **does not consent** to your agency acting as the Lead Agency to coordinate the review of this application. Our objection to this designation is based on the severity of potential impacts of this project being primarily borne by the Town of Kent, and on the jurisdiction of the Town of Kent Planning Board as "*an involved agency principally responsible for undertaking, funding or approving an action*", specifically:

1. Traffic: The sole point of access to the project site is via Route 311 in the Town of Kent and all of the traffic impacts, including construction related delays and post-construction volume, would directly affect the large residential areas in the Town of Kent located along Route 311. As you know, Route 311 is a major arterial route for local residents to access Interstate 84 and Route 52 in the Town of Kent, and any significant change in land use along the corridor would have an adverse effect on the character of the community.
2. Surface Water: The project plans depict a series of storm water management devices located in the Town of Kent to direct storm water runoff into a tributary to Lake Carmel. Storm water impacts associated with this project, both in terms of volume and quality,

would directly affect the recreational and drinking water supplies located in the Town of Kent.

3. Ground Water: The proposed project is located in an area that is not serviced by any centralized sewer or water facilities, thereby requiring the construction of on-site supply and treatment facilities to handle the estimated 43,600 gallons per day of water required for the facility. This volume of water withdrawal and sewage treatment holds the potential to adversely affect the ground water resources on which large numbers of residents of the Town of Kent rely as the sole source of potable water.
4. Emergency Services: The proposed project will impose additional requirements for police, fire and ambulance protection on already strained municipal resources. In fact, the location of the project makes it likely that the emergency service personnel of the Town of Kent would be the first responders to any calls at the retail center. The proposed project represents an additional burden on the taxpayers of the Town of Kent without providing any off-set in the form of increased taxes to pay for the expanded emergency coverage obligations.
5. Visual Impacts: The proposed project is located along the Route 311 gateway to the Town of Kent, and the amount of clearing and land disturbance required for construction of the project would be a dramatic and stark change from the current forested hillside appearance of the site. A large number of residents in the Town of Kent would be burdened with an excessive change in the visual appearance of the site without adequate buffering and landscaping.
6. Community Character: Similar to issues related to visual impact, the proposed project would be a significant change of land use that would place a large commercial use in close proximity to residential lands in the Town of Kent. This would have an immediate adverse effect on the primarily residential character of the area surrounding the project site.

Under the State Environmental Quality Review Act regulations, the Lead Agency is defined as . . . *"an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required."* (6 NYCRR 617.2(u)). The proposed application requires site plan, steep slope permit, wetland and sign permits from the Town of Kent. Without these permits the proposed project cannot

*Hon. Herb Schech, Chairman  
Patterson Crossing  
July 29, 2004  
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proceed since the only point of access to the project is via the Town of Kent, and the proposed access, storm water, and retail buildings cannot be constructed. The Town of Kent Planning Board is therefore an agency that is "principally responsible" for approving the action, and is the agency that should be named as the Lead Agency for review of this project.

In accordance with 6 NYCRR 617.6(5)(i) of the SEQRA regulations a copy of this letter has been sent to the Commissioner of the New York State Department of Environmental Conservation via first class certified mail, and to the other involved agencies and the applicant. Upon resolution of this dispute, the Town of Kent Planning Board is fully prepared to assume the role of lead agency in accordance 6 NYCRR 617.6(5)(i).

**Very Truly Yours,**

  
\_\_\_\_\_  
Arthur Singer, Chairman

AS/tr

cc Attachment "A" – Notices Sent Via First Class Certified Mail Return Receipt

**Attachment "A"**  
**Sent Via First Class Certified Mail Return Receipt**

Hon. Erin Crotty, Commissioner  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-1011

Town of Patterson Zoning Board of Appeals  
1142 Route 311  
Patterson, New York 12538

Office of the Regional Director  
NYS Department of Environmental Conservation  
21 South Putt Corners Road  
New Paltz, New York 12561-1696

Office of the Regional Director  
New York State Department of Transportation  
4 Burnett Boulevard  
Poughkeepsie, New York 12603

NYS Office of Parks, Recreation & Historic Preservation  
Field Services Bureau  
Peebles Island  
Delaware Avenue  
P.O. Box 189  
Waterford, New York 12188

NYC Department of Environmental Protection  
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Valhalla, New York 10595

Putnam County Health Department  
4 Geneva Road  
Brewster, New York 10509

Mr. John Lynch, Director  
Putnam County Division of Planning & Development  
RR 9, Fair Street  
Carmel, New York 10512

Hudson Valley Realty Corporation  
1699 Route 6  
Suite 1  
Carmel, New York 10512

New York State  
Department of Environmental Conservation  
Commissioner's Determination  
of  
Lead Agency Under Article 8  
of the  
Environmental Conservation Law

**PROJECT:** Proposed Patterson Crossing Retail Center located in the Towns of Patterson and Kent, Putnam County

**DISPUTING AGENCIES:** Town of Patterson Planning Board and the Town of Kent Planning Board.

This decision to designate the Town of Patterson Planning Board as lead agency for the conduct of the environmental review under the State Environmental Quality Review Act (SEQRA) is made pursuant to Article 8 of the Environmental Conservation Law (ECL) and 6 NYCRR Part 617. This decision is based on my finding that the Town of Patterson Planning Board has the broadest governmental powers for the investigation of the impacts of the proposed action through its site plan review and erosion control permit authority over the majority of the potentially affected property.

The proposed project is the application by the Hudson Valley Realty Corporation (Corporation) to construct a 439,500 square foot "retail center" with 2,079 parking spaces on a 90.46 acre parcel located along the border between and containing acreage in both the Town of Patterson and the Town of Kent, Putnam County. All of the six proposed new buildings, nearly all of the parking lots (97% of proposed spaces), and the secondary access road would be constructed within the significantly larger section of the property (74.1 acres, or ~82%) which lies in the Town of Patterson. The primary access road and a corner of one of 5 parking pads would be located in the smaller section of the property (16.3 acres, or ~ 18%) lying in the Town of Kent.

The entire parcel abuts the western right-of-way of Interstate Route 84 (I-84), and the proposed project would be constructed between I-84 and existing residential developments. A drainage divide splits the site, with flows going north and west into a direct tributary of Lake Carmel as well as east and south into the drainage system leading to the Great Swamp and East Branch of the Croton River. Most of the project site contains moderate to steep slopes and is forested, so site development would require substantial clearing and grading. On-site water supply and wastewater treatment systems will be required for the development as proposed.

While a number of local and state agencies have jurisdictions governing the project, only the Planning Boards of the Town of Patterson and the Town of Kent are contesting for lead agency. The Town of Patterson Planning Board (Patterson Board) jurisdictions are site development plan review

plus an erosion control permit, and the Town of Kent Planning Board (Kent Board) jurisdictions are site development plan review plus erosion control, wetlands and sign permits.

The Patterson Board's jurisdictions apply to all activities on the portion of the property within the Town of Patterson, which includes the majority of the land clearing and new construction. The combination of site plan review and erosion control permits provides the Patterson Board with the authority to impose significant changes or conditions on the majority of the project's components, should those changes or conditions be identified as necessary to avoid or mitigate identified impacts.

Only a small portion of the project acreage is located within the Town of Kent; however, the project components proposed for that small area trigger multiple jurisdictions of the Kent Board. The main entrance and much of the primary access road from Route 311 are proposed to be within the Town of Kent, including a large sign at the base of the access road, near its intersection with Route 311. The access road itself would traverse 400 to 500 feet of relatively steep slopes, the lower roughly three-fourths of that length in the Town of Kent. Also within the Town of Kent portion of the site, segments of the access road plus a small corner of the parking area for buildings A, B and C are near a small stream. Altogether, the Kent Board has four bases for jurisdiction over those parts of the project within the Town of Kent: site plan review over only those elements of the proposed development in Kent plus local erosion control, wetlands and sign permits for specific areas or components. These jurisdictions would give the Kent Board authority to impose conditions, if necessary, to avoid or mitigate potential impacts associated with those project components within Kent.

In resolving a lead agency dispute, I am guided by the three criteria listed in order of importance in paragraph 6 NYCRR Part 617.6(b)(5)(v). These are:

- (1) whether the anticipated impacts of the action being considered are primarily of statewide, regional or local significance (i.e., if such impacts are of primarily local significance, all other considerations being equal, the local agency involved will be lead agency);
- (2) which agency has the broadest governmental powers for investigation of the impacts of the proposed action; and
- (3) which agency has the greatest capability for providing the most thorough environmental assessment of the proposed action.

The first criterion relates to whether the anticipated impacts are primarily of statewide, regional or local significance. At present, the majority of the onsite physical construction is proposed to occur within the Town of Patterson, the existing residences actually adjoining the site are within the Town of Patterson, and the secondary access is proposed to be provided via streets within the Town of Patterson; thus, many impacts of construction and operation will be borne by the Town of Patterson or its residents. However, construction of the primary access road as proposed plus any offsite construction necessary to upgrade Route 311 or other portions of the existing road network, and subsequent use of those roads, will impact lands and residents of the Town of Kent. Since the impacts are primarily local in nature and both municipalities will likely be impacted, I must proceed to the next criterion in order to resolve this dispute.

The next criterion addresses the breadth of jurisdiction. Consideration of this criterion reveals a clear distinction between the disputing agencies. The Town of Patterson must issue a site development plan approval in order for the project to be constructed. Since the majority of the project site and proposed components are located in the Town of Patterson, this review will address most of the major concerns including the siting and construction of all of the proposed structures, nearly all of the proposed parking, and the internal roadways. Under its site development plan approval, the Town of Patterson Planning Board will have the authority to impose substantive conditions on the size and location of structures, parking, internal roads, and associated drainage management facilities to avoid or minimize the impacts that are identified during the environmental review.

In contrast, the Town of Kent's jurisdiction is limited to those project elements actually located within Kent: construction of the access road and, potentially, upgrading of the road network needed to accommodate the increase in traffic resulting from the project. The ability of the Town of Kent to impose substantive conditions and mitigation would also be limited to those components within the Town of Kent. Therefore, I find that the jurisdiction of the Patterson Board provides broader authority to review and provide mitigation for the anticipated impacts from this proposal.

The third criterion relates to the capacity of an agency to provide for a thorough environmental assessment. Both parties to this dispute possess the necessary staff or the ability to obtain the assistance of consultants to undertake an adequate environmental review for the proposed action. Given that weighing the second criterion has indicated a clear preference for the Patterson Board, however, consideration of the third criterion is not necessary for me to reach a decision.

I conclude, based on the facts presented, that the Town of Patterson Planning Board should be lead agency for the conduct of the environmental review for the proposed Patterson Crossing Retail Center due to the local nature of the impacts and the broad scope of authority afforded to the Patterson Board under its site development plan review and erosion control permit processes. I note, however, that the environmental review of the proposed project must address all potential impacts, including those which may primarily affect lands and residents of the Town of Kent.

This decision in no way limits the jurisdiction or responsibility of the Kent Board. I urge the Town of Kent to actively contribute to the environmental review which the Patterson Board will direct. Further, I remind the Patterson Board that the environmental record which it will develop needs to address potential impacts identified by the Kent Board so that the common environmental record will satisfy both the Patterson Board and the Kent Board's needs for an environmental record on which to base approvals needed for all project components.

**Dated:** December 13, 2004  
**Albany, New York**

/s/  
**Erin M. Crotty, Commissioner**

**Distribution of Copies**

**Disputing Agencies/Applicant:**

Richard Williams, Planner, Town of Patterson  
Arthur Singer, Chair, Town of Kent Planning Board  
Hudson Valley Realty Corporation, attn: Paul Camarda

**New York State Department of Environmental Conservation, Region 3:**

Marc Moran, Regional Director  
Margaret Duke, Regional Permit Administrator

**New York State Department of Environmental Conservation, Albany:**

Michael Naughton, Counsel, Division of Legal Affairs  
Betty Ann Hughes, Division of Environmental Permits

**Other Distribution:**

Mr. Harold J. Gary  
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Carmel, NY 10512

Zoning Board of Appeals  
Town of Patterson  
P.O. Box 470  
1142 Route 311  
Patterson, NY 12563

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Putnam County  
Department of Planning and Development  
841 Fair Street  
Carmel, NY 10509

Zoning Board of Appeals  
Town of Kent  
531 Route 52  
Carmel, NY 10512

Mr. Michael J. Budzinski, P.E.  
Director of Engineering  
Putnam County Health Department  
Division of Environmental Health Services  
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Brewster, NY 10509

US Army Corps. of Engineers  
26 Federal Plaza  
New York, NY 10278-009

Mr. James Benson  
New York City  
Department of Environmental Protection  
Bureau of Water Supply  
465 Columbus Avenue  
Valhalla, NY 10595

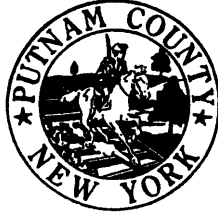
Mr. John M. Dunn, P.E.  
New York City Watershed Unit  
Bureau of Water Supply Protection  
New York State Health Department  
547 River Street  
Troy, NY 12180-2216

NYS Department of Transportation  
4 Burnett Boulevard  
Poughkeepsie, NY 12603



**SHERLITA AMLER, MD, MS, FAAP**  
*Commissioner of Health*

**LORETTA MOLINARI, RN, MSN**  
*Associate Commissioner of Health*



**ROBERT J. BONDI**  
*County Executive*

**DEPARTMENT OF HEALTH**  
1 Geneva Road, Brewster, New York 10509

January 18, 2005

Tim Miller Associates Inc.  
Mr. Jon Dahlgren  
10 North Street  
Cold Spring, New York 10516

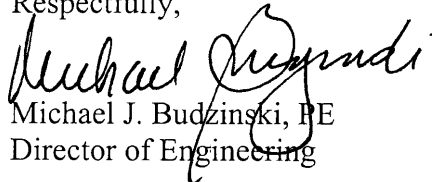
Re: Well Testing Plan for Patterson Crossing  
Town of Patterson

Dear Mr. Dahlgren:

This Department has received and reviewed the revised well testing program for the above referenced project. The revised well testing plan has been determined to be acceptable to this Department.

Kindly advise this office if there are any questions.

Respectfully,

  
Michael J. Budzinski, PE  
Director of Engineering

MJB:cw  
Cc: P. Camarda



**From:** Orzel, Brian A NAN02 [mailto:Brian.A.Orzel@nan02.usace.army.mil]  
**Sent:** Wednesday, March 30, 2005 5:42 PM  
**To:** jbates@timmillerassociates.com  
**Subject:** RE: E-mail notice

Jim,

This email is in response to your query about whether written authorization is always necessary from the Corps of Engineers.

The Army Corps of Engineers regulates activities that include dredging or construction activities in or over any navigable waters of the United States, the placement of any dredged or fill material in any waters of the United States (including coastal or inland wetlands) or the accomplishment of any work affecting the course, location, condition or capacity of such areas. Such activities may require a Department of the Army permit, in accordance with 33 CFR 320-330.

Most waterbodies, including wetlands, intermittent streams and natural drainage courses, are considered to be waters of the United States. Currently, the State of New York Department of Environmental Conservation (NYSDEC) recognizes and maps state fresh water wetlands as those wetland areas that are 12.4 acres or more and/or are ecologically unique. A NYSDEC determination classifying an area as a non-state regulated wetland does not free a property owner from his or her obligations under the Clean Water Act; the Corps regulates the discharge of dredged or fill material into all freshwater wetlands, regardless of size.

To remain out of Department of the Army jurisdiction completely, we recommend that an applicant limit the project to those areas upland of any waters or wetlands of the United States. Not only is this environmentally sound, but it could potentially save the applicant considerable time and expense while attempting to obtain necessary federal, state or local permits. **If the applicant can design the project to completely avoid waters of the United States, including wetlands, then written authorization from this office would not be necessary. In addition, if no written authorization would be necessary, no written confirmation of the limits of Corps jurisdiction would be necessary, either.**

When fill material is contemplated to be placed within those areas of Corps jurisdiction, the extent of these waters of the United States needs to be delineated according to the Federal Methodology, which requires the evaluation of features including the hydrology, the vegetation, and the soils present on the site. The current method for delineating Army Corps of Engineers jurisdictional wetlands is in accordance with the "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1. A copy of the manual may be obtained from the U.S. Army Corps of Engineers New York District website at <http://www.nan.usace.army.mil/business/buslinks/regulat/forms.htm>.

It is possible that a project may qualify for a nationwide general permit, in accordance with 33 CFR 330 and the Issuance of Nationwide Permits in the Federal Register dated January 15, 2002 (67 FR 2020). An activity is authorized under a nationwide general permit only if that activity and the permittee satisfy all of the nationwide permit's terms and conditions. Unless a nationwide general permit contains a condition requiring the applicant to notify the Corps prior to undertaking the proposed activity, a written authorization is not necessary. Activities that do not qualify for authorization under a nationwide general permit may still be authorized by an individual or regional general permit. **As such, if the project could be designed such that no notification would be necessary and no written authorization would be necessary, then no written confirmation of the limits of Corps jurisdiction would be necessary, either.**

Brian



# SHAMBERG MARWELL DAVIS & HOLLIS, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, N.Y. 10549  
(914) 666 - 5600  
FAX: (914) 666-6267

January 22, 2007

*Via Hand Delivery*

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, New York 10512

**Re: *Patterson Crossing, LLC***

Dear Supervisor Nordstrom and  
Members of the Town Board:

Please be advised that this law firm represents, Patterson Crossing, LLC, the developer of the Patterson Crossing Retail Center.

As you know, our client proposes to construct as the Patterson Crossing Retail Center, a 405,850 square foot Retail Center and a 28,200 square foot garden center (the proposed action) on approximately 90.5 acres of predominantly undeveloped land that straddles the borders of the Town of Kent and the Town of Patterson. Sixteen and four tenth (16.4) acres of the 90.5 acres are within the geographic boundaries of the Town of Kent and are currently commercially zoned. A small portion of the proposed retail use, including the site access would be located in the Commercial District in the Town of Kent. Retail is a permitted use within the Kent Commercial District.

The proposed Patterson Crossing Retail Center plan has been the subject of extensive review and discussion by and with local governmental agencies, local community leaders, neighboring residents and environmental groups. An early outreach included a presentation to your Town Board in April of 2004. Your Planning Board received a Site Plan Application in July 2006 for the proposed development in Kent and a Draft Environmental Impact Statement from the Patterson Planning Board in August 2006 analyzing the entire proposed development.

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
January 22, 2007  
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It has come to our attention that your Town Board is considering a town-wide rezoning which includes an "up-zoning" of the Patterson Crossing Retail Center parcel owned by our client from a commercial zone to a residential zone.

The "up-zoning" that you are proposing for the Patterson Crossing property is clearly designed to frustrate our client's attempts to develop its Patterson Crossing property as proposed.

Our client has expended over two million dollars (\$2,000,000) in "soft costs" associated with its attempts to properly develop its property for the Patterson Crossing Retail Center. Accordingly, Patterson Crossing, LLC, has acquired certain vested rights in its property in the Town of Kent, which vested rights cannot be destroyed by your Board's contemplated action of "up-zoning" the property.

In New York state, "a vested right can be acquired when, pursuant to a legally issued permit, the landowner demonstrates a commitment to the purpose for which the permit was granted by effecting substantial changes and incurring substantial expenses to further the development." *Town of Orangetown v. Magee*, 88 N.Y.2d 41, 643 N.Y.S.2d 21 (1996). However, the question of whether a landowner "had sufficiently committed the land to the use authorized by the permit prior to revocation" is one of fact.

Consequently, "[t]here is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'; it is a term, rather, which sums up a judicial determination that the facts of the case render it inequitable that the State impede the individual from taking certain action." *Lefrak Forest Hills Corp. v. Galvin*, 40 A.D.2d 211, 338 N.Y.S.2d 932 (1972) aff'd 32 N.Y.2d 796, 345 N.Y.S.2d 547 (1973); *See also Estate of Kadin v. Bennett*, 163 A.D.2d 308, 557 N.Y.S.2d 441 (2d Dep't 1990).

In the case of Patterson Crossing Realty, LLC, although the facts differ from those that usually form the basis of vested rights, the Town of Kent should take note that it would be inequitable for it to delay, reduce in scale and possibly prevent all together, the development of the Patterson Crossing property. As mentioned above, our client has expended well in excess of \$2,000,000 in "soft costs" alone, including extensive environmental studies, all in reliance on the Town's prior actions. Taken in their entirety, these are unique and aggravated circumstances that make it inequitable for the Town to attempt to further delay, reduce in scale or potentially prevent all together, the proposed development of the Patterson Crossing property for its proposed use.

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
January 22, 2007  
Page 3

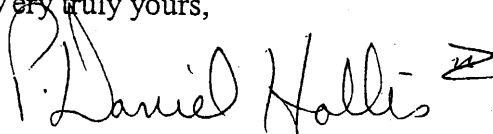
Despite the lack of an issued building permit or improvement on the Patterson Crossing Realty, LLC property, the circumstances of this case are similar to the Nassau County case of *Pensun Associates v. Geier*, NYLJ March 19, 1992 at 29, col. 6, where the court concluded that:

The time and money expended by plaintiff for various plans and schematics which were presented with plaintiff's applications, together with additional unanticipated expenses resulting from requests from the Board (landscaping, experts, etc.) gives the plaintiff more than sufficient vested interest in this property and, accordingly, a vested right to a permit to construct a hotel.

Furthermore, the Town of Kent should consider the fact that the prevalence of SEQRA has changed the landscape of vested rights law that is based on outdated "mechanical rules," since "[m]any years and millions of dollars may be spent prior to obtaining a building permit and constructing pursuant to it." John M. Armentano, *Vested Rights: The Legal Standard is Due for a Change*, NYLJ, January 29, 2003 at 5, col. 2.

For all of the reasons set forth herein, we believe that it would be inequitable, illegal and improper for the Town of Kent to violate or disregard the vested rights our client has in its project and, accordingly, would urge you to avoid taking any such action, for to do so would cause severe financial detriment to our client and could constitute an improper taking of our client's property.

Very truly yours,

A handwritten signature in black ink that reads "P. Daniel Hollis III". The signature is written in a cursive style with a large initial "P" and "D". To the right of the signature is a small, stylized arrow pointing to the right.

P. Daniel Hollis III

PDH:jec





John J. Lynch  
Commissioner

Putnam County Department of Planning,  
Development & Public Transportation  
841 Fair Street  
Carmel, NY 10512

Phone: (845) 878-3480

Fax: (845) 878-6721

January 23, 2007

Ms. Katherine Doherty, Councilwoman  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, NY 10512

*Re: Master Plan and Zoning Law  
Amendments  
Referral 07-PC-3*

Dear Kathy:

The above referenced items have been received and reviewed under GML 239M.


Please be advised that both the Master Plan and Zoning Law Amendments are approved.

In addition to the approval, I would offer the following comments for your consideration.

- 1) In Section 77-61 B2 of the zoning law, please change "Dutchess County Planning Board" to Putnam County Department of Planning, Development, and Public Transportation.
- 2) I strongly urge the town to pursue the conservation subdivision concept as outlined on page 30 of the Master Plan Update. The concept has a number of benefits including the potential to preserve large contiguous blocks of open space. This will help shape development patterns and reduce infrastructure needs.
- 3) I note that two zoning map changes effect two existing proposals. Specifically, the PRD zone on Horsepound Road is recommended for R-40 and part of the commercial zone on Route 311 is recommended for R-10. I believe these are the sites proposed for Kent Manor and Patterson Crossing, respectively. Are these existing proposals effected by the zone changes or are they being considered under the current zoning because the applications have been submitted?

Thank you for submitting the changes for our review.

Sincerely,



John J. Lynch  
Commissioner

JJL:rc



# SHAMBERG MARWELL DAVIS & HOLLIS, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, N.Y. 10549  
(914) 666 - 5600  
FAX: (914) 666-6267

February 7, 2007

*Via Federal Express*

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, New York 10512

Re: *Patterson Crossing, LLC*

Dear Supervisor Nordstrom and  
Members of the Town Board:

As you know from our earlier letter to you dated January 22, 2007, this law firm represents, Patterson Crossing, LLC, the developer of the Patterson Crossing Retail Center.

In that earlier letter, we advised you as to the inappropriateness of your attempt to "upzone" our client's property based not only upon the vested rights our client has to the development of Patterson Crossing Retail Center, but also because of serious shortcomings in your illegal and improper procedural efforts to affect that "upzoning."

It has come to our attention that, in spite of our protestations and those of other aggrieved property owners (two of whom have court decisions granting them the approvals you are seeking to do away with), you and your Board are poised to approve the proposed amendments to the Zoning Ordinance, perhaps as early as February 12, 2007. Any attempt by you to enact the proposed amendments absent your fully complying with the provisions of law attendant to any such "upzoning," of our client's property will be met with prompt and severe legal action on our client's part.

Your attempts at compliance with SEQRA in your efforts to affect this "upzoning" can only be most charitably defined as inadequate. It is unprecedented that your Town is attempting to affect not only this "upzoning" on the Patterson Crossing Retail Center property but also to re-zone other properties throughout the Town and to proffer, as your purported compliance with SEQRA, an Environmental Assessment Form ("EAF"), as opposed to a Generic Environmental Impact Statement ("GEIS"). This procedural inadequacy is most

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
February 7, 2007  
Page 2

disturbing since a GEIS analysis would entail the study of many relevant items left unaddressed by you, including the socio-economic issues attendant to your proposed "upzoning." I am certain that fair findings in any GEIS would not be supportive of the legislative act you are proposing to undertake.

You, your Town Clerk and your Town Attorney have refused to make available copies of the Environmental Assessment Form upon which you intend to enact the proposed Ordinance, thereby violating the rights of our client and others.

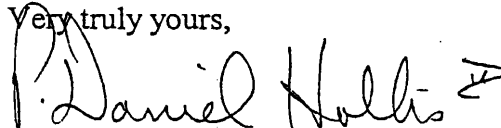
Further, although it does not affect our client's property, you are proposing to remove the PRD Zoning District entirely from your Zoning Ordinance. It is our understanding that that PRD District is the only Zoning District in your Town that permits multi-family, affordable housing.

We commend to your attention to the case of *Land Master Montg I, LLC v. Town of Montgomery*, 13 Misc.3d 870, 821 N.Y.S.2d 432 (Sup. Ct. Orange Cty. 2006), which cites the cases *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 341 N.E. 2d 236 (1975); *Triglia vs. Town of Cortlandt*, Index No. 17967/96; and *Continental v. Town of North Salem*, 211 A.D.2d 88, 625 N.Y.S.2d 700 (3d Dep't. 1995), lv. to appeal denied, 86 N.Y.2d 818, 658 N.E.2d 209 (1995), the last three cases being cases with which this law firm is intimately familiar, and all cases in which a Town's responsibility to provide affordable housing is made most clear and the consequence of not doing so made even more clear.

All of the machinations surrounding this blatant political maneuver on your part will be readily apparent to a Court in the context of any litigation seeking to set aside the proposed amendment and in any litigation commenced by an aggrieved property owner seeking compensation for violations of his, her, their or its civil and property rights.

Once again, we caution you against enacting the proposed amendments.

Very truly yours,



P. Daniel Hollis III

# **PAUL A. CAMARDA**

1699 Route 6, Suite 1 Carmel, New York 10512 (845) 228-1400 FAX: (845) 228-5400

February 27, 2007

James Tierney, Watershed Insp. Gen.  
NYS Attorney General's Office  
The Capitol  
146 State Street  
Albany, NY 12224

Re: Patterson Crossing Retail Center, Patterson, NY

Dear Mr. Tierney:

First I would like to thank you, Charles Silver and Bill Wegner from the Riverkeeper for taking the time to meet with me and Jeff Contelmo P.E., and principal of Insite Engineering on Friday, February 16, 2007. All parties agreed that this meeting was not an endorsement of the project. The meeting instead was an endorsement of an open respectful and cooperative process requested by the developer and desired by all parties.

During the meeting we discussed a number of philosophical theories regarding development at Patterson Crossing Retail Center and in the Putnam Watershed. As the meeting progressed the discussion turned to more site related issues such as building placement and parking, these discussions were followed by issues related to onsite stormwater treatment and offsite stormwater treatment. You termed the site "difficult" during the meeting. We believe that all sites in the Watershed are "difficult" and this site is no more difficult (and probably less difficult) than most because of its favorable topography, soils and location.

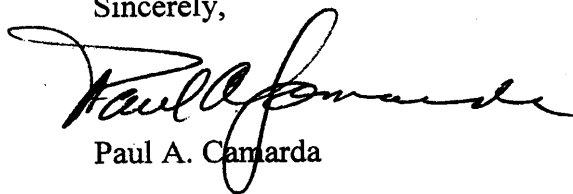
We made clear our intention to go beyond the NYCDEP and NYSDEC regulations where ever possible. We also made it clear that we would try to best follow some of your own development guidelines. In our attempt to exceed the requirements and to satisfy your concerns and the Riverkeeper's concerns, we stated that the overall footprint of the center would probably have to be reduced in size. As we had previously offered in our development plans, we stated again that we would study some of the obvious offsite drainage problems and try to incorporate those improvements as part of our overall plan. We have already planned to make improvements regarding the drainage leaving Concord Road which is flowing untreated into Lake Carmel. Specifically we also discussed how to treat the stormwater from the I84 ramps which is currently flowing untreated down Route 311 through some areas via an eroded drainage ditch into Lake Carmel.

In the 10 days since our meeting the engineers have been working diligently on modifications to the plan including the overall footprint. It is their feeling that we would be ready to meet with you by March 8, 2007. I will follow up in an effort to set up a meeting for either Thursday March 8, 2007, or Friday March 9, 2007.

In conclusion, it is our intention to submit the FEIS this spring. You can expect that we will reasonably and thoughtfully answer all concerns raised. We owe this effort to the towns, all concerned parties and to the two thousand people who have signed the petition in support of this project. New York State needs to continue to welcome good clean businesses. Representatives of Costco and Lowes have visited the town and county offices expressing their desire to locate here and their enthusiasm over the level of detail being put into the project. It is our feeling that if you can't build a shopping center here then you really can't build it anywhere in Putnam County.

Once again I would like to thank you. I look forward to meeting with you and the Riverkeeper again in March.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Camarda". The signature is fluid and cursive, with a large initial "P" and "C".

Paul A. Camarda

cc: Charles Silver, PHD  
Alex Matthiessen, Riverkeeper  
William Wegner, Riverkeeper  
Jeff Contelmo, Insite Engineering

# SHAMBERG MARWELL DAVIS & HOLLIS, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, N.Y. 10549  
(914) 666 - 5600  
FAX: (914) 666-6267

March 9, 2007

*Via Federal Express*

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, New York 10512

Re: *Patterson Crossing, LLC*

Dear Supervisor Nordstrom and  
Members of the Town Board:

As you know from our letters of January 22, 2007 and February 7, 2007, this law firm represents Patterson Crossing, LLC.

In those earlier letters, we placed on the record our concerns about, and opposition to, the Zoning Amendments (the Amendments) currently before your Board for approval, a number of which Amendments adversely affect our client's project at Patterson Crossing. This letter reiterates our previous concerns and opposition and raises yet another legal deficiency with regard to your proposed action.

The Town of Kent is about to conclude a faulty procedure with regard to the proposed enactment of the Amendments by means of a Negative Declaration under SEQRA based solely upon an Environmental Assessment Form. In that regard, we call your particular attention to another Town Board's erroneous procedure by reference to the case of *Ginsburg Development Corp., SMG Associates and SMG Development Corp. v. The Town Board of the Town of Cortlandt*, a case decided November 14, 1990 in which this firm served as counsel for *Ginsburg*. That case is reported at 150 Misc.2d 24, 565 N.Y.S.2d 371.

In *Ginsburg*, the Town of Cortlandt sought to amend its Zoning Ordinance as that Ordinance dealt with "steep slopes." The Town of Cortlandt passed its steep slopes amendment based upon an acceptance of only an Environmental Assessment Form (EAF) and its issuance of its negative SEQRA declaration based only upon that EAF. The Court found that the Town of Cortlandt's cursory SEQRA review by means of an EAF was not sufficient in analyzing the

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board

March 9, 2007

Page 2

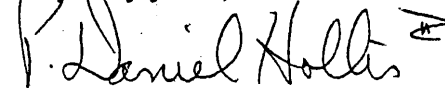
socio-economic impacts of the proposed amendment and, accordingly, overturned the Town's Zoning amendment.

Your proposed Amendments are nothing more than a political response to political pressure put upon the Town Board by certain groups seeking to oppose certain specific projects within the Town of Kent. You and your Board have failed to take the "hard look" at the Amendments as required under SEQRA, the *Ginsburg* case and its progeny and, accordingly, your Amendments are as procedurally flawed as were those in *Ginsburg*.

Were an applicant, other than your municipality itself, before your Town Board to seek an amendment to your Zoning Ordinance of the magnitude you are proposing, that applicant would never receive a like SEQRA determination based only upon an EAF. For you to seek to do so is highly improper.

For these and all the reasons previously set forth by us on behalf of our client and by others on behalf of theirs, we caution you against the legally unsupportable action you are planning to undertake.

Very truly yours,

A handwritten signature in black ink that reads "P. Daniel Hollis III". The signature is written in a cursive style with a large initial "P" and a small arrow pointing to the right at the end.

P. Daniel Hollis III

PDH:jec

# ***CAMARDA REALTY INVESTMENTS LLC***

*1699 Route 6, Suite 1 Carmel, New York 10512 (845) 228-1400 FAX: (845) 228-5400*

March 12, 2007

***Via Facsimile (212) 353-7494***

Harlan Sexton, AICP  
BFJ Planning  
115 Fifth Avenue, 2<sup>nd</sup> Floor  
New York, New York 10003

***Via Facsimile (845) 452-3346***

Neil A. Wilson, AICP  
LRC Planning Services, LLC  
8 Moorehouse Road  
Poughkeepsie, New York 12603-4010

**Re: *Patterson Crossing Retail Center***

Dear Ms. Sexton and Mr. Wilson:

I attach for your review and edification, the letters to the Town of Kent Town Board from our litigation counsel, P. Daniel Hollis III of Shamberg Marwell Davis & Hollis, P.C. dated January 22, 2007, February 7, 2007 and March 9, 2007 with regard to the proposed Zoning Amendments affecting our above-referenced project.

As is most clearly set forth in Mr. Hollis's letters to the Town Board, the Zoning Amendments proposed by the Town of Kent and endorsed by you and your firm are not grounded in sound planning practice and are contrary to law.

The proposed Zoning Amendments which are on the verge of being enacted without proper SEQRA compliance and without sound basis in law or planning violate our rights and will be dealt with most severely by us against any and all who participate in bringing about the Zoning Amendments, amendments motivated for obvious reasons totally unrelated and contrary to good planning.

Rezoning the subject approximately 16 acre parcel, with frontage on NYS Route 311 and Interstate 84, from commercial to residential after it has been part of our proposed retail center for many years is not grounded in law or sound planning principles. This rezoning represents nothing more than a thinly veiled attempt to try to stop our proposed retail center – a proposal that we have spent over two million dollars on in soft costs alone to advance through the required site plan and environmental review process. To rezone the subject property after all these years, and only after we reached this deep into the environmental review process, does not even pass the red face test, much less meet sound legal and planning principles.

I urge you to take your roles in supporting the proposed rezoning of our property, with its lack of any basis in law or planning and significant adverse impact to our company, with the utmost seriousness. Both you and your firms have an obligation to advise your client, the Town of Kent, in a professional manner based on sound planning principles. I am hopeful that by appealing to your professional judgment and experience in matters such as these, you will bring a halt to these politically motivated, carelessly contrived and illegally constructed Zoning Amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Camarda". The signature is written in a cursive style with a prominent horizontal stroke at the beginning.

Paul A. Camarda



**Putnam County Department of Planning,  
Development & Public Transportation**  
841 Fair Street  
Carmel, NY 10512

Phone: (845) 878-3480

Fax: (845) 878-6721

**John J. Lynch**  
Commissioner

March 12, 2007

Ms. Katherine Doherty, Councilwoman  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, NY 10512

***Re: Master Plan and Zoning Law Amendments  
Referral 07-PC-3***

Dear Kathy:

The above referenced items were reviewed under GML 239m on January 23, 2007 and approved.

However, in the letter of approval (letter attached), I raised a question regarding the status of two proposals currently before the town as to how they would be reviewed. To date, I have not received an answer to this important question.

Since I have not received a response, I am revising the GML 239m approval of the above referenced Master Plan and Zoning Ordinance Amendments to an Approved with Modification. The modification is that the commercial zone on the south side of Route 311 between Terry Hill Road and the town line remain a commercial zone. The reasons for this modification are based on the following considerations:

1. Commercial uses currently exist along the corridor.
2. The north side of Route 311 is left commercial and expanded.
3. There is a major active commercial project on file with the town in this area.

Given the above points, I believe it is inappropriate to continue with a zoning district change in this area.

Sincerely,

  
John J. Lynch  
Commissioner

JJL:rc  
Attachment  
cc: Arne Nordstrom



# SHAMBERG MARWELL DAVIS & HOLLIS, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, N.Y. 10549  
(914) 666-5600  
FAX: (914) 666-6267

March 14, 2007

*Via Federal Express*

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, New York 10512

**Re: *Patterson Crossing, LLC***

Dear Supervisor Nordstrom and  
Members of the Town Board:

I wish to follow up on the events at the conclusion of the Public Hearing on the Zoning Amendments on March 12, 2007 and the reasons given for adjourning any vote on either the SEQRA determination and/or the proposed Zoning Amendments by your Town Board at that time.

A stated reason for the adjournment was that the Town Board wished to obtain a legal opinion with regard to certain issues attendant to the Zoning Amendments.

As I have advised you in my earlier letters of January 22<sup>nd</sup>, February 7<sup>th</sup> and March 9<sup>th</sup>, the Zoning Amendments that you seem about to adopt, especially with regard to our client's property, are fatally flawed as a matter of law both procedurally and substantively. My letters further make it clear that our client has an enormous investment, as well as vested rights, in the Patterson Crossing Retail Center, making it impossible for our client to sit by idly while your Town advances a rezoning of our client's property designed to thwart the Patterson Crossing project by Zoning Amendments not grounded in law or sound planning. If your Board adopts the Zoning Amendments, you will leave our client no choice but to take the strongest action available, in law or equity, against all Boards and individuals behind advancing such legally flawed amendments.

I have provided you with a copy of the letter that I have written to the Planning Board this date, putting the Planning Board on notice as to the strictly defined duties of the Planning Board with regard to their role attendant to the proposed Zoning Amendments.

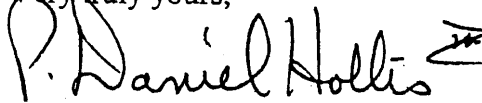
Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
March 14, 2007  
Page 2

Any extralegal activity on the part of the Planning Board in advancing any or all of that group's political or personal agendas so as to implement the Zoning Amendments would place the Town in further legal jeopardy.

Considering the serious ramifications for your Board, its individual members and its constituents if the proposed Zoning Amendments are passed as currently proposed, I believe it is imperative that the Town Board seek advice and counsel from legal counsel of its own choosing, either existing and/or additional, so that before acting on the SEQRA determination and the proposed Zoning Amendments themselves, your Board will be able to consider and evaluate all of the potential legal consequences of your actions. Accordingly, I urge you to ask the Town Board's attorney the hard questions with regard to the points I have raised before taking any rezoning action that would adversely impact the proposed Patterson Crossing project.

As I indicated at your March 12<sup>th</sup> meeting, my client remains open to discussing your Board's concerns, particularly in helping to find an alternative to the litigation that seems inevitable if your Board continues down its current procedural path.

Very truly yours,



P. Daniel Hollis III

PDH:jec

Enclosure

c: Mr. Paul Camarda  
Frederick J. Koelsch, AICP  
Timothy J. Curtiss, Esq.  
Ronald C. Blass, Jr., Esq.



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
REGION EIGHT  
4 BURNETT BOULEVARD  
POUGHKEEPSIE, NEW YORK 12603  
www.nysdot.gov

ROBERT A. DENNISON III, P.E.  
REGIONAL DIRECTOR

ASTRID C. GLYNN  
ACTING COMMISSIONER

March 19, 2007

Mr. Philip J. Grealy, Ph.D., P.E.  
John Collins Engineers, P.C.  
11 Bradhurst Avenue  
Hawthorne, NY 10532

RE: Patterson Crossing  
Towns of Patterson and Kent  
Putnam County

Dear Mr. Grealy:

The Department has reviewed the Conceptual Improvement Plan and related analysis for the Patterson Crossing project and have the following comments:

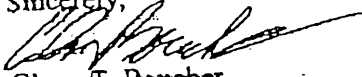
1. Although the existing I-84 ramp connections to Route 311 currently experiences peak hour delays even without this project, the Department believes that the improvements at this intersection should be completed in association with the Patterson Crossing Development. Based on the preliminary plans, we will require either the construction of "modern roundabouts" or the turn lane and corresponding signal improvements at the two ramp connections to Route 311. The final details will be determined as part of the Highway Work Permit Process.
2. With respect to the proposed access, we agree in concept with the proposed widening to develop the separate left turn and right turn lanes on Route 311 together with the proposed signalization as indicated on your Conceptual Improvement Plan.

- 3 With respect to the other area intersections, we note the following.
- a. The intersection of NYS Route 311 and NYS Route 164 is listed on the Department's Transportation Improvement Program (TIP) for improvements and we will be reviewing the timing of such.
  - b. Widening on Fair Street to provide a separate right turn lane at Route 311 should be coordinated with the Putnam County Highway Department.
  - c. The intersection of Route 311 and Route 52 will require signal timing modifications in the future based on the projected traffic volumes. The Department will make these adjustments based on the actual traffic volumes at that time.
  - d. Route 52 and Barrett Hill Road - Potential signalization of this intersection has been identified. As part of the Highway Work Permit process, this intersection will be reviewed relative to traffic signal warrant criteria. If warranted, signalization will be required. The details of the monitoring and any potential escrow requirements will be finalized as part of the Highway Work Permit process.
  - e. Route 311 and Terry Hill Road - We understand that the applicant and Putnam County are working together to advance improvements to this intersection.

We trust the enclosed clarifies the Department's position relative to the proposed development and look forward to working with you on the final permitting. A Drainage study will be required for review during the permit review process.

If you have any questions, please do not hesitate to contact me at (845) 575-6040.

Sincerely,



Glenn T. Boucher

Regional Highway Work Permit Coordinator

cc: A. DeNigro, Permit inspector, Res 8-3  
Town of Patterson Planning



New York State Office of Parks, Recreation and Historic Preservation  
Historic Preservation Field Services Bureau  
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

March 21, 2007

Janell Herring  
Tim Miller Associates  
10 North Street  
Cold Spring, New York 10516

Re: SEQRA  
Patterson Crossing Retail Center  
I-84 and NY 311, Towns of Patterson and Kent,  
Putnam County  
04PR03000

Dear Ms. Herring:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont  
Director



# **PAUL A. CAMARDA**

1699 Route 6, Suite 1 Carmel, New York 10512 (845) 228-1400 FAX: (845) 228-5400

March 27, 2007

James Tierney, Watershed Insp. Gen.  
NYS Attorney General's Office  
The Capitol  
146 State Street  
Albany, NY 12224

Re: Patterson Crossing Retail Center, Patterson, NY

Dear Mr. Tierney:

This letter is written to follow up on our meeting in your offices February 27, 2007 and our subsequent telephone conversations.

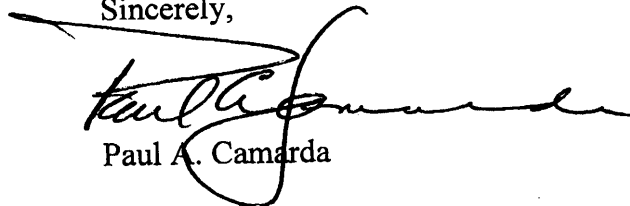
You should have received today by overnight mail a set of revised plans for the Patterson Crossing Retail Center that will be the focus of our meeting on March 29, 2007 at 2:30 in your offices. These revised plans include a reduction in the overall building square footage and a greater reduction in overall building footprint. The plan revisions also include significant modifications to the stormwater controls.

Stormwater control modifications include a new stormwater pond to treat presently untreated stormwater from Route 311 and Interstate 84 within the Middle Branch Basin. We also added two offsite ponds along Fair Street to treat stormwater within the East Branch Basin. Based on your comments, we also changed all ponds to wet ponds.

The package that you received today also included a stormwater analysis based on the Simple Method utilizing your offices' preferred methodology. This analysis shows that the modified on-site and off-site stormwater controls will improve pollutant levels and achieve post pollutant levels that are less than pre pollutant levels when applying your preferred methodology. We believe that this analysis shows the type of results sought by your office and others concerned with watershed protection.

We look forward to meeting with you this Thursday at 2:30 to receive your input on the revised plan and to continue to work toward addressing your concerns regarding water quality.

Sincerely,



Paul A. Camarda

c: Charles Silver, PhD.  
Alex Matthiessen, Riverkeeper  
William Wegner, Riverkeeper  
Jeff Contelmo, P.E., Insite Engineering



**New York State Department of Environmental Conservation**  
**Division of Fish, Wildlife & Marine Resources**  
**New York Natural Heritage Program**  
625 Broadway, 5<sup>th</sup> floor, Albany, New York 12233-4757  
**Phone:** (518) 402-8935 • **FAX:** (518) 402-8925  
**Website:** www.dec.state.ny.us



April 5, 2007

Bruce Friedmann  
Tim Miller Associates, Inc.  
10 North Street  
Cold Spring, NY 10516

Dear Mr. Friedmann:



In response to your recent request, we have reviewed the New York Natural Heritage Program databases with respect to an Environmental Assessment for the proposed Commercial Development - 90.5 acres, "Patterson Crossing", area as indicated on the map you provided, located along Rte. 311, Towns of Patterson and Kent, Putnam County.

We have no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain any information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. For these reasons, we cannot provide a definitive statement on the presence or absence of rare or state-listed species, or of significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

Sincerely,  
  
Tara Seoane, Information Services  
New York Natural Heritage Program 

Enc.

cc: Reg. 3, Wildlife Mgr.  
Reg. 3, Fisheries Mgr.



# MEMORANDUM

**To: Putnam County Department of Highways and Facilities**  
**From: Tim Miller Associates, Inc.**  
**Re: Traffic Mitigation Program, Patterson Crossing Retail Center**  
**Date: April 27, 2007**

---

## **INTRODUCTION**

This memorandum is submitted to your office in advance of our meeting on the Patterson Crossing Retail Center project to provide you with an overview of the project related traffic impacts and the proposed improvement program developed for the project. At our upcoming meeting we would like to discuss this proposed traffic improvement program, with emphasis on the conceptual improvement for the intersection of US Route 311 and Terry Hill Road, which, we believe, the County is best suited to improve. The balance of this memorandum is intended to provide you an overview of the overall traffic mitigation package related to the Patterson Crossing Retail Center.

## **BACKGROUND**

Over the past two months, the Project Sponsor has held meetings with representatives of the New York State Department of Transportation (NYSDOT) to discuss an improvement program for local intersections that, in concert with the construction of the Patterson Crossing Retail Center project, would result in an overall benefit to traffic conditions in the area.

Of thirteen intersections studied (twelve existing and the proposed project access road off of NYS Route 311), eight have been considered for improvement, four in the Town of Patterson and four in the Town of Kent. The twelve existing intersections studied are shown on Figure 1. Table 1 provides a summary of the level of service and potential improvements, for each of the thirteen studied intersections noted below. Also included herein for each of the eight intersections identified for improvement is an aerial photograph depicting the existing conditions as well as a schematic, overlaid on an aerial photograph, of the proposed improvements that would address current and future traffic issues.

The full traffic assessment presented in the Draft Environmental Impact Statement prepared for the project can be found online at [www.timmillerasociates.com](http://www.timmillerasociates.com) under the Public Review section.

The NYSDOT advises that its primary intentions are to promote safety and expedite “through movements” on the State Highway system. The NYSDOT acknowledges that delays on side streets approaches to the State system are common and accepted as regional growth continues. The agency will not permit signals without warrants being met. In this regard, the NYSDOT has advised that it will permit signals (with associated geometric improvements) at the Interstate 84 ramps (or alternatively a roundabout) and a signal at the proposed access to the retail development.

*Any other signalization on the State Roads would only be permitted after future review of post development traffic conditions.*

The NYSDOT has issued a letter indicating its concurrence with the applicant's mitigation program, as attached hereto.

Five intersections studied do not require improvement related to the Patterson Crossing Retail Center. In Patterson these are:

- NYS Route 311 at Ludingtonville Road (Intersection 3), which will operate at Level of Service C, and
- Fair Street at Terry Hill Road (Intersection 12), which will operate at Level of Service B.

The three study intersections in the Town of Kent are:

- NYS 311 at Ludington Court (Intersection 6), which will operate at Level of Service C,
- NYS Route 311 at Long Fellow Drive (Intersection 7), which will operate at Level of Service E, and
- NYS Route 52 at Horse Pound Road (Intersection 11), which will operate at Level of Service F.

It is noted that the Applicant proposing the Kent Manor project (273 townhouse units on Nichols Street in the Town of Kent), has made a commitment to monitor the NYS Route 52 intersection with Horse Pound Road (Intersection 11) and install a center lane improvement as shown on Figure 2, attached hereto, if permitted by NYSDOT. This improvement would bring this intersection to a Level of Service D.

## **INTERSECTIONS**

Patterson and Kent intersections identified for potential improvement and participants in those improvements are summarized below:

### **Patterson Intersections**

#### **Patterson – Intersection 1. NYS Route 311 and NYS Route 164**

This intersection operates at Level of Service E under the Existing Condition and Level of Service F under the future No-Build Conditions. The NYSDOT advises that under the Transportation Improvement Plan (TIP) certain lane improvements have been identified at this intersection that will be funded by the State. It is expected that these improvements will be moved forward to coincide with the opening of Patterson Crossing Retail Center.

This improvement is entirely under the NYSDOT purview as these are both State roads. Currently, the NYSDOT will not permit a signal at this intersection.

The Applicant has agreed to place \$100,000 in escrow with the Town and monitor this location annually for a period of three years after Patterson Crossing Retail Center is open. If the NYSDOT permits installation of a traffic signal at this intersection, those funds may be used for that improvement. If after three years, no signal is approved, the escrow would be returned to the Applicant.

Existing conditions at this location are shown in Figure 3. A potential future condition is shown in Figure 4.

### **Patterson – Intersection 2. NYS Route 311 and Fair Street (County Road 60)**

This intersection operates at LOS F under the Existing Condition.

NYSDOT will not commit to a signal at this location at this time. The primary improvement at this intersection would be a right turn lane on Fair Street. This intersection comes under the purview of Putnam County and turn lane improvements are one way to improve its operation. The Applicant wishes to work with the County to finalize an acceptable mitigation plan for this intersection.

The Applicant has agreed to place \$100,000 in escrow with the Town and monitor this location annually for a period of three years after Patterson Crossing Retail Center is open. If the NYSDOT permits installation of a traffic signal at this intersection, those funds may be used for this improvement. If after three years, no signal is approved, the escrow would be returned to the applicant.

Existing conditions at this location are shown in Figure 5. A potential future condition is shown in Figure 6.

### **Patterson – Intersection 4. NYS Route 311 and Westbound Ramp (Interstate 84, Exit 18), Patterson – Intersection 5. NYS Route 311 and Eastbound Ramp (Interstate 84, Exit 18)**

The westbound ramp operates at LOS F under the Existing and No-Build Conditions and the eastbound ramp operates at LOS D under the Existing Condition and LOS F under the No-Build Condition.

These two locations will be directly impacted by traffic traveling to and from the proposed retail center. Existing conditions at the ramps intersections are depicted on Figure 7. The westbound ramp requires improvements under the Existing Condition. The Applicant will fund either a new integrated signal system at both ramps with associated geometric improvements, as set forth in the attached Figure 8, or a roundabout. The NYSDOT believes roundabouts are an excellent alternative due to decreased long-term maintenance costs. It should be noted that physical constraints limiting the amount of useable land in the area of these ramps could negate the use of this option.

The NYSDOT has agreed that they will issue a work permit for a viable mitigation program at these two Intersections.

### **Kent Intersections**

#### **Kent – Intersection 8. NYS Route 311 and Terry Hill Road (County Road 46)**

This unsignalized intersection presently operates at LOS F. Existing conditions are shown in Figure 9. A concept for future improvements is shown in Figure 10 for the County's consideration. Following Figure 10 is a Level of Service calculation that indicates how the intersection would operate under this scenario (Table 2).

### **Kent – Intersection 9. NYS Route 311 and NYS Route 52**

This intersection is presently signalized. The worst lane group operates at LOS C and D under Existing and No-Build Conditions respectively. The intersection as a whole operates at LOS B under the Existing Condition and LOS C under the No-Build Condition.

Mitigation primarily involves retiming of the existing traffic signal and possible minor curb cut adjustments of NYS Route 311 to increase right turn lane storage. These improvements are under the purview of NYSDOT.

Existing conditions at this intersection are shown in Figure 11. As no physical improvements are required, a potential future condition is not included.

### **Kent – Intersection 10. NYS Route 52 and Barrett Hill Road**

This unsignalized intersection will operate at LOS F under no-build conditions. Funding to improve this intersection with a left turn lane on NYS Route 52 is included in the NYSDOT TIP.

The applicant has agreed to place \$100,000 in escrow with the Town of Kent and monitor this location annually for a period of three years after Patterson Crossing Retail Center is open. If the NYSDOT permits installation of a traffic signal at this intersection, those funds may be used for this improvement. If after three years, no signal is approved, the escrow would be returned to the Applicant.

Existing conditions are shown in Figure 12. A potential future condition is shown in Figure 13.

### **Kent – NYS Route 311 and Patterson Crossing Retail Center Access Road**

This new three-way intersection will become the main access into the Patterson Crossing Retail Center site. A graphic showing anticipated improvements at this location has been provided to the NYSDOT and it is expected that the DOT will issue a work permit for these improvements as proposed. A copy of the conceptual improvement plan is attached and would include a new traffic signal and right and left hand turn lanes from NYS Route 311. The access road would have separate left and right turn lanes exiting the site.

Existing conditions are shown in Figure 14. A potential future condition is shown in Figure 15.

**TIM  
MILLER  
ASSOCIATES, INC.**

10 North Street, Cold Spring, New York 10516

Phone (845) 265-4400

Fax (845) 265-4418

June 1, 2007

Mr. James M. Tierney  
Watershed Inspector General, Assistant Attorney General  
State of New York, Office of the Attorney General  
Division of Public Advocacy, Environmental Protection Bureau  
The Capitol, Albany, NY 12224

RE: Patterson Crossing Retail Center Traffic Memorandum

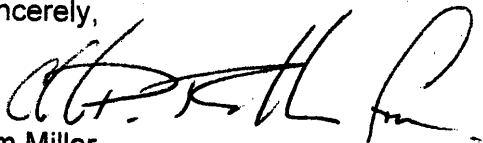
Dear Mr. Tierney:

Please find attached a copy of the Patterson Crossing Traffic Memorandum provided to the Putnam County Department of Highways and Facilities on April 27, 2007. This memorandum includes information on the project related impacts and the proposed traffic improvement program.

As is evident from the attached information, very little new pavement area is needed to accomplish the identified traffic improvements. In addition, the stormwater management proposed along NYS Route 311 off of the project site more than offsets potential runoff from the limited amount of impervious surface required under the documented improvement program.

Should you have any questions regarding the information presented in this Document, feel free to call me or one of the other project team members.

Sincerely,



Tim Miller  
President  
TIM MILLER ASSOCIATES, INC.

C:  
Jeff Contelmo, Insite Engineering - without attachment  
Fred Koelsch, Camarda Development - without attachment  
Charles Silver, State of New York, Office of the Attorney General - without attachment





Paul Lounsbury  
New York State Electric & Gas Corp.  
P O Box 149, 26 Wierk Ave.  
Liberty NY 12754  
email: prlounsbury@nyseg.com  
phone: 845-292-2434 ext. 443, fax: 845-292-2547

June 12, 2007

Mr. Walter Bost  
Tim Miller Associates, Inc  
10 North St  
Cold Spring, NY 10516

Re: Patterson Crossing

Dear Mr. Bost:

In reference to your fax of June 4<sup>th</sup>, I have calculated the estimated electrical load and usage for each of the spaces that were listed, according to square footage and type of use. The results are shown in the table below.

Designation	Description	sq feet	Connected kw	Diversified kw	Annual Hours	Annual usage (kwh)	Annual Cost @\$.12/kwh
a	Wholesale Warehouse	145,000	1,450	1,088	6100	6,633,750	\$796,050
b	Home Improvement Ctr	117,000	1,170	878	6100	5,352,750	\$642,330
c	Retail Store	30,500	305	229	6100	1,395,375	\$167,445
d	Retail Store	30,125	301	226	6100	1,378,219	\$165,386
e	Retail Store	20,600	206	155	6100	942,450	\$113,094
f	Retail Store	8,350	84	63	6100	382,013	\$45,842
g	Retail Store	20,550	206	154	6100	940,163	\$112,820
h	Retail Store	2,000	20	15	6100	91,500	\$10,980
e2	offices	8,220	82	62	2350	144,878	\$17,385
	Totals	382,345	3,823	2,868		17,261,096	\$2,071,332

Also, please be advised that NYSEG presently has electric facilities at this location for providing service to this site. As for capacity, that issue will need further study to determine if existing electric circuits can accommodate these loads, or whether upgrades will be required. NYSEG would design and construct the necessary facilities as needed, and costs would be determined. If you wish for NYSEG to commence with this study, please advise me accordingly.

If you have any questions, please contact me as well.

Sincerely,

Paul Lounsbury  
Key Account Manager





**John J. Lynch**  
*Commissioner*

**Putnam County Department of Planning,  
Development & Public Transportation**  
841 Fair Street  
Carmel, NY 10512

**Phone:** (845) 878-3480  
**Fax:** (845) 878-6721

June 20, 2007

Mr. Arne Nordstrom, Supervisor and  
Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, NY 10512

Dear Supervisor Nordstrom and Members of the  
Town Board:

It has been brought to the County's attention that the Kent Town Board is considering a proposed resolution to abrogate the County Department of Planning, Development and Public Transportation's (the Department) GML 239m recommendations on the referred Kent Comprehensive Plan and Zoning Law Amendments. The Department sent two letters to the town, one dated January 23, 2007, and the other dated March 12, 2007.

I have re-read the language of GML 239m 4(b) and the language specifically states in part ... "any county planning or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provision of subdivision five of this section". Subdivision five of this section requires a majority vote plus one of all the members thereof.

Based on the GML 239m (4(b) language, the Department feels its second response of March 12, 2007 is valid. As added clarification to that letter, I offer the following:

- The subject land on Route 311 has been zoned commercial in both Patterson and Kent for a number of years. There are very few residential uses fronting on the State highway in this area.
- Commercial lands in the NYC watershed that are well served by public infrastructure (such as Route 311 and I-84) are increasingly scarce.

Removal of such land from the inventory of commercial properties in the County would not serve the economic development goals of the County.

- The property of the proposed rezoning abuts the municipal boundary line of the town's of Patterson and Kent. Currently the property of the subject rezoning in Kent is commercially zoned as is the adjoining property in Patterson. From a countywide planning perspective, it makes sense to have adjoining property along a shared municipal boundary classified in similar zones. The current similar zoning in both towns creates an opportunity to further countywide economic development goals through the possibility of creating commercial development that will enhance sales tax revenue as well as property tax revenue.
- Additionally, to rezone the subject property to an R-10 zone may be problematic as the area may not be well suited to small residential lots with individual wells and septic systems. The town has experienced problems in other portions of Lake Carmel where small lots exist with on site wells and septic systems.

Please be advised that the Department views the proposed rezoning as having adverse countywide implications as well as adverse municipal implications. Therefore, to clarify the Department's position, the Department hereby withdraws its January 23, 2007 letter and re-affirms its position of March 12, 2007 and approves the amendments to the Kent Comprehensive Plan and Zoning Code subject to the following modification or condition:

*The proposed commercial zone on the south side of Route 311 between Terry Hill Road and the Town line remain a commercial zone and not be rezoned to the proposed R-10 zone.*

Sincerely,



John J. Lynch  
Commissioner

JJL:rc

cc: Edith Schanil, Town Clerk



June 21, 2007

Mr. John G. Tully  
Deputy County Executive  
County of Putnam  
40 Gleneida Avenue  
Carmel, New York 10512

RE: Patterson Crossing  
Offsite Stormwater Improvements

Dear Mr. Tully:

As a follow up to our meeting on June 19, 2007 we have enclosed additional information relative to the above referenced project. As discussed the applicant for the Patterson Crossing project seeks to make offsite stormwater improvements in the East Branch Reservoir basin in order to offset potential increases in phosphorous from the project site. The current proposal is to construct two stormwater management basins east of the Putnam County facilities located on Fair Street. It is understood that the County currently has a 50% matching grant for the construction of one stormwater basin north of the existing Department of Highways and Facilities yard. The Patterson Crossing project proposes to fund the other 50% of the design and construction cost associated with that improvement and provide funding for 100% of a second stormwater basin located to the south.

We have attached a summary of the anticipated phosphorous benefits associated with the project which indicates the project will provide a regional benefit to the current TMDL initiatives. We would request a letter from the County confirming their agreement to participate in this valuable project.

Should you have any questions or comments regarding this information, please feel free to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By: \_\_\_\_\_  
Jeffrey J. Contelmo, P.E.  
Principal Engineer

JJC/amh

Enclosures

cc: Harold Gary, Commissioner, PCDH&F  
Paul Camarda, Patterson Crossing, LLC

Insite File No. 01124.100



**Stormwater Phosphorus Summary**  
**For**  
**Patterson Crossing Retail Center**  
**and the Proposed Offsite Stormwater Improvements**  
**At the Putnam County Highway Facility**

June 21, 2007

**Phosphorus Loading Assessment for Drainage Area PC-1**

Existing Annual Phosphorus Load from PC-1.....	8.72 lbs
Total Annual Phosphorus Load Removed by Stormwater Basin PC-1.....	- <u>4.27 lbs.</u>
Future Annual Phosphorus Load from PC-1.....	4.45 lbs.

**Phosphorus Loading Assessment for Drainage Area PC-2**

Existing Annual Phosphorus Load from PC-2.....	6.52 lbs
Total Annual Phosphorus Load Removed by Stormwater Basin PC-2.....	- <u>3.19 lbs.</u>
Future Annual Phosphorus Load from PC-2.....	3.33 lbs.

**Removal Credit for Offsite Stormwater Improvements**

100% for Stormwater Basin PC-1.....	4.27 lbs.
* 50% for Stormwater Basin PC-2.....	<u>1.60 lbs.</u>
Total Phosphorus Removal Credit .....	5.87 lbs.

**PHOSPHORUS LOADING ASSESSMENT FOR PATTERSON CROSSING IN EAST BRANCH**

**RESERVOIR BASIN**

Existing Annual Phosphorus Load (Undeveloped).....	<b>9.71 lbs</b>
Future Project Site Annual Phosphorus Load (Developed).....	14.96 lbs.
<u>Removal Credit from Offsite Putnam County Project.....</u>	<u>- 5.87 lbs.</u>
<b>Net Future Annual Phosphorus Load (with offsite improvements).....</b>	<b>9.09 lbs.</b>

\* 50% credit taken for Stormwater Basin PC-2 due to 50% funding by Patterson Crossing

Robert J. Bondi  
PUTNAM COUNTY EXECUTIVE

40 Glancida Avenue  
Carmel, New York 10512  
Tel. (845) 225-3641

John G. Tully  
Deputy County Executive



Lisa M. Denig  
Chief of Staff

June 25, 2007

Jeffrey J. Contelmo, P.E.  
Principal Engineer  
Insite Engineering  
3 Garrett Place  
Carmel, New York 10512

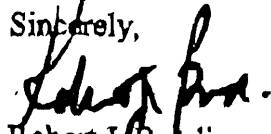
Dear Mr. Contelmo:

This letter is in response to your letter dated June 21, 2007 with regard to Patterson Crossing offsite storm water improvement.

Putnam County is agreeable to partnering with the applicant for the Patterson Crossing project to make offsite storm water improvements in the East Branch Reservoir basin in order to offset potential increases in phosphorous from the project site.

Please give us a call to discuss the details of how the project will be completed and address any issues that may arise legally or with the granting authority.

Sincerely,

  
Robert J. Bondi,  
County Executive

RJB:ed



# **PATTERSON CROSSING REALTY, LLC**

1699 Route 6, Suite 1 Carmel, New York 10512 (845)228-1400 FAX: (845) 228-5400

July 13, 2007

Mr. John Tully  
County Executive Office  
40 Gleneida Avenue  
Carmel, NY 10512

Re: Terry Hill Road Improvements

Dear John:

I am writing to follow up on our meeting regarding the Patterson Crossing Retail Center where we discussed the conceptual traffic improvement plan for the intersection of NYS Route 311 and Terry Hill Road.

As discussed, the County has evaluated and considered making improvements to this intersection in the past to address longstanding concerns. These concerns existed prior to and totally separate from the proposed Patterson Crossing Retail Center. Simply said, the problems at Terry Hill Road exist today, have existed for a long time, and need to be corrected with or without the Patterson Crossing Retail Center.


Accordingly, we believe that it is fair and equitable for the County to take on most of the responsibility of completing necessary improvements to this intersection. It is noted that our company is taking on the responsibility of paying for other extensive offsite traffic improvements that will cost millions of dollars, and in most cases, mitigate pre-existing traffic problems that exist totally independently from the Patterson Crossing Retail Center.

We are in the process of finalizing the Final EIS for the Patterson Crossing Retail Center and expect to submit it to the Patterson Planning Board, as Lead Agency, by the end of July. This document needs to identify the proposed improvements to the intersection of Route 311 and Terry Hill Road, along with the party who will be completing such improvements.

A critical component of completing the Final EIS, therefore, is the County's feedback on the proposed improvements, and confirmation of its commitment toward completing these improvements prior to the center becoming operational. We believe that a letter from the County needs to go into the Final EIS that indicates the County's general agreement that the proposed improvements to the intersection are appropriate, and that the County is committed to completing such improvements. Should the County have any outstanding concerns or questions regarding the proposed improvements, our traffic consultant, Phil Grealy, PhD., is available to speak or meet with any of its representatives.

Please call me at your earliest convenience to discuss this letter so that we do not delay the submission of the Final EIS for Patterson Crossing.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Koelsch', with a long horizontal flourish extending to the right.

Fred Koelsch  
Director of Realty Investments

# ***PATTERSON CROSSING REALTY, LLC***

1699 Route 6, Suite 1 Carmel, New York 10512 (845)228-1400 FAX: (845) 228-5400

July 13, 2007

Mr. Robert J. Bondi, County Executive  
County Executive Office  
40 Gleneida Avenue  
Carmel, NY 10512

Re: Patterson Crossing Retail Center  
Offsite Stormwater Improvements

Dear Bob:

I am writing in response to your letter to Jeff Contelmo, P.E. dated June 25, 2007, in which you indicate that the County is willing to partner with our company, as the applicant for the Patterson Crossing Retail Center, to make stormwater management improvements on the County Highway Garage site located on Fair Street. Our participation in these offsite stormwater improvements will allow us to reduce phosphorous from the Patterson Crossing site even further than required by all applicable laws and regulations. We thank you for the opportunity to work with the County to improve water quality in the East Branch Reservoir basin beyond what is required by law.

When we last met to discuss this beneficial stormwater improvement project, we discussed the improvements set forth on the drawing "Proposed Offsite Stormwater Improvements", dated June 21, 2007, and prepared by Insite Engineering (the "Offsite Stormwater Improvements"). The proposed funding of the Offsite Stormwater Improvements is set forth in the attached letter dated June 21, 2007 from Jeff Contelmo, P.E. to John Tully.

While your above described letter to Jeff Contelmo, P.E. indicates the County's willingness to partner with our Company in making the Offsite Stormwater Improvements, we need the County's feedback on the proposed improvements. We are in the process of finalizing the Final EIS for the Patterson Crossing Retail Center and expect to submit it to the Patterson Planning Board, as Lead Agency, by the end of July. The Final EIS needs to identify the offsite stormwater improvements that are proposed, so we need the County's feedback on the Offsite Stormwater Improvements as soon as possible.

Additionally, we believe that a letter from the County needs to go into the Final EIS that indicates that the County agrees to partner with the applicant of the Patterson Crossing Project to complete the proposed stormwater improvements identified on the drawing "Proposed Offsite Stormwater Improvements", dated June 21, 2007, and prepared by Insite Engineering. Of course, if the County's review of these plans finds that revisions need to be made before it can endorse the proposed improvement plan, we will have Insite consider such changes, and discuss them with the County's representatives.

Please call me if you have any questions regarding this letter.

Sincerely,



Paul A. Camarda  
President



Robert J. Bondi  
PUTNAM COUNTY EXECUTIVE  
40 Gleneida Avenue  
Carmel, New York 10512  
Tel. (845) 225-3641



John G. Tully  
Deputy County Executive

Lisa M. Denig  
Chief of Staff

August 9, 2007

Patterson Crossing Realty, LLC  
1699 Route 6, Suite 1  
Carmel, New York 10512

Attention: Paul A. Camarda, President

**Re: Patterson Crossing Retail Center  
Offsite Stormwater Improvements**

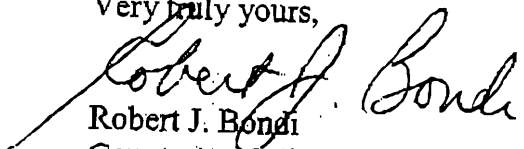
Dear Mr. Camarda:

I am writing to you today in response to your correspondence of July 13, 2007 with regard to the above referenced matter, in which you requested that the County provide you with a statement that indicates that it is our intent to partner with the applicant of the Patterson Crossing Project to complete the proposed stormwater improvements identified on the drawing entitled "Proposed Offsite Stormwater Improvements" dated June 21, 2007 which was prepared by Insite Engineering.

For your information, the County of Putnam has obtained grant funding for the purposes of constructing catch basin 1 on said drawing. It is our intent to complete the construction of same in accordance with the terms of said grant program.

With respect to the construction of the second catch basin, it is the County's understanding that the full cost of construction of said basin will be borne by the developer of the Patterson Crossing project, and the County makes no representations with respect thereto.

Very truly yours,

  
Robert J. Bondi  
County Executive

RJB:jsb



Robert J. Bondi  
PUTNAM COUNTY EXECUTIVE  
40 Gleneida Avenue  
Carmel, New York 10512  
Tel. (845) 225-3641

John G. Tully  
*Deputy County Executive*



Lisa M. Denig  
*Chief of Staff*

August 14, 2007

Patterson Crossing Realty, LLC  
1699 Route 6, Suite 1  
Carmel, NY 10512

***Re: Patterson Crossing  
Retail Center Offsite  
Stormwater Improvements***

Dear Mr. Camarda:

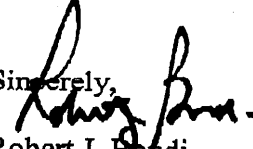
This letter will serve as a clarification of my August 9, 2007 letter regarding the above referenced subject.

As noted in my August 9<sup>th</sup> letter, the County has obtained grant funding for the purposes of constructing proposed stormwater improvements near the Putnam County Highway Department and to complete the improvements in accordance with the terms of the grant program. The proposed wet stormwater pond is PC-2 shown on the drawing for Patterson Crossing Realty, LLC, the applicant, and entitled the "Proposed Offsite Stormwater Improvements" dated June 21, 2007 which was prepared by Insite Engineering.

The grant obtained by the County is for fifty-percent (50%) of the cost of the proposed improvements. The remaining fifty-percent (50%) is to be funded by a local match. It is the County's understanding that the fifty-percent (50%) local match will be borne by the applicant of the Patterson Crossing project.

With respect to the construction of the second catch basin, it is the County's understanding that the full cost of construction of said basin will be borne by the applicant of the Patterson Crossing project. The County hereby expresses its willingness to allow the applicant to complete all the stormwater improvements described above on the subject county land. This representation is based on the understanding that the county's obligation in completing these improvements is limited to applying the above described grant funding to fifty-percent (50%) of the cost of constructing stormwater pond PC-2 shown on the drawing referenced above.

Sincerely,

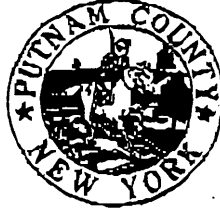
  
Robert J. Bondi  
County Executive



Robert J. Bondi  
PUTNAM COUNTY EXECUTIVE

40 Gleneida Avenue  
Carmel, New York 10512  
Tel. (845) 225-3641

John G. Tully  
Deputy County Executive



Lisa M. Denig  
Chief of Staff

August 22, 2007

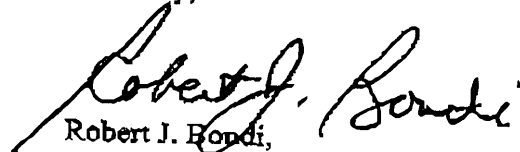
Paul Camarda  
Patterson Crossing Realty  
1699 Route 6, Ste. 1  
Carmel, New York 10512

Dear Mr. Camarda:

Since the intersection of Routes 311 and Terry Hill Road (CR #46) is under the jurisdiction of NYSDOT, any proposed improvements to this intersection must be approved by the Department of Transportation.

Having said this, Putnam County is committed to making any necessary improvements with the DOT's approval, that are warranted to address any issues that may arise due to additional traffic caused by the retail center development. Therefore, this commitment is contingent upon the project being approved, as the County would need the tax revenue anticipated to pay for said improvements.

Sincerely,

  
Robert J. Bondi,  
County Executive

RJB:ed



Tel: (845) 452-5900

Fax: (845) 452-5848

\*\*\*\*\*

ATTACHMENT:  
RESOLUTION

WHEREAS, Councilwoman \_\_\_\_\_, introduced the following resolution, which was seconded by \_\_\_\_\_.

WHEREAS, on or about January 12, 2007, the Town Board submitted proposed Comprehensive Plan and Zoning Law amendments to the Putnam County Department of Planning pursuant to Section 239-1 and/or 239-m of the General Municipal Law; and

WHEREAS, the Town Board simultaneously advised the County Planning Department that a public hearing on these matters would be conducted on January 22, 2007 at the Town Hall; and

WHEREAS, on January 23, 2007, the Putnam County Department of Planning responded to the referred Comprehensive Plan and Zoning Law amendments in writing; and

WHEREAS, in that document the Putnam County Planning Department advised the Town Board "...that both the Master Plan and Zoning Law Amendments are approved"; and

WHEREAS, the January 23, 2007 response included questions, in addition to the aforesaid approved recommendation, as follows:

"I note that two zoning map changes effect [sic.] two existing proposals. Specifically, the PRD zone on Horsepound Road is recommended for R-40 and part of the commercial zone on Route 311 is recommended for R-10. I believe these are the sites proposed for Kent Manor and Patterson Crossing, respectively. Are these existing proposals effected [sic.] by the zone changes or are they being considered under the current zoning because the applications have been submitted?"

and

WHEREAS, neither 239-1 nor 239-m of the General Municipal Law provide the Putnam County Planning Department with the authority

to issue interrogatories within the body of recommendations or approvals provided to a local agency; and

WHEREAS, the approval manifest in the Putnam County Planning Department's January 23, 2007 response was not stated to be conditioned upon the Town Board's response to inquiry; and

WHEREAS, the Town Board is informed that as a matter of law, development proposals or actual development applications are not exempt from intervening and inconsistent changes of local land use regulation; and

WHEREAS, the Town Board is informed that the Putnam County Planning Department was obligated to respond to the Section 239-m referral within 30 days by statute; and

WHEREAS, that time for response expired on or about February 11, 2007; and

WHEREAS, on March 12, 2007, the Putnam County Planning Department issued another advisory recommendation under Section GML 239-m; and

WHEREAS, the Putnam County Planning Department purported to revise its earlier January 23, 2007 statutory response, said modification being that its earlier approval was now conditioned that "...the commercial zone on the south side of Route 311 between Terry Hill Road and the town line remain a commercial zone..."; and

WHEREAS, among other reasons, the Putnam County Planning Department modified its earlier approval because ". . . there is a major active commercial project on file with the town in this area"; and

WHEREAS, the pending "major active commercial project" is the Patterson Crossing shopping center situated at the town line separating the Town of Patterson and the Town of Kent, and almost entirely within the Town of Patterson; and

WHEREAS, the purported modified approval of the Putnam County Planning Department, dated March 12, 2007, was issued approximately one month after the expiration of its statutory time to respond under either 239-1 or 239-m of the General Municipal Law; and

WHEREAS, the aforesaid actions of the Putnam County Planning Department are beyond the scope of its authority under statute, and the modified approval is significantly untimely; and

WHEREAS, it appears that the modified approval of the Putnam County Planning Department was expressly targeted to preserving and promoting the land use development aspirations of a particular property owner, as opposed to applying the statutory standards and criteria set forth in the General Municipal Law for advisory review of local land use determinations;

NOW, IT IS HEREBY RESOLVED AND DETERMINED AS FOLLOWS:

1. The Town Board views the March 12, 2007 modified approval or recommendation of the Putnam County Planning Department to be untimely and outside its enabling authority under Section 239-1 or 239-m of the General Municipal Law.

2. The Town Board finds and determines that the March 12, 2007 recommendation or modified approval of the Putnam County Planning Department is a nullity as a matter of law.

WHEREUPON, the following vote was taken:

Supervisor Nordstrom	_____
Councilman D'Ambrosio	_____
Councilman Rohde	_____
Councilwoman Doherty	_____
Councilwoman Madigan	_____

Dated: Kent Lakes, New York  
\_\_\_\_\_, 2007

-----  
Edith Schanil, Town Clerk



# **PATTERSON CROSSING REALTY, LLC**

1699 Route 6, Suite 1 Carmel, New York 10512 (845)228-1400 FAX: (845) 228-5400

September 14, 2007

**BY HAND DELIVERY AND FIRST CLASS MAIL**

Hon. Arne Nordstrom  
Supervisor of the Town of Kent  
and Members of the Town Board  
25 Sybil's Crossing  
Kent Lakes, NY 10512

***Re: Town of Kent Master Plan & Zoning Law Amendments  
Proposed Resolution Rejecting Modified County Planning Approval***

Dear Supervisor Nordstrom and Members of the Board:

It is our understanding that the Town Board may reconsider adopting a resolution (the "Resolution"), which purports to reject the Putnam County Department of Planning, Development and Public Transportation's ("County Planning") March 12, 2007 modified approval of Kent's proposed Master Plan and Zoning Law Amendments (the "Action"). The Action was referred to County Planning pursuant to GML Section 239-m on January 12, 2007.

The Resolution, which had originally been introduced on April 23, 2007, sets forth that County Planning's March 12, 2007 response to the Town, modifying a January 23, 2007 approval of the Action, is a "nullity," because County Planning "was obligated to respond to the Section 239-m referral within 30 days by statute," which 30 day statutory period for a response "expired on or about February 11, 2007."

We have reviewed the statutory authority set forth in the GML, and, respectfully, we have found **absolutely no support in the law for the position that the March 12, 2007 letter is a nullity**. In fact, it appears the Town may not be aware of important legislative changes to the GML pertinent to this very situation.

The relevant provision of the GML provides the following:

[A] county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a full statement of such proposed action . . . to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the proposed action without such report. However, **any county planning agency or regional planning council report received after thirty days . . . but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section.**

GML § 239-m(4)(b) (emphasis added). Subdivision five requires a "vote of a majority plus one," or a so-called "supermajority," in order for a referring body to act contrary to a

recommendation of modification or disapproval of a proposed action by County Planning. GML § 239-m(5).

The plain language of the statute therefore expressly contemplates that **any report received after thirty (30) days by the referring agency, so long as it is received at least two (2) days prior to a final action by the referring body, is a valid report** of the county planning agency, and acting contrary thereto is subject to the supermajority requirement. As a result of this statutory provision, the Town simply cannot reject County Planning's recommendations under the facts presented here, because there has still been **no final action** by your Board.

By way of background of the legislative intent and evolution of this provision, in 1992, the Appellate Division, Fourth Department held that a referring body was permitted to disregard a county planning agency's disapproval of its proposed action where it was received more than 30 days after the referral. Comm. to Preserve Character of Skaneateles v. Major, 187 A.D.2d 940, 591 N.Y.S.2d 648, 649 (4<sup>th</sup> Dep't 1992). Thus, the Court found that the referring agency did not violate GML Section 239-m by adopting the action by a simple majority, even though a supermajority vote would have been required had the disapproval been received within the 30 days.

Apparently in direct response to that case, when GML Section 239-m was repealed and replaced in 1993, the current language was added. According to the Legislative Bill Jacket:

Confusion currently exists over how a municipality should treat recommendations received in a report from a county, metropolitan or regional planning agency which arrive after the existing thirty day review period. Existing law is vague on whether the municipality, which has not yet taken final action, may act in the event the report recommends modification or disapproval of the proposal. This legislation provides that the county planning agency report **must be considered by the referring body if final action has not yet been taken.**

Mem. in Support, 1993 N.Y. Sess. Laws ch. 544 (S. 3028-B, A. 5124-B), **available in** Governor's Bill Jacket at 6 (emphasis added). Furthermore, the policy behind this was explained as follows:

The intent of the existing law, to ensure that zoning and planning decisions take proper account of the interests of affected parties, is enhanced by the provision governing municipal action on county recommendations. By requiring a majority vote plus one for a municipality to act contrary to the report's recommendations in cases where the county has recommended disapproval or modification, **it prevents municipal agencies from disregarding a county agency's known objections.**

Recommendation of Div. of the Budget, 1993 N.Y. Sess. Laws ch. 544 (S. 3028-B, A. 5124-B), **available in** Governor's Bill Jacket at 10 (emphasis added) (expressly stating that the "provision addresses an issue that is the subject of a current court case," presumably the aforementioned Fourth Department case).

GML Section 239-m expressly states that **any** report modifying or disapproving a proposed action that is received by a planning agency before final action of the referring board is

subject to the supermajority provision. **Accordingly, there is no legal basis for the Town of Kent to reject the March 12, 2007 letter as a 'nullity'.**

**Moreover, The Town of Kent must consider the June 20, 2007 (the "June Letter") letter from County Planning, which clarifies the March 12, 2007 letter and withdraws its January 23, 2007 letter. A copy of this letter is attached for your convenience.** The June Letter supports the argument that the March 12, 2007 letter is valid, and if the Board were to act contrary to County Planning's recommendations, a supermajority vote of the Board would be required.

Accordingly, we respectfully urge the Town to reconsider its legal position and the adoption of the erroneous Resolution.

If you have any questions with regard to the foregoing, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred Koelsch". The signature is stylized with a large, looped "K" at the end.

Fred Koelsch, Esq., AICP  
Director of Realty Investments



# **PAUL A. CAMARDA**

1699 Route 6, Suite 1 Carmel, New York 10512 (845) 228-1400 FAX: (845) 228-5400

October 18, 2007

**By Overnight Mail**  
Charles Silver, Ph.D.  
NYS Attorney General's Office  
The Capitol  
146 State Street  
Albany, NY 12224

Re: Patterson Crossing Retail Center, Patterson, NY

Dear Mr. Silver:

I hope that you enjoyed your summer.

This letter is written to follow up on what the project team has accomplished since the May 22, 2007 meeting with you, James Tierney, and Leila Goldmark and Bill Wegner of the Riverkeeper. In attendance with me were Fred Koelsch from my office and our project engineer and planner, Jeff Contelmo of Insite Engineering, and Tim Miller of Tim Miller Associates. This meeting was a follow up to the March 29, 2007 meeting attended by you, Mr. Tierney, Bill Wegner, and myself and Jeff Contelmo.

At the first meeting on March 29, 2007, we were asked to take the most conservative approach toward engineering stormwater treatment improvements and erosion controls. We also were asked to go beyond the regulations in the spirit of good faith. When we left the March 29, 2007 meeting our mission was clear - use the more conservative "Tierney" approach to engineering stormwater improvements, and add offsite stormwater improvements to the project so that it has a positive regional impact on stormwater quality.

At our second meeting on May 22, 2007, we presented a revised project that met these goals. By reducing the overall building footprint by approximately 50,000 square feet and other site improvements, we were able to show that even under the more conservative "Tierney" approach, we were able to attain post construction reductions in phosphorus. We also presented two significant and separate offsite stormwater improvements that could be completed through our project to significantly improve water quality. It is noted that we submitted our revised stormwater plans and reports to both your office and the Riverkeeper's office weeks prior to the May 22, 2007 meeting to give both your offices ample time to analyze this information.

Over the last four months since the May 22, 2007 meeting we have further refined our onsite stormwater treatment system and erosion controls, and further designed the offsite stormwater improvements. Relative to the offsite stormwater improvements, we spent a good part of the summer reaching an agreement with Putnam County to allow us to make stormwater improvements on and adjacent to the Putnam County Highway Garage site. Stormwater currently flows off this relatively large site untreated then flows through the adjoining Camp Herrlick property, and eventually flows into the Great Swamp. The County has agreed to allow us to install stormwater treatment controls on and adjacent to its highway garage site as part of our project. These stormwater treatment controls will improve the quality of stormwater entering the Great Swamp.

Additionally, during the summer we had numerous meetings with the NYSDOT to discuss how our project could incorporate stormwater treatment basins that treat stormwater from I-84 and Route 311. Untreated stormwater presently flowing from I-84 and Route 311 has created a ten foot wide by six foot deep ravine, that runs for a few hundred feet along Route 311 before it enters Lake Carmel. This untreated stormwater carries pollutants from I-84 and Route 311, as well as heavy amounts of sediment, into Lake Carmel. As a result of our meetings with NYSDOT, we revised our project to include stormwater treatment controls along the I-84 ramps and Route 311 to capture and treat the stormwater flowing from the large entrance and exit ramps from I-84 and from Route 311. Our project also will remediate the ravine condition running along Route 311. These stormwater improvements will significantly improve the water quality in Lake Carmel.

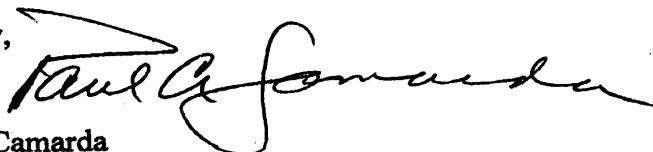
Lastly, we are following through with our earlier commitment to treat the large volume of currently untreated stormwater that leaves the densely populated Lake Carmel area via a drainage pipe on Concord Road. This large drainage pipe coming off Concord Road presently discharges directly onto a corner of the project site. This untreated stormwater has created a 600 foot long and ten foot wide by eight foot deep drainage ditch across a corner of the project site. This untreated stormwater, and all the sediment it carries, presently flows directly into the Middle Branch of the Croton River and then Lake Carmel. Our project will treat and control this stormwater from the residential community before it reaches Lake Carmel, further improving the water quality of Lake Carmel.

As we discussed with you at our March 29, 2007 meeting, Putnam County suffers from an ever worsening budget crises due in large part to its lack of a commercial tax base. Residential taxpayers are forced to pay a disproportionately high amount of county, town, and school taxes.

To meet its budget demands this year, Putnam County had to raise county taxes by 19% and increase the sales tax rate. The proposed county budget for next year included a 40% increase in county taxes, another increase in the sales tax rate, and drastic cuts in essential government services, including the elimination of high ranking county official positions. The proposed 2008 budget also includes several very unpopular cuts of quality of life services, including closing the only county owned golf course and the only county horse stable. The final budget for 2008 is expected to be approved by early November.

As you can see from the foregoing, we have taken the recommendations and requests from the March and May meetings very seriously. Later this fall we will forward completed plans to both your office and the Riverkeeper's office that reflect the follow through and detail on everything that was discussed at our meetings. As I promised your office and the Riverkeeper in the past, my company will always take extra ordinary efforts to make sure that the concerns of your office, the Riverkeeper, and other well respected environmental organizations are appropriately addressed, even if those concerns go beyond what is required under the law. I am confident that Patterson Crossing will be viewed as another example of that commitment.

Sincerely,



Paul A. Camarda

c: James Tierney  
Leila Goldmark, Esq, Riverkeeper  
William Wegner, Riverkeeper  
Jeff Contelmo, P.E., Insite Engineering  
Tim Miller, AICP, Tim Miller Associates



**John J. Lynch**  
Commissioner

**Putnam County Department of Planning,  
Development & Public Transportation**  
841 Fair Street  
Carmel, NY 10512

**Phone:** (845) 878-3480  
**Fax:** (845) 878-6721

October 9, 2007

Arne Nordstrom, Supervisor  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, NY 10512

**Re: Referral 07-PC-126  
Chapter 77 of the Town  
Code - Zoning Amendments  
Local Law #4**

Dear Supervisor Nordstrom:

The above referenced referral was received by the County Planning Department on September 27, 2007.

In terms of the GML 239M referral, the County Planning Department's official action is disapproval of the proposed Local Law #4 Amendments. The following reasons are noted to support the disapproval:

1. The proposed amendments are extensive and certain amendments have the potential of having significant development impacts on the town and county. It is also noted that the town was in a moratorium for certain residential development, which was just extended, for the purpose of conducting a full and complete analysis of the town's comprehensive planning process including maps, plan text and development laws. The County Planning Department fully supports this review. This review should be completed along with the SEQR process before moving forward with the zoning amendments embodied in Local Law #4.

The review of the town's comprehensive planning process, maps, and laws as well as the SEQR review and analysis may conclude that some of the amendments proposed in Local Law #4 are inappropriate. The extensive zoning code changes proposed in Local Law #4 would more properly be considered when analyzed together with the more extensive analysis of the comprehensive plan, maps, development laws, and SEQR process. This would allow for a full appreciation of the development impact of any proposed changes to development laws on the town and county and create

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consistency between any changes coming out of the comprehensive planning review process and the amendments proposed in Local Law #4.

2. In the Section 1 of Local Law #4, Section 77-6(D) of the town code is deleted and replaced with a new provision which reads as follows:

"D. No driveway, street, or road, whether private or public, which exclusively serves or supports a lot located in another district, which lot is used for any use prohibited in the district in which the driveway, street or road is located, shall be used to provide access to said lot."

The provision would potentially prevent the development of a lot or lots in a district when the use that a lot owner wants to establish and which may be allowed in a properly zoned district is not permitted in the district which the driveway, street, or road may have to traverse in order to access the lot. For example, a property owner could not construct a residential unit on a lot owned in a residential zone when the only access to the lot is from a driveway, street, or road that passes through a commercial zone. Under the provision proposed, the owner could not develop his/her property for a residential unit in a zone that allows residential units. This provision has the potential of land locking parcels by denying access and adversely impacting the county's tax base by denying potential future development.


3. Section 27 of Local #4 adds a number of new definitions to Section 77-65 of the Town Code. The definition of principal use is unusual because it includes a road, driveway, or infrastructure improvement as a principal use on a lot if that lot is devoted exclusively to road, driveway or infrastructure improvements that serve or support a principal use on a separate lot. This provision has the effect of allowing no development on a lot other than a road, driveway, or infrastructure and to perhaps accessory uses only. For example, if a road, driveway, sewer or water line, stormwater conveyance or other utility passes through a ten acre lot A to "exclusively" service a proposed residential unit on lot B, the ten acre lot A could not be developed for building purposes because the road, driveway, or infrastructure is the principal use and under the definition only one principal use is permitted. Presumably, lot A could have accessory uses such as a garage or swimming pool to be accessory to the residence on lot B, which would leave lot A with perhaps a road and/or garage. This makes no sense. The definition has the potential of adversely impacting the town and county tax base by restricting development potential of lots, creating the potential for unusual building scenarios, and developing driveways, roads, and infrastructure that have the potential of becoming non-conforming uses along with the principal use they are equivalent to should the principal use become non-conforming at some future date. Presumably, all the provisions of a non-conforming status would apply to the driveway, road, and infrastructure.

The definition also leaves a question as to whether the road or infrastructure covers private or public roads and infrastructure or both. If a road is dedicated to the town or county as a public road and is interpreted to be for the exclusive support of a principle use on a separate lot, would the same restrictions apply? Can they legally apply to a public road or utility?

Further, such a definition encourages sprawl because it encourages development away from areas where existing infrastructure and roads may exist or be developed. This result is the exact opposite of the stated purposes of the reasons for the Interim Development Law noted in Section 1 of that Law. This further supports the idea that the proposals of Local Law #4 should be considered together with the comprehensive planning process review and SEQR analysis.

Aside from the above, please note in Section 21 of Local Law #4 that the Putnam County Division of Planning is now the Putnam County Department of Planning, Development and Public Transportation.

Sincerely,



John J. Lynch  
Commissioner

JJL:rc

cc: Town Board  
Town Clerk



# SHAMBERG MARWELL DAVIS & HOLLIS, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, N.Y. 10549  
(914) 666 - 5600  
FAX: (914) 666-6267

October 29, 2007

*Via Hand Delivery*

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, New York 10512

RECEIVED  
KENT TOWN CLERK  
2007 OCT 30 PM 1:32

**Re: *Patterson Crossing, LLC***

Dear Supervisor Nordstrom and  
Members of the Town Board:

As your Board knows, this law firm represents Patterson Crossing, LLC, the developer of the Patterson Crossing Retail Center ("Patterson Crossing").

We have been made aware of your Board's intention and desire to adopt certain zoning amendments at your October 29<sup>th</sup> Town Board meeting. We write to express our client's deep and continued concern with regard to the proposed amendments to the Town of Kent Zoning Ordinance, amendments which you appear poised to improperly adopt.

We have written to you several times over the past year to express our concern with regard to both the content of certain proposed amendments to the Zoning Ordinance, amendments drafted for the singular purpose of delaying, impeding and frustrating our client's attempts at developing Patterson Crossing, and our concern with the flawed process you are employing to enact those amendments, beginning with your insufficient SEQRA review.

We enclose herewith for ease of reference our letters to you and your Board of January 22, 2007 (**Exhibit A**), February 7, 2007 (**Exhibit B**), March 9, 2007 (**Exhibit C**) and March 14, 2007 (**Exhibit D**). We also enclose a copy of our client's letter to you and your Board of September 14, 2007 (**Exhibit E**).

It is the clear and obvious intent of these certain proposed amendments to thwart our client's efforts to develop Patterson Crossing.

It is also clear from a review of the record that you and your Board may not have had all of your questions with regard to the nature, scope, extent and impact of these certain proposed amendments adequately presented or explained to you for there seems to be a

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
October 29, 2007  
Page 2

considerable degree of uncertainty among some of you as to exact nature of the proposed action you are being asked to undertake.

We feel that a full exposition of the opinions as to the purpose, intent and effect of certain of the proposed amendments by your professional consultants; legal, planning and engineering, are missing from the public record. The Board needs to be certain of its decision in light of that shortcoming in the record.

We have obtained and reviewed a copy of the proposed Resolution that would adopt the Local Law to amend Chapter 77 of the Town Code of the Town of Kent to, among other things, delete the existing provisions of § 77-6(D) of the Town Code and replace that section with a new § 77-6(D).

We are also aware of the Town of Kent's desire to upzone our client's property into the R-10 Residential District.

The not so subtle intent of the proposed amendment of § 77-6(D) is to negatively impact both the Patterson Crossing development in the Town of Kent and Town of Patterson and a separate residential development in both the Town of Carmel and Town of Kent, which proposed residential development has recently resulted in an adverse ruling against the Town of Kent by the Supreme Court of Putnam County.

The Board is proposing to add a definition of "principal use" to § 77-65 which would define "principal use" as:

The main or primary use of a lot. Except for designated mixed uses and multiple retail uses within a shopping center only one principal use is permitted per lot, all other uses, unless otherwise specifically allowed pursuant to this Chapter, being excluded. If a lot is devoted exclusively to road, driveway, or infrastructure improvements that serve or support a principal use on a separate lot, such improvements shall be deemed equivalent to the principal use which they serve or support.

This definition could be seen as an attempt to turn a road, driveway or an infrastructure improvement into a principal use if that road, driveway or infrastructure is passing through one lot to reach a principal use on a second lot. The question of whether or not roads, driveways and infrastructure are principal uses (which they are not) should not turn on whether there is a pre-existing use on a given lot.

Your proposed definition of "principal use" is an attempt by the Town of Kent, in addition to § 77-6(D), to prohibit roads, driveways, or even infrastructure (which could cover

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
October 29, 2007  
Page 3

even water, sewer, gas and utility lines) from accessing or supporting a use on another lot. A property owner will therefore be prohibited from improving or developing a lot or lots by this definition, along with § 77-6(D), when the use that such owner seeks to establish is not permitted on the lot over which the road or driveway would pass. This definition goes even further than § 77-6(D) to prohibit infrastructure as well.

Not only does this definition attempt to define and regulate some things as principal uses when they are not principal uses, and to prevent the development of property when two or more lots fall into different zoning districts, it goes even further in seeking to prevent any actual development on lots when roads, driveways or infrastructure have first been added to a lot in conjunction with a use on another lot. This restriction would apply even if that use is allowed on the lot over which the road, driveway, or infrastructure will pass as, according to the proposed definition, that road, driveway or infrastructure would become the "equivalent" of that principal use and only one principal use is permitted per lot.

Your Board's clear attempt to hastily enact amendments designed to stop several controversial projects is in clear violation of the charge given to the Master Plan Update Committee and further reinforces our arguments that your Board is disregarding proper SEQRA compliance.

This ill-conceived and faulty attempt on your Board's part has been disapproved by the Putnam County Department of Planning, Development and Public Transportation by a letter of John J. Lynch, Commissioner, dated October 9, 2007, attached hereto as **Exhibit F**.

Mr. Lynch goes into great detail in analyzing the far-reaching ramifications of your proposed amendments, amendments which, as we have set forth herein, would negatively impact more than just the several targeted developments that certain politically active and politically well connected citizens groups within the Town of Kent seek to block. The far reaching economic impact on many unidentified property owners clearly has not been given adequate review as required by SEQRA, as certain of the proposed amendments may negatively affect many unintended parcels.

Your rushed, haphazard approach in attempting to enact these politically motivated changes will result in nothing but the validation of our consistent claims and complaints that not enough of a "hard look" is being taken at the socio-economic impacts of the proposed amendments, amendments targeted for just two projects but amendments which could render other, unintended parcels of land within the Town of Kent undevelopable.

The legislative actions that are contemplated and proposed by you and your Board are violative of SEQRA regulations, are violative of our client's vested property rights in the Patterson Crossing project and are violative of our client's constitutional rights in that you are attempting to achieve by illegal misdirection that which you cannot properly obtain by legal

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
October 29, 2007  
Page 4

direction, to wit, a segmentation of the process to amend your Zoning Ordinance in such a way that would impede the development of Patterson Crossing. The purpose of your action as it affects our client's project is blatantly political and unrelated to sound planning practices. In fact, at a recent candidate's forum at which Councilwoman Doherty was also present, Councilman Joseph D'Ambrosio advocated the use of eminent domain as a means to "stop" Patterson Crossing.

As we have earlier submitted to you, there is no applicant, corporate or individual, that would be able to achieve the level of change for the use of his, her or its property with the level of SEQRA review that you are proposing to use as the basis for this "de facto" upzoning.

We commend to your attention once again, another Town Board's erroneous procedure by reference to the case of *Ginsburg Development Corp., SMG Associates and SMG Development Corp. v. The Town Board of the Town of Cortlandt*, a case decided November 14, 1990 in which this firm served as counsel for *Ginsburg*. That case is reported at 150 Misc.2d 24, 565 N.Y.S.2d 371.

In *Ginsburg*, the Town of Cortlandt sought to amend its Zoning Ordinance as that Ordinance dealt with "steep slopes." The Town of Cortlandt passed its steep slopes amendment based upon an acceptance of only an Environmental Assessment Form (EAF) and its issuance of its negative SEQRA declaration based only upon that EAF. The Court found that the Town of Cortlandt's cursory SEQRA review by means of an EAF was not sufficient in analyzing the socio-economic impacts of the proposed amendment and, accordingly, overturned the Town's Zoning amendment.

Your proposed amendments are nothing more than a political response to political pressure put upon the Town Board by certain groups and political candidates seeking to oppose certain specific projects within the Town of Kent. You and your Board have failed to take a "hard look" at the amendments as required under SEQRA, the *Ginsburg* case and its progeny and, accordingly, your amendments are as procedurally flawed as were those in *Ginsburg*.

Based upon the Putnam County Department of Planning, Development and Public Transportation's disapproval of your proposed action, we remind you once again that any vote by your Board with regard to the proposed amendments is constrained by the provisions of General Municipal Law §239-m(5) as the disapproval of the Putnam County Department of Planning, Development and Public Transportation requires that you not act contrary to that recommendation by the Putnam County Department of Planning, Development and Public Transportation except by a vote of a majority of your Board members plus one, which translates into a vote by four of the five Town Board members in favor of any zoning amendments as they may affect our client's property.

Hon. Arne Nordstrom, Supervisor  
and Members of the Town Board  
October 29, 2007

Page 5

This letter shall serve as notice to you and the Town of Kent that the Town of Kent, and each and every member of your Town Board, and all of those who, acting while under color of State Law, participate in this illegal process, will be held collectively and personally responsible and liable for their actions.

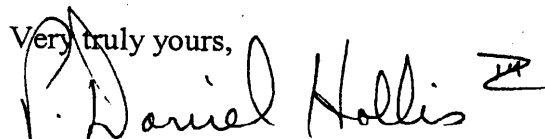
While the Town of Kent is a community with a storied history dating back to Revolutionary times, the sad reality is that the present and future history of the Town of Kent will be sullied by your actions as the Town of Kent becomes both the low water mark as the exemplar for violators of the constitutional rights of the property owners as well as becoming the warning beacon to other municipalities of the economic consequences to a municipality, and its taxpayers, for such unconstitutional and illegal behavior.

Further, the participation of Councilwoman Doherty in this entire process has been and continues to be improper. Any action in which Councilwoman Doherty participates on any of the proposed amendments as they affect Patterson Crossing will further fatally flaw any such action. Councilwoman Doherty has been the standard bearer for the Stop Patterson Crossing Committee and has pandered to that Committee and its supporters from the very inception of this project and has been and is seeking to further her own political ambitions on the economic back of our client.

By her own admission, Councilwoman Doherty has communicated with New York State Department of State, Committee on Open Government about her participation in the opposition to the Patterson Crossing Retail Center through the Stop Patterson Crossing Committee and has stated that the Committee on Open Government has advised her that she cannot serve both the Town of Kent as a Town Board member and act upon Patterson Crossing Retail Center matters while at the same time be the staunch supporter of the Stop Patterson Crossing Committee she has been. Accordingly, it is our position that Councilwoman Doherty must recuse herself from any vote that would in any way impact Patterson Crossing.

We urge your Board against taking the precipitous and illegal steps you seemingly have scheduled for a vote on October 29<sup>th</sup>.

Very truly yours,



P. Daniel Hollis III

PDH:jec

Enclosures

c: Mr. Paul Camarda  
Frederick J. Koelsch, AICP  
Timothy J. Curtiss, Esq.



# JOHN COLLINS ENGINEERS, P.C.

TRAFFIC • TRANSPORTATION ENGINEERS

===== 11 BRADHURST AVENUE • HAWTHORNE, N.Y. • 10532 • (914) 347-7500 • FAX (914) 347-7266 =====

**MEETING SUBJECT:**        **NYSDOT Meeting**  
**Discussion of Patterson Crossing Retail Complex on Route 311 in**  
**the Towns of Kent/Patterson, New York**

**DATE/LOCATION:**            November 13, 2007, NYSDOT Region 8, Poughkeepsie, New York

**MEETING ATTENDEES:**    Glenn Boucher, P.E., New York State Department of Transportation  
Paul Camarda, Camarda Real Estate Investments, LLC  
Jeff Contelmo, P.E., Insite Engineering  
Richard Dillmann, P.E., New York State Department of Transportation  
Ursus Idosu, P.E., New York State Department of Transportation  
Fred Koelsch, Camarda Real Estate Investments, LLC  
Philip J. Grealy, Ph.D., P.E., John Collins Engineers, P.C.

**PROJECT NO.:**              314  
**PREPARED BY:**             Philip J. Grealy, Ph.D., P.E.  
**DATE PREPARED:**         December 14, 2007

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Following the meeting on the Camarda State Line project, we had the opportunity to discuss the Patterson Crossing project as it relates to the access improvements and the continued processing of the Highway Work Permit. The following represents a summary of the items discussed:

1. The FEIS for the project is in the process of being finalized and should be resubmitted to the Lead Agency by the end of the year.
2. Based on the location of wetlands and grading considerations, it appears that the signalization and widening improvements option previously submitted to the department will be the preferred improvement for the interchange upgrades. The improvements include the widening of the ramp approaches, signalization and the provision of the left turn lane on Route 311. In reviewing the options for widening under the I-84 overpass, it appears that the option which maintains the shoulder width and provision of short retaining walls should be pursued as part of the Highway Work Permit. This treatment has been undertaken at other interchanges in the region.
3. The details of the entrance widening including turn lane tapers was reviewed and it was reiterated that the signalization of the driveway would include coordination with the ramp signals.

4. The monitoring for potential signalization of other intersections along Route 311 and Route 52 will be bonded with the Town to insure the monitoring and future signalization, if warranted.
5. The intersection of Route 311 and Terry Hill Road/North Terry Hill Road was discussed as it relates to the status of the County plan to upgrade and signalize this intersection. The plan includes provision of separate left turn lane on Route 311 and widening of the Terry Hill Road approach to provide a two-lane approach. In this regard, it was discussed whether the pavement markings on the northbound approach to the intersection on Terry Hill Road should be modified to favor the through/left movement at the intersection. This will be looked at and finalized with the County. The treatment on the North Terry Hill Road approach to the intersection including provision of the “stop” sign on Harvard Drive approach was discussed. The potential for making this leg “one way” was raised due to the limited number of houses being served. The final treatment will be reviewed under the Highway Work Permit process with the County.
6. Jeff Contelmo described the modifications to the overall site plan and the current plan represents a reduction in overall square footage. Relative to drainage improvements, the treatment of on site and off site drainage including proposed stormwater treatment for the basins along Route 311 to address the current conditions was presented. The purpose is to retain and treat the stormwater prior to reaching the tributary. This should improve existing conditions and improve the current erosion which occurs at the existing outlet pipe. Richard Dillmann recommended that the materials be forwarded to Bill Gorton’s group for review since one of the retention basins lies within the state right-of-way and this would have to be approved by Department.

# JOHN COLLINS ENGINEERS, P.C.

TRAFFIC • TRANSPORTATION ENGINEERS

11 BRADHURST AVENUE • HAWTHORNE, N.Y. • 10532 • (914) 347-7500 • FAX (914) 347-7266

November 27, 2007

Mr. Bill Gorton  
Regional Design Engineer  
New York State Department of Transportation  
Region 8  
4 Burnett Boulevard  
Poughkeepsie, NY 12603


RE: Patterson Crossing  
Route 311  
Town of Patterson, New York

Dear Bill:

At a recent meeting with Rich Dillmann regarding the access improvements for the above site, we discussed the processing of the roadway improvement permits. As part of that discussion, we touched on some of the drainage improvements planned in association with the project. Since a portion of these fall within the state right-of-way, we are forwarding a copy of the Storm Water Pollution Prevention Plan and Site Plans for the development which is currently proceeding through the approval process. We have also included a copy of a memorandum from Insite Engineering describing the treatment of the larger storm water basin proposed along the south side of Route 311. We are forwarding this information for your review and input as we proceed with the roadway design improvements.

In the meantime if you have any questions, please do not hesitate to contact us.

Sincerely,  
JOHN COLLINS ENGINEERS, P.C.



Philip J. Grealy, Ph.D., P.E.  
enclosures

cc: J. Contelmo, P.E.  
F. Koelsch



# JOHN COLLINS ENGINEERS, P.C.

TRAFFIC • TRANSPORTATION ENGINEERS

===== 11 BRADHURST AVENUE • HAWTHORNE, N.Y. • 10532 • (914) 347-7500 • FAX (914) 347-7266 =====

**MEETING SUBJECT:**        **NYSDOT Meeting**  
**Discussion of Patterson Crossing Retail Complex on Route 311 in**  
**the Towns of Kent/Patterson, New York**

**DATE/LOCATION:**            November 13, 2007, NYSDOT Region 8, Poughkeepsie, New York

**MEETING ATTENDEES:**    Glenn Boucher, P.E., New York State Department of Transportation  
Paul Camarda, Camarda Real Estate Investments, LLC  
Jeff Contelmo, P.E., Insite Engineering  
Richard Dillmann, P.E., New York State Department of Transportation  
Ursus Idosu, P.E., New York State Department of Transportation  
Fred Koelsch, Camarda Real Estate Investments, LLC  
Philip J. Grealy, Ph.D., P.E., John Collins Engineers, P.C.

**PROJECT NO.:**              314  
**PREPARED BY:**            Philip J. Grealy, Ph.D., P.E.  
**DATE PREPARED:**         December 14, 2007

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1. The FEIS for the project is in the process of being finalized and should be resubmitted to the Lead Agency by the end of the year.
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# **PATTERSON CROSSING REALTY, LLC**

1699 Route 6, Suite 1 Carmel, New York 10512 (845)228-1400 FAX: (845) 228-5400

February 4 , 2008

Donald B. Smith, Putnam County Sheriff  
Putnam County Sheriff's Department  
3 County Center  
Carmel, NY 10512

Dear Sheriff Smith:

Thanks for meeting with me this past Thursday to discuss the Putnam County Sheriff's Substation proposed for the Patterson Crossing Retail Center.

As discussed, the Sheriff's Substation can be provided in either building H or E, as shown on the enclosed overall site plan. This space will be approximately 300 square feet and include room for an office, meeting area, bathroom, kitchenette area, and closet space, as shown on the conceptual floor plan enclosed for you review. We would lease this space to the Putnam County Sheriff's Department rent free, with the Department paying only the utility charges for the space.

I would appreciate you confirming in writing your Department's willingness to accept and use the proposed Sheriff's substation as it deems appropriate. Please call me if you have any questions or need any additional information.

Please forward your response back to this office within one week of your receipt of this letter. Thank you in advance for your consideration.

Sincerely,



Paul A. Camarda



**PATTERSON CROSSING REALTY, LLC**  
1699 i 6, Suite 1 Carmel, New York 10512 (845) 228-1400 FAX: (845) 228-5400

February 4, 2008

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Putnam County Sheriff's Department  
3 County Center  
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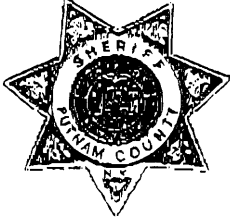
Please forward your response back to this office within one week of your receipt of this letter. Thank you in advance for your consideration.

Sincerely,



Paul A. Camarda



A large, bold, black stamp that reads "COPY" with a small icon of a document with a folded corner to its left.

**PUTNAM COUNTY  
OFFICE OF THE SHERIFF  
THREE COUNTY CENTER  
CARMEL, NEW YORK 10512**



**DONALD B. SMITH**  
Brigadier General, U.S. Army (Ret.)  
SHERIFF  
(845) 225 - 3000

**PETER H. CONVERY**  
UNDERSHERIFF  
(845) 225 - 1460

February 14, 2008

Mr. Paul A. Camarda  
Patterson Crossing Realty, LLC  
1699 Route 6, Suite 1  
Carmel, New York 10512

Dear Mr. Camarda:

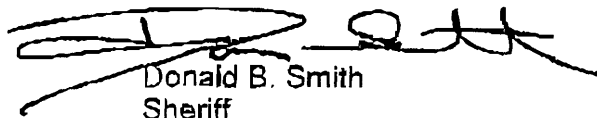
I am writing in response to your letter of February 4, 2008 pertaining to a proposed substation for the Putnam County Sheriff's Office at the Patterson Crossing Retail Center. First of all, let me thank you for your generosity and support of public safety for the citizens of Putnam County.

Per our earlier discussion, I would envision this substation not as a fixed post as the best use of law enforcement is on patrol out in the community. However, this proposed substation would represent an outstanding support base for the Sheriff's Office and law enforcement at an important center of commerce and at a critical road junction within Putnam County that allows quick and ready access to many areas in the County. It would allow our deputies and investigators to meet with complainants, conduct interviews, conduct meetings, and perform various law enforcement functions, as well as provide a support base in a busy center for commerce, especially during the holiday season.

Any contract that would be signed pertaining to this agreement would require the approval of the County Executive with the support of the Legislature. However, based on the rent being free and our only costs being utilities, I anticipate that both the County Executive and the Legislature would support this in the interest of helping law enforcement within the County. My staff and I look forward to working with you on either the option in Building H or Building E as plans are finalized.

In closing, I want to thank you for your support of law enforcement in Putnam County. Best wishes. Keep the faith!

Sincerely,

A handwritten signature in black ink, appearing to read "Donald B. Smith".

Donald B. Smith  
Sheriff





February 19, 2008

Ms. Andreea Oncioiu  
New York City Department of Environmental Protection  
465 Columbus Avenue, Suite 350  
Valhalla, New York 10595

RE: Patterson Crossing  
Towns of Kent and Patterson

Dear Ms. Oncioiu:

It was a pleasure meeting with you and your colleagues last Wednesday, February 6<sup>th</sup> to discuss the Patterson Crossing project as it relates to your Department's review. We appreciate the opportunity to hear your comments and questions at this stage in the SEQRA review process and pre-application submission. We are enclosing herein the following documents to assist you in your continued review of the project relative to the SEQRA process:

- Draft Environmental Impact Statement dated July 27, 2006.
- Sections of the Final Environmental Impact Statement undated (as they relate to your DEIS comments).
- Set of FEIS Site Plans dated February 4, 2008.
- Stormwater Pollution Prevention Plan as included in the FEIS dated February 4, 2008.

As discussed at our meeting, the current project design has incorporated a number of modifications which further mitigate environmental impacts based on the many comments offered on the DEIS from your agency and others, such as the Watershed Inspector General of the NYS Attorney General's Office, the Riverkeeper, and the New York State Department of Transportation. We further refined some of these modifications to reflect your comments at our February 6<sup>th</sup> meeting. Some of the key project modifications include:

- Reduced total building square footage.
- Reduced total impervious area.
- Reduced disturbed area.
- Improved project related stormwater practices.
- Expanded off-site stormwater improvements providing significant phosphorus reduction and treatment of off-site traffic improvement areas.
- Refined subsurface sewage treatment system (SSTS) design concept.
- Relocated emergency access drive from the area below the SSTS.
- Upgraded architectural design.

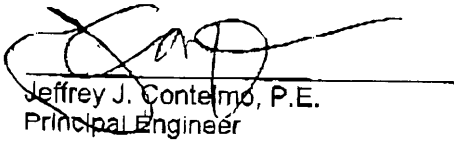
We trust the above documents will assist you in preparing for your review of the Final Environmental Impact Statement and preparation of subsequent findings in support of the project.

Should you have any questions or comments regarding this information, please feel free to contact our office or Fred Koelsch of Camarda Realty Investments.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:



Jeffrey J. Contelmo, P.E.  
Principal Engineer

JJC/amh

Enclosures

cc: Fred Koelsch, CRI

Insite File No. 01124.100

Appendix B

WRITTEN COMMENTS RECEIVED  
ON DEIS



**Partners**

Charles W. Manning, P.E.  
 John M. Tozzi, P.E.  
 Edward V. Woods, P.E.  
 Donald G. Sovey, P.L.S.

**Associates**

Don Adams, P.E., PTOE  
 Karl H. Detrick  
 Thomas R. Johnson, P.E., PTOE  
 Shelly A. Johnston, P.E.  
 Edwin C. Lawson  
 Jeffrey W. Pangburn, P.E.  
 Mark A. Sargent, P.E.

September 21, 2006

Chairman Arthur Singer  
 Town of Kent Planning Board  
 25 Sybil's Crossing  
 Carmel, New York 10512

**RE: DEIS Traffic, Air and Noise Review for Patterson Crossing Retail Center, Towns of Patterson and Kent, Putnam County, NY; CME Project No. 06-138d**

Dear Chairman Singer:

Creighton Manning Engineering, LLP (CME) has reviewed the Draft Environmental Impact Statement (DEIS) dated July 27, 2006 submitted for the *Patterson Crossing Retail Center* project. The review was limited to technical content of the Traffic, Air, and Noise sections of the document as they relate to the Town of Kent. As stated in our scope of services, it is our understanding that the DEIS has been deemed complete by the Planning Board. Below is a summary of the findings of our technical review.

In general, the DEIS sections reviewed provide detailed technical data and documentation of the analysis conducted. However, it is noted that the sections of the report describing the proposed mitigation are somewhat unclear. Each section of the DEIS should include a strong conclusion clearly outlining exactly what is proposed as mitigation by the Applicant.

**Traffic**

Information such as detailed intersection descriptions and raw turning movement count data was not included in the traffic report included in the DEIS. Although this information would further enhance our technical review of the study, we offer the following technical comments based on the available information. It is noted that CME's review was limited to the following study area intersections located in the Town of Kent:

- a. Route 311/Ludington Court
- b. Route 311/Longfellow Drive
- c. Route 311/Terry Hill Road
- d. Route 311/Route 52
- e. Route 52/Barrett Hill Road
- f. Route 52/Hourse Pound Road
- g. Route 311/Site Access

*Engineers, Planners and Surveyors*

1. The trip generation and trip distributions presented in the traffic report appear reasonable.
2. The Traffic Impact Study uses a 1.5% background growth rate per year to account for general growth in the study area. Discussion needs to be provided to explain why this growth rate was used.
3. The following is noted for each of the study area intersections.
  - Route 311/Ludington Court- We agree with the analysis presented in the traffic report and the conclusion that no capacity or accident related mitigation is required at this intersection as a result of the project.
  - Route 311/Longfellow Drive- A drop in level of service will occur on the Longfellow Drive intersection approach between the No-Build and Build conditions with an increase in the average vehicle delay of approximately 16 seconds during the peak hours. No mitigation has been proposed to address this drop in level of service. The report notes that the delay may be less due to platooning caused by upstream and downstream signals. This effect can be shown in the analysis by inputting data for upstream signals in the analysis. Regardless, the need for turn lanes at this intersection and/or other mitigation needs to be investigated and included in the report. An existing conditions schematic of this intersection needs to be included in Appendix K.
  - Route 311/Terry Hill Road- Based on the accident data presented in the report, it appears that almost all of the accidents occurring at this intersection are rear end or left-turn accidents. More information on the circumstances surrounding these accidents and the need for mitigation should be presented and discussed in the traffic report. Further, the installation of a traffic signal and left-turn lanes is recommended in the existing conditions analysis. Regarding the signal warrant, volumes on the side street approach at this intersection are relatively low with the highest volume making a right-turn movement. As noted in the NYS codes, a portion of the right-turn volume should be removed from the side road traffic count before comparing to the warrant criteria. The report does not indicate if a percentage of the right-turns were removed when conducting the signal warrant. Further, back up data on the daily distribution of traffic volumes (i.e., ATR data sheets) should be included for review of the signal warrants. The traffic study assumes that the stated mitigation will be completed prior to full development of the site in 2010. However, it appears that the improvements are not currently planned by others. Therefore, based on the unacceptable level of service at this intersection, drop in level of service, and large vehicle delays in the Build condition, the improvements should be presented as mitigation from the project.
  - Route 311/Route 52- The traffic report should identify the signal timing improvements required to maintain acceptable operating conditions in the build conditions as project mitigation.

- Route 52/Barrett Hill Road- The traffic report should identify the turn lane and center median improvements required to maintain acceptable operating conditions in the build conditions as project mitigation.
  - Route 52/Horse Pound Road- The traffic report should identify the center turn lane improvement required to maintain acceptable operating conditions in the build condition as project mitigation.
  - The HCS analysis for the Route 311/Site Access Driveway intersection needs to be included in Appendix K for review. Further, details on the traffic signal warrant and turn lane warrants at this intersection also need to be included in the Appendix and described in detail in the report. Will signal inter-connection be needed with the ramps or other intersections?
4. The accident data indicates more than half of the accidents on Route 52 (1035 to 1038) were rear end accidents. More information on the circumstances surrounding these accidents and the need for mitigation should be presented and discussed in the traffic report.
  5. Sight distance criteria is presented in the report, however, no analysis was done. A sight distance evaluation should be done and presented in the traffic report for the proposed site access intersection with Route 311.

#### **Air**

1. We agree with the results of the air quality study indicating that the seven study area intersections located in the Town of Kent screen out from requiring a detailed air quality analysis. Therefore, we agree that the project will not result in a violation of the ambient air quality standards at the intersections in the Town of Kent. However, the statement that no roadway modifications will be made in the Build condition on page 17 may need to be revised based on revisions/comments on the traffic report.
2. We agree that a mesoscale analysis is not required for this project. However, the reference that a mesoscale analysis measures PM10 on page 13 should be removed as a mesoscale analysis only measures VOC, NO<sub>x</sub>, and CO.
3. We concur with the construction related air quality impacts discussion.

#### **Noise**

1. The applicant needs to state why the HUD standards apply to this project. The HUD standards are for Federally funded projects. Unless this project is Federally funded the NYSDEC Noise Policy should govern as modified by any local ordinances. The NYSDEC Policy is consistent with the SEQR process.
2. The noise study references the HUD Standards and that exterior noise levels do not exceed an L<sub>dn</sub> of 65 decibels. The L<sub>dn</sub> is a 24-hour based noise level and takes into

account the changes in noise levels during the daytime and nighttime. However, the study uses the  $L_{eq}$  descriptor for quantifying noise levels measured in 15 minutes intervals and then compares that to the  $L_{dn}$  (based on 24 hours). This type of comparison is incorrect as these representative sound levels are not comparable.

3. Sound level measurements were performed at the edge of the wooded area adjacent to existing residential development. The applicant states that the existing trees and brush do not “substantially influence” measurements of the noise levels from Interstate 84. The implication here is that the noise levels from I-84 will be the same whether the trees and brush are there or not. In order to determine if a wooded area provides attenuation, measurements must be taken at a few distance doubled intervals (such as 100’, 200’, 400’, 800’, 1600’, etc.) from the noise source. From these measurements, an actual noise attenuation rate and /or shielding effect can be determined.

Based on the traffic volumes and speeds along I-84,  $L_{eq}$  noise levels 50 feet from the center of the nearest travel lane can be 80 dBA or more over a 15 minute period. If you reduce the noise levels from I-84 to the nearest receptor (receptor 1, 800’ from I-84) by 5 dBA for every doubled distance, noise levels at Receptor 1 would be approximately 60 dBA. Since the measured level reported by the applicant is 52 dBA, it appears the existing trees, underbrush or terrain could be providing 8 dBA of shielding. By using the applicant’s reduction factor of 4.5 dBA per doubled distance the trees or terrain may be providing 10 dBA or attenuation.

4. The latest studies and the Federal Highway Administration Traffic Noise Prediction Model and the NYSDEC Noise Policy use a reduction factor of approximately 6 dBA per doubled distance over soft ground beginning at approximately 50 to 100 feet from the noise source. When there is a mix of hard and soft ground, the attenuation rate will vary between 3 and 6 dBA proportionately.
5. The terms “substantially” and “effective” will need to be defined as they are interpretive and appear throughout the study.
6. The project will add traffic to the existing roadway network. These increases need to be quantified for each impacted roadway and the methodology described.
7. The applicant will need to quantify the increase in noise levels due to the loss of the existing soft ground and trees and underbrush (if any) between the receptors and I-84.

Note: The ground attenuation rate will be less than the existing when the soft ground is converted to asphalt parking lots and buildings.

8. Please provide a basis for the predicted reduction of 20 dBA from the rock crusher over 500 feet.

9. The predicted noise levels at each sensitive receptor needs to be quantified. This does not mean just the measurement locations, but also includes the residents that may be impacted by site driveways and other operations of the site.
10. The applicant states that an “effective noise barrier” will be constructed around the rock processing equipment. There is no mention of how many decibels of reduction the barrier will provide or how it will be accomplished. The berm mentioned would need to be quite high in elevation above the rock processing equipment effective. In order to review the rock processing equipment noise, further detail is required on both the berm and the processing equipment to be used.
11. The study states that “specific noise reductions have not been calculated”. However, the study makes a claim that a 4 to 10 dBA reduction of I-84 noise would be obtained by the proposed noise wall and building combination. This claimed attenuation needs to be substantiated quantitatively and included as part of the report. The FHWA Traffic Noise Prediction Model (TNM) is a software program that can analyze a barrier or a row of buildings that act as a barrier designed to shield noise. A barrier analysis must be completed and submitted as part of the technical review and part of the project’s approval documents.

Technical Note: For a barrier to provide any shielding or barrier attenuation from a linear noise source such as I-84 at receptors 800’+ away, it would need to be much higher than 10 feet and very long. The functionality of a noise barrier is directly dependant on the distance the receptor and noise source is from the barrier and how long the barrier is.

13. Cross sectional views showing the relationship of the existing terrain and proposed terrain will need to be included in the subsequent review to properly assess the elevation differences that may contribute to the difficulty or aid in mitigating noise levels. The cross sections should extend from I-84 to the first row of residential homes west of the site and be in a scale that is reasonable to work with.
14. A barrier analysis is required to determine what noise reduction (if any) will be provided by the proposed 8’ high fence along the western property boundary. The applicant mentions that the physical properties of a proposed 8’ fence can determine its effectiveness, while this is true, the report will need to specifically state that the fence will be constructed of a material or combination of materials with a density of 4 pounds per square foot (psf). A typical wooden stockade fence has a density of approximately 2 psf and will not provide the attenuation claimed. Please provide a cross section that shows the fence, sensitive receptor and the noise source it is intended to shield.

## **Conclusion and Recommendation**

Based on the foregoing, we conclude that additional analysis and supporting data is required as part of the traffic and noise studies. An additional technical review of these studies will be conducted when the requested data is received. The air quality analysis is deemed technically complete and requires no additional data or studies.

Respectfully submitted,  
**Creighton Manning Engineering, LLP**

A handwritten signature in black ink that reads "Wendy C. Cimino". The signature is written in a cursive, flowing style.

Wendy C. Cimino, P.E., PTOE  
Project Manager



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
REGION EIGHT  
4 BURNETT BOULEVARD  
POUGHKEEPSIE, NEW YORK 12603  
www.dot.state.ny.us

ROBERT A. DENNISON III, P.E.  
REGIONAL DIRECTOR

THOMAS J. MADISON, JR.  
COMMISSIONER

**REGION 8  
TRAFFIC ENGINEERING & SAFETY**

**FAX**

To: Richard Williams

Company: \_\_\_\_\_

Fax: \_\_\_\_\_

From: Glenn Bovehey

Phone: 845-575-6040

Fax: 845-575-6126

Date: 9/28/06

Pages (including cover page): 3

Comments: \_\_\_\_\_  
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STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
REGION EIGHT  
4 BURNETT BOULEVARD  
POUGHKEEPSIE, NEW YORK 12603  
www.dot.state.ny.us

ROBERT A. DENNISON III, P.E.  
REGIONAL DIRECTOR  
September 28, 2006

THOMAS J. MADISON, JR.  
COMMISSIONER

Richard Williams  
Town of Patterson Planner  
P.O. Box 470  
1142 Route 311  
Patterson, NY 12563

RE: DEIS Patterson Crossing Retail  
Route 311  
Town of Patterson

Dear Mr. Williams:

The Department has completed its review of the "Traffic & Transportation" portion of the Draft Environmental Impact Statement (DEIS) for the proposed Patterson Crossing Retail center on Route 311 in the Town of Patterson. Our comments will be specific to that portion.

The Department found the format of the subject DEIS to be unconventional and at times confusing. Typically the traffic portion of a DEIS would consist of three segments. The first segment analyzes the existing condition. The second segment would pertain to the No-build condition where traffic is projected out to the build year and analyzed. The final segment would combine the No-build traffic with the projected traffic generated by the proposed development to form a Build condition analysis. The Build condition analysis is used to determine the required mitigation for the proposed development.

The entire "No-Build Condition with Traffic Improvements" segment should be eliminated from future submissions unless the developer is proposing to include those improvements as part of the mitigation for the project. The developer can not assume that the improvements listed in this segment, specifically 5 new traffic signals, will be undertaken by the Department. The Department considers the existing traffic conditions in this area manageable and has no projects planned in the future to address the intersections summarized in this section. Therefore, the "No-Build condition without improvements" should be compared with the Build conditions of the proposed project to determine appropriate mitigation measures.

Regarding the actual project specifics of the DEIS, the Department offers the following comments:

1. The 1.5% background growth rate used to project future No-Build traffic volumes is appropriate.
2. Given the regional draw of this development and its location relative to I-84, the Department feels that a pass-by credit of 15% would be more appropriate than the proposed 25% pass-by credit used. The traffic volumes should be adjusted accordingly.

RECEIVED

SEP 28 2006

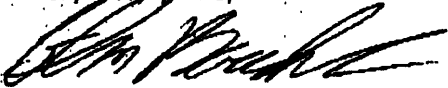
T.O.P.  
PLANNING & ZONING

3. A Signal Warrant Analysis will be required for the intersection of the proposed site access drive and Route 311.

As this project progresses through the State Environmental Quality Review process, the Department will continue to work with the Lead Agency and the applicant to develop a mitigation plan that maintains the integrity of the surrounding road network and allows the project to remain economically viable.

If you any questions please contact me at (845) 575-6040.

Very truly yours,



Glenn T. Boucher  
Regional Highway Work Permit Coordinator

cc. R. Griemsman, Resident Engineer, Res 8-3  
J. Rapoli, Planning & Program Management

**LEGGETTE, BRASHEARS & GRAHAM, INC.**

**PROFESSIONAL GROUND-WATER AND  
ENVIRONMENTAL ENGINEERING SERVICES**

4 RESEARCH DRIVE  
SUITE 301  
SHELTON, CT 06484  
203-929-8555  
FAX 203-926-9140  
www.lbgweb.com

September 20, 2006

Neil A Wilson, Esq., AICP  
LRC Planning Services, LLC  
8 Morehouse Road  
Poughkeepsie, NY 12603

RE: Patterson Crossing Retail Center  
Towns of Patterson and Kent, New York

Dear Mr. Wilson;

Leggette, Brashears & Graham, Inc. (LBG) has reviewed the Draft Environmental Impact Statement for the proposed Patterson Crossing Retail Center located in the Towns of Patterson and Kent. Our review includes the potential hydrogeologic impacts of the project to the Town of Kent, with particular attention to regional ground-water resources. LBG reviewed the applicable sections in the DEIS including in the support document located in Appendix II, prepared by SSEC, Inc. (dated July 27, 2006).

**Water Supply**

The adjacent properties to the proposed project in the Town of Kent are supplied water from individual supply wells. The wells in the region are completed in bedrock. The proposed project will utilize two onsite bedrock wells, known as Wells 1 and 2. The wells are relatively deep and both wells yielded about 20 gpm (gallons per minute) each at completion of drilling. The initial data indicated the wells would likely meet the estimated water demands of the project estimated to be about 10,740 gpd (gallons per day) or about 7.5 gpm. The well testing protocol was prepared by Tim Miller Associates, Inc. and reviewed by the Putnam County Department of Health as well as the Town of Patterson for approval. The test was proposed to determine if adequate water would be provided by Wells 1 and 2; and determine any water-level interference effects to offsite well, if any, from the proposed ground-water withdrawals. Prior to conducting

the pumping test event, the applicant's consultant conducted an extensive solicitation of 40 adjacent property owners for permission to monitor their wells during the proposed pumping test event of Wells 1 and 2. A total of eight offsite wells were monitored during the test. A majority of the offsite wells were located along the western property boundary of the study parcel in the Town of Kent or immediately adjacent to the Town of Kent.

The formal pumping test program was conducted from January 17 to 20, 2005. The simultaneous pumping test event began with the start-up of Well 1 and a two-hour lag time from the start-up of Well 2. The test was conducted at a constant rate of 22 gpm from each well, almost three times the average demand of the project (7.5 gpm) from each well; for a combined withdrawal of almost six times the water demand of the project. Both wells reported stabilized pumping water levels and yield for the last six hours of the test event as required by the regulatory agencies.

After the test was terminated, recovery measurements were made in Wells 1 and 2 for several days following shut-down of the test. The data indicates good water level recovery and the wells were fully recovered within 72 hours of shutdown of the test. This confirms the ground-water withdrawals during the test at six times the water demands of the project for a three-day period did not deplete the aquifer.

The data from the respective pumping test conducted in January 2005 indicated Wells 1 and 2 can be independently pumped at rates up to 22 gpm; and simultaneously be pumped at rates up to 44 gpm. The yield from either well easily meets the estimated water demand of 7.5 gpm for the proposed project. The January 2005 pumping test met the regulatory and SEQRA requirements of demonstrating satisfactory water supply for the proposed project.

As discussed above, an offsite well monitoring program was conducted to determine if the pumping of the proposed onsite wells for 72 hours at pumping rates significantly exceeding the average water demand of the project would effect water-level and/or yields of existing neighboring wells. The hydrographs for a majority of the offsite wells indicated minor fluctuations in the water levels from their domestic use. An example of fluctuation from domestic water use (i.e., showing, laundry, etc.) is a rapid decline (drawdown) in the water level from the pumping of a well for domestic use followed by a rapid rise in the water level from pumping turned off. The hydrographs for the eight offsite wells indicate no discernable water-level interference effects from the combined pumping of Wells 1 and 2 at almost six times

the average water demand of the project. Ground-water withdrawals from the proposed onsite wells to meet estimated water demands will not likely impact the yield or use of neighboring offsite wells.

### **Water-Budget Analysis**

A ground-water balance analysis compares the available recharge to a property with the estimated water-supply demand of a proposed development. This comparison determines if the property is self-sufficient in providing the water that will be required by the proposed development, or whether the proposed water demand exceeds the available recharge. If the projected demand exceeds the estimated available recharge, periodically ground-water recharge would have to be drawn from beyond the property boundaries. For sites with tight water balances, water availability within the watershed becomes important to determine if the proposed demand would oversubscribe the available resource. If onsite recharge meets or exceeds the proposed demand, the water supply should be reliable and not adversely affect the aquifer in offsite areas. Although water-budget analyses are useful in estimating available ground water resources, drilling and testing supply wells is the only definitive indicator of ground water availability from the aquifer source and any potential impacts to neighboring water supplies.

Recharge is generally related to precipitation, but the amount of rainfall, which becomes ground-water recharge is difficult to measure directly. In Putnam County, the average precipitation is about 46 inches per year. About half this amount is lost to evaporation and transpiration processes; the remainder is available to become surface-water and ground-water runoff. Ground-water recharge results from the portion of total rainfall and snowmelt that infiltrates the soil and overburden materials. The sand and gravel aquifers are recharged from precipitation which falls directly on the surface of the aquifer, from ground-water flow from surrounding hills and mountains and, most importantly, from significant streams or overlying surface-water bodies. A portion of the total runoff that infiltrates into the soil and overburden materials (including sand and gravel aquifers) eventually recharges the bedrock fracture system and is available for capture by bedrock wells.

LBG has conducted extensive reviews of several published studies to develop estimates of ground-water recharge to aquifers applicable in Putnam County. The most appropriate study to apply to the subject area is the 1972 report developed for similar water sheds in nearby

northwestern Connecticut (Cervione, et al. 1972), which indicates that recharge to the till-covered metamorphic bedrock is approximately 350,000 gpd/sq. mi. or about 7 inches annually. This recharge to bedrock represents approximately 15 percent of the average annual local precipitation. Recharge directly to the 94.4 acre study parcel would indicate recharge under normal conditions to the bedrock aquifer to be about 51,625 gpd. The average one-year-in-30 drought record for Putnam County indicates average precipitation of 32 inches. The average drought precipitation is approximately 69 percent of the average annual precipitation in Putnam County which indicates recharge would be reduced to about 35,620 gpd for the study parcel. The recharge estimates significantly exceeds the estimated water demands (10,740 gpd) for the proposed development under normal and drought conditions.

LBG's water budget analysis differs significantly from the DEIS which estimates a recharge of about 115,000 gpd to the study parcel, over two times higher than LBG's above estimates. However, as noted above, LBG's more conservative recharge estimate significantly exceeds the estimated water demand under normal and drought conditions.

Further, the project will result in 32.3 acres of impervious surfaces thereby reducing the amount of area available for natural recharge from rain events. LBG has reviewed in detail, the stormwater collection system from impervious surfaces and the collected surface water will be diverted to stormwater facilities including vegetated swales and detention basins onsite. LBG conservatively assumes no recharge from stormwater from impervious surfaces and a reduction of the natural recharge to about 33,960 gpd under normal precipitation conditions and about 23,430 gpd under drought conditions. The recharge estimate still exceeds the estimated water demand (10,740 gpd) for the proposed development under normal and drought conditions.

Ground water withdrawals from the onsite wells will be returned to the aquifer from effluent discharged into the onsite underground septic system. Estimates as high as 85 percent of ground water from the onsite well will be recharged back into the aquifer system from the septic system, which would indicate a low consumption water use of about 1,610 gpd.

LBG's conservative water budget analysis indicates the ground water withdrawals from onsite wells and proposed onsite construction of impervious surface will have little to no significant impacts on the recharge to the local aquifer system. The low consumptive water use (1,610 gpd) of the project is only 6.9 percent of the recharge, under drought conditions following construction of impervious surface on the study parcel.

**Stormwater Pollution Prevention Plan**

The preliminary Stormwater Pollution Prevention Plan (SWPPP) was developed to be in compliance with all applicable Town (Towns of Patterson and Kent), NYCDEP Watershed Regulations, and NYSDEC General Permit GP02-01, and guidelines, including the New York State Stormwater Management Design Manual and the New York State Standards and Specifications for Erosion and Sediment Control. It will be reviewed by applicable agencies and authorities and will be modified if necessary to their satisfaction prior to commencing construction.

The plan reviewed by LBG includes appropriate treatment requirements and will mitigate any significant water-quality impacts from the proposed development and likely result in only minor water-quality impacts, if any. No significant impacts to the regional aquifer or adjacent water supplies are expected.

**Blasting – Rock Removal**

Section 4.1.4; Mitigation Measures – Rock Removal Plan included in the DEIS indicates the following:

“Rock removal will be necessary primarily in the south-central portion of the site. Any blasting which may occur would be done in full conformance with all blasting regulations. The Town of Patterson requires that blasting be performed in compliance with the New York State Code (Title 12 of the New York Code of Rules and Regulations 12 NYCRR Part 39). Blasting is not anticipated for the portion of the project site in the Town of Kent. Blasting operations would be conducted under the direct control and supervision of competent and licensed persons with input and/or oversight by town representatives. The blasting contractor performing the work would be fully insured. Prior to blasting, a general blasting schedule would be developed and a blasting permit would be obtained from the Building Inspector covering the specific blasting operation.”

“While there is potential for impacts to nearby private or local wells (no public water supply exists in this area), any documented impact to private or local wells will be remediated by the blasting contractor. The applicant has developed a Blasting Mitigation Plan (Copy included in Appendix Q) which includes provisions to monitor wells during the periods of construction blasting. The well monitoring plan includes the collection of water level data on a representative number of wells within 500 feet of the blasting sites, before, during and after blasting. Foundation surveys of structures within 500 feet of the blasting sites are included in this plan. Copies of all documentation concerning off-site structures including photographic and/or video documentation, will be provided to the Towns of Patterson and Kent.”

Although it appears a majority of the offsite wells in the Town of Kent are greater than 500 feet, potential impacts are a concern and LBG recommends oversight by qualified Town representatives (or outside consultants) to insure a well executed blasting program implemented in full compliance with the blasting plan proposed. The proposed Blasting Mitigation Plan included in the DEIS is adequate as proposed. A properly executed blasting program will result in little to no impacts, particularly to the Town of Kent property owners considering the distance of the closest properties to the proposed blast area. Any impacts, which could include slightly turbid water events, from neighboring well(s) as a result of blasting charges, will be short-term impact.

### **Conclusions**

At this time, LBG’s review indicates the DEIS is complete related to the scoping document for the project. The above review indicates no significant hydrogeologic impacts to the study region in the Town of Kent. LBG recommends oversight of the proposed blasting program by a qualified Town representative (or outside consultant) to ensure a well executed blasting program implemented in full compliance with the blasting plan proposed.

Neil A Wilson, Esq.

-7-

September 20, 2006

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

LEGGETTE, BRASHEARS & GRAHAM, INC.



Thomas P. Cusack, CPG  
Principal

TPC:ng

cc: M. Soyka

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# LRC PLANNING SERVICES, LLC

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September 21, 2006

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Hon. Herb Schech, Chairman  
Town of Patterson Planning Board  
Town Hall  
1142 Route 311  
Patterson, New York 12563

Re: *Patterson Crossing Retail Center*  
*Draft Environmental Impact Statement*

Dear Chairman Schech:

We are the consulting planners to the Town of Kent and the Town of Kent Planning Board. The following comments are submitted on behalf of the Town of Kent Planning Board, as an Involved Agency, with respect to the Draft Environmental Impact Statement (DEIS) prepared for the Patterson Crossing Retail Center project. In addition to our comments we also transmit herewith written comments from the following consultants that have been retained by the Planning Board to review the DEIS.

1. Letter dated September 8, 2006 prepared by Rohde Soyka & Andrews, P.C.
2. Letter dated September 20, 2006 prepared by Leggette, Brashears & Graham, Inc.
3. Letter dated September 21, 2006 prepared by Creighton Manning Engineers, PLLC.

As noted below, our review indicates that the DEIS is deficient with respect to analysis of potential impacts to neighborhood character, and does not provide any meaningful commitment to implement substantive mitigation to offset adverse impacts related to such issues as traffic, noise, blasting, air quality, and community character as required by the State Environmental Quality Review Act (SEQRA).

Section 2: Page 2-5, the report references the 1989 Master Plan for the Town of Kent. The Town Master Plan in fact was adopted in May 1990. Is this a typographical error or was the analysis in this section done with an outdated draft?

Page 2-6, the analysis of consistency with the Town of Kent Master Plan completely ignores the policy to "Provide for additional community oriented shopping facilities within the Town while relying on surrounding areas for regional shopping needs." A regional shopping mall such as the one proposed is inconsistent with the Master Plan policies.

Page 2-6, the document correctly identifies that the Master Plan envisions medium density residential uses for the site but does not provide any analysis.

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Page 2-8, the analysis of compliance with the Town of Kent Zoning Law is incorrect since it does not consider the amendments adopted in July 2005 that set forth specific design criteria for commercial property. In particular, the July 2005 amendment includes both general and specific site design and architectural criteria and gives the Planning Board authority to analyze the architectural design of commercial buildings. The document must be revised to address the site design and architectural standards of the amended code.

Page 2-10, the description of surrounding land uses implies that the ratio of residential to non-residential land uses in proximity to the proposed site are roughly equal. The analysis should acknowledge that the predominant land use is residential and that the scale of residential development is significant. Lands to west of the proposed site are densely populated and a consistency analysis is required. The document should be revised to include a table that breaks down the residential and non-residential properties by acreage.

Page 2-13, the description of the proposed site layout and building design does not consider the architectural standards as set forth in the July 2005 amendments to the Town of Kent Zoning Law. In addition, the Town Master Plan calls for neighborhood scale commercial development that can be integrated into existing residential neighborhoods, while the proposed development is referred to repeatedly in the DEIS as a regional retail center. The inconsistencies between the types and scale of development deemed desirable for the Town of Kent and a regional retail shopping mall of almost one-half million square feet should be explained.

Page 2-15, the description of parking and loading does not consider the standards of the July 2005 amendments to the Town of Kent Zoning Law.

Page 2-16, the description of access does not consider the standards of the July 2005 amendments to the Town of Kent Zoning Law.

Page 2-17, the description of landscaping does not consider the standards of the July 2005 amendments to the Town of Kent Zoning Law.

Page 2-18, the estimated daily water usage appears low especially in light of the description of the "wholesale warehouse store" (see page 2-14) as having a bakery and a food court.

Page 2-19, the description of lighting does not consider the standards of the July 2005 amendments to the Town of Kent Zoning Law.

Page 2-19, the description of site coverage does not include any information as to how the "open space" will remain undeveloped for the life of the project. Taking "credit" for maintaining open space (or at least not putting more impervious cover over lawn and landscaped areas) carries with it a responsibility to permanently restrict development of the open space area(s) to ensure that the original plan is carried out for the duration of the project.

Page 2-19, the discussion of construction phasing should include greater detail regarding the responsibility of the owner to comply with the SWPPP requirements and the punitive measures available to state and local officials for a failure to adhere to the SWPPP requirements. In addition, construction that will last 2 – 2½ years means that there will be large piles of material placed on the site for long periods of time while construction takes place. The discussion in this section needs greater detail as to how such loose piles of material will be protected from run-off, etc.

Page 2-21, the discussion of truck traffic unrealistically assumes that all construction equipment will arrive and depart from Interstate 84. It is likely that construction vehicle traffic will use local roads and an analysis of the likely arrival and departure routes should be presented along with an assessment of road wear and damage as a result of such traffic.

Page 2-23, the hours of operation for construction should include a commitment that there will be no construction activity on any local, state, or national holiday.

Page 2-24, see our prior comments regarding compliance with the new site plan standards for lighting. In addition, the discussion of reduction of light intensity by 50% between the hours of 11:00 pm to 6:00 am should commit the applicant to implementing such a plan, and must not be presented as a plan that is merely being “considered”. Over lit commercial parking areas represent a major intrusion into the quiet enjoyment of nearby residences and the applicant must commit to performing all that is necessary to mitigate such problems.

Page 2-25, the list of permits must be amended to include a wetland disturbance permit from the Town of Kent Planning Board.

Section 3: Page 3-2, the analysis of estimated real property taxes assumes a constant amount of taxes being generated over time. In order to ensure the validity of this analysis the owner should commit to not seeking reduction(s) in the assessed valuation of the property and to not initiating tax certiorari proceedings seeking a reduction of taxes paid for a minimum fifteen year period.

Section 4: Page 4.1-1, the discussion regarding the results of the two geotechnical studies concludes that blasting would only be necessary in the “south-central portion of the site”. This conclusion is inconsistent with the actual results of the test borings (in this case the 2004 study) which indicates that some of the holes were drilled to refusal which occurred at a depth of about five feet in the vicinity of buildings “F” – “T” and the detention basins. A review of the proposed grading plan indicates that this portion of the site would be excavated to a depth of greater than five feet to accommodate proposed improvements thereby indicating that blasting is likely to be required across much of the site. This issue must be addressed in greater detail.

Page 4.1-1, with respect to the 2004 geotechnical study cited in this section, the boring logs for holes 1, 3, 9 and 12 are missing from the report in Appendix D. We also note that the report in Appendix “D” consists only of the soil boring and contains no analysis of field conditions. The DEIS discussion also does not analyze the results

of the 2004 boring study. Inasmuch as the DEIS is supposed to distill technical data into an understandable format this omission should be corrected.

Page 4.1-3, the discussion of the blasting mitigation plan must include a firm commitment to implement the plan as a condition of site plan approval. The elements of the plan should be placed on the site plan as detailed notes to ensure that the contractor(s) are aware of the requirements.

Page 4.1-3, the discussion of bonding must be expanded to address not only damage caused to buildings and other surface improvements, but damage to subsurface water supplies that are vital to the owners of the several hundred dwelling units that are in close proximity to the site. The details of the water supply monitoring and the contractor's liability needs to also address damage to water supplies that might not become apparent for days or even weeks after the blasting event.

Page 4.1-3, the mitigation plan should also state that blasting will not take place on any local, state, or federal holiday.

Page 4.1-4, see prior comments regarding the likelihood that blasting will be required across much of the site.

Pages 4.2-1 and 4.3-1, these sections should include a table that identifies the acreage attributable to existing and proposed pervious/impervious conditions.

Page 4.4-6, see prior comment regarding the assumed daily water demand for the project. In particular, it appears the water demand for the "wholesale warehouse" is understated since the description of store operations includes on-site food preparation and a food court.

Page 4.4.1 and 4.5-1, the discussion of ground water and surface waters does not consider the 2004 "Putnam County Groundwater Protection and Utilization Plan" prepared by The Chazen Companies. The DEIS discussion should be revised to consider the analysis, conclusions, and recommendations of the Chazen report.

Page 4.4-10, as previously noted the responsibility of the owner of the site to repair damage to neighboring wells should be firmly committed to as a condition of site plan approval. The discussion of liability in this section should be expanded to completely identify the process for evaluating and resolving damage claims.

Page 4.6-4, the reference to a Class "D" designation for a tributary of the Muddy Brook should be checked. As a result of regulatory amendments several years ago there are no streams assigned a Class "D" designation in the region.

Page 4.7.8, the commitment to restrict development of the open space areas should be referenced on the site plan.

Page 4.7.9, the restriction on clearing of trees between October 1<sup>st</sup> to March 30<sup>th</sup> should be referenced on the site plan.

Pages 4.8-5 - 4.8-9, the referenced accident information does not include accident data maintained by the Town of Kent Police Department. The traffic report needs to be revised to consider this additional information.

Page 4.8-14, the analysis should include an assessment of school bus traffic including an assessment of the impact of frequent stops by school busses under the "Build Condition".

Page 4.8-45, this section needs to be revised to firmly commit the owner/applicant to undertake the needed repairs and upgrades to those intersections and roadways that will experience a degradation in the level of service as a result of the project. Regardless of whether existing intersections are in need of repairs, the fact that the project will introduce an additional volume of traffic to those intersections that will further aggravate existing conditions obligates the project sponsor to implement the required upgrades. It is inappropriate to identify a project impact and then propose that another agency be responsible to implement the necessary mitigation. Without an absolute commitment by the applicant to implement measures to mitigate adverse traffic impacts of the project neither the Town of Patterson Planning Board nor the Town of Kent Planning Board will be able to adopt the findings required under 6 NYCRR 617.11(5) of the SEQRA regulations and *"certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable."* The traffic report must be amended to identify needed mitigation and to commit the project sponsor to implement such mitigation at all intersections that will experience a drop in the level of service as a result of project generated traffic.

Page 4.9-6, the discussion of rock processing and the proposed location of rock crushing equipment needs to be expanded to consider alternative locations that would place the equipment further from existing homes, and the installation of temporary sound barriers to mitigate construction noise impacts. As noted in the table rock processing equipment generates sound levels of 73-75 dBA at 500 feet, and 65-67 dBA at 1000 feet. As shown on Figure 4.9-2, however, the rock crushing equipment would be located at less than 800 feet from the nearest residence. Given that the DEIS describes a construction period of 2 to 2½ years, dismissing the impact of construction noise as "short term and temporary" mischaracterizes the potential severity noise would have on the occupants of nearby residences. In addition, the discussion of noise should analyze construction and site operation noise generation with respect to the impact on human response to various decibel levels. The following table is derived from New York State Department of Environmental Conservation publication *"Assessing and Mitigating Noise Impacts"* (October 2000) and should be used to assess the human response to construction noise.

<u>dBA</u>	<u>Human Response</u>
0-10	Threshold of hearing
20-30	Very quiet

50	Quiet
60	Noticeable
70	Telephone use difficult
80	Annoying
90	Very Annoying (hearing damage @ 8 hours continuous exposure)
100	Discomfort
120	Maximum vocal effort required to communicate
140	Painful

Page 4.9-6, the hours during which the on-site processing of rock will occur should be stated here. In addition, due to the nature of noise generated by rock crushing activity it is expected that rock crushing would be cut back from the proposed Monday – Saturday 7:00 am to 6:00 pm construction hours. It would be appropriate to place substantial limits on the hours of rock processing operations in order to mitigate adverse impacts to nearby residents.

Page 4.9-7, see our prior comments regarding the likelihood that subsurface bedrock conditions will require more extensive blasting across the site than described in this section.

Page 4.10-1, see our prior comments regarding verification of the daily water usage figures related to the on-site processing and preparation of food at the wholesale warehouse.

Page 4.11-2, the discussion of police protection in this section implies a much higher level of responsibility for the Town of Kent Police Department than the discussion on page 3-7. The discussion should quantify the expected types and number of police emergency responses at the retail center from the three police agencies. This is important because the DEIS provides no analysis of the actual costs to the Town of Kent to respond to emergencies at the site in relation to the small amount of real estate taxes that would be realized by the Town. Such an analysis should be based on empirical study of similarly situated retail centers in the same manner as the noise study considered noise generated at other retail development.

Page 4.11-4, the agreement between the applicant and the Patterson Fire Department whereby the Fire Department would assume responsibility for responding to all emergency calls for the entire retail center should be incorporated into the conditions of final site plan approval.

Page 4.12-4, the assessment of impacts is unsupported by actual quantitative analysis of the impact of development on the community character of such places as Lake Carmel. The discussion acknowledges the potential for displacement of businesses in Lake Carmel as a result of the construction of a regional shopping mall, but provides no meaningful analysis of this effect. As noted by the New York State Court of Appeals, *“the impact that a project may have on population patterns or existing community character, with or without a separate impact on the physical environment, is a relevant concern in an environmental analysis since the statute*

*includes these concerns as elements of the environment.*<sup>1</sup> The potential displacement of local residents and businesses resulting from significant changes to existing land use patterns as a result of the project must be examined in a way that quantifies the potential severity of such impacts.

Page 4.12-8, as previously noted the Town of Kent Master Plan calls for creation of commercial development at a scale designed to serve area residents rather than creation of commercial development designed to serve the region. The discussion should include an analysis of the consistency of the proposed development in light of the Master Plan policies regarding the appropriate scale of commercial development, and the standards of the Town Zoning Law as amended in July 2005.

Page 4.12-7, the statements regarding sharing of sales tax revenue to the towns should be deleted from this section since it appears that the discussion is assuming credit to off-set the cost of the project to the towns by suggesting the sharing of sales tax revenue as mitigation. Absent a commitment by the County to share sales tax such suggestions should be deleted.

Page 4.12-9, it is beyond dispute that almost any proposed commercial development can be shown to have a positive economic effect when that project is considered on a standalone basis in terms of taxes generated. However, the issue under SEQRA, and clearly an issue considered under the Town of Kent Master Plan, is the effect a large commercial development may have on the character of the community. No commercial development can be said to be of benefit to the community if that development is at a scale and intensity which is materially different than the scale of development found in the community at large, and most certainly cannot be of benefit if the net effect is to generate economic value at the expense of smaller competitors located in the existing commercial centers of the community. The impact of the proposed retail mall on local businesses (i.e. sales and employment) and local store vacancy rates must be understood in order to assess the net effect on the local community character. The DEIS must examine the effect of the project on the existing character of the Town of Kent and the Town of Patterson with respect to the impact on employment and wages at existing businesses, and potential impacts to real estate tax revenue within the identified commercial centers related to a downturn in business. The issue here is not one of economic competition between existing local businesses and the proposed project, but the effect on the community and character of the towns by placement of a large regional retail mall outside of a traditional "downtown" commercial areas. The DEIS should be amended to include a complete discussion, including empirical data from other communities, of the potential adverse effect on the community character associated with locating a regional shopping mall at the periphery of small town commercial hubs. The discussion provided here does not address these issues.

Pages 4.12-9 and 4.12-11, the suggestion that the proposed regional shopping mall would result in lower vehicular air emissions for local residents not having to travel

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1. *Chinese Staff and Workers Association, et al v. City of New York*, 68 N.Y.2d 359, 367.

out of the area to shop should be deleted. The regional mall will, in fact, increase the overall number of vehicles traveling to the area resulting in increased air emissions.

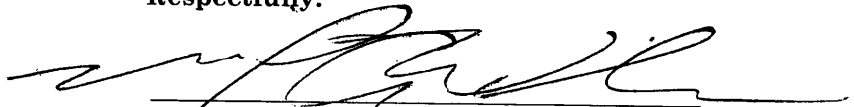
Page 4.15-6, the discussion of control of dust emissions during construction must be amended to include a commitment to implement the required mitigation.

Section 5: Page 5-5, the discussion of alternative project size should include a quantitative evaluation of potential impacts rather than rely on qualitative guesswork. In particular, the discussion needs to include an assessment of traffic impacts and analysis of whether a reduction in the overall project size, and the concomitant reduction in the volume of traffic generated, would act to mitigate the adverse impacts to the operating levels of service of the studied intersections.

Section 8: Page 8-2, the discussion of additional development potential overlooks the extent of vacant land to the east of the project site on the other side of Interstate 84 as well as the vacant land to the north of the site on the other side of NYS Route 311 that is owned by the applicant. In fact, public statements attributed to the applicant indicate an intention to develop the northern property once the signal on NYS Route 311 has been installed. The discussion of growth inducing aspects must be greatly expanded to explain and analyze the secondary effects of the project.

Thank you for your time and consideration.

Respectfully:



Neil A. Wilson, AICP  
Consulting Planner  
Town of Kent

NAW/me

cc Arne Nordstrom, Supervisor  
Arthur Singer, Chairman



## Fax Cover Sheet

DATE: September 28, 2006

**TO:** Mr. Herb Schech, Chairman  
Mr. Richard Williams Sr., Planner  
Patterson Planning Board  
Town of Patterson  
1142 Route 311  
Patterson, NY 12563  
FAX: 845-878-2019

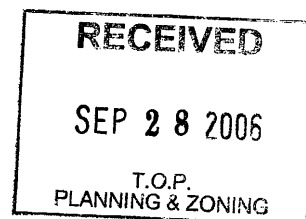
**FROM:** Darrin Scalzo  
NY Division Permit Coordinator  
*New York State Thruway Authority*  
*4 Executive Boulevard*  
*Suffern, NY 10901*  
Phone: (845) 918-2510  
FAX #: (845) 918-2598

**Remarks:**

Review of DEIS cComments for Patterson Crossing Retail Center

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**New York State Thruway Authority**

New York Division  
4 Executive Boulevard  
Suffern, NY 10901

[www.nysthruway.gov](http://www.nysthruway.gov)

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September 28, 2006

Mr. Herb Schech, Chairman  
Mr. Richard Williams Sr., Planner  
Patterson Planning Board  
Town of Patterson  
1142 Route 311  
Patterson, NY 12563

RE: The Patterson Crossing Retail Center  
I-84 MP 61.85 EB @ NYS Rt. 311

Dear Messrs. Schech and Williams:

The Thruway Authority has reviewed the Draft Environmental Impact Statement for the above subject proposed project. We offer the following comments:

The proposed development is expected to significantly increase the existing traffic through the project area. The DEIS indicates that the proposed development is expected to generate 1578 trips during the PM peak hour and 2504 trips during the Saturday peak hour. At the I-84 Eastbound and Westbound intersections, the total generated volumes through both intersections are expected to increase by 54% and 128% during the peak PM hour and peak Saturday hour, respectively.

The additional volumes will significantly degrade the level of service and increase delays at the I-84 ramps/Route 311 intersections if traffic mitigation improvements are not implemented. While the DEIS included analysis of proposed improvements for these two intersections, there is no indication that the project developer will implement the traffic mitigation improvements to address the impacts resulting from the development traffic, prior to the opening of the development. The traffic mitigation improvements need to be implemented prior to the opening of the proposed development; otherwise, the traffic operations along this section of Route 311 will significantly degrade.

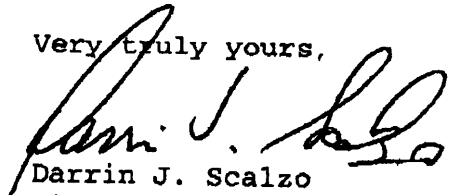
Mssrs. Schech and Williams  
September 28, 2006  
Page 2 of 2

We would request that any traffic mitigation plan with signalization of the I-84 Eastbound and Westbound ramps include installation of queue detection on the Eastbound and Westbound off-ramps with interconnection to the traffic signals. The traffic signal preemption will prevent traffic queues from extending onto the I-84 mainline.

The Route 311 and Site access driveway intersection is a short distance from the I-84 ramp intersection. A large number of left turns (over 700 vehicles during the Saturday peak hour) are expected to use the intersection to enter the proposed development with the potential of queues extending back to the I-84 ramp intersections. Additional analysis should be performed to review the queues at this intersection and warrants for a traffic signal.

Thank you for the opportunity to provide comments. Please forward two copies of any subsequent material to myself at the above address. Should you have any questions, please call me at 845-918-2510.

Very truly yours,



Darrin J. Scalzo  
Division Permit Coordinator

DJS:an  
Attachments

cc: Mr. R. Mehta  
Mr. W. Cheung

NEW YORK CITY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF WATER SUPPLY  
SEQRA COORDINATION SECTION (SCS)

465 COLUMBUS AVENUE  
VALHALLA, NEW YORK 10595  
FAX# 914-773-0342

TRANSMIT TO FAX# 845-878-2019

NUMBER OF PAGES 7

DATE: 9/25/06

DELIVER TO: Mr. Richard Williams  
FROM: MARILYN SHAWHAN PHONE: 914-742-2071  
SUBJECT: PATTERSON CROSSINGS DEIS

COMMENTS: Hard Copy To Follow

	RECEIVED
	SEP 25 2006
	T.O.P. PLANNING & ZONING

IF THERE ARE ANY PROBLEMS REGARDING THIS FAX PLEASE CALL 914-773-4460





Department of  
Environmental  
Protection

Emily Lloyd  
Commissioner

Bureau of Water Supply  
465 Columbus Avenue  
Valhalla, New York 10595-1006

David S. Warme  
Acting Deputy Commissioner

Tel: (914) 741-2000  
Fax: (914) 741-9300

Marilyn Shabahan, Chief  
SEQRA Coordination Section

Tel: (914) 741-2000  
Fax: (914) 741-9300



September 25, 2006

Mr. Richard Williams, Town Planner  
Town of Patterson  
P.O. Box 470  
1142 Route 311  
Patterson, New York 12653

**Re: Patterson Crossing Retail Center  
Draft Environmental Impact Statement  
DEP Log No. 2004-EB-0536-SQ.1**

Dear Mr. Williams and Members of the Board:

The New York City Department of Environmental Protection (DEP) has reviewed the Draft Environmental Impact Statement (DEIS) Volumes I and II prepared by Tim Miller Associates, Inc., dated July 27, 2006, for the above referenced property.

The project site is located in the East Branch Reservoir drainage basin of New York City's Water Supply System. As you are aware, the New York City Water Supply System is an unfiltered, surface water resource that provides high quality drinking water to almost half the population of New York State – over eight million consumers in New York City and nearly one million consumers in Westchester and Putnam Counties. DEP's status as an involved agency stems from its review and approval authority over the proposed Stormwater Pollution Prevention Plan (SPPP), subsurface sewage disposal system (SSDS), and watercourse diversion pursuant to the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and its Sources* (Watershed Rules and Regulations).

Based upon review of the documents received, DEP respectfully submits the following comments for your consideration:

### **§ 2.0 Project Description**

(§ 2.3.2) The DEIS suggests that the amount of parking proposed is less than what would otherwise be required by town code (page 2-15). However, Table 2-3 and Figure SP-1 indicate that the project has more spaces than would otherwise be required by town code. If the applicant is proposing more parking than is required, adequate mitigation, such as multi-level parking or overflow parking on pervious material (e.g. gravel), should be included.

#### **§ 4.0 Environmental Setting, Potential Impacts and Mitigation**

(§ 4.1) It is not discussed in any depth what outcomes might be expected from bisecting water-bearing rock or rock-soil interfaces during the course of construction. Rilling, formation of stream channels, seeps, and small wetlands are possible. These potential outcomes and the methods that will be used to prevent erosion and sedimentation associated with them should be provided in the Mitigation Measures section.

(§ 4.2.4) The DEIS states that Paxton soils comprise the majority of the area proposed for development, and the USDA identifies these soils as possessing potential limitations for development of roads, buildings, and excavations due to their characteristics. Although the impacts have been identified, and construction phasing and erosion and sediment control sequencing have been considered, the engineering methods to compensate for known limitations, (e.g. construction phasing, erosion control, footing drains, or other drainage improvements) must be more specifically identified and described as to where and when they will be implemented in the construction phasing and erosion and sediment control sequencing. In addition, in order to assess the listed engineering methods to compensate for the Paxton soil limitations and the stated reduction of construction activities on steep slopes for this proposed alternative, a cut and fill analysis must be added to the DEIS and considered in the construction phasing and erosion and sediment control sequencing. Balancing of cuts and fills is fundamental to proper site planning, land use engineering, and construction management.

(§ 4.2.4) It is not clearly stated within the document whether topsoil and subsoil will be stockpiled separately. Replacement of topsoil is necessary for successful establishment of vegetation. If wetland soils are disturbed, wetland and upland topsoil should be stockpiled separately to assure successful re-establishment of wetland and upland plants in their appropriate locations.

(§ 4.2.4) The text does not clearly state that a maintenance plan has been established for the period beyond construction of the development (although this is presented in Appendix F). As maintenance of erosion control structures must continue for the life of the development. The DEIS should explain the frequency of and responsibility for inspections following construction.

(§ 4.5) The DEIS evaluates potential impacts on surface waters and discusses how they will be avoided or mitigated. However, New York City Department of Environmental Protection (DEP) believes that the potential impacts that the project may have on receiving waters, in terms of water quality degradation, increase in runoff volume, and downstream flooding have not been fully assessed. The DEIS must provide more specific information to assess the potential for sedimentation of the watercourses and wetlands associated with the proposed repair of the channel and pipe receiving runoff from Concord Road, storm water basins 3.4, 3.1, 3.2, the proposed rip rap swale, and the rip rap velocity dissipater. DEP cannot determine at this time whether the project sponsor has adequately avoided or mitigated the adverse environmental impacts during construction associated with the proposed repair and stabilization of the preexisting stream bank erosion starting from Concord Road down to the proposed velocity dissipater.

(§ 4.5.1) The land use and water quality data references for Middle Branch and East Branch reservoirs are from a 2001 annual report which was based on 1990's data. This information

should be updated and it should be noted that both reservoirs are eutrophic, phosphorus-restricted under the Watershed Rules and Regulations, and exceed the NYSDEC TMDLs for phosphorus, requiring substantial reductions in total phosphorus.

(§ 4.5.3) The DEIS claims that the project implementation will result in a decrease in pollutant loading in comparison to the pre-construction loading. However, review of the information provided indicates that the proposed project may result in a net *increase* in pollutant loading. Table 4.5-6 reveals that the project may cause an *increase* in loading of BOD, TP, and TN in two out of the three design points (DP-1 and DP-3). For DP-2, the DEIS shows that there will be an increase in loading of TSS from 2,864 lbs/yr to 4,275.3 lbs/yr.

Given that the project is located in basins that already do not meet the phosphorus TMDL, the burden for reducing any additional phosphorus loading would fall on the Towns of Kent and Patterson. This obligation would likely need to be met through the construction of additional nonpoint source pollution reduction facilities within the basin. The sponsor should propose adequate mitigation at the project site or elsewhere within the Towns so that the project is sure to have a positive or neutral impact on the Towns' ability to achieve the TMDL.

(§ 4.5.3) The DEIS indicates the applicant's proposal to implement measures to reduce the impact from winter de-icing (page 4.5-16). The DEIS should indicate what legal mechanism will be used to ensure that roadways will be maintained using improved procedures in perpetuity. In particular, assurances should be identified that will run with the property in event of property transfer.

(§ 4.5.3) While there are no direct wetland impacts cited, the DEIS should assess indirect impacts to Wetland A and to the New York State DEC Wetland (L-14) due to the proposed discharge of stormwater to these systems.

(§ 4.5.3) Figure 4.5-4 does not show a wet extended detention pond for the subcatchment series labeled 2.0, 3.5 or 3.6. Please add the locations of these basins to the Figure. Also, the DEIS does not indicate if these extended detention ponds or any other proposed Low Impact Development techniques will be planted or seeded. All plantings and seed mixtures should be included in the DEIS and should include only non-invasive, native species appropriate for the intended moisture regime.

(§ 4.5.3) The project sponsor proposes to undertake the Lake Carmel stormwater improvement project by piping the discharge from Concord Road to a proposed "pocket pond" (P-5) for treatment. From this pocket pond, flows will be diverted back to a surface watercourse. Work within watercourse B or any other surface water course may require USACE authorization. A figure illustrating the proposed design specifications of this "pocket pond" and surface watercourse should be included in the DEIS. Please indicate if this 'pocket pond' will discharge at design line 3.

(§ 4.5.3) The DEIS does not address the increase in the volume of stormwater if the project were to be implemented. Increases in stormwater volume require assessments of impacts throughout the downstream receiving water bodies. Increased stormwater volume can destabilize stream banks and trigger flooding. This impact is due solely to increased impervious surface.

(§ 4.6.3) The full reference was not supplied for the NYSDEC 1999 report cited on page 4.6-7. If this is the 305b or 303d report, there is a more recent source for this information that should be reviewed and referenced.

(§ 4.7.1) 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.

(§ 4.7.4) 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.

(§ 4.7.4) 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. Moreover, DEP urges the applicant to make use of non-invasive species in an attempt maintain the character of the surrounding natural areas.

(§ 4.7.4) It could not be determined from landscaping drawings provided whether species chosen for placement along the access road are resistant to snow/ice removal chemicals. The Final EIS should discuss the chosen species ability to survive with these chemicals.

(§ 4.8) The Final EIS should elaborate on the following:

- Based on the materials reviewed, it appears that the consultant has used the person trips in the traffic intersection analysis and not vehicular trips. This procedure would cause over predicting of traffic impacts and possibly unnecessary traffic mitigation.
- The Final EIS should specify the version of the Highway Capacity Manual (HCM) used for the traffic analysis.
- It is not clear if the existing smaller painted island has been considered in the existing, no-build, and build conditions (page 4.8-23).
- Please explain why there is a warrant analysis proposed for the existing conditions.
- The applicant should indicate whether no-build improvements have been accounted for under the build conditions.
- It appears that there are no vehicle classification counts. The FEIS should explain why these counts were not included.

(§ 4.8.4) The DEIS provides detail with regard to the intersections where traffic conditions would be exacerbated by the proposed project. Currently, the DEIS fails to list the environmental, financial, or community impacts that would result from the future roadway improvements needed to absorb the additional traffic. The applicant commits to participate and fund (4.8-54) aspects of the necessary roadway improvements. Similarly, SEQRA calls on the applicant to identify these secondary impacts within the DEIS. This would include mention of the increase impervious surface and construction impacts.

(§ 4.9) The Final EIS should explain why there is no information reported for future noise levels. Moreover, the applicant should explain the rationale for not performing the PCE's screening analysis for mobile sources.

(§ 4.10.1) Included in the DEIS is a hydrogeologic investigation/mounding analysis that was performed to assess the soils and groundwater in relation to the discharge of the proposed SSTS. Based on the review of figure 6-2 (Post –Development Groundwater Elevations at South Area) in Appendix E, it appears that there is breakout of leachate at the roadway cut between elevations 840 and 850. In addition, the localized areas within the proposed disposal area and on the west side beyond the proposed disposal area are predicted to have groundwater rise to potentially leach out to the surface. DEP recommends that the locations of the observation wells for the mounding analysis be added to a full scale plan to more accurately assess if the proposal to add 2 feet of fill is sufficient to prevent breakout.

(§4.15) The Final EIS should explain why no analyses have been performed for particulate matters (PM<sub>10</sub> and PM<sub>2.5</sub>).

### **§ 6.0 Adverse Environmental Impacts that Cannot be Avoided**

The DEIS fails to identify increased stormwater volume, degradation of nearby water quality (e.g. hydrocarbons), increased demand for low-income housing options, and increased loading of air pollutants (e.g. CO and particulates) as long-term adverse impacts.

### **§ 8.0 Growth Inducing Impacts**

The DEIS scope calls for the sponsor to provide information about the type and salary level of the jobs created and the potential impact this would have on the pressure for affordable housing. This was to be addressed in the context of the fact that Putnam County's unemployment level has been determined to be approximately 4% which is a level widely considered to be at full employment.

With regard to the number of post-construction jobs, there is variability within the DEIS. Section 3 states that the project would generate 516 jobs while Section 8 indicates 549 new jobs and the EAF indicates over 1,000 new jobs. The Final EIS should clarify this issue.

The DEIS suggests that the salary for the majority of the new jobs will likely be approximately \$10 per hour (page 3-11). This would result in an approximate gross income of a full-time worker of approximately \$20,000.

According to the Patterson Comprehensive Plan, the National Association of Realtors has issued guidelines that state that a household should not purchase a house which costs more than two and one-half times their gross income or rent a home where monthly rent exceeds 30% of gross income. Using these recommendations, full-time workers would need to find residences for purchase of approximately \$50,000 or rental of a home not to exceed \$500 per month.

Based on these figures, it is evident that the proposed project would place significant demands on the need for additional affordable housing. The DEIS states that "any increase in local resident population due to the proposed project would be expected to be relatively small, and would not

be expected to induce further growth. Existing and proposed housing resources within Patterson and Kent would be expected to accommodate any workers that could potentially relocate from outside the region.” However, any analysis to substantiate this claim is entirely absent from the DEIS. Currently, there is no indication that affordable housing or lower-priced rental units are available within the Towns of Kent and Patterson.

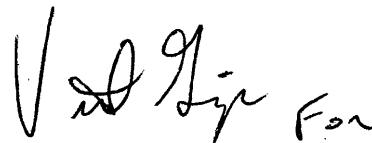
The DEIS should provide information with that shows that the jobs created will provide the salary necessary to reside in existing homes within the area or it should indicate the amount of new affordable housing needed to house over 500 new workers. If additional housing stock is needed, the impacts should be addressed and appropriate mitigation should be proposed.

Lastly, the DEIS fails to adequately address the required roadway expansion projects that would need to be constructed if the project were to be completed. The environmental impacts of these subsequent roadway projects should be discussed as part of the review of development potential.

**(Appendix F)** The potential thermal impacts of waters flowing from detention basins into streams should be addressed more thoroughly by use of appropriate plantings near the basins. Please indicate the effects of increased water temperature on the receiving stream in terms of the stream’s fishery.

Thank you for the opportunity to provide comments. Please contact me at (914) 742-2071 if you have any questions or care to discuss the matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marilyn Shanahan' with a stylized flourish at the end.

Marilyn Shanahan, Chief  
SEQRA Coordination Section

xc: Paul A. Camarda, Patterson Crossing Realty, LLC  
Tim Miller, Tim Miller Associates, Inc.  
Jefferey Contelmo, Insite Engineering  
Kurt Rieke, DEP



**A facsimile from**

**Putnam County Health  
Dept.**

**Karen Yates  
845-278-6130 ext. 2154**

**To: Patterson Planning Board  
Fax number: 1-845-878-2019**

**Date: 09/25/06**

**Regarding: Patterson Crossing**

**Comments: Please let me know if there is any problems**



**SHERLITA AMLER, MD, MS, FAAP**  
*Commissioner of Health*

**LORETTA MOLINARI, RN, MSN**  
*Associate Commissioner of Health*



**ROBERT J. BONDI**  
*County Executive*

**ROBERT MORRIS, PE**  
*Director of Environmental Health*

**DEPARTMENT OF HEALTH**  
1 Geneva Road, Brewster, New York 10509

September 25, 2006

Planning Board  
Town of Patterson  
Town Hall  
P.O. Box 470  
Patterson, NY 12563

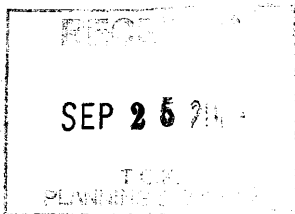
Re: DEIS Review – Patterson Crossing Retail Center  
Route 311, (T) Patterson

To Whom It May Concern:

This office has received and reviewed the most recent set of plans for the above-mentioned project. We would like to offer the following comments for your review and consideration.

1. It appears that the customer restroom usage in table 4.4-3 should be at 400 gal/day for each toilet provided, as per NYSEC expected hydraulic loading rates.
2. This Department requests that a long-term off site monitoring well program be implemented as described in section 4.4.4 page 10 (mitigation).
3. It appears that the Kroger well data is showing a drawdown during the test period. Please clarify.
4. The following chemicals and contaminants and/or compounds were not tested for either test well: silver, chloride, iron, manganese, sodium, zinc, lead, copper, carbofuran, dibromochloropropane, ethylene, dibromide, diquat, endothall, glyphosate, and 2, 3, 7, 8 – TCDD (dioxin).
5. The actual water flow data in Table 4.4-2 should be further clarified with documentation and/or calculations.

This office will continue its review upon consideration of the above-mentioned comments. Please feel free to contact me at est. 2157 if any questions arise.



Very truly yours,

Joseph S. Paravati, Jr.

Assistant Public Health Engineer

Environmental Health (845) 278-6130 Fax (845) 278-7921

Water Supply Section (845) 225-5186 Fax (845) 225-5418

Nursing Services (845) 278-6558 Fax (845) 278-6026 WIC (845) 278-6678

Nursing Home Care Fax (845) 278-6085

Early Intervention/Preschool (845) 278-6014 Fax (845) 278-6648

JSP/kly

VIA FAX





**ROHDE, SOYKA  
& ANDREWS**  
Consulting Engineers, P.C.

40 Garden Street  
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Phone: (845) 452-7515 Fax: (845) 452-8335  
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*Wilfred A. Rohde, P.E. • Michael W. Soyka, P.E. • John V. Andrews, Jr., P.E.*

# Memorandum

<b>To:</b>	Planning Board Town of Kent	<b>Attn:</b>	Arthur Singer Chairman
<b>From:</b>	Michael W. Soyka, P.E.	<b>Subject:</b>	DEIS Comments
<b>Date:</b>	September 8, 2006	<b>Project:</b>	Patterson Crossing Retail Center

The following material was reviewed:

- Draft Environmental Impact Statement, Volumes 1 and 2, dated July 27, 2006
- Sheets 1 through 19 of plans prepared by Insite Engineering, Surveying & Landscape Architecture, P.C. dated 8-31-05, last revised on 3-24-06.

The following is offered for consideration by the Board:

1. Even though the Town of Patterson has declared the Draft Environmental Impact Statement to be complete, significant, basic information that one would normally expect to find is not included in the Storm Water Pollution Prevention Plan (SWPPP). For instance, the simple act of having the Stormwater Pollution Prevention Plan signed and sealed by the design professional responsible for its content was not done.

The Time of Concentration calculations, a relatively simple exercise, were not included in the body of the report. Instead, one must rely on the accuracy of the manually entered Times of Concentration shown in the Pre-Development and Post-Development Computer Data. There is no way to check that the manually entered Times of Concentration are correct. An incorrect Time of Concentration, particularly if it is too long, will result in an actual peak drainage flow that will be more than predicted.

The Pre- and Post Development maps are inadequate. They are presented only in the SWPPP and are of a size that is so small as to render them useless. The Travel Time paths are not shown – one more reason the validity of the “manually entered” Times of Concentration cannot be verified. Drawings at a scale no less than 1”=50’ should be presented.

The plan for the proposed stormwater collection system is shown. However, the profiles are not. How does one determine the invert of the pipe feeding the stormwater management basin without knowing how deep the pipe will be? One would also expect to see pipe sizes and slopes in the profile view. Since there are no pipe profiles, pipe sizes and slopes are not shown.

While not directly related to the SWPPP, an easement from New York State is required to perform the excavation necessary to construct the main entry road. I saw

no references in either the Executive Summary or the text that New York State has been approached and is willing to grant the necessary easements. Failure to obtain this easement will result in a different design at the entrance road.

A Notice of Intent is not included in the SWPPP.

The SWPPP does not address housekeeping measures and waste management during the construction phase of the project.

In general, the SWPPP and stormwater management practices and plans lack the detail one would expect at this stage of project development. Profiles of the water, sewer and stormwater collection systems are not shown. There are no specific diversion swale designs provided. The generic swales shown on the plans are unacceptable. Outlet structures from the stormwater management basin do not appear on the drawings, yet calculations have been provided indicating that the data is available to show the design of the individual outlet structures. The flow into each stormwater management practice has been determined, yet specific designs and cross sections showing the water quality, channel protection, overbank flood and extreme storm elevations for each pond have not been shown. Plantings for each pond are not shown.

2. See the attached Stormwater Pollution Prevention Plan Review Checklist for additional comments.
3. The erosion control standards as required by the NYS Standards and Specifications for Erosion and Sediment Control, August 2005 edition (Blue Book), have not been met. While silt fencing is shown on the plans, there is no indication on either the plans or within the text of the DEIS that any consideration was given to the area that is contributory to a particular section of silt fence. There should be no more than one-quarter acre of drainage to each 100 feet of silt fence.

The Blue Book is also quite specific as to the information that is required to be shown on the plans as it concerns Sediment Traps. As stated on page 5A.36 of the Blue Book, the following information shall be shown for each trap in a summary table format on the plans:

- (1) Trap number
- (2) Type of trap
- (3) Drainage area
- (4) Storage required
- (5) Storage provided (if applicable)
- (6) Outlet length or pipe sizes
- (7) Storage depth below outlet or cleanout elevation
- (8) Embankment height and elevation (if applicable)

None of the above referenced information appears on the plans. The plans appear to address only post construction stormwater management practices.

Numerous drainage swales are shown on the plans. Only two types are shown on the Detail sheet, with only minimum dimensions given. The types of swales should be shown on the plans. Calculations should have been prepared to determine the flow

for each swale. The proper swale could be selected once the flow and velocity for each swale was determined.

The swales on the drawings contain numerous check dams. The DEIS has not demonstrated that the maximum drainage area above a check dam does not exceed 2 acres.

Practices to control runoff are not explained. The plans should demonstrate that positive drainage is maintained, with the drainage area contributory to each practice clearly shown.

4. The attached Erosion and Sediment Control Plan Review Checklist is Appendix G in the Blue Book. One would expect that for a project this large, that said Checklist would have been referenced and included as an appendix in the DEIS. This would be one method that could be used to demonstrate that the erosion and sediment control measures that were selected for this project were well thought out and in compliance with the standards of the New York State Standards and Specifications for Erosion and Sediment Control.
5. Refer to Volume 1 of the Draft Environmental Impact Statement:
  - a. On page 4.2-7 it states that where concentrated (swale) flow from exposed surfaces is expected to be greater than 3 feet per second, hay bale (emphasis added) or stone check dams will be installed in the swale. The check dams will be placed so that unchecked flow lengths will not be greater than 100 feet (emphasis added).


It is apparent that the author of this statement is unfamiliar with the contents of the New York State Standards and Specifications for Erosion and Sediment Control. Hay bale check dams are not an acceptable practice and do not appear anywhere in the Blue Book. In general, eliminate all references to hay bales. Hay bale dikes are to be used only where no other practice is feasible, and then as dikes, not dams.

A similar lack of knowledge exists about check dams. Check dams are not located based on a maximum horizontal distance, but rather by their vertical separation. The check dams shall be spaced as necessary in the channel so that the crest of the downstream dam is at the elevation of the toe of the upstream dam.

- b. See page 4.3-2. It states that it is anticipated that proposed slope cuts and slopes of 2H:1V (horizontal to vertical) will be stable if they are well drained. The Town of Kent Code requires that slopes be 3H:1V for slopes greater than 15%. Slopes of 2H:1V are proposed even though a waiver from the 3H:1V requirement has not been requested
    - c. Refer to page 4.3-3. It would seem that the author is not familiar with the recently adopted Chapter 66, Steep Slope and Erosion Control regulations of the Town of Kent. Steep slopes are now defined as all ground areas having a topographical gradient equal to or greater than fifteen percent (15%) measured by utilizing two (2) foot contours. The definition no longer refers to a rectangle measuring 75 feet by 25 feet as a part of the criteria for determining steep slopes.
    - d. On page 4.5-2, at the end of the 5<sup>th</sup> line, should "NYC-A" read "NYC-B"?

- e. Refer to the last paragraph on page 4.5-5. The monitoring site on the Middle Branch of the Croton River is shown as "MIDBR8" on this page and "MIDBR4" on Figure 4.5-1.
  - f. In the second paragraph on page 4.5-12 it states that in order to better focus the repair project, the Applicant will voluntarily sample and test water conveyed by the eroded channel. Water quality test results will be provided to the Town of Patterson. Since this channel lies wholly within the Town of Kent and drains into Lake Carmel which lies wholly within the Town of Kent, it would seem reasonable to provide the water quality test results to the Town of Kent, as well.
  - g. It would appear that the DEIS and the SWPPP lack some coordination. Each post development peak flow shown in Table 4.5-5 (page 4.5-12) differs from the values listed in the SWPPP.
6. Refer to Volume 2, Appendix F, Stormwater Pollution Prevention Plan:
- a. See paragraph 1. above for comments pertaining to the SWPPP.
  - b. The outlet from pond 3.2P does not discharge into the proposed collection system on the southern side of NYS Route 311, but rather into NYCDEP regulated watercourses.
7. Refer to Drawings No. SP-2.1 through SP-2.3, Sheets 4 of 19 through 6 of 19, each entitled Layout & Landscape Plan:
- a. The aisles for the accessible parking spaces scale at both 7-foot wide and 5-foot wide. Note that neither is acceptable. The New York State Building Code requires that all accessible aisles be a minimum of 8-foot wide.
8. Refer to Drawing No. SP-3.1, Sheet 7 of 19, Grading and Utilities Plan:
- a. It appears that stormwater from STA 0+00 to STA 2+00± (near proposed road elevation 671) receives no treatment. Please explain.
  - b. Proposed Stormwater Basin 3.3 will be a pocket pond. It is stated throughout the DEIS that the stormwater management practices will be designed in accordance with DEC requirements. A pocket pond requires a water table that is high enough to support a permanent pool. Nowhere in the document is there even the slightest indication that the depth to the water table has been investigated and that it is likely that the water table will be at an elevation that will sustain a permanent pool in the pocket pond.
  - c. The discharge from the Concord Road drainage system empties from stormwater basin 3.4 into NYCDEP Watercourse NYC-B and then into NYCDEP Watercourse NYC-A. The slope on Watercourse NYC-A is approximately 25% between delineation flags NYC 6A and NYC 5A. The possibility of erosion in this natural, undisturbed, unreinforced channel is ignored and is not addressed.
  - d. While it can be inferred that the dotted line is the limit of disturbance, it should also be confirmed by showing the limit of disturbance in the Legend.

9. Refer to Drawing No. SP-3.2, Sheet 8 of 19, Grading and Utilities Plan:
  - a. The Post Development Drainage Map shows a drainage area contributory to Concord Road that extends some distance to the west of Concord Road. Drawing SP-3.2 does not show any topography west of what appears to be the Concord Road right-of-way. Additional topography to the west of Concord Road should be shown so that the drainage area contributory to Concord Road can be confirmed.
10. See Drawing No. D-2, Sheet 17 of 19, Site Details:
  - a. The Rip Rap Apron as shown is dimensionless and requires a table showing the identity of each outfall, as well as the dimensions of each outfall. If the SWPPP calculations relating to the discharges from the various stormwater management ponds are correct, then the information needed to design these riprap aprons is available. Provide the calculations used to determine the size of the Rip Rap Apron, Rip Rap Swale and the Grass Swale. Show their locations on the plans.
  - b. The Inlet Protection Detail does not comply with current standards and once again shows that the recognized authority for erosion and sediment control, the New York State Standards and Specifications for Erosion and Sediment Control, was not consulted. Hay bales are not approved for use as a filtering device for Inlet Protection. The only acceptable means (of which there are 4) are shown on pages 5A.27 – 5A.32 of the Blue Book.
11. Refer to Drawing No. D-4, Sheet 19 of 19, Site Details:
  - a. The details shown on this drawing do not relate to the structures shown on the plans. A surface sand filter (F-1) detail is shown, yet there are no surface sand filters shown on the plans. A surface sand filter is not addressed in the SWPPP.
  - b. A pocket pond is shown on the plans at the foot of the main entrance to the site. A pocket pond detail is shown. However, the depth of the permanent pool is not stated; the size of the orifice in the treaded cap is not shown; nor is the size of outlet pipe indicated. The latter two should be available since the flow from the pond has been determined in the calculations provided in the SWPPP. Additionally, there is no forebay shown in the cross sectional view.
  - c. As a general comment, this drawing is too generic. Specific stormwater management practices have been identified on the plans. Details that are specific to each individual stormwater management practice should be provided as well.

  
Michael W. Soyka, P.E.

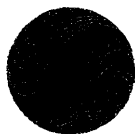
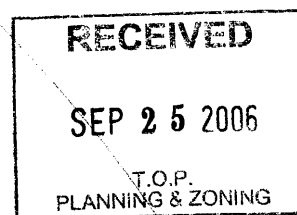
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stantec.com

**Memo**

**Stantec Consulting Services Inc.**  
 9 Chapin Lane, Suite C • P.O. Box 417  
 Pawling, NY 12564  
 Tel: (845) 855-1255 Fax: (845) 855-1780

**Stantec**

To: Town of Patterson Planning Board From: Ronald J. Gainer, P.E.  
 David J. DeBaie, P.E., PTOE

File: **TOWN OF PATTERSON** Date: September 25, 2006  
 Patterson Crossing Retail Center  
 T.M. # 22-3-1; 33-2-23; 34-2-3  
 Project № 7605004(PP)

**DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)**

The following are comments on the traffic and transportation section of the DEIS document for the subject project dated July 27, 2006:

1. The traffic study concludes that a single through travel lane will accommodate the traffic flow between the I-84 ramps and the site driveway. This determination relies on capacity analysis which does not sufficiently define the coordinated operation of the assumed traffic signal control at the ramps and at the site driveway. The study should identify the extent of the queues under coordinated operation. All analysis should reflect the reduced lane capacity when queuing occurs.
2. The operation of the future traffic signals is shown to operate adequately, under the volume conditions presented, employing a 60-second cycle that includes short 18-second signal phases for eastbound NYS Route 311 past the site. Under fair weather conditions short cycle lengths may be adequate but vehicles on the NYS Route 311 grade will require significantly more time or multilane approaches under winter weather conditions.
3. The use of a short 60-second cycle at the I-84 ramps is desirable to manage the queues on NYS Route 311 between the ramp intersections; however, the ability to use that cycle length for volume conditions higher than the observed March and April existing conditions should be demonstrated. The through volume level requiring an additional through lane should be identified.
4. The traffic study should provide a higher level of confidence in the sufficiency of the existing NYS Route 311 roadway to provide access to the site by applying a more conservative trip generation and trip distribution estimates. Assuming that 25 percent of the site traffic will be drawn from NYS Route 311 overstates the proportion of the Route 311 traffic flow that will be drawn into the site and understates the proportion of I-84 traffic that will be attracted to the site. A sensitivity analysis should be provided to demonstrate the reliability of the study findings under more conservative assumptions.

**Stantec**

September 25, 2008  
Town of Patterson Planning Board  
Page 2 of 3

**Reference: Patterson Crossing Retail Center-DEIS**

5. The presented analysis demonstrates the need for roadway improvements at many of the study intersections under the No Build condition and identifies that these improvements are not the responsibility of the applicant. Without the ability to assure that these improvements are constructed, the applicant assumes that these improvements will be constructed in a timely manner to accommodate some of the development's access requirements. The traffic study should present a scenario including only those improvements for which there are assurances that the construction will occur, namely, that which the applicant is committed to construct. This scenario will enable the assessment of the project's impact with and on the likely transportation network.
6. The project site drive is proposed at 30 feet wide which is inadequate to allow two-way traffic and the passing of a stalled vehicle due to snow cover on the 7.96 percent grade. The width of the through lane plus the shoulder should be 18 feet wide to allow for the passing of a disabled vehicle.

We trust that the Board and applicant will find the above information of use. Please contact our office if you have any questions.

c: Richard Williams, Sr., Town Planner  
Ted Kozlowski, ECI  
Paul Piazza, Building Inspector  
David Raines, Fire Inspector  
Curtiss, Leibell & Shilling  
Applicant (% Tim Miller Associates, Inc.)

**Adler Consulting,**  
235 Main Street  
White Plains, NY 10601-2401

**Transportation Planning & Traffic Engineering, PLLC**  
Tel # (914) 997-8510  
Fax # (914) 997-7140

September 7, 2006

Croton Watershed Clean Water Coalition  
9 Old Corner Road  
Bedford, NY 10506  
Attn: Dr. Marian Rose

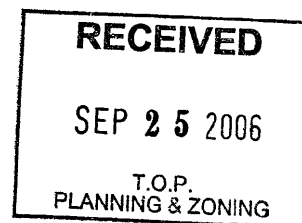
Re: Patterson Crossing  
Town of Patterson/Town of Kent, New York

Dear Dr. Rose:

**Adler Consulting** is a Traffic Engineering and Transportation Planning firm located in White Plains, NY, with much experience in planning for and the review of commercial developments such as Patterson Crossing. Our firm is pleased to provide the necessary Traffic Engineering Services to the Croton Watershed Clean Water Coalition for the review of this 406,000 sf retail center, proposed to be located in the southwest quadrant of the interchange of I-84 with NY Route 311, in Putnam County, NY. We have reviewed Chapter 4.8 of the DEIS, the transportation section, but have not had the opportunity to review Appendix K of the DEIS to verify the accuracy of all of the technical calculations and analyses conducted for the traffic study, upon which the information presented in Section 4.8 of the DEIS are based. The following are our conclusions and recommendations regarding the proposed action, as presented in Section 4.8 of the DEIS.

**A. Project's Significant Adverse Traffic Impacts**

Based on a review of the information presented in the DEIS (which, parenthetically, significantly underestimates the volume of traffic likely to be added to the surrounding roadways), it is clear that the proposed 406,000 sf. retail center will not be a viable entity and will result in congestion along NY Route 311 from NY Route 52 to NY Route 164 for the following reasons:



- **The development will add more traffic to the surrounding roadway network than projected** - The traffic analysis performed for the DEIS assumes that only 75 percent of the traffic generated by the development will be "new trips" (page 4.8-37) added to the roadways in the study area. It assumes that the remaining 25 percent of development traffic will come from motorists already passing the Site on NY Route 311 who will be attracted to the center ("passby trips", page 4.8-36). The volume of traffic on NY Route 311 is wholly insufficient to justify a passby credit of this magnitude. It is unrealistic to expect that one in six motorists passing the center on Route 311 during the weekday evening peak hour are going to drop in to the center and one in three motorists passing on Rt. 311 during the Saturday peak hour will do so, which is what the data provided in the DEIS projects. (Based on our experience, a 15 percent pass-by credit during the weekday peak hour and a 10 percent pass-by credit during the Saturday peak hour, representing a drop-in rate of one in eleven on weekdays and one in eight on Saturdays, are more realistic values). Since a smaller percentage of development traffic will be passby traffic, a larger proportion will be non-pass-by traffic, which will be added to the surrounding roadways. Thus, the center will generate more traffic than projected in the DEIS.
- **It is unlikely that the necessary improvements to provide acceptable traffic flow will be completed** - The DEIS documents that "problems relating to poorly operating intersections in the vicinity of the proposed project exist under current conditions" (page 4.8-54). The DEIS continues by identifying improvements at eight of the existing intersections, none of which are specifically programmed to be completed in the foreseeable future (at best there might be some rehabilitation work on Route 311 for which "design would occur in 2010 and construction sometime thereafter" - page 4.8-22). The applicant's commitment to implementing the necessary mitigating measures at these intersections is limited to participating "in a significant way in the funding of intersection improvements in the area" (page 4.8-54). Without the applicant's commitment to fully fund the improvements, it is likely that these measures will not be implemented, at least not until well after the development has been completed and sold to another party. Then, after years of hearing about the congestion and more years programming funds, it is foreseeable that the State will eventually make some improvements which the taxpayers will end up bankrolling.

- **The Site has inadequate access which will block traffic on Route 311 -** Access to the Site is provided at a single driveway. A review of the intersection capacity analyses presented in the DEIS reveals that the intersection of the driveway with NY Route 311 is projected to be operating at 90 percent of capacity during the typical Saturday afternoon peak hour. These calculations are based upon the assumption that 270 of the 835 vehicles already passing the Site on Route 311 in the peak hour will drop into the Site (thereby reducing the volume of through traffic passing the Site, when, in reality, it is expected that only 125 vehicles will do so). Thus, an additional 145 vehicles will be passing through the intersection on Route 311 during this time period. Furthermore, some Saturdays will see less traffic activity at the center while others will see more. Indeed, the DEIS projects that traffic volumes at the center will be "about 16 percent higher during the holiday season" (page 4.8-38) than on a typical Saturday afternoon. Clearly, with the driveway projected to be operating within 10 percent of capacity on a normal Saturday, and traffic volumes projected to be 16 percent higher than normal during the holiday shopping season, and accounting for more-non-pass-by traffic, the intersection of the solitary Site driveway will not have sufficient capacity to accommodate the projected vehicular demand and congestion will ensue.
- **Disruptions to the Site's solitary access will be enormously disruptive to residents of Echo Road and Concord Road and so inconvenient to visitors to the center as to undermine its viability -** The Site's solitary access driveway is approximately 1,300 feet long and is projected to carry approximately 17,000 vehicles per day. Invariably, there will be interruptions to service on the driveway. When this occurs, all vehicles on the Site will have to be directed to Echo Road, Concord Road to exit and, presumably, vehicles will not be allowed to enter the Site until the passable conditions are restored on the Site driveway. Both Echo Road and Concord Road appear to be less than 20 feet wide and are unsuitable to accommodate the thousand or so vehicles that will need to evacuate the site or to allowing emergency vehicles to get in to the Site. The residents of this dense residential neighborhood will be overwhelmed on such occasions. Furthermore, the retail center's reputation will be tarnished if access to the development is disrupted in such a manner. It is for such reasons that current planning and engineering design requires that a second, fully-functional driveway be provided for developments of even a moderate size, let alone one as large as Patterson Crossing.

- **The Site's main north/south internal roadway is inadequate to accommodate the size of the development -** The DEIS asserts that an additional 10 percent of Site-generated traffic will occur on-Site (page 4.8-43). In fact, studies indicate that the internal trip generation for a project such as that proposed will be six times that projected. Using the same Institute of Transportation Engineers (ITE) trip generation equations which were used in the DEIS to determine that the 406,000 sf development would generate 2,152 tips during the Saturday peak hour, it is calculated that each of the individual store complexes (assuming each to be 101,500 sf in size) would generate 875 trips and, thus, cumulatively, would generate 3,500 trips. Therefore, the volume of internal traffic would be the cumulative total (3,500 trips) minus the external trips (2,152 trips), an additional 1,348 trips, not the 215 trips projected in the DEIS.

In reviewing the analyses of the internal intersections, it was noted that the turnaround at the north end of the main egress road was projected to experience a maximum queue of three vehicles. With the extra internal trip traffic described above and during the peak holiday season, it is likely that the queue on the turnaround will spill back into the southbound through lane entering the Site and block access to the development. In reviewing the analyses of the internal intersections of the electronics stores and the sporting goods stores with the main access road, it was noted that the analyses assumed only one vehicle would turn left out of either driveway to go to the stores in the rear on the Site. With the unrealistic expectation that there will be only a single left-turning vehicle and that internal traffic will be only 10 percent of the external traffic, the DEIS analyses indicate that each of these approaches would operate at 40 percent to 46 percent of capacity during the peak Saturday Hour. Left-turns at unsignalized intersections are critical and the internal traffic activity is expected to be six times the value evaluated. If even a small volume of traffic turns left out of these driveways, it is apparent that they will fail and extensive queues will form, particularly when the additional internal and holiday season traffic are appropriately accounted for.

Based on these considerations, it is apparent that the proposed circulation system, consisting primarily of the use of one main access road, is insufficient to serve the needs of the Site, with the result that it is expected that a substantial portion of visitors to the center would use the service road on the east side of the Site.

In summary, the application is unworkable because there is no commitment to fund the necessary off-site highway improvements to support the development and the development's on-site transportation infrastructure is significantly undersized for the proposed 406,000 sf of retail space. Consequently, the application, as proposed will have a significant adverse impact on area traffic operating conditions and should be denied.

**B. Comments to be addressed in A Supplemental Environmental Impact Statement (SEIS)**

Because the traffic study for Patterson Crossing underestimated the volume of traffic that will be added to the surrounding roadway network and for the many other reasons outlined below, it is our recommendation that the entire traffic study be revised and resubmitted as part of an SEIS, along with any other information that may have been misrepresented in the DEIS:

- The revised Traffic Impact Study should include a revised analysis to reflect a 15 percent pass-by credit during the weekday peak hour and a 10 percent pass-by credit during the Saturday peak hour.
- The SEIS should contain a commitment from the applicant to fund completion of the necessary mitigating measures. Alternatively, the resolution of approval for the subject property should require that certificates-of-occupancy for the development will be conditioned upon the completion of these improvements by others.
- The SEIS should either propose a second driveway to access the Site or dramatically reduce the size of the project to a level which can be sustained by a single driveway and which is consistent with current engineering and planning philosophies.
- The revised Traffic Impact Study should include a revised analysis to determine whether the internal intersections will have sufficient capacity to accommodate the additional internal traffic and holiday-season traffic (previously described and including left-turns on the electronics and sporting goods store approaches to the main access road) to ensure that the Site's main access road will not fail and prevent motorists from using it to enter or exit the facility.

- The revised Traffic Impact Study should analyze the signalized intersection of Towners Road with NY Route 52 since 19 percent of Site traffic is projected to pass through this important intersection.
- Similarly, since more half of the traffic generated by the project is projected to use I-84 to get to and from the Site, the revised Traffic Impact Study should contain ramp capacity analyses of the I-84 ramps to and from Route 311 (particularly those on the south side of Route 311).
- The revised Traffic Impact Study should specifically identify potential remedial measures at each of the following locations, which appear to be less safe presently (and thus, have the potential to be impacted by project traffic) based on their elevated accident rates, relative to the volume of traffic they serve:
  - ▶ NY Route 311 at Terry Hill Road (it appears that wet pavement is a correctable feature);
  - ▶ NY Route 311 at Ludington Court (a very low volume street with 4 accidents);
  - ▶ NY Route 311 at the I-84 ramps;
  - ▶ NY Route 52 from milepost 1035 to 1038 (6 accidents/10th of a mile);
  - ▶ NY Route 52 from milepost 1042 to 1044 (5.5 accidents/10th of a mile);
  - ▶ NY Route 52 at Towners Road;
  - ▶ NY Route 52 from milepost 1048 to 1050 (6 accidents/10th of a mile);

It is suggested that a review of the individual accident reports (Form MV 104) available from the Milbrook office of the New York State Police Accident Records Bureau would provide the best information upon which to base this evaluation.

- The revised Traffic Impact Study should contain a revised analysis of the intersection of NY Route 311 with NY Route 52, where there is effectively only one lane on westbound NY Route 311 as it approaches NY Route 52. The DEIS analysis incorrectly assumed that there were full left- and right-turn lanes on the causeway approach to NY Route 52.

Dr. Marian Rose  
September 7, 2006  
Page 7

- ▶ The revised Traffic Impact Study should contain a revised analysis of the intersection of Horse Pound Road with NY Route 52 indicating that 19 percent of Site traffic is passing through the intersection. The DEIS analysis assumed that 10 percent of project traffic would materialize on NY Route 52 somewhere between Barrett Hill Road and Horse Pound Road.
- ▶ The revised Traffic Impact Study should contain a revised analysis of the intersection of NY Route 311 with NY Route 164 indicating that 10 percent of Site traffic will travel to and from Patterson, Putnam Lake and the western portions of New Fairfield on NY Route 164. Based on our analysis, it is estimated that the difference between the 3% used and the 10% recommended will come from the west on I-84 ( $15\% - 5\% = 10\%$ ) and the east on I-84 ( $42\% - 2\% = 40\%$ ).

Until these additional analyses are provided, it will not be possible to accurately quantify the proposed development's traffic impact.

We trust that this information will assist you in better understanding the scope of this project. If you have any questions, please feel free to contact us.

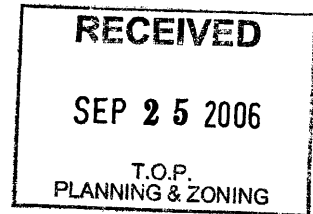
Sincerely,  
Adler Consulting  
Transportation Planning & Traffic Engineering, PLLC



John Canning, P.E., P.T.O.E.  
Senior Associate



**JAMES BRYAN BACON**  
**ATTORNEY & COUNSELLOR AT LAW**  
P.O Box 575  
New Paltz, New York 12561



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Telephone (845) 255-2026  
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September 25, 2006

Mr. Herb Schech, Chairman  
Town of Patterson Planning Board  
P.O. Box 470  
1142 Route 311  
Patterson, New York 12563

*Re: Patterson Crossing*

Dear Mr. Chairman and Members of the Board:

The Croton Watershed Clean Water Coalition, Inc. (CWCWC) and the Putnam County Coalition to Preserve Open Space (PCCPOS), submit the following comments on the above project's Draft Environmental Impact Statement (DEIS) as proposed by Patterson Crossing Realty, LLC (Applicant) to supplement the comments made at the project's public hearing.

We find that the project is dramatically out of scale with the surrounding area and that the DEIS is deficient in failing to include sufficient information of the project's traffic, stormwater, hydrogeological, rare and endangered species impacts and fails to adequately assess the project's conformance with the Town Codes of Patterson and Kent. Therefore, a Supplemental Environmental Impact Statement is necessary and required under SEQRA.

**SEQRA PROCESS - STATE OF INFORMATION IN EIS**

CWCWC and PCCPOS have objected for years to the boilerplate information and responses typically given in Environmental Impact Statements prepared by the Applicant's consultant.

The New York State Supreme Court Appellate Division's landmark ruling on August 8, 2006 in Matter of Riverkeeper, Inc. v Planning Bd. of Town of Southeast 2006 N.Y. Slip Op. 06160)<sup>1</sup> proves that a lead agency's acceptance of boilerplate information and blanket reliance on post-SEQRA agency review by the New York City Department

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<sup>1</sup> [http://www.courts.state.ny.us/reporter/3dseries/2006/2006\\_06160.htm](http://www.courts.state.ny.us/reporter/3dseries/2006/2006_06160.htm).

of Environmental Protection (DEP), New York State Department of Environmental Conservation (DEC), the Army Corps of Engineers (ACOE) violates SEQRA.

The Appellate Court reversed the Westchester County Supreme Court's determination which had upheld the Town of Southeast's decision that no Supplemental EIS (SEIS) was necessary for the 104-unit Meadows at Deans Corners housing development.

In light of this decision, for Patterson Crossing, Tim Miller Associates should describe in detail in each category of potential impacts, i.e., including traffic, stormwater, endangered species and hydrogeology, how the developer will avoid the Meadows scenario, describing the elements of the Court's determination that are particular to the Croton Watershed, such as phosphorus impacts and preserving the integrity of the watershed.

Tim Miller Associates former responses concerning these issues such as provided in EISs for projects such as Hillcrest Commons in the Town of Carmel no longer suffice. The lead agency cannot escape its review obligations by relying on statements by Tim Miller Associates such as:

"The compliance with agency standards assures that no adverse impact will occur." (Hillcrest Commons FEIS. at 11-4).

For years CWCWC has argued that Miller's interpretation of the law was wrong citing such cases as Golten Marine Co. v. State Dept. of Env'tl. Conservation, 193 A.D.2d 742, 743 (2nd Dept. 1993) which states:

"The fact that other agencies may have had an independent obligation to analyze the potential impacts of the facility had no bearing on [the lead agency's] own obligation to analyze the listed areas of environmental concern."

More is required in an EIS than simply repeating a comment made on the DEIS and responding "so noted," or providing a non-responsive answer.

Indeed: Similarly, in comparing SEQRA to federal law the Court stated:

"[T]he requirement of a detailed statement helps insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug. A conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind' not only fails to crystallize issues \* \* \* but 'affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.' Monroe County Conservation Council v. Volpe, 472 F.2d 693, 697 (2d Cir. 1972). Moreover, where comments from responsible experts or sister agencies

disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. There must be good faith, reasoned analysis in response.” (Bliek v. Town of Webster, 104 Misc.2d 852, 862, 863 (Sup. Ct. Monroe Co. 1980)).

Like the Meadows case, Patterson Crossing presents a host of complex and significant impacts many of which appear to be insurmountable.

Based on the review of the DEIS by responsible experts such as John Canning, P.E., David Clouser, P.E., hydrogeologist John Conrad and Marian Rose, Ph.D., an SEIS is required to cure the omissions and inaccuracy of data supplied in the DEIS.

### **SEQRA’s MANDATE**

SEQRA’s enabling legislation requires much from a lead agency stating:

“Agencies shall use all practicable means to realize the policies and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process.” (E.C.L. §8-0109(1)).

### **STORMWATER AND PHOSPHORUS IMPACTS**

In January 1997, the EPA in partnership with the State of New York, the City of New York, Putnam County, Riverkeeper and other parties forged the New York City Watershed (“MOA”) to protect and rehabilitate reservoirs within the Croton.

The 1997 Memorandum of Agreement (MOA) initiated NYC Watershed protection and partnership programs and detailed other watershed protection provisions including establishing more stringent Watershed Rules and Regulations (WR&R).

The Town of Patterson joined as a party to the MOA agreeing “to be bound by the terms and conditions thereto” and as a signatory agreed that:

“[A]n adequate supply of clean and healthful drinking water is vital to the health and social and economic well being of the People of the State of New York; and...

...it is the intention of the Parties to assure the continued adequate supply of exceptional quality drinking water for the eight million residents of the City of New York and the one million New York State residents outside the City who depend upon the New York City drinking water supply system; and...

...the New York City water supply is an extremely valuable natural resource that must be protected in a comprehensive manner; and...

...it is the intention of the Parties to enter into a new era of partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system; and...

...the Parties now enter into legally enforceable commitments, as set forth in this Agreement, on issues related to the Watershed protection program, including the Watershed rules and regulations... and...

...the Parties have agreed to act in good faith and to take all necessary and appropriate actions, in cooperation with one another, to effect the purposes of this Agreement.”

To implement these goals, Patterson agreed among others things to:

- A) Participate in the development of a Comprehensive Croton System Water Quality Protection Plan (“Croton Plan”) pursuant to §18-82 of the WR&R jointly with DEP and Putnam County, and;
- B) Comply with the CWA by following EPA’s TMDL developed by DEP and DEC requiring reductions in the phosphorus pollutant loadings of downstream reservoirs.

In implementing the TMDL program the WR&R stated that:

“USEPA will provide technical support in the development of TMDLs and review and approve submitted TMDLs. The water quality management goal of the TMDL program is to assure that the total phosphorus loading from point and non-point sources into a reservoir does not cause a contravention of the water quality standard for phosphorus.” (Id. and MOA at 162).

In July 2000, the Attorney General urged EPA to adopt TMDL standards that would reverse phosphorus contamination and issued a report targeting the pollutant for immediate reduction “Reducing Harmful Phosphorus Pollution in the New York City Reservoirs through the Clean Water Acts Total Maximum Daily Load Requirements: A Case-Study of the New Croton Reservoir and Recommendation to EPA” stating:

“One of the most important functions of my office is to protect and improve drinking water quality for the millions of New Yorkers who consume water from the New York City watershed,” said Spitzer. “It is imperative that phosphorus be effectively controlled to prevent a

**biological chain reaction from contaminating our drinking water.”**  
(Emphasis added).

Similarly, the WR&R requires:

“When any activity... is proposed to be undertaken in a phosphorus restricted basin, the stormwater pollution prevention plan shall include an analysis of phosphorus runoff, before and after the land disturbance activity.” (WR&R §18-39(c)(1)).

DEC’s regulations further provide:

“[N]o SPDES or other permit shall be issued authorizing any such discharge:

(e) When the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA; and...

...The provisions of each issued SPDES permit shall ensure compliance with... more stringent limitations, including those:

(ii) necessary to implement a total maximum daily load/wasteload allocation/load allocation established pursuant to Section 303(d) of the Act and 40 CFR Part 130.7.” (6 NYCRR §§750-1.3(e), 1.11(a)(5)(ii)).

In calculating phosphorus loadings, in a 2000 report,<sup>2</sup> EPA recommended that the most conservative measures available be used stating:

“Consistent with New York State’s General Permit, NYCDEP’s guidance allows the applicant to cho[o]se from a number of different methods in making calculations. Model selection depends upon a number of variables including the size of the land disturbance and the amount of input data. However, it is important that estimations include as much site-specific data as possible and that the most conservative measures are utilized to reduce stormwater loadings.

Regardless of which model is used to develop SPPPs, the result must be BMPs that are designed, built and maintained, consistent with Section 18-39 of the WR&R with an overall goal of no net increase in loadings over pre-existing construction conditions. **EPA recommends that NYCDEP ensure that SPPPs include as much site-specific data as possible and that the most conservative measures are utilized to reduce stormwater loadings.** (“Assessing New York City’s Watershed Protection Program” (May 2000), pg. 190, 192).

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<sup>2</sup> <http://www.epa.gov/region02/water/nycshed/fadmidrev.pdf>

## **1. Pollutant Loading - Pre-Development Levels**

DEP studies conducted on the Croton watershed in Putnam County showing baseline phosphorus export levels of .0446 pounds per acre per year for forested areas.<sup>3</sup>

However, rather than using .0446, the Applicant used .10 lbs. per acre per year relying upon a 1992 DEC publication. The DEC 1992 predevelopment phosphorus export levels are not specific to the Croton Watershed<sup>4</sup> and that publication is no longer applicable. Indeed, according to Watershed Inspector General James Tierney, it is "outdated and defunct."

Consequently, the Applicant's calculations are incorrect by a factor of 2.24.

Therefore, for the predevelopment existing conditions, less than half as much phosphorus is exported from the site as compared with the Applicant's estimates.

Tim Miller Associates has previously argued that because DEP has not formally adopted the figures in its stormwater review procedures, the .0446 figure is not relevant to the lead agency's review obligations. This reasoning is wrong.

The .0446 figure was formally adopted by DEP in 2002 as accurate and was relied upon by DEP, EPA and DEC in developing the baseline data for the TMDL calculations for the Croton Watershed's reservoirs.

If the entire TMDL program developed by DEP, EPA and DEC is founded on the .0446 figure, then it is inappropriate for the lead agency to use any other figure.

Furthermore, the EPA recommended that the most conservative approach available be used in modeling phosphorus impacts. Was EPA wrong? Is the .0446 figure more conservative than the .10 figure from 1992, which James Tierney stated was outdated and defunct?

The Applicant should answer these questions directly, in consultation with Mr. Tierney, especially in light of the Appellate Court's ruling in Matter of Riverkeeper.

As SEQRA further requires that "to the maximum extent practicable" the lead agency "minimize or avoid adverse environmental effects" of a project, the lead agency must demonstrate that a project will not only maintain phosphorus pollutant loadings at pre-development levels, but actually reduce those levels pursuant to the TMDL program.

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<sup>3</sup> This information is contained in Table 2.2 on page 9 of the Phase II Report indicating that the export coefficient for forested land is 0.5 kilograms per hectare per year. A hectare is 2.4 acres. The accurate conversion is calculated by multiplying the lbs/acre/yr by 1.12 to obtain the kilograms per hectare.

<sup>4</sup> See DEC publication "Reducing the Impact of Stormwater Runoff from New Development" (1992) pgs. 21 and 39 - forest data from "Northern Virginia".

(See "Non-Point Source Implementation of the Phase II TMDLs" (April 2001, Table 4.1 pg. 15)).

### **TRAFFIC**

Based on the project's size of 434,050 sq. ft., the project will generate up to 23,000 vehicle trips on a Saturday on its access drive. (Comments of Traffic Engineer John Canning citing ITE standards). On average that is 3.5 to 5.3 times more the daily traffic on Rt. 311. (Town's Comprehensive Plan at pg. 15).

An average weekday would bring 17,600 vehicle trips (8,800 cars) on average, every day during the week - more than double the traffic counts on Rt. 311 identified in the Comprehensive Plan.

To place the magnitude of the impact in context, it would be as if the number of families in both Towns increased by 36% and all drove to the project site every day, on top of the existing traffic.

Saturday traffic would be a worse nightmare - It would be as if every family in both Towns increased by 79% and all drove back and forth to the project site in addition to all the other cars and trucks on Rt. 311 on a Saturday.

This cannot occur. Traffic would be brought to a standstill and the rural character of the community would be destroyed forever. The net effect would be as if all of the families in two additional Towns the size of Patterson and Kent decided to drive their car every day into Kent and Patterson severely disrupting our quality of life and the existing transportation network.

What multiple of daily traffic is deemed acceptable? Is there a multiple that would be unacceptable? Is doubling the existing traffic too much? What about increasing traffic by five-fold as here? Is that enough? Is ten times more traffic enough? Can any further development occur following Patterson Crossing?

### **SEWAGE**

The Town Code prohibits using a residential district for purely commercial purpose. is this use  
Consider sewage - requires 8.7 acre sewage field, no where in permitted, especially in a residential zone.

The Applicant plans to cut, blast and fill a total of 566,500 c.yds. of soil and rock, enough to fill a football field with 318 feet of soil and rock. Where are the Applicant's details as to the site's hydrology? Why don't the soil boring maps show testing in the 8.7 acre septic field? What empirical evidence is cited to prove the seasonal depth of the water table?

## **RARE AND ENDANGERED SPECIES**

Tim Miller Associates has not demonstrated the expertise to identify endangered and rare species. Indeed, on the Hillcrest Commons site in Carmel, Hudsonia positively identified 24 locations of the endangered species *Galium Concinnum* or Shining Bedstraw. These locations were not identified by Tim Miller Associates.

This issue cannot be ignored. In Integrated Waste Systems Inc., (Supplemental Ruling July 24, 1995 DEC Project No. 9-0438-00004/00003-9), DEC ruled that plants listed as threatened deserve adequate review and protection measures by a lead agency. In referring to the 6 N.Y.C.R.R. §193.3(b) threatened plant species hypericum prolificum, DEC ruled:

"The plant's presence does, however, warrant mitigation measures to minimize any potential adverse impacts on the threatened plant species and its critical habitat, even if those adverse impacts are caused by the owner of the land on which the plants occur."  
(<http://www.dec.state.ny.us/website/ohms/decis/integrsr.htm>).

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.

## **NOISE**

CWCWC's preliminary findings are that the neighbors will suffer from undue noise impacts from the project which will not be adequately mitigated by the proposed mitigation measures. The details of these findings are underway and will be submitted at their earliest availability.

## **ECONOMICS**

Concerning the DEIS's claim of 16 million in sales tax, the DEIS admits that "it is not known what the actual net increase may be as the spending patterns of persons in the trade area of the proposed shopping center are undocumented." (DEIS 3-5).

Despite being unknown, the DEIS states up to 16 million dollars in sales tax is "projected." How can it be projected when it is entirely unknown? The answer is that it cannot. There is no basis for the DEIS's reckless claim which should be stricken from the record. The DEIS admits it has no basis for such a claim.

Also the DEIS examined a trade area radius of only 3 miles, conveniently avoiding analysis of Brewster Highlands which is 3.5 miles away. How much of the income derived from the project will simply be displaced dollars? What will it do to existing businesses? How can the DEIS possibly indicate that if the project creates 516

jobs, no additional people will wind up living in Kent or Patterson and not a single additional schoolchild will result. If that is not ludicrous, provide the data.

Where are the people going to come from seeking these \$15-20,000 dollar jobs? The DEIS does not say. How is that going to impact traffic patterns? Again the DEIS is silent. They are not likely to come from Kent or Patterson where unemployment is very low and the median household income is between \$66 and 72,000 dollars.

### **ARCHAEOLOGICAL IMPACTS**

New York State Office of Parks, Recreation and Historic Preservation recently adopted new standards. The Applicant must examine whether additional studies are required in light of the new standards.

### **ZONING**

The project will require a number of use and area variances by Patterson ZBA as follows:

- The Zoning Code states for a Regional Retail Center that "Access shall be only from a State or County Road." The access point into the Town of Patterson is from an adjacent parcel in the Town of Kent. Therefore, a use variance is required. (§154-11(A)).
- The access drive is 3,500 feet long - approximately 2,900 feet is in the Town of Patterson. Whether defined as a street or driveway it needs an area variance. The Town Code limits cul-de-sacs to 1,500 feet (§138-32(F) and limits driveway lengths to 2000 feet. (§138-31(A)).
- A use variance is also required because the Town Code prohibits using 8.7 acres of R-4 zoned property as an accessory use to service a commercial project. A commercial sewage field is not a residential use. This use is not allowable under the Code's Permitted Principal and Accessory Uses for the R-4 District. (§154-26 and 27).

As this is a coordinated review, the lead agency must consider and discuss the standards for granting use variances. Where is the economic hardship in dollars and cents? What are the real property value impacts to adjoining and nearby neighbors. Studies indicate that the creation of the currently proposed project will have devastating impacts to the Town's infrastructure and community character. (See Attached Riverkeeper Report).

How does the project conform with the Town's Special Use Permit Standards and Guidelines (§154-93(A)(2)), which state:

The ZBA determination "shall be made in accordance with the... requirements of this chapter including the need to lessen congestion in the streets... to promote health and general welfare... to prevent overcrowding of land... to facilitate adequate provisions of transportation... [and] sewerage."

Does increasing the traffic by five-fold "lessen congestion in the streets" and promote the public welfare?

### **PATTERSON COMPREHENSIVE PLAN**

The Town of Patterson Comprehensive Plan and Zoning Code do not envision a project anywhere near the magnitude of this project.

The Zoning Code identifies a Regional Retail Center starting at 75,000 sq. ft. This project at 434,050 sq. ft. is 5.7 times the Zoning Code's figure, far beyond the size contemplated by the Code.

SEQRA specifically allows a lead agency to require examination of "scale or magnitude" alternatives. (6 N.Y.C.R.R. §617.9(b)(5)(v)(c)).

Courts have held that lead agencies have acted within their SEQRA authority to require consideration of reduced scale alternatives and accept smaller versions of applicants' preferred proposals discussed in the EIS. (See Sprint Spectrum L.P. v. Willroth, 996 F.Supp. 253 (W.D.N.Y. 1998) where single cellular tower chosen rather than alternative of three towers; and see Coalition for Responsible Planning v. Koch, 148 A.D.2d 230, (1<sup>st</sup> Dept. 1989) *leave to appeal denied*, 75 N.Y.2d 704 (1990) where the SEQRA review resulted in a "detailed comparison of the environmental impacts of all four alternatives" which included 500 fewer housing units than the developer's preferred alternative of 1001 units.

In fact, Courts have struck down a DEIS that fails to consider reasonable smaller-sized projects. (See for example Grape Hollow Residents' Ass'n v. Beekman Planning Board, No. 1986/284 (Sup. Ct. Dutchess Co. Oct. 16, 1986) where the subdivision's opponents preferred a smaller number of units).

Similarly, in Brookville Taxpayers Ass'n, Inc. v. Town of Oyster Bay, N.Y.L.J., May 8, 1985 at 15, col. 3 (Sup. Ct. Nassau Co.) the Court struck down the Town's rezoning holding that a reduced density alternative should not have been ignored as the proponent had not shown that the reduced density alternative was "economically unfeasible." (See also In re Bonded Concrete, Inc. (DEC Commissioner Decision, Apr. 9, 1984) where DEC denied an application for a sand and gravel mine because "no attempt has been made to evaluate the feasibility of alternative size or configurations of the areas on the Site to be mined.")

The Board as lead agency has the obligation to set forth a reasonable range of alternatives and choose the alternative that minimizes the project's impacts to the maximum extent practicable. Reasonable alternatives should be presented that comply in all respects with the zoning of both Kent and Patterson.

In sum, the DEIS is deficient and an SEIS is required. The project is out of scale with the Towns of Kent and Patterson. Reduced scale alternatives that comply in all respects with both Towns' Codes must be presented as under SEQRA it is the lead agency's duty to act and choose among alternatives and mitigate to the maximum extent practicable adverse environmental impacts. Given the project's present design, those findings cannot be made.

CWCWC and PCCPOS look forward to the continued review of this project which should include a full SEIS and public scoping resulting in reduced scale alternatives and the SEIS should include full and accurate information concerning the project's full range of impacts while answering all of the issues raised by John Canning, P.E., Hydrogeologist John Conrad, David Clouser, P.E., Marian Rose, Ph.D. and this correspondence.

Sincerely,

James Bacon  
Attorney for CWCWC and  
PCCPOS

## Sprawl and Big Box Stores

### **What Are Big Box Stores?**

Big box stores, such as Wal-Mart, Home Depot, or K-Mart, are mammoth retail stores that boast “one stop shopping,” excellent service, and low prices. Big box stores nearly always are located outside of town centers and often are over 100,000 square feet in size, surrounded by a sea of pavement. They have boundless inventory; one can load T-shirts, house paint, and pineapples into the same cart while under a big box roof. However, big box stores also destroy communities, employ unfair labor practices, take on monopolistic characteristics, and damage the environment.

### **How Are Big Box Stores Detrimental To Communities?**

#### Environmental Impacts

Big box stores are enormous commercial land uses. In even their smallest iteration, big box stores are around 80,000 square feet, or the size of two football fields. The largest varieties, at 250,000 square feet, take up almost 6 acres of land.<sup>1</sup> Generally, the parking lots that accompany these stores are 4 to 7 times the size of the store.<sup>2</sup> Simply put, these “superstores” consume large amounts of open space; space that is leveled, paved with impervious surfaces, and developed. Big boxes clearly increase suburban sprawl by extending retail development outward from community centers. Big box stores increase traffic and air pollution (big box stores generally are accessible only by car), and increase stormwater pollution. Impervious surface impacts on runoff volume can be quite dramatic. “For example, a 1-inch rainstorm over 1 acre of open space will typically generate 218 cubic feet of runoff. The same storm over a 1-acre paved parking lot will produce 3,450 cubic feet of runoff, nearly sixteen times more than the natural setting.”<sup>3</sup> The sprawl induced by and inherent in these stores adversely impacts the environmental health of the region.

#### Economic Impacts

Big box stores do not only have high environmental costs, but also economic burdens on government, and eventually on citizens through increased taxes. As consumer attention shifts towards these huge superstores, so must local governmental attention. Traffic problems must be addressed with the widening of existing streets (often

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<sup>1</sup> See INSTITUTE FOR LOCAL SELF RELIANCE, HOW BIG IS 30,000 SQUARE FEET? OR 100,000 SQUARE FEET?’, available at [www.newrules.org/retail/howbigisbig.html](http://www.newrules.org/retail/howbigisbig.html) (last visited June 3, 2003).

<sup>2</sup> See *id*

<sup>3</sup> GEODIGITAL MAPPING, INC. SIGNIFICANT SOURCES OF URBAN STORM WATER RUNOFF IN UNINCORPORATED AREAS OF THE SOUTH COAST OF SANTA BARBARA COUNTY IDENTIFIED FROM LANDSAT IMAGERY: REPORT TO THE SANTA BARBARA COUNTY WATER AGENCY 2 (2000).

from two lane roadways to four lanes) and the paving of new roads. Sewer systems and fire hydrants must be installed. This development leads to an increase in local property taxes, as citizens become responsible for the many added costs of big box construction. An investigation in New Paltz, New York found that the widening of streets, at a cost of \$2 million per mile, would cost taxpayers \$5.1 million dollars.<sup>4</sup> Furthermore, the addition of a Wal-Mart to their town would have a net town tax impact of – \$18,940, in other words, a tax increase.<sup>5</sup>

Big box stores constantly relocate to more effective locations and bigger stores. When this happens, giant empty buildings are left behind, creating serious eyesores in suburban and rural areas. As of February 1999, Wal-Mart had 333 empty stores spread across 31 states.<sup>6</sup> Wal-Mart does sometimes put the property up for sale, but only big box retailers seek the property, and Wal-Mart refuses to sell to competitors.<sup>7</sup> Thus, the lots often sit empty and unused. In places like Toledo, Ohio, taxpayers must pay for the upkeep and maintenance of empty buildings now owned by the city.<sup>8</sup>

Taxes are not the only increased monetary burden big box stores force on communities. Big box stores also require the attention of local police forces, which, in turn, leads to an increase in police costs and diverts attention from the surrounding community. One study conducted by newrules.org finds that these increased police costs are not simply a function of lengthened patrolling requirements, but also result from an increase in crime; the infinite provisions of big box stores attract criminals. In Port Richey, Florida, crime committed at the local Wal-Mart accounts for one in four police arrests.<sup>9</sup> These stores so attract criminals that some of the superstores have small police stations within their store. The increased police presence raises police costs. For example, the Port Richey police force has exceeded its overtime budget by \$48,000,<sup>10</sup> while in North Versailles, Pennsylvania, the addition of big box stores has led the police force to increase by 160 percent.<sup>11</sup>

### Big Box Store Business Practices

Both nationally and internationally, lawsuits have been filed accusing big box stores of “predatory pricing” practices: the act of intentionally undercutting prices in order to force local competitors out of business, only to subsequently raise prices back to regular market rates. In the past five years, investigations have taken place in Wisconsin,

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<sup>4</sup> See AL NORMAN, SLAM-DUNKING WAL-MART 78 (1999).

<sup>5</sup> See *id.* at 77.

<sup>6</sup> See *id.* at 26.

<sup>7</sup> See STOREWARS: WHEN WAL-MART COMES TO TOWN, available at [www.pbs.org/itvs/storewars/stores3\\_2.html#empty](http://www.pbs.org/itvs/storewars/stores3_2.html#empty) (last visited June 5, 2003). “In one Kentucky town, an empty Wal-Mart was torn down at the taxpayers’ expense.

<sup>8</sup> See NORMAN, *supra* note 3, at 24.

<sup>9</sup> See Institute for Local Self-Reliance, *Big Box Sprawl Causes Sharp Rise in Police Costs*, NEW RULES NEWSLETTER (Aug. 2002), available at [www.newrules.org/hta/hta0802.htm](http://www.newrules.org/hta/hta0802.htm) (last visited June 3, 2003).

<sup>10</sup> See *id.*

<sup>11</sup> See *id.*

Oklahoma, Germany, Mexico, and New Zealand to determine whether big box stores utilize this manipulative business tactic. In November 2000, Wal-Mart was forced to battle several anti-trust lawsuits that claimed it was controlling the local Wisconsin marketplace through predatory pricing practices. The company reached a settlement and will be forced pay double or triple fines for future violations.<sup>12</sup> This case, and others of its kind, punctuates the numerous local studies that cite the addition of big box stores as a main cause of local business failure. In a study conducted by *60 Minutes*, in the ten years after Wal-Mart was introduced to Iowa, the state lost half of its men's and boy's clothing stores and grocery stores.<sup>13</sup> A study conducted by the International Council of Shopping Centers found that between 1987 and 1992, "the number of discount department stores increased annually by an average of 3%, while men's and women's shoe dropped an average of 6%; household appliance stores fell by 3%; and grocery stores, radio and television stores, drugstores, building materials stores, apparel stores all were in the negative column."<sup>14</sup> Big box stores manipulate the marketplace in order to drive out competition, and as a result, local business suffers.

### Impacts on Community Centers

Local communities often are defined by the vitality of their town centers. Big box stores blight local towns and eviscerate any sense of community that once existed. The sheer volume of big box stores requires that they be located outside of downtown real estate. Because of their predatory pricing techniques and their ability to be "one stop shopping" centers, this detached location seriously injures local business, removing all patrons from the local business territory. This loss is, quite clearly, crippling to the downtown area, closing independent businesses that often have a long history established in the town. Following the addition of a Wal-Mart in Ticonderoga, New York, sales decreased in a local jewelry store by 20%, a local auto parts store by 25%, and a local crafts store by 50%.<sup>15</sup> One merchant described the main street in downtown Ticonderoga during Christmas shopping season as so empty "you could've landed a plane on it."<sup>16</sup> As patronage is moved outside the town center, the area becomes defunct and abandoned. The town loses its character and uniqueness as it becomes reliant on the big box store for its well-being.

Unlike local establishments, big box chains do not recycle profits back into the surrounding community. A recent study conducted by Civic Economics in Austin, Texas found that chain stores rotate significantly less revenue back into the local economy. The study found that where two local stores separately recycled \$45 from each \$100 in spending back into the local community, the Austin Borders box store only recycled \$13

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<sup>12</sup> See Institute for Local Self-Reliance, *Wal-Mart Settles Predatory Pricing Charge*, NEW RULES NEWSLETTER (Oct. 2001), available at [www.newrules.org/hta/hta1001.htm](http://www.newrules.org/hta/hta1001.htm) (last visited June 6, 2003).

<sup>13</sup> See NORMAN, *supra* note 3, at 20.

<sup>14</sup> *Id.* at 22.

<sup>15</sup> See *id.* at 62.

<sup>16</sup> *Id.* at 63.

back into the community.<sup>17</sup> Generally, the Borders Books store generates a local economic impact of \$820,000 while the two independent stores generate a combined total of \$6.9 million dollars.<sup>18</sup>

In addition, even when chain stores are experiencing higher than average sales growth, they still produce less revenue than independent counterparts.<sup>19</sup> According to the study there are three main reasons for this discrepancy: local merchants employ a larger portion of local labor to run their establishment; local merchants recycle their profits into the local economy; and local merchants support local goods and services.<sup>20</sup> A study by Tischler & Associates also found that while big box retail stores produce a *deficit* of \$468 per 1,000 square feet of retail space, “specialty retail stores,” which include independent businesses, produce a *profit* of \$326 per 1,000 square feet of retail space.<sup>21</sup> Community growth is stunted by the addition of a big box retail store, just as community centers are destroyed.

### Impacts on Local Workforce

As business is pushed out of local communities, many locals are left with no choice but to work at their town’s big box store. Often, this is not a fair or safe alternative. Wal-Mart currently is facing lawsuits in over thirty states regarding their tendency to underpay their workers (full time employees make an annual salary equal to the poverty level for a family of four),<sup>22</sup> force their employees to work overtime without pay, and make their employees work until certain tasks are completed even after they have clocked out for the day.<sup>23</sup> In 2000, Wal-Mart paid \$50 million to “settle a class-action suit that asserted that 69,000 current and former Wal-Mart employees in Colorado had worked off the clock.”<sup>24</sup> Aside from being unfair, abusive, and illegal, this practice hurts the quality of life (and even the real estate values) of those working and living in the surrounding region.

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<sup>17</sup> See CIVIC ECONOMICS, ECONOMIC IMPACT ANALYSIS: LOCAL MERCHANTS VS. CHAIN RETAILERS 4 (2002), available at [www.liveablecity.org](http://www.liveablecity.org) (last visited June 3, 2003). The study found that local merchants generate three times the economic activity of chain retailers.

<sup>18</sup> See *id.* at 7.

<sup>19</sup> See *id.* at 11.

<sup>20</sup> See *id.* at 3.

<sup>21</sup> See Institute for Local Self-Reliance, *Big Box Stores Drain City Revenue, Study Finds*, NEW RULES NEWSLETTER (Feb. 2003), available at [www.newrules.org/hta/hta0203.htm](http://www.newrules.org/hta/hta0203.htm) (last visited May 27, 2003).

<sup>22</sup> See NORMAN, *supra* note 3, at 45. According to the *New York Times*, unionized supermarkets pay an average of \$13 per hour, while Wal-Mart pays an average wage of about \$8.50 an hour. See Steven Greenhouse, *Wal-Mart, Driving Workers & Supermarkets Crazy*, NY TIMES, Oct. 19, 2003, at WK 3.

<sup>23</sup> See Institute for Local Self-Reliance, *Small Businesses Pay Their Employees, Wal-Mart Doesn't*, NEW RULES NEWSLETTER (Feb. 2003), available at [www.newrules.org/hta/hta0203.htm](http://www.newrules.org/hta/hta0203.htm) (last visited May 27, 2003).

<sup>24</sup> Steven Greenhouse, *Suit Says Wal-Mart Forces Workers to Toil Off the Clock*, N.Y. TIMES, June 25, 2002, available at [www.walmartwatch.com](http://www.walmartwatch.com) (last visited June 3, 2003).





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September 25, 2006

Herb Schech, Chairman  
Town of Patterson Planning Board  
P.O. Box 470, 1142 Route 311  
Patterson, NY 12563

Re: Patterson Crossing DEIS; Mounding Study  
File #RP060340

Dear Mr. Schech:

I have reviewed the Draft Environmental Impact Statement (DEIS) for the Patterson Crossing Retail Center Prepared by Tim Miller Associates, Inc. in association with Insite Engineering, with particular attention to Appendix E – Hydrogeology Investigation (Mounding Analysis), prepared by GeoDesign, Inc. and dated August 2005. My comments follow.

#### **MOUNDING ANALYSIS**

- p. 1 Section 1.10 states that bedrock was encountered at depths ranging from 16 to 47 feet. This appears to conflict with Section 4.1 of the DEIS, which reports a till thickness of 90 feet.
- p. 1 Section 1.10 states that 1.5 to 2 feet of fine silty sand subsoil overlies a dense to very dense glacial till deposit comprised of a heterogeneous mixture of sand, silt, gravel, cobbles and boulders.
- Such dense, thick deposits of low-permeability till are not conducive to infiltration and recharge. This appears to conflict with statements in the DEIS that precipitation and on-site disposal sewage will contribute to aquifer recharge.
  - The DEIS states that 566,500 yd<sup>3</sup> of soil and rock will be cut, and that all of this material will be used on site (no export of fill). Of this volume, 119,000 yd<sup>3</sup> will consist of bedrock rubble and 447,000 yd<sup>3</sup> will consist of unconsolidated soil. Will any of this soil or bedrock fill be used within the 8.7-acre sewage treatment area? If so, how will the properties of this fill compare to the soil properties assumed for the mounding analysis?



VIA E-MAIL

- To what extent would this disturbance (cutting and filling) affect shallow groundwater movement and recharge?
- p. 2 Test pit data and soil percolation data used by Insite Engineering in their design of the actual subsurface disposal system was not used in the groundwater mounding analysis, and was not included in GeoDesign's mounding analysis. This raises several questions:
- How did GeoDesign's permeability assessment compare to Insite's test pit data and percolation assessment? Were the two sets of results corroborative?
  - If the Insite data had been incorporated into the mounding analysis and model, how would the mounding analysis results been affected?
  - How does GeoDesign justify excluding the Insite test pit and percolation data generated by Insite?
- p. 4 In Section 3.30 (In-Situ Permeability Tests), GeoDesign reports permeabilities in unconsolidated soils ranging from 0.008 feet per day to 0.2 feet per day, with an average permeability of 0.06 feet per day, which are reported to be "primarily horizontal permeabilities." This section further states that, "...the gradation and the density of the unconsolidated material are highly variable at the site, thus impacting the soil's ability to transport water."
- This discussion of permeability test results is too vague to be meaningful. This section should include a clearer and more in-depth explanation of how the estimated soil permeabilities, and their variability, will impact the subsurface sewage treatment system (SSTS) design and function.
  - What, specifically, is meant by the conclusion that "...the gradation and the density of the unconsolidated material are highly variable at the site, thus impacting the soil's ability to transport water." This could be taken to mean that on-site soils are unsuitable for on-site sewage disposal, as proposed.
  - The DEIS characterizes on-site soils as follows: 1.5 to 2 feet of fine silty sand subsoil overlies a dense to very dense glacial till deposit comprised of a heterogeneous mixture of sand, silt, gravel, cobbles and boulders. Is it feasible for such soils to adequately transmit and filter sewage wastewater flows of 10,740 gpd, as proposed?




- p. 4 In Section 3.40 (Groundwater Levels), it states that stabilized groundwater levels were measured in May and June 2005.
- These measurements do not by themselves reflect the reasonable variability of groundwater levels on the subject property. How can such a narrow window of groundwater levels suffice, when it can generally be assumed that a much wider range of groundwater levels will occur from season-to-season and year-to-year?
- p. 4 In Section 4.20 (Geologic Materials) Rock Quality Density (RQD), a measure of fracture density, is reported to range from 12% to 77%.
- How will the variable RQD affect the SSTS design and function?
  - This section should discuss in more detail the pattern and pervasiveness of bedrock fracturing underlying the proposed 8.7-acre SSTS treatment area.
- p. 6 This section should discuss how the period May & June 2005 compares to historical averages and ranges of precipitation.
- Although historical precipitation data are appended, such tables are not a substitute for discussion and comparison within the report itself.
- p. 7 Section 7.10 (Model Description) indicates that the simulation was performed using a “confined” layer option, and that neither variation in water levels over time nor aquifer storage coefficient were accounted for.
- What is the justification for the confined layer assumption when the proposed SSTS system will operate under unconfined conditions?
  - What is the justification for omitting variation in water levels and storage coefficient?
- p. 9 Section 7.20 (Model Results, Calibration and Limitation) states that modeled groundwater elevation match actual groundwater elevations within plus or minus 1 foot. Groundwater levels recorded in May and June 2005 were used to calibrate the groundwater model. Groundwater was not encountered in certain locations within the proposed leaching field, so approximate levels were substituted for calibration purposes. Depth to groundwater is highly variable, owing at least partly to a variable surface topography; and hydraulic gradients are highly variable in this area.



- The calibration range of plus or minus 1 foot may be of limited validity if actual groundwater levels were measured only in May and June 2005, and if actual groundwater levels were not measured in some wells.
  - The calibration range of plus or minus 1 foot is suspect given the complexities of surface topography and variable hydraulic gradients.
- p. 11      The post-construction model predicts leachate breakout within certain areas of the leaching field, and there is a recommendation to add two feet of fill material to prevent breakout in those areas.
- Given the above-stated uncertainties and complexities in the model assumptions, and the assumed accuracy of plus or minus 1 foot, is the model accurate enough to rule out the need for breakthrough mitigation in other areas of the leaching field?
  - If leachate is within 2 feet of the surface in certain areas where breakout areas are mitigated with 2 feet of clean fill, what will prevent leachate from freezing during the winter months?
- p. 12      Section 8 (Conclusions) estimates a 3-year travel time for leachate to reach the property line 175 feet, and states that, "this travel time is sufficient to provide adequate treatment of the septic effluent."
- What is the quantitative basis for the conclusion that the travel time is sufficient to provide adequate treatment?
  - What is meant by "adequate treatment?"

Sincerely,

CONRAD GEOSCIENCE CORP.

  
John A. Conrad  
Senior Hydrogeologist

JAC/seg





## CROTON WATERSHED CLEAN WATER COALITION

### Mission:

CWCWC is an alliance of organizations and individuals joining together for a common goal of preserving, protecting, and improving the quality of the waters in the Croton watershed and to providing alternatives to filtration.

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*Manhattan Borough*  
David Ferguson  
Ph: 212-989-0519

September 25, 2006

Mr. Herb Schech, Chairman  
Town of Patterson Planning Board  
P,O, Box 470  
1142 Route 311  
Patterson, NY 12563

Re: Patterson Crossing Retail Center

Dear Mr. Schech and Members of the Planning Board,

On behalf of the Croton Watershed Clean Water Coalition, Inc. (CWCWC), I am submitting comments from three professional firms regarding serious traffic and water quality concerns in connection with the Patterson Crossing project.

In addition, our attorney James B. Bacon, Esq. is submitting comments regarding legal concerns associated with this project.

As you will see, these experts express well-founded reservations regarding the capacity of the area itself and surrounding areas to absorb the impacts of a project this size. Therefore, we are urging your Planning Board to have the applicant consider drastically downsizing this project and to submit an accompanying SEIS.

Engineering professionals, David Clouser & Associates, clearly show that this project does not conform with the Town of Patterson's zoning criteria, particularly in regard to the siting of a commercial sanitary waste disposal system in an area zoned residential. Unless the applicant can obtain a variance - an unlikely event - a site within the area zoned commercial will have to be found. Other zoning criteria that are not conformed with in this project are

- "The minimum setback of all buildings, structures, parking areas and access drives shall be 65 feet" (Section 154-111(B))

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SEP 25 2006

T.O.P.  
PLANNING & ZONING

**Coalition members:** Audubon Society: Bedford, Bronx River/S. Shore, Central Westchester, Saw Mill, Scarsdale, Yonkers - Bedford Barrow - Commerce Block Association - Bedford Garden Club - Catskill Heritage Alliance - Chelsea Reform Democratic Club - Citizens for Equal Environmental Protection (CEEP) - Clearwater - Coalition for the Preservation of Rolling Greens - Concerned Citizens for Open Space - Concerned Residents of Carmel-Mahopac - Concerned Residents of Kent - Concerned Residents of Southeast - Council of Chelsea Block Associations - Croton Heights Community Association - Dickerson Mountain Preservation Association - Diocesan Missionary & Church Extension Society - East Harlem Council for Community Improvement - East Harlem Restoration Project, Inc. - El Faro Beacon Community Center - Episcopal Diocese of New York - Federated Conservationists of Westchester County (FCWC) - Friends of the Great Swamp (FrOGS) - Friends of the Clearwater - NYC - Friends of the Clearwater - George Nikitovich et al - Goldens Bridge Community Association - Grassroots - Hands Across the Border (HAB) - The HDFC Council - Hudson River Sloop Clearwater - Jr. League of Westchester-on-Hudson - Huntersville Association - Lake Dutchess Association, Inc. - Local Involvement for the Environment - Metropolitan Council on Housing - Movement Studies Institute - Neighborhood Housing Services of NYC - Putnam County Tree Advisory Commission - Putnam County Coalition to Preserve Open Space - Queens Civic Congress - Regional Review League - Bedford - Rusticus - Sierra Club, Atlantic: Lower Hudson, Mid Hudson, NYC, Ramapo-Catskill - Southern Yorktown Homeowners' Association - Trout Unlimited - Croton Watershed chapter - Westchester Land Trust - Westchester Trails - Yorktown Land Trust

and that sixty-five feet from any rear or side property line shall be maintained as vegetative buffers.

- The project does not conform to the requirement that “..total area of all impervious surfaces shall not exceed 50% of the total lot area.” (Section 154-111(C))

This last comment points to a particularly serious consequence in terms of stormwater management. As has been confirmed by countless studies, forested lands such as the present Patterson Crossing are among the best barriers to the ravages of stormwater runoff. Here, not only will considerable areas of forest be decimated, but they will be replaced by impervious surfaces that will further exacerbate the runoff – a double whammy. The regulatory agencies – NYC Department of Environmental Protection (DEP) and NYS Department of Environmental Conservation (DEC) – are mainly concerned with the increase in phosphorus to the already phosphorus-restricted reservoirs (Middle Branch, East Branch and Croton Falls) in the Croton Watershed. But we must also be concerned with other pollutants that will contaminate the drinking water of local as well as NYC residents. These pollutants from parking lots include motor oil, grease, petroleum and polycyclic aromatic hydrocarbons (PAHs) that are classified as bioaccumulative carcinogens. There is nothing in the applicant’s DEIS that mentions mitigation of these contaminants.

Clouser Associates also clearly point out serious deficiencies in the applicant’s stormwater analysis in terms of using input data that do not conform with the most recent data recommended by the agencies that regulate the NYC watersheds, namely, DEP and DEC. This leads to the applicant over-estimating the pollution reduction capability of the proposed stormwater management system. Rather than a decrease in phosphorus-loading as claimed by the applicant, there will, in effect be an increase in phosphorus loading to the afore-mentioned phosphorus-restricted reservoirs.

The analysis by Adler Consulting of the applicant’s traffic submission also points to serious defects. We draw your attention to the following points - to the applicant under-estimating the increase in traffic due to the project; to the likelihood that the State and the taxpayers will end up paying for the road improvements needed to accommodate the increased traffic; to the fact that the site’s solitary 1,300-foot long access driveway will carry approximately 17,000 vehicles per day and that both Echo Road and Concord Road are incapable of handling the inevitable emergencies that will occur on that road. In our experts’ opinion, the applicant’s traffic analysis is so inadequate that an SEIS is called for.

Based on these expert opinions, we urge you to consider a much-reduced project. It is clear that the land itself cannot sustain a project of this size and that this will result in the applicant having to apply for zoning variances. In addition, it is clear that the surrounding roads are totally inadequate and would eventually have to be reconfigured at considerable expense to the towns and their residents.

Also, the applicant has far from complied with the regulatory agencies' required phosphorus reductions to the phosphorus-impaired reservoirs.

Most egregious will be the negative impacts on the neighboring community. A quiet, semi-rural community that has enjoyed the peace of a nearby forest and the amenities of a lake will be suddenly confronted with drilling and blasting; the destruction of the forest; the rising up of huge buildings and parking lots; noise; traffic; polluted air and water. What effect will this have on property values and will the residents be compensated when those values decrease? The DEIS does not provide any answers.

These devastating effects on the residents must be taken into account. Merely owning the land does not give the applicant the right to harm the neighbors. But unless this project is reduced very considerably, the neighbors' standard of living will be severely compromised.

Again, CWCWC urges you to call for a drastically reduced project and for the applicant to provide a suitable SEIS.

Thank you for this opportunity to comment.

Sincerely yours,

A handwritten signature in cursive script that reads "Marian Rose".

Marian H. Rose, PhD  
President, CWCWC



rdw

---

**From:** james bacon [baconesq@yahoo.com]  
**Sent:** Monday, September 25, 2006 12:03 PM  
**To:** planning@pattersonny.org  
**Subject:** Fwd: Patterson Crossing DEIS; Mounding Study Comment Letter



Patterson Crossing  
DEIS; Mound...

Dear Mr. Williams, please find attached a comment letter on Patterson Crossing prepared by John Conrad on behalf of the Croton Watershed Clean Water Coalition. If possible, please acknowledge receipt. Thank you - Jim Bacon  
Note: forwarded message attached.

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Tired of spam? Yahoo! Mail has the best spam protection around  
<http://mail.yahoo.com>

**rdw**

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**From:** Sara Goodwin [sgoodwin@conradgeo.com]  
**Sent:** Monday, September 25, 2006 10:55 AM  
**To:** Marian451@aol.com; Baconesq@yahoo.com  
**Subject:** Patterson Crossing DEIS; Mounding Study Comment Letter

Dear Dr. Rose and Mr. Bacon,

I've attached John Conrad's Comment Letter re: Patterson Crossing. Please let me know if any changes need to be made. I will be in the office today until 1:30 pm.

Thank you,

Sara Goodwin  
Conrad Geoscience Corp.  
(845) 454-2544 ph.  
(845) 454-2655 fax

9/25/2006

## David Clouser & Associates

Licensed Professional Engineers and Land Surveyors  
One Paradises Lane ♦ Suite 200  
New Paltz, New York 12561

Telephone: (845) 790 - 5108  
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E-mail: [dbsea@dcaenurs.com](mailto:dbsea@dcaenurs.com)

September 21, 2006

Mr. Herb Schech, Chairman  
Town of Patterson Planning Board  
P.O. Box 470  
1142 Route 311  
Patterson, New York 12563

Re: Patterson Crossing Retail Center  
State Route 311  
Town of Patterson/Kent  
DEIS Engineering Review Comments

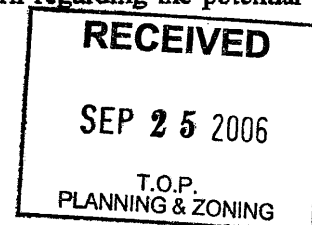
Dear Chairman Schech and Planning Board Members:

At the request of our client, the Croton Watershed Clean Water Coalition (CWCWC), our office has reviewed the Patterson Crossing proposed project's Draft Environmental Impact Statement (DEIS) with regard to particular engineering issues. Specifically, we have reviewed issues regarding conformance with town zoning code requirements, stormwater impacts, erosion and sediment control issues, potential impacts to surface water and groundwater quality, sanitary sewer treatment and the effects of the proposed site alteration.

Our office has received and reviewed the following materials in reference to the above-mentioned project:

- "Draft Environmental Impact Statement", (Chapters 1-9, Appendices A-Q) Dated July 27, 2006
- "Engineering Drawings" dated last revised March 24, 2006
- Dufresne Henry consulting engineer's project review correspondence, dated 01/24/06
- Town Planner Richard Willams' project review correspondence, dated 06/18/06

The following comments are offered on behalf of our client, the CWCWC, to be considered as part of the project's SEQRA review / public hearing comment record. As your Board will note during your review of the following information, it is apparent that the project does not comply with basic, minimum zoning criteria of the Town Zoning Code. Substantial project modifications must be made to comply with your Town's minimum zoning criteria, and this should be accomplished (which may alter the entire project) before any consideration of SEQRA issues. Further, there are many apparent unanswered issues of concern regarding the potential



for significant environmental impacts if the project is developed as represented in the DEIS materials. Additionally, we have noted profound discrepancies in key stormwater modeling calculations that misrepresent the performance that may reasonably be anticipated from the stormwater management facilities as they are presently designed. When these stormwater modeling variables are corrected, the systems as now incorporated in the development's design will be shown to be significantly undersized and not capable of accommodating the scale of the project being proposed on this site.

Accordingly, the Board may reasonably question whether the scale of the project being proposed is far beyond the "carrying capacity" of the property (i.e., the development constraints far outweigh the intensity of the development being proposed) in its considerations of this application. As a general summary of our findings, it is apparent from our review of the DEIS documentation that no amount of good site planning and engineering design can overcome the numerous development constraints on this property – the project, as proposed, is simply substantially more development than can reasonably be accommodated on this very environmentally sensitive site.

#### **I. Nonconformance with Zoning**

As the Board is aware, minimally, the development must comply with the Town's zoning criteria before serious consideration can be given to specific design features, provisions for utilities, traffic generation and all of the potential community impacts associated with these development details. Unless the project can meet these minimum zoning / land use requirements, the project must be questioned with respect to whether the site setting and location are appropriate for the project being proposed. Without the minimum zoning criteria being met, it becomes a substantial waste of planning resources to focus on design details. Our review of the DEIS information indicates that the project fails to meet this minimum zoning compliance threshold.

After a review of the Town of Patterson Zoning Code, it has become evident that the site does not meet town zoning requirements. The following lists the specific aspects of the project that do not comply with Town Zoning:

1. The applicant is proposing a "Regional Retail Center" in the "I" zone, which requires a special use permit from the Zoning Board of Appeals. All of the structures and parking in this proposed development are located within the "I" zoning district boundaries, as required by code. However, it is important to note that the extensive 8.7 acre Sanitary Sewage Disposal System (SSDS) will be located in the southwest corner of the site which is not in the I zoning district (i.e., this parcel is in the R-4 zoning district. As can readily be verified by the Board, according to Sections 154-26 and 154-27 of the Patterson Zoning Code, **sanitary waste disposal systems serving industrial / commercial facilities are not permitted as either a principal use or an accessory use in any residential district** (including the R-4 district). In fact, the permitted uses listed in the code as allowed uses in residential districts are very specific and very restrictive to maintain a quiet, aesthetic residential character and

setting and do not permit any uses in any way related to commercial/industrial activities.

Clearly, the R-4 residential zoning district was purposefully intended for residential use, and not for an expansive (8.7 acre) area for the disposal of wastewater generated by a large industrial / commercial facility. The Applicant therefore must relocate the septic system to an area on the site zoned for that use (i.e., the "I" zone) or be able to obtain a use variance from the Zoning Board of Appeals, prior to any serious consideration of the viability of this development proposal. As the Board is aware, the standards that must be met to obtain a use variance are quite rigorous, and would seem particularly so in this instance due to the clear residential compatibility criteria stated in the residential district zoning specifications.

2. As previously mentioned, the proposed "Regional Retail Center" requires a special use permit to be issued by the Zoning Board of Appeals. Section 154-111 of the Patterson Zoning Code lists the specific conditions that must be met (Conditions A through E), should the special use permit be granted for Regional Retail Center.

Section 154-111 (B) states "*The minimum setback of all buildings, structures, parking areas and access drives shall be 65 feet*". As the Board will note, the site plan does not conform to this requirement in several areas of the development proposal. As an example of this noncompliance, the first 1000 feet of the access drive (extending from State Route 311 to Station 10+00) is located less than 65 feet from the property line – through one 100 foot segment of this access road, this road is located within 15 feet of the property boundary. This aspect to project layout does not meet Town Zoning Code, specifically the requirements of the Special Use Permit in Section 154-111. The plan must be revised to meet town code or the applicant must seek an area variance from the Zoning Board of Appeals, prior to any serious consideration of the viability of this development proposal.

3. Additionally, Section 154-111 (B) also states "*Sixty-five (65) feet from any rear or side property line shall be maintained as a vegetative buffer, and shall not contain any surface or subsurface improvements including waste disposal system or utility lines.*" According to the proposed site plan, significant improvements are proposed within this 65 feet wide required vegetative buffer area along both the side and rear property lines. Since the property has frontage and is proposing access from State Route 311, the property line along Route 311 would customarily be considered the "front property line" of the development parcel. Therefore, all other property lines must be considered "side" or "rear" property lines with the 65-foot setback applying to these property boundary lines, as referenced above.

According to the information shown on the proposed site plans, significant improvements are proposed within 65 feet of the property line along the eastern, southern and western boundaries where a vegetative buffer is required to be maintained. Specifically, Stormwater Detention Ponds, 1.1, 1.2, 1.3, and 1.4 (as well as the pond access drive) are all located within 65 feet of the eastern property line. Additionally, extensive grading, the proposed wastewater disposal system and access drives will also be located within 65 feet of the southern and western property lines. Access drives, detention ponds, wastewater disposal systems and massive

embankments/excavations (i.e., in excess of 40 feet deep rock cuts) certainly must be considered "surface improvements" and, according to clear provisions in the Town Zoning Code, may not be located within 65 feet of any side or rear lot line, per the zoning code.

This is yet another aspect to the project layout proposal that does not meet Town Zoning Code, specifically the requirements of the Special Use Permit. Accordingly, the project plans must be revised to meet town zoning code minimum requirements or the applicant must seek a variance from the Zoning Board of Appeals, prior to any serious consideration of the viability of this development proposal.

4. With regard to impervious surfaces, Section 154-111 (C) states "*All other dimensional requirements of the particular district are conformed to, except that total area of all impervious surfaces shall not exceed 50% of the total lot area.*" The Special Use Permit for a Regional Retail Center is allowed only in the "I" zoning district, therefore, this portion of the Town's Code applies only to that portion of the project that lies within the I zoning district. Therefore, the applicant must show that 50% or less of the development's total area in the I district is impervious. Our office did not perform the precise calculation to determine compliance with this section of the zoning code because it is visually apparent when reviewing the development's plans that the proposed layout does not meet this requirement. The total area of impervious surfaces must be significantly reduced to achieve compliance with this section of the zoning code. This required revision will undoubtedly result in a significant reduction in the project's scope and scale.

## **II. TMDL Watershed Requirements**

As the Board is aware, the proposed project is located within two (2) of the New York City Reservoir drainage basins. A portion of the site drains to the Middle Branch Reservoir and part of the site drains to the East Branch Reservoir. Each of these drainage basins are "Phosphorus Restricted Areas" as identified in the TMDL (Total Maximum Daily Load) requirement per federal US EPA program conditions as administered by the NYSDEC. The Middle Branch and East Branch Reservoirs each drain to the Croton Falls Reservoir, which is also classified as "Phosphorus Restricted". The specific water quality criteria for development in these watershed areas are regulated by the New York City Department of Environmental Protection (NYCDEP) and the New York State Department of Environmental Conservation (NYSDEC). The area's TMDL Program was established as a joint effort with the US EPA as mandated by Section 303(d) of the Clean Water Act of 1977.

As the Board is aware, the East Branch Reservoir, Middle Branch Reservoir and Croton Falls Reservoir do not meet the NYS phosphorus guidance values (as determined by the NYCDEP and the NYSDEC) and action must be taken to improve the quality of this New York City drinking water supply. Phosphorus concentrations are over the required maximum levels in the East Branch, Middle Branch and Croton Falls Reservoirs and therefore pollutant loadings from newly developed sites are very strictly regulated so that the water quality will not degrade

further, with the long term objective of improvement in this respect for these specific watershed areas.

Wastewater treatment plants within the Middle Branch watershed have been targeted as point sources for excess phosphorus loading and, consequently, many wastewater plants are scheduled for or have undergone extensive treatment unit upgrades in an effort to reduce their phosphorus output. However, the NYCDEP clearly concluded in their report entitled "*Proposed Phase II Phosphorus TMDL Calculations for Middle Branch Reservoir*" (March 1999) that the upgrade of wastewater treatment plants can only partially reduce the existing excessive phosphorus load in the drinking water supply reservoirs. According to the latest NYCDEP TMDL report, non-point sources such as urban stormwater runoff are the other major contributors to the phosphorus loads within the reservoir. Very importantly, programs and measures must be implemented within the watersheds to reduce the pollutant loading from both wastewater treatment and urban stormwater runoff sources.

With that said, the proposed project involving the construction of vast areas of impervious surfaces and massive land disturbance in the Middle Branch Reservoir and East Branch Reservoir watershed is a major concern, requiring substantial and complex mitigation methods to minimize this recognized significant adverse impact. A review of the DEIS information for this project does not reveal that these concerns that affect one of the world's largest water supplies have been appropriately addressed.

As summarized on Pages 4.5-6 through 4.5-9 of the DEIS, the phosphorus loading to the Middle Branch Reservoir, East Branch Reservoir and the entire Croton Falls Reservoir watershed must be reduced to meet NYS phosphorus values. According to the TMDL report prepared jointly by the NYCDEP, the NYSDEC and the US EPA titled "*Nonpoint Source Implementation of the Phase II TMDL's*," (April 2001), phosphorus load reductions in the Middle Branch and East Branch Watersheds are required to meet water quality objectives within the Middle Branch, East Branch and Croton Falls Reservoir. The total "Wasteload Allocation" (WLA - the contaminant load allotted by the TMDL for wastewater treatment plant discharges) is currently below the requirement as per the TMDL report. However, the Phosphorus load still exceeds the TMDL loading limits. Therefore, the reduction in phosphorus must come from non-point sources such as urban runoff, as well as the increasingly more strict treatment limits imposed on wastewater treatment facilities. These documents clearly require that the phosphorus load must be reduced in this specific project area to meet water quality standards outlined in the TMDL. Maintaining the pre-development phosphorus loading levels at this location is no longer an option.

As your Board is aware, the project proposes the conversion of large areas of undeveloped forest to urban areas. As previously stated, urban areas are identified as the "... principal phosphorus sources" in the Middle Branch and East Branch watershed. After our office's review of the project's DEIS information (and as supported in our comments in Section IV. (1)), it is most probable that the project will result in an actual significant increase in the phosphorus loading to the water supply reservoirs instead of reducing this pollutant load. Therefore this proposal does not meet the minimum TMDL requirements established by the NYCDEP and

NYSDEC. The project must therefore be redesigned to meet these TMDL Phosphorus reduction requirements.

### **III. Stormwater SPDES Permit and the Required SWPPP**

The NYCDEP and the NYSDEC each require the implementation of a Stormwater Pollution Prevention Plan (SWPPP) for the proposed construction activity. However, the requirements of the SWPPP differ for each agency.

The NYCDEP "*Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources*" (Last revised June 30, 2002), requires conformance with the standards of the previous SPDES General Permit GP 93-06. However, the more recent NYSDEC Phase II Stormwater regulations require the implementation of the current Stormwater SPDES permits GP 02-01 for Construction Activities and GP 02-02 compliance for MS4 communities.

For this project, both DEP and DEC permits must be satisfied to comply with current stormwater regulations. Additionally, the Towns of Patterson and Kent must be certain that the project proposal conforms to their MS4 stormwater program requirements. The NYCDEP will review the project design to insure that their requirements have been met and the NYSDEC is required to also review the stormwater design in compliance with the SPDES requirement for projects located in a TMDL area. In cases where the requirements within the regulations "overlap", the worst case, most stringent standard must be used, as verified with regulatory review staff members at both the NYSDEC and the NYCDEP. As follows in this evaluation of the DEIS documentation, instances of non-compliance with both agencies' standards are apparent in our review of the stormwater management facilities' design.

### **IV. SWPPP Comments**

Our comments specific to the Patterson Crossing Stormwater Pollution Prevention Plan (Appendix F of the DEIS) are as follows:

1. **Pollutant Removal Modeling Methodology** - A review of the pollutant removal modeling methodology (as described in the project's DEIS) indicates that the modeling projects a range of removal values for various treatment techniques. These published removal rate ranges are based on NYSDEC removal expectations that were established from actual site monitoring over years of operation of various stormwater treatment techniques.

The results of the pollutant removal modeling indicates that there may be a reduction in pollutant transport from the site if the best case (i.e., highest rate) removal limit range is met by the proposed facilities and that pollutant export would exceed existing pollutant loadings if only the lower removal range were met.

Given the location of this proposed project, where the pollutant export will directly affect the water supply of more than half the residents in New York State, it is critical to increase the modeling's predictive accuracy for evaluation of these important potential significant adverse environmental impacts. The Board should therefore request that the Applicant either: 1) design the pollutant removal facilities using the lowest range pollutant removal range factors, or 2) employ a modeling method that will more accurately predict pollutant removal efficiencies (i.e., several are suggested by the US EPA, including SWIM, SLAM, etc.) for the facilities being proposed for this development. The results of accurate modeling will produce a revised pollutant removal facility design with larger treatment facilities.

2. Phosphorus Loading Rate Discrepancy - Some of the pollutant loading rates for specific land uses utilized in the project analysis, taken from the Terrene Institute's publication "*Fundamentals of Urban Runoff Management*" are inaccurate and do not represent variables that should be used in the pollutant loading calculations.

Amended pollutant loading rates for Phosphorus specific to the project area are used by the NYCDEP in TMDL reports, as in "*TMDL Calculations for the Middle Branch Reservoir*", "*Table 4.1 – Land Use Export Coefficients for the Middle Branch Reservoir*". These more recent pollutant loading rates have been validated through years of field monitoring throughout the watershed basin area and are specifically valid for use in the pollutant loading calculations for this project. The pollutant loading rates are commonly used by the NYCDEP throughout their extensive researching and reporting of the Croton Falls Reservoir watershed as well as many other reservoirs east of the Hudson River.

The phosphorus pollutant loading values utilized in the above referenced TMDL Reports for undeveloped forest is significantly less than what was used in the project analysis. The following table summarizes the different pollutant loading values and provides an example of the disparity between the DEIS values that are being used in the Applicant's documentation that is purported to model the pollutant loading and removal rates for this project:

**Phosphorus Loading Rates**

Land Cover	Terrene Institute Document Rates (used in the DEIS) (lbs/acre-yr)	NYCDEP TMDL Report Rates (lbs/acre-yr) [current standard]
Undeveloped forest	0.1	0.045

As shown in the above table, the pre-development pollutant loading estimates have been overstated in the DEIS analysis information by a multiplier of approximately 2.2. The analysis should be revised to use the proper loading rates, and subsequently the stormwater quality treatment design must be revised to accommodate these significantly more stringent standards. The outcome of using the proper variables will require increased

treatment facilities and may result in a substantial reduction in the project's scale --- or perhaps indicate that the present proposal is not an appropriate use for this specific site.

Additionally, the stormwater analysis utilizes the pollutant loading rates taken from the Terrene Institute's publication "*Fundamentals of Urban Runoff Management*" for developed conditions such as for commercial, residential and impervious ground cover conditions. The values taken from this document are not appropriate for this application.

As noted on page 38 of the Terrene Institute document "*The author drew values from the general literature and data collected in the Pacific Northwest*". With regard to the pollutant loading rate table also on page 38 of the document, it later states "*This table should be as discriminately used as others, especially since most pollutants are generally lower in Pacific Northwest runoff than elsewhere.*" Expecting that site conditions are similar to those in the Pacific Northwest is unreasonable, and therefore more site specific factors must be used to provide a representative pollutant loading model. As a minimum, modeling should utilize accepted pollutant loading factors that have been developed for use in New York State.

The document that is typically referenced and utilized for these calculations in New York State is NYSDEC's publication "*Reducing the Impacts of Stormwater Runoff from New Development*" (Reducing the Impacts). The values contained in this document are specific to New York State and are commonly used in this area.

The values contained in the Terrene Institute document are significantly less than what is utilized in NYSDEC's "*Reducing the Impacts*" document. The following table summarizes the different phosphorus loading values for the site and provides an example of the disparity between the DEIS values that are being used in the Applicant's documentation that is purported to model the pollutant loading and removal rates for this project:

**Phosphorus Loading Rates**

<b>Land Cover</b>	<b>Terrene Institute Document Rate (used in the DEIS) (lbs/acre-yr)</b>	<b>NYSDEC "Reducing the Impacts" Rate (lbs/acre-yr)</b>
Commercial	0.71	1.5

As shown in the above table, the pre-development pollutant loading estimates have been understated by a multiplier approximately 2.1. The analysis should be revised to use the proper loading rates, and then the stormwater quality treatment design must be revised to accommodate these significantly more stringent standards. Using these revised loading rates will clearly indicate that the current project design does not even remotely provide the water quality treatment that is required to meet the more stringent pollutant

values for pre-development conditions, let alone providing for a required reduction in post-development pollutant loading transport from the site.

To summarize this phosphorus loading rate modeling issue, a careful review of the DEIS information reveals that the pre-development pollutant loading is overstated and the post-development pollutant loading that will be created by this project is understated. This misrepresentation in the modeling data results in a grossly inaccurate estimation of pollutant loading impacts for this proposed development. The project, as designed, will result in potentially large increases in phosphorus loading to each reservoir. Accordingly, this project design does not conform to the TMDL requirements set forth by the NYCDEP and the NYSDEC with regard to phosphorus.

It should also be noted that other pollutants have also been underestimated in the post-development loading calculations such as Total Nitrogen (TN), Total Suspended Solids (TSS) and Biological Oxygen Demand (BOD). The pollutant loading calculations for each of these pollutants also must be revised, properly utilizing the pollutant loading rates taken from the "*Reducing the Impacts*" document.

3. Runoff Coefficient CN Selection. For the post-development runoff calculations, the analysis utilizes a "general" CN runoff value for the commercial development. This "general" CN value assumes a certain percentage of the site will be impervious as well as a percentage of grassed or landscaped areas. It is a simple and common place task to determine the "actual" areas of impervious and grassed surfaces, which would provide a significantly more accurate representation of the actual ground cover conditions and post-development drainage. This simple calculation should be completed by the Applicant for a project of this scope and scale. The post development runoff calculations should be revised to reflect the more accurate CN values. It should also be noted that this office conducted preliminary calculations to determine what effect this change would have on the analysis. Our findings indicate that the post-development runoff quantities have been underestimated due to the Applicant's selection of the "general" CN values that were used.

#### V. Sanitary Sewer Treatment

As shown on the project plans, the Applicant is proposing a Subsurface Sewage Treatment System (SSTS) in the southwestern corner of the site to capture and treat the sanitary effluent from the proposed development. The Applicant has calculated a design flow of 10,740 gallons per day (gpd) and has sized the SSTS to handle this flow. The Applicant has utilized "custom" values for calculating the design flow based upon the historical usage of each proposed tenant. However, the calculation should be based upon NYSDEC's Design Standards publication that would be accepted by the permitting agency.

Utilizing the proper NYSDEC document for the calculation, the flow rate is calculated to be approximately 35,000 gallons per day or 3.3 times the flow calculated by the Applicant. As mentioned in Dufresne Henry review correspondence dated 01/24/06, "*Because there is always the chance for a change in tenant(s), in our view the estimated design hydraulic*

*loading rates should be based on NYSDEC standards...". It is our opinion, as well as the Town Engineer's opinion that the flow rate should be based upon NYSDEC standards, and the wastewater usage should therefore be recalculated for use in evaluating the project's potential impact. As mentioned by the Town Engineer, the current tenants may not always be present and future tenants may have additional demands on sewer services, resulting in an inadequately sized sanitary disposal system.*

Additionally, based on the information provided in the DEIS, no design has been completed for the SSTS. The design of the system is an integral part of the environmental review of this project and should be completed at this time. As the Board is aware, the system must also incorporate pretreatment (for phosphorus removal) prior to disposal in a subsurface system. There is no design information for this required component of the wastewater disposal system that is being proposed for the development. The plans portray a conceptual "black box" approach to the planning of this component – little more than an arrow pointing to where the system would be generally located is provided for review, without any of the necessary detail that could confirm or deny its feasibility. The DEIS wastewater report narrative refers to groundwater modeling uncertainties and concern for lateral leaching of untreated sewage, without providing tentative feasible solutions to these concerns that their consultants have raised. Significantly more detail for this critical development component is needed before impacts can be considered.

The preliminary design of the system and a detailed description of its necessary components would allow the Board to more properly determine whether the system complies with agency minimum standards, fits on the site area indicated on the plans (i.e., would a system that is required to be 3.3 times the system described in the DEIS – with its required reserve area – fit in the area planned for this use?), what the extent of disturbance is, and what impacts it may have on nearby groundwater and surface water resources. All of these questions must be accurately answered by the Applicant as an essential for the Board's use in evaluating the potential impacts, the reasonableness of the project proposal's scale and the feasibility of the development's proposal being accommodated by the site's sensitive setting.

## **VI. General Comments / Conclusion**

The following provides additional general planning comments on the information reviewed in the DEIS materials:

1. **Site / Steep Slope Alteration** - With regard to the proposed construction on steep slope areas, the long-term effects of the disturbance of steep slopes are known to result in:
  - A loss of topsoil
  - An increase in soil erosion
  - Siltation in streams and wetlands
  - The alteration of drainage patterns
  - The degradation of the quality of surface water

- The potential for contamination of water supplies
- Slope failures
- Alteration of scenic views
- Destruction of potentially significant habitat
- Threats to personal safety

The road and site construction design as shown on the grading plans would require extensive removal of soil, bedrock and woodlands. There are locations on the grading plan that call for more than 40 feet of excavation and 30 feet of embankment. Similarly, what consideration has been given to the substantial alteration of the local groundwater table with such an extensive earthmoving site alteration? These examples serve as indicators of the massive site alteration that is required to accommodate the development that is proposed by this present design. This land would be irreversibly altered by this scale of proposed site transformation and requires a substantial portion of the construction to take place on sensitive steep slope areas throughout the site. The potential for serious impacts that might result from this type of site modification merits considerably more investigation than has been presented in the DEIS materials.

2. Stream Alteration - Sheet SP-3.1 of the Engineering Drawings indicates a DEP regulated water course extending from Concord Road to NYS Route 311, and further discharging into the Middle Branch of the Croton River. As shown on the plan, approximately 1,000 horizontal feet of this watercourse will be destroyed by the proposed development. Much of the watercourse will be filled in and piped underground, and large detention basins are proposed to be placed directly on top of the watercourse.

The Board should consider the feasibility of construction and realignment of this watercourse. We would suggest that the Board require design details (that would be prerequisite to obtaining the proper NYCDEP permits for this proposal) as a means to consider the stream reconstruction's reasonableness, in addition and coincident with considering the environmental impact associated with the destruction of such a large portion of the existing watercourse. It may also be noted that the watercourse may be additionally regulated by the Town of Kent and/or the Army Corps of Engineers.

It is our opinion that substantial changes to the project design are necessary to bring the project in compliance with current stormwater regulations and town zoning code. Issues such as revised pollutant loading rates (see section IV., SWPPP, Comment #1) and non-conformance with bulk zoning requirements could substantially change the layout, scope, scale and direction of the project. Further, significantly more detail is required to adequately describe the potential project impacts and to be able to develop workable mitigation measures. This additional information will also then accurately portray the scale and scope of a development that the site can accommodate without unduly destroying its natural features which contribute to the community's value and character.

Thank you for providing us with the opportunity to comment on this project. We look forward to our involvement in the project as the plans develop and we receive additional design detail. Please feel free to call with any questions or comments.



Sincerely,  
David Clouser & Associates

A handwritten signature in black ink that reads "David B. Clouser". The signature is fluid and cursive, extending to the right with a long horizontal stroke.

David B. Clouser, PE, LS  
NYS Professional Engineer No. 069334

cc: Dr. Marian Rose, Croton Watershed Clean Water Coalition  
Mr. James Bacon, Esq.

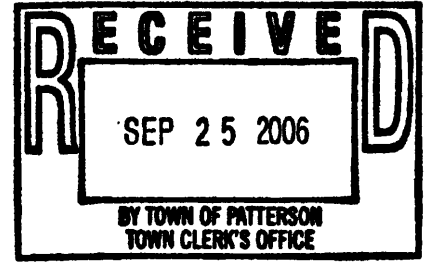
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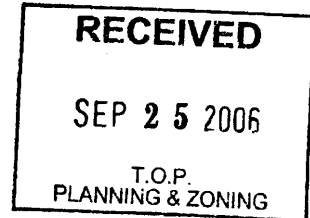
*VIA FAX AND MAIL*

September 25, 2006

Mr. Herb Schech, Chairman, Town of Patterson Planning Board and  
Members of the Town of Patterson Planning Board  
Town Hall  
1142 Route 311  
Patterson, New York 12563



RE: DEIS - Patterson Crossing



Dear Mr. Schech:

As Chair of the Putnam County Coalition to Preserve Open Space, I am presenting the following comments concerning the proposed Patterson Crossing Retail Center as contained in the Draft Environmental Impact Statement (DEIS).

The Putnam County Coalition to Preserve Open Space is a citizen-directed, not-for-profit organization, committed to the conservation of environmentally and ecologically-sensitive land; the preservation of historic sites and structures and supports the principles of sustainable development. Sustainable development takes into account the impact of proposed projects on town character; quality of life; infrastructure; quality and quantity of water; air quality; wildlife habitat and cultural and archaeological resources. These benchmarks serve to guide us in our approval or disapproval of projects and since the proposed Patterson Crossing Retail Center negatively impacts on many of these criteria, we oppose its development.

In addition, the Coalition is a constituent member of the Croton Watershed Clean Water Coalition and I am its representative in Putnam County. Dr, Marian Rose, CWCWC President, has engaged several experts to plumb the impacts of this project, including those concerned with water quality, stormwater, hydrology, and traffic and infrastructure. Therefore, my remarks will be limited to other aspects, principally applicant's assertions connected with the economic benefits, solid waste generation and alternatives.

**A. JOB CREATION** - The applicant asserts that 576 full-time jobs, paying an average of \$12.26 an hour, will be created. Averages notoriously distort statistics since they include high and low figures and this one is no different. In arriving at the \$12.26 figure, neither job classification salaries nor numbers employed in each category are given. We are left to speculate.

The following sources are cited that job creation is a major goal of this development: U.S. Department of Labor statistics; Claritas 2005 Study; the Putnam County "Vision 2010;" The Economic Development Corporation's Shop Putnam Campaign, and on 3-4 the following statement is made: "Shopping locally helps our County's economy by supporting local businesses and creating jobs, especially for young people and senior citizens."

A couple of questions arise: 1. Is it the obligation of government solely to create jobs for “young people” and “seniors” or is it to create diverse employment opportunities benefiting the entire population, especially those comprising working class families?

2. Will Patterson Crossing fulfill its claims of job creation for the “young people” and “seniors” of Putnam County?

Despite similar claims of job creation with respect to Brewster Highlands Retail Center, Putnam County’s unemployment rate, according to U.S. Department of Labor statistics, has remained stable, at less than 4%. Targeting “young people” and “seniors” - transitional population - for its job creation efforts, has resulted in over 70% of Putnam County’s working force seeking employment in Westchester, in Connecticut and in New York City - Shopping for jobs elsewhere instead of in Putnam.. Perhaps we should initiate a **“SHOP FOR PUTNAM JOBS”** campaign

The mismatch between employment opportunities, a skilled workforce and salaries to sustain a standard of living where median home prices hover in the \$350,000 range, is therefore exacerbated by an economic policy that favors low-skill, low-wage, entry-level jobs and compels residents to incur the train and auto expenses of commuting long distances to places of employment. Patterson Crossing does nothing to redress this inequity.

Further, the continuation of this skewed County policy inflicts an hidden tax on the residents of the County that cannot be erased by so-called empty promises of tax relief.. According to figures obtained from the Amtrak web site, monthly tickets from Brewster to Grand Central Station amount to \$315.22; a total of \$3,782.64 year which when combined with NYC Rapid Transit’s \$2.00 fare or \$480.00 yearly resulting in a grand total of \$4,262,26. Daily parking for example at the Brewster Station is an additional \$3.00 a day.

And what has not been factored in are those expenses incurred by those commuting by car -travel time, fuel consumption, auto wear and tear, taxes, to reach workplace destinations distant from Putnam. Aren’t these the same factors cited on 3-7 as benefits of Patterson Crossing?

Indeed there is a cost of this development and that cost is incurred by the working man and woman of Putnam County.

As for the promise of jobs for “young people,” retailers have set an age limit of 18 and the U.S. Office of Safety and Health (OSHA) has specifically prohibited “young people” from engaging in jobs that require use of potentially hazardous machinery i.e. forklifts, thereby precluding this age group from positions that may elicit the \$12.26 average cited in the DEIS.

3. . What assumptions underlie the assertion that “young people” and “seniors” from Putnam County will be attracted to retail jobs? None. On 8-1, they contradict their own assertions by stating the following: As described in Chapter 3.0 of this document, the proposed Patterson Crossing Retail Center is expected to generate approximately 549 permanent jobs. ***These jobs would most likely be filled by residents of Putnam and adjacent counties where the unemployment rate in 2005 was just over four percent.***”

## **B. TARGETED GEOGRAPHIC AREA AND HOUSEHOLDS**

The DEIS cites the Claritas 2005 study (3-8) to support the applicant's various claims for the viability of several components of the retail center. While the applicant in various sections of the DEIS seeks to project the image of a retail center for Putnam County and its residents, the study demonstrates the opposite: at one point merging statistics from combining population, salaries and sales for Westchester, Rockland and Putnam and another citing "households within 10 miles of the project. For ex. in supporting their claim for the need for more coffee shops, Clairtas cites population - 1,312,000 - and salaries - \$115,981, including Westchester, Rockland and Putnam. And again, Westchester, Rockland and Putnam is cited to support the claim that households spent \$6,120 on dining out. For a Putnam County working family on an average salary of \$85,000, an expenditure of \$118 a week, is indeed a hefty bite out of the budget.

However, they then use the 10 -mile figure to support their assertion of a projected \$100 million in annual sales of hardware, lumber and garden stores goods with a total retail trade (all goods) potential of \$1.6 billion in annual purchases. These households have an average annual income of \$102,578 which is expected to increase to \$118, 749 over the next five years."

As the saying goes, what a difference a year makes. Home Improvement retailers i.e. Lowes and Home Depot, have been impacted by the downward spiral in sales prices of new and occupied residences, with stock prices and sales projections plummeting. Retail businesses prone to the vagaries of the business cycle, the whims of consumers and to distant, bottom- line balance sheet accountants, scrutinizing same-store profit margins, auger ill for a county chasing the grail of dependable sales revenue sources.

## **C. TAX RELIEF - AN EMPTY SUIT**

While trumpeting the annual sales of \$200 to \$240 million as the source of county sales revenue and school tax relief, it is to be noted that the applicant inserts certain exemptions. Thirty-five (35%) of whole sale warehouse sales are exempt from sales taxes i.e. food products, beverages, health supplements, drugs and medical supplies, equating to roughly 12% of the total sales of the shopping center." How does this translate in terms of the sales revenue figures provided by the applicant for Putnam County?

And even more confusing is the following statement which occurs on 3-5. Citing the projected \$6.2 to \$7.4 million (a spread of over a million) revenue to be realized by the County, the DEIS states, "A certain amount of these taxes would not be net income to Putnam County or NYS as some of these *sales are already taking place at existing establishments either in the County or the State.*"

***"It is not known what the actual net increase may be as the spending patterns of persons within the trading area of the proposed shopping center are UNDOCUMENTED. It is projected, however, that the majority of sales taxes generated by the project will represent a net increase to taxing jurisdictions."***

And it gets better. *It should be noted that the projected property and sales tax revenues are estimates as some of the actual uses and future tenants at the center are not known at this time.*"

And so we have an entire Lake Community potentially convulsed by a mega-retail center of 439,000 sq ft based on a flawed Claritas study that admits to *undocumented spending projections, unsubstantiated claims of sales tax revenue and unknown tenants.*

#### ***D. SCHOOL TAXES***

The applicant promises \$600,000 in one section of the DEIS and \$500,000 in another as Patterson's Crossing's contribution to offset school taxes, the greatest portion of any resident's tax bill. He formerly promised \$750,000. Both the Towns of Kent and that of Patterson (except for a small part in Brewster) are located in the Carmel School District which saw its budget climb to over \$91+million from \$83 million for the year 2005, a 8.68% increase from 2004. Kent and Patterson residents will see less than the price of a COSTCO card in their tax bill. As one astute examiner of figures noted, at a 5% yearly increase in the school budget, it would require the construction of at least five retail centers just to keep pace.

***E. REDUNDANCY*** - In substantiating market demand for a retail center and lack of shopping opportunities, the applicant cites a 17-year old Town of Kent Master Plan, originally adopted in 1989 which asserts that "most residents drive to Carmel for supermarkets located along Route 6 and Route 52 and that deficiencies probably exist with respect to other retail goods categories such as convenience stores, apparel stores, auto supply stores and full service and fast food restaurants."

The citation of such an outdated Master Plan is one more indication that studies conducted and statements made by the applicant cannot be relied upon as providing valid grounds for the approval of this project. Aside from conceding that Dill's, a family-owned establishment of long standing, would be adversely affected, the applicant astoundingly contends that "there would not only be increased local employment but "spin-off sales at local establishments." Certainly, Kenny's another well known local dealer in carpets and flooring, will be squeezed between the book ends of Home Depot on one side and the proposed Lowes on the other. What will be its survivability in the midst of these behemoths.

The projected components of Patterson Crossing will adversely affect the entire business community of not only the Towns of Kent and Patterson but also Brewster Highlands in the Town of Southeast, not 1 ½ mile distant and one exit away on I84.. It has been reported widely in the Wall Street Journal and New York Times that the competition between Home Depot and Lowes is intensifying, a corporate war in the making and that Bed, Bath and Beyond is a fierce competitor of Linens 'n Things. Yet, the applicant has publicly stated that both are contenders for slots in the Patterson Crossing Retail Center.

Additionally, he projects a clothing and sporting goods store, notwithstanding that Brewster

Highlands already hosts Kohl's and Marshalls. And if Stateline Retail on Rte 6 in Southeast is approved, the applicant has Target in the pipeline.

And there are no lack of flower shops and nurseries, one of which is situated on Rte 311, across from the proposed so-called garden center and several along Rte 52 in Lake Carmel, Carmel, Brewster and of course, the huge nursery at Home Depot.

Further, across Rte 311, as part of Chestnut Petroleum's application, Dunkin Donuts and an electronics store is slated to occupy the same premises as the 14-pump gas station. Do we need another electronics store a few hundred feet distant from Patterson Crossing?

However, it is COSTCO that the elicits the greatest concern, threatening ShopRite on Rite 52 on the border between Kent and Carmel; A&P and the proposed Hannaford in Putnam Plaza in Carmel; A&P stores in the Town of Patterson and Town of Southeast on Rte 22. Each of these stores are in the process of renovation to meet the competition, with ShopRite proposing to expand by 10,000 sq. ft and 52 additional parking spaces. It is disingenuous as the applicant alleges that residents "lack shopping opportunities."

These stores are in addition to the many mom n' pop stores that dot the retail landscape, one even on Rte 311 and several on Rte 6, more than meeting the large and small needs of the local population.

The purported spin-off of economic benefits for local establishments touted by the applicant i.e. gasoline stations; banks; and perhaps some deli operations, will be more than offset by the irreparable damage to local, tax-paying establishments such as Dills, Kenny's, possibly Putnam Concrete and Asphalt; owner-operated drug stores and local stores on Rte 311 and Rte 22. Additionally, it will foreclose options for commercial development on Rte 52, proposals now being developed under the Town of Kent Master Plan review.

Within a 10-mile limit, there is only so much of the consumer pie available for slicing before one or more are elbowed out.

Patterson Crossing is one of the most egregious examples of redundancy erected on the scaffolding of unsupported claims and bogus studies masquerading as a scientific survey of the retail needs of the Putnam County community.

#### ***F. "GOOD, CLEAN DEVELOPMENT" - SOLID WASTE GENERATION***

Patterson Crossing is being touted as an exemplar of "good, clean development." Yet, such is not the case.

Personal visits made to several Connecticut COSTCO locations - Brookfield, Waterbury and Norwalk - and interview with a resident, alerted me to the possibility of the presence of rodent infestation. That possibility turned into a certainty when black boxes attached to the walls of COSTCO, were determined to be traps for rodents not for "nuisance animals" as stated in the

DEIS - "Supplemental measures which may include additional fencing and the use of traps, would be employed to control nuisance animals, if ever necessary."

Therefore, in the DEIS, rodents underwent a metamorphosis and euphemistically became "nuisance animals". In the Scoping Document, however, there was 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."

Website investigation proved that the traps manufactured by Protecta and clearly marked "Poison- Do Not Touch," were specifically for rats. We should not be shocked that a 145,000 sq ft warehouse, with daily deliveries of foodstuffs and accumulation of cardboard, should attract rodents or that such pests and vermin are travelers, hitchhiking on the huge trucks and trailers used to deliver the foodstuffs. They are omnivorous and can eat everything from soap to candy, milk, meat, vegetable, poultry, eggs and all grains, nuts and fruits.

However in this case, the prospect of such an infestation is even more disturbing, introducing a new element unknown in the community. There is a huge difference. Each of the locations in Connecticut were either off interstates (84 or 95) or main roads. None so impacted residential communities as would Patterson Crossing, with some residences not 80 ft and some even closer from proposed stores.

With the inclusion of COSTCO, restaurants, nurseries and lumber as constituents of the Retail Center, the residents of Kent and Patterson, together with their pets and children, will be subjected to an invasion of disease-carrying vermin - Putnam County has one of the highest levels of Lyme Disease. According to Protecta's own caution ([www.pestcontrol-products.com](http://www.pestcontrol-products.com)) "When children or pets are present, tamper resistant rodent stations are needed. You need to purchase Protecta LP (Low Profile) Rat Stations or the regular Protecta Rat Station."

The omission of this essential information that could possibly severely compromise the health and safety of the residents and children residing near Patterson Crossing, is inexcusable. Information must be available to residents on how all stores will prevent infestation from spilling over into neighboring communities.

## ***G. ALTERNATIVES***

SEQRA makes specific reference to the inclusion of viable alternatives to a project proposed. The applicant simply makes a cursory attempt to fulfill that requirement, failing to adequately address *comprehensively* the economic benefits of all the proposed permitted uses under the zoning codes of both the Towns of Kent and Patterson.

The applicant does address "Alternative Project Size" eliminating 3 stores and a coffee shop and thereby reducing the project by some 52,750 ft. His rationalization for not doing so is as follows: "It does not utilize the site to full potential, does not provide retail synergy between tenants, nor

does it provide adequate gross square footage for ancillary retail,

***This scenario would likely result in the development of other sites in the area to provide supporting retail space and food services for the existing market demand.***

***The applicant concludes by admitting the real reason: "Unlikely to pursue this alternative for a variety of financial reasons."***

At present, the applicant is either the owner or contract vendee for a 100-acre parcel across from Patterson Crossing. As a matter of record, he threatened litigation against the Town of Kent Highway Department citing incompetence in drainage work. What does he plan to do with it?

Further in a New York Times article dated September 17, 2006, pg. 38, reference was made to the nearly decade-long battle COSTCO has been waging to enter the Manhattan market. The article states "COSTCO abandoned several efforts to open on the West Side - on 14th Street, 23rd Street or 55th Street - **with a smaller model about half the size of its typical warehouse store.**"

And further on, it details how COSTCO lost another space, situated in East Harlem, named the East River Plaza, to TARGET. The explanation given: According to Mr. Brotman, COSTCO's chairman, "It's all about money."

There are so many other items that need commentary but I believe those from Croton Watershed Clean Water Coalition, Dr. Marian Rose, its President; our attorney, Jim Bacon; Riverkeeper and residents who live on Concord and the other areas of Lake Carmel, will have more than covered them.

Please accept the Coalition's appreciation and my own for your serious consideration of my comments. Patterson Crossing serves no other purpose than to maximize the profits of the applicant, while devastating the lives and property of residents of the incomparable Lake Carmel community.

Sincerely,

  
Ann Fanizzi, Chair

Putnam County Coalition to Preserve Open Space

CC: Dr. Marian Rose, President CWCWC

Jim Bacon, Esq. Attorney - CWCWC and PCCPOS

James Tierney, Watershed Inspector General

Hon. Arne Nordstrom, Supervisor, Town of Kent and Hon. Members of the Kent Town Board

Hon. Michael Griffin, Supervisor, Town of Patterson and Hon. Members of the Patterson Board  
atts.



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The proper procedures for rodent control are sometimes a difficult chore for a homeowner. The information below provided to help the inexperienced make the necessary decisions for a successful rodent control program. All of rodent control products you will need are provided throughout these pages.

- If your rat infestation is only in the yard and there are no pets or children on the premises, you only need to purchase the **CONTRAC BLOX RAT and MOUSE BAIT**. Place the bait blocks in the rat holes or any notable paths in the yard. Regular movements (foraging) of rats will leave paths in the grass. Contrac Blox will kill and kill rats fast. It is a single-feed bait.
- When children or pets are present, tamper resistant rodent stations are needed. You need to purchase the **Protecta LP(Low Profile) Rat Stations** or the regular **Protecta Rat Stations**.
- We recommend that you choose the larger **Protecta Rat Stations** if a combination rat trapping & rat baiting program is necessary.
- The **Big Snap-E Rat Traps** are used inside the **Protecta Rat Stations** when children or pets are present. If you suspect a rat problem is within your walls or indoors, baiting is not an option. Baiting inside large animals such as rats will only increase your problem. Baiting will quickly solve the rat infestation but create 3 more problems. #1: Odor from the dead animals #2: Maggots and thousands of flies and #3: The rats are rarely located. The odor from the dead rats will linger for several weeks.
- Indoor treatments should be done with baited traps or glue boards. We recommend the **Big Snap-E Rat Traps** because they are easier, sanitary and safer to handle. The pre-formed holes in the rat trap base allow for mounting if it is needed. Your fingers never touch the dead rodent. The **Big Snap-E Rat Traps** are easy to use and can be reused for years. They are simple, safe, and sanitary. They will kill rats every time the trap is set. No rats will be able to steal the bait.
- After setting the baited traps indoors you will also need to place some traps outside in the regular **Protecta (Tamper Resistant) Rat Stations**. The **Protecta Rat Station** keeps the **Big Snap-E Rat Traps** out of the way to little children or pets. This larger station can be used with the **Big Snap-E Rat Traps** and follow-up maintenance rat baiting or trapping.
- " All points of entry should be sealed the same time you start your rodent control program. Why? A rat will change his habits easily, especially if he already has a safe path to food and water. Sealing his points of entry disrupt his normal routine and cause him to wonder off the usual path. You will then start catching the rats

want the right rodent control products to kill rats, we have all the supplies you will need to succeed. **Stuf-f Access Control** copper mesh is the very best for most access control sealing jobs. Some holes may req concrete.

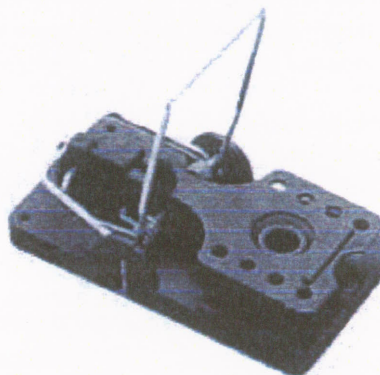
<u>YOUR PROBLEM</u>	<u>SOLUTION</u>
(1) Rats in Yard (No children or Pets)	<b>Contrac Weather Blocs</b> (Place in holes or rodent paths)
(2) Rats seen in Home or heard in walls. (No children or Pets)	<b>Big Snap-E Rat Traps</b> in attic, kitchen, & outside
(3) Rats are in Yard or Home (Children & Pets are Present)	<b>Protecta with the Big Snap-E Rat Traps</b> inside, outside or both.
(4) Not sure about the noise in the walls.	<b>Maxcatch GlueBoards</b> (Large & stronger) Pre-scented with peanut butter. Also good monitoring tool.
(5) You suspect it is squirrels making the noise.	<b>Go Here</b> for different products to address squirrels. For the fastest eviction of Squirrels or Roof Rats from the attic, look for the <u>Squirrel Evictor Light</u> .

^ 1

**Rat Trapping (Lethal)**

**Big Snap-E Rat Trap**

With the BIG SNAP-E, it's the end of the road for rats, gophers, chipmunks, ground squirrels and other pesky rodents. The quick response time makes certain that once caught, the rodent stays caught! Two pre-formed holes in the trap base allow for surface mounting. Fingers never touch the rodent. The BIG SNAP-E RAT TRAP is made of durable polystyrene and steel. It resist stains and odors common in old-fashioned wooden traps, it is easy to clean and can be reused for years of service. It is simple, safe and sanitary.



**FREE SHIPPING**  
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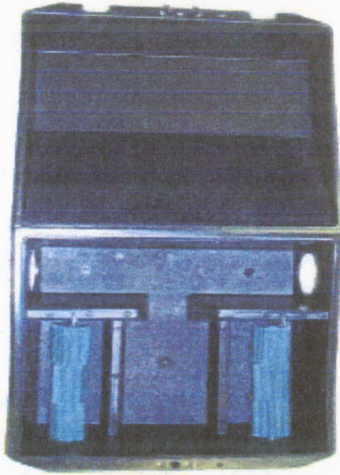
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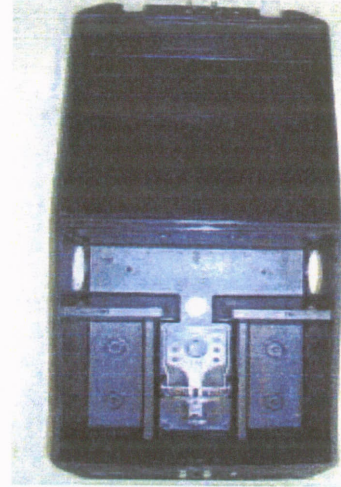
**For Wood Rat Traps [Go Here](#)**

**Rat Baiting & Trapping**

**THE PROTECTA (tamper resistant)  
BAIT STATION (serves 2 objectives in a Rodent Program)**

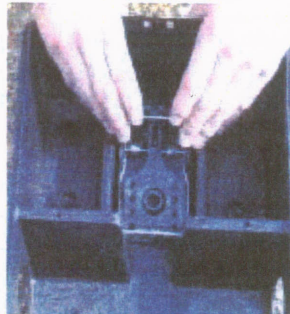


**BAITED TRAPS  
(with 2 holding rods)**

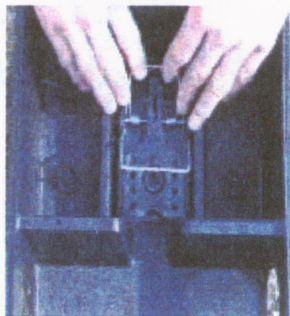


**SNAP TRAPS**

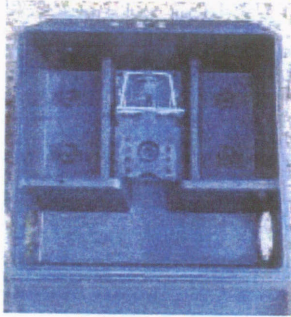
**OR**



**Easy to set trap  
Simple & Quick**



**Just push the Strike  
bar down**



**Snaps right in place  
without fear of  
any finger  
or hand entrapment.  
Pre-molded hole for  
bait.**



**Easy Snap down**



**Can be used like this  
OR**



**For assured security  
(Tamper Resistant).  
Screw & Allen wrench  
provided.**

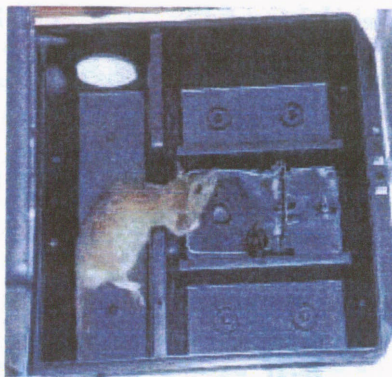


After securing the top,  
place Protecta Station  
where activity is found.  
If possible make sure  
entry holes are next to  
a vertical wall.



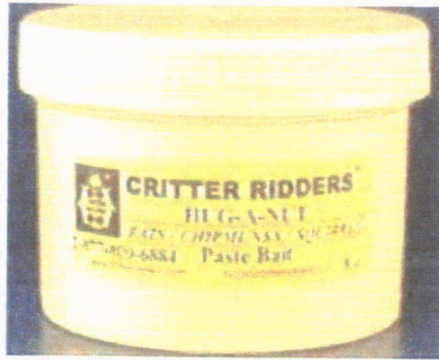
In this kitchen a Rat was visiting the dog food each night.  
A Protecta Station with the Big Snap-E Rat Trap was put out.  
Look at the tail sticking out of the Protecta Station.

*NOTE: The dog food in the bowl was removed while baiting for the Rodents.  
You don't want competition for the bait.*



This is proof that the combination of Protecta Stations &  
Big Snap-E Rat Traps are down right  
**DEADLY** for a rodent of any kind.

The attractant paste bait used in the Protecta Station above is our Squirrel / Rat  
Paste Bait. This is our best attractant paste bait for Rats, Squirrels or Chipmunks.  
There is nothing like picture proof.



The Hug-A-Nut Paste Bait used in the Protecta Station & the Rodent Rock Station is by far the very best Rat & Chipmunk paste bait ever made. It was originally used & marketed for squirrels only. However, after one try, we found out that Rats & Chipmunks will follow this sweat smelling bait faster than anything we have ever used.

**Hug-A-Nut Paste Bait**  
Great Lure Bait for Chipmunks, Rats & Squirrels

**Free Shipping**

**Purchase Rat Paste Now**

\$14.95 per 8oz.jar

**ADD TO CART**

The deadly kill pictured below using the Hug-A-Nut Paste Bait, Snap-E Rat Traps and the Rodent Rock Cafe or Protecta Station is deadly for any rodent including chipmunks. [Click to Enlarge](#)



Protecta Bait Station  
With Trap

**Free Shipping**

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**ADD TO CART**

4 Protecta Bait Stations With  
Traps

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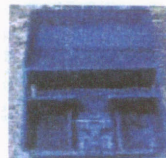
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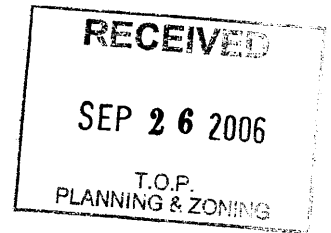
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Letter B-7



September 25, 2006

Via Facsimile (845-878-2019) & email

Herb Schech, Chairman  
& Town of Patterson Planning Board  
P.O. Box 470, 1142 Route 311  
Patterson, NY 12563

Re: Comments on the Patterson Crossing Retail Center Draft Environmental Impact Statement (DEIS)

Dear Chairman Schech & Members of the Planning Board:

NYPIRG is New York State's largest research and advocacy non-profit organization primarily focused on environmental preservation, consumer protection, government reform and public health issues. NYPIRG was one of five environmental organizations that signed onto the 1997 New York City Watershed Memorandum of Agreement (MOA), which laid out the groundwork for City, State and local watershed communities to protect the drinking water sources for millions of New Yorkers. The MOA put in place the mechanisms for protecting New York City's drinking water at the source and established a program supporting responsible, environmentally sensitive economic development projects in the Watershed. NYPIRG has been monitoring the implementation of both the MOA and the 1997 Filtration Avoidance Determination (FAD) to ensure the protection of New York City's water supply.

We would like to take this opportunity to comment on the proposed Patterson Crossing Retail Center, which involves the construction of a 434,050 s.f. retail center on a 90.46+ acre parcel which lies within the Town of Patterson and the Town of Kent. The project is located on the west side of Interstate Route 84 and the south side of NYS Route 311, straddles the border between the towns of Kent and Patterson: 16.3 acres are in Kent and 74.1 acres are in Patterson.

The proposed Project is also located within the New York City Watershed, the source of drinking water for over 9 million residents. Runoff from the proposed project drains into the Middle Branch and East Branch Reservoirs that are part of the Croton Watershed. The New York State Department of Environmental Conservation (DEC) has classified the Middle Branch Reservoir as a class "A" water body and the East Branch Reservoir as a class "AA" water body.

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Therefore, pursuant to the state classification, the Middle Branch and East Branch Reservoirs are to be maintained at a very high quality – one that allows them to serve as a source of drinking water. These important reservoirs have also been classified as phosphorus-restricted and listed on DEC's 1998 list of impaired waterbodies pursuant to Section 303(d) of the Clean Water Act and require substantial reductions in phosphorus loading if they are to achieve water quality standards.

Given the creation of impervious surfaces and increased stormwater runoff, the adverse impact to wetlands and surrounding waterbodies, insufficient traffic and secondary growth impacts, and the lack of real alternatives analysis, the project poses considerable risks to the integrity of this important and sensitive watershed, and that the Planning Board must reject the project as currently proposed. NYPIRG believes that the current DEIS is insufficient and further analysis is required in a Supplemental DEIS, including the following:

#### Increased Impervious Surfaces and Water Quality Impacts

The Supplemental DEIS is needed to provide further analysis of the impacts to water quality from the disturbance of over 68.4 acres of land with 32.4 acres being converted into impervious surfaces, such as roadways and parking lots. Given the phosphorus impaired status of the Middle Branch and East Branch Reservoirs, as well as Lake Carmel, the DEIS did not adequately address how the necessary phosphorus reductions or the total maximum daily loads (TMDL) would be achieved. Another critical problem is the disturbance of greater than 5 acres at a time during construction, which would serve to further exacerbate the problem.

#### Traffic Impacts

The DEIS asserts that the New York State Department of Transportation (NYSDOT) will address future traffic needs with a proposed roadway expansion, yet there is no NYSDOT supported data to suggest that this is the case. Instead, the DEIS must examine traffic impacts without the assumption that NYSDOT will expand any roadways. Given the environmental impact from the increased traffic associated with retail centers, this must be adequately addressed in the Supplemental DEIS.

#### Steep Slopes

Construction on steep slopes should be avoided in the watershed. The DEIS proposes to use more than 12 acres of steep slopes that are greater than 15% including for the siting of stormwater basins; therefore, the Supplemental DEIS is needed for further analysis on the specific engineering controls proposed for use on these steep slopes.

#### Secondary Growth Impacts

The DEIS does not adequately address the anticipated impact from having 516 employees at the retail stores. Indeed, there is an assertion that there will be no impact, which we believe needs to be further analyzed and discussed in the supplemental DEIS.

#### Alternatives Analysis

The DEIS fails to provide the required detailed analysis of a full range of alternatives, including those that are lower-build or otherwise lower-impact alternatives. While there is discussion in the DEIS on the use of low-impact design techniques to mitigate environmental

impacts, there are more extensive better site design strategies and lower build alternatives that should be thoroughly examined that would significantly reduce the impervious cover and avoid the use of steep slopes and wetlands.

In light of the above, we urge you to require full environmental compliance for this, and any other, project located within the New York City watershed. The cumulative effect of all potential adverse impacts on watershed water resources should be considered to determine the total impact when considering proposals. Therefore, the Planning Board should require a Supplemental EIS to fully explain all of the issues and concerns raised.

Thank you for this opportunity to comment.

Sincerely,

Cathleen Breen  
Watershed Protection Coordinator





STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER  
Attorney General

(518) 474-4843

DIVISION OF PUBLIC ADVOCACY  
ENVIRONMENTAL PROTECTION BUREAU

September 25, 2006

Via Fax and Regular Mail

Town of Patterson Planning Board  
P.O. Box 470  
1142 Route 311  
Patterson, New York 12563

Attn: Richard Williams Sr., Town Planner

Dear Planning Board Members:

We appreciate this opportunity to submit the attached comments to the Town of Patterson Planning Board concerning the Draft Environmental Impact Statement ("DEIS") with respect to the proposed Patterson Crossing Retail Center. The position of New York City Watershed Inspector General is a joint appointment of the Governor and the Attorney General within the Attorney General's office that was established pursuant to the 1997 New York City Watershed Memorandum of Agreement and a gubernatorial executive order. These comments summarize our concerns with respect to the adequacy and scope of the DEIS as it relates to potential adverse impacts on water quality. We have also attached the SEQRA "scoping" comments that were previously submitted to the Planning Board and reiterate our position that the DEIS should fully address all concerns raised by these scoping comments.

Respectfully submitted,

A handwritten signature in black ink that reads "James M. Tierney".

James M. Tierney  
Watershed Inspector General  
Assistant Attorney General

cc: Paul A. Camarda  
Tim Miller Associates  
Insite Engineering, P.C.

Distribution



**OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL****Draft Environmental Impact Statement  
Patterson Crossing Retail Center  
Town of Patterson and Town of Kent  
Putnam County, New York****SEQRA Comments of the New York City Watershed Inspector General  
To the Town of Patterson Planning Board****September 25, 2006**

Thank you for providing this opportunity to comment on the draft environmental impact statement ("DEIS") for the proposed Patterson Crossing Retail Center ("Project"). This regional "big box" retail center (involving 32.4 acres of stores, parking lots and access roads) is proposed for a portion of the New York City Watershed ("Watershed") that is already burdened with impaired water quality – to a level that violates state and federal water laws – in large part from polluted runoff flowing from existing and ongoing development.

**I. Comment Summary.**

The DEIS suffers from a number of critical deficiencies regarding the Project's impact on the Watershed that warrant additional, *quantitative*, environmental analysis and the re-issuance of a supplement draft environmental impact statement. Without this supplemental analysis, the DEIS would appear to be legally deficient pursuant to the State Environmental Quality Review Act ("SEQRA").

**1. Post Treatment Pollutant Loadings are Underestimated.** The DEIS employs dated and substandard methods to calculate water pollutant loadings, resulting in an underestimate of the additional pollutants that will be caused by the proposed Project after construction, including nutrient phosphorus. The Middle Branch and East Branch Reservoirs, as well as near-by Lake Carmel, are already significantly impaired by excessive phosphorus. Pollutant loadings need to be properly calculated and the proposed Project modified so that (accurately calculated) post-development pollutant loadings more closely resemble pre-development levels.

**2. Project Construction on Sensitive Slopes and Soils.** A significant number of the proposed retail structures, parking lots, and large water treatment basins are proposed to be constructed, all or in part, on steep slopes (over 15 percent) and/or on soils rated as "severely restricted" (under the United States Natural Resources Conservation Service criteria) for the type of construction activity that is proposed. To limit excessive erosion and sedimentation (with

associated pollutants), these sensitive areas should be avoided to a greater extent by adjusting and reducing the proposed Project's footprint. Heightened erosion and sediment controls should be engineered and specified in detail to address those sensitive areas that cannot be avoided. Additionally, the large septic leach field for the project is to be located in soils often characterized by high groundwater (1.5 to 2.5 feet below the surface). The DEIS must address in more detail how contact between raw sewage and groundwater will be avoided.

**3. Adverse Water Quality Impacts from the Expansion of Adjacent Roadways, Proposed by the Project Sponsor, are Not Assessed.** Many roadways in the vicinity of the proposed project are already congested under the State Department of Transportation rating system. The Project's sponsor identifies at least ten significant roadway expansion projects (new traffic storage lanes, turning lanes, exit ramp lanes) that will involve construction activity and new impervious surfaces, on Routes 311, 52 and Interstate 84 exit ramps. One of these expansion projects would be on a causeway over the already highly polluted Lake Carmel. Route 311, in particular, would be expanded from two lanes to four and six lanes in a number of areas. The DEIS fails to conduct any analysis of the adverse impacts to water quality (construction cuts, new impervious surfaces, etc.) of expanding these roadways. Such an analysis must be included as part of the necessary "secondary impacts" analysis and include an assessment of associated phosphorus loadings to the Watershed.

**4. Roadway Expansions are Not Certain to Occur.** The Project's sponsor has assumed, without support, that State DOT will undertake the eight proposed roadway expansion projects. However, it is not at all certain that these roadway expansions will occur since, among other things, they would create significant water quality impacts. The Project's sponsor also incorrectly assumes that an intersection that meets various DOT requirements for need will actually be the subject of a State DOT project. While the retail Project is proposed to be completed by 2010, according to State DOT, it has not budgeted or programmed the construction of any of the roadway projects desired by the Project's sponsor. Only one intersection is even slated for possible re-design – and then only in 2012. The SEQRA lead agency should consult immediately with State DOT on this deficient aspect of the DEIS. The DEIS should examine traffic impacts from the proposed Project without the assumption that any roadway expansions will be implemented by 2010 or thereafter – a situation that will likely result in a future projection of numerous severely congested intersections (level of service "E" and "F") under the State DOT rating system.

**5. Failure to Assess Secondary Growth Impacts on New Development and Associated Impacts on Water Quality.** The proposed Project is estimated to employ some 516 retail workers. Nonetheless, the DEIS simply asserts, without support, that the Project will not increase the population of Putnam County. Therefore, the DEIS completely fails to assess the impacts of "secondary

growth" directly associated with this Project, as is required by SEQRA. In particular, the impacts of additional phosphorus loadings associated with secondary growth (new construction activity, new impervious surfaces, etc.) need to be fully assessed and addressed.

**6. Assessment of Impact on "Total Maximum Daily Load" Pollution Budgets; Shifted Burden to Towns.** Under federal and state regulations, the Towns of Kent and Patterson are responsible for reducing the existing phosphorus loadings to impaired area waterways. The DEIS fails to present the added phosphorus-reduction burden shifted to the Towns that would be associated with the Project itself and with associated secondary growth. The DEIS should identify how the Towns, or the Project's sponsor, will meet the TMDL obligation in the face of increased phosphorus loadings caused by the proposed Project.

**7. The Storm Water Pollution Prevention Plan and Erosion and Sediment Control Plan are Deficient in Numerous Respects.** Detailed technical comments on the sufficiency of these plans are presented below. These should be addressed through comprehensive revisions in a supplemental DEIS.

**8. The DEIS Fails to Present and Assess a Real Lower Build Alternative.** SEQRA requires that the DEIS contain a detailed assessment of a reasonable range of alternatives so as to provide decision-makers with an ability to choose (as they must) an alternative that mitigates adverse environmental impacts to the maximum extent practicable. The DEIS, however, only presents a two-page, generalized analysis of a slightly smaller version of the proposed big box retail outlet. This would appear to be legally deficient. Previous "scoping" comments recommended to the SEQRA lead agency that the DEIS contain an analysis of an alternative that reduces overall impervious surfaces by 60% (two large box stores with some parking stacked) so that sensitive areas could be avoided and the intensity of adverse impacts reduced. The Project sponsor's vague and unsupported assertions in the DEIS that such an alternative is not fiscally practicable does not justify the failure to evaluate a lower build alternative. Any claim that a lower build, lower impact, alternative is not fiscally viable must be justified with specific numbers and projections.

## **II. Overview of Proposed Project.**

The proposed Project site is a forested 90.5 acre parcel located near the intersection of Interstate 84 and State Route 311, and directly abutting the densely residential Lake Carmel community in the Town of Kent, Putnam County. The parcel straddles the border between the Towns of Patterson (79.54 acres) and Kent (15.4 acres). The proposed Project involves the construction of a 434,050 square foot retail space, including a 28,200 square foot garden center. It is viewed by the Project's sponsor as a "regional" shopping center. Four large retail structures are proposed, along with associated at-grade parking. These will include a major "big box" wholesale warehouse and a home improvement center. Construction of the proposed Project will

disturb 68.4 acres (equivalent to 52 football fields with end zones). Of that, 32.4 acres (equivalent to 24.5 football fields with end zones) will be converted into impervious surfaces (roof tops, roads, and parking lots). Over 12 acres of steep slopes over 15 percent are proposed to be disturbed. An estimated 566,500 cubic yards of rock and dirt is proposed to be excavated and moved on the Project site, an amount equivalent to 22,660 large dump truck loads. Additional construction disturbances and impervious surfaces associated with off-site roadway expansions, as well as new development associated with 516 employees at the proposed Project, are not included in these figures. Access to the Project will be from State Route 311, a two lane roadway that connects to Interstate 84, to the east, and State Route 52, to the west.

### **III. Background: Reservoir Water Quality and Adverse Impacts of Phosphorus Pollution.**

The proposed Project is located entirely within the New York City Watershed ("Watershed"), an area that comprises only 4.2% of New York's lands yet serves as the source of drinking water for over 9 million residents. Runoff from the proposed Project drains into the Middle Branch and East Branch Reservoirs that are part of the Croton Watershed. The Croton Watershed provides unfiltered drinking water to approximately 900,000 people on an average daily basis and is the source of drinking water for upwards of 2.5 million people during drought or emergency conditions. The only treatment this water currently receives from reservoir to tap is disinfection through chlorination. The unfiltered status of this drinking water supply will continue through and including the 2010 build completion year of the proposed Project. The New York State Department of Environmental Conservation ("DEC") has classified the Middle Branch Reservoir as a class "A" water body and the East Branch Reservoir as a class "AA" water body. Therefore, pursuant to the state classification, the Middle Branch and East Branch Reservoirs are to be maintained at a very high quality – one that allows them to serve as a source of drinking water.

The Middle Branch and East Branch Reservoirs are also classified as "phosphorus restricted" basins by the New York City Department of Environmental Protection ("DEP") and were listed by State DEC on its 1998 list of impaired water bodies pursuant to Section 303(d) of the Federal Clean Water Act. Moreover, City DEP has determined that both the Middle Branch and East Branch Reservoirs qualify as "eutrophic" (significantly burdened with algae blooms) under generally accepted scientific criteria.<sup>1</sup> As a result, phosphorus levels in these water bodies must actually be reduced to achieve water quality standards specified under state and federal law. These water bodies have also been the subject of extraordinary and expensive efforts under the 1997 New York City Watershed Memorandum of Agreement to better control phosphorus and other pollutants. Moreover, these reservoirs are subject to a more stringent protection program for phosphorus that was developed pursuant to the Clean Water Act -- known as the "total maximum daily load" ("TMDL") program as mandated by the Clean Water Act. This program establishes pollution "budgets" for a watershed that should not be exceeded. Under the

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<sup>1</sup> See NYC DEP 2005 Watershed Water Quality Annual Report (July 2006) at 42-45. The DEIS incorrectly states that the Middle Branch reservoir is in a higher quality "mesotrophic" state. DEIS at 4.5-2. The most recent water quality data should be cited.

current TMDL pollutant budgets approved by the U.S. Environmental Protection Agency ("EPA"), phosphorus loadings to the Middle Branch must be reduced by at least 204 kilograms per year (a 20% reduction) and to the East Branch Reservoir by 993 kilograms per year (a 26% reduction). All of these reductions must come from mitigating polluted runoff, as the TMDL's pollutant budget already takes into account the full upgrade of all sewage treatment plants to highest feasible technology levels. Nearby Lake Carmel, which is tributary to the Middle Branch, is also listed as impaired by State DEC and is grossly affected by algae blooms. Reported phosphorus levels of 70 parts per billion in Lake Carmel (DEIS at 4.5-8) are over three times the State DEC guidance value of 20 parts per billion.

There are two water pollutants of particular concern when reviewing this proposed Project as it relates to the Watershed: phosphorus and suspended sediment (or "turbidity"). Construction activity increases phosphorus loadings because it causes exposed soil particles, on which phosphorus is adhered, to be eroded into water bodies. After construction, human activities result in a variety of phosphorus-containing deposits (dust, garbage, food spills, detergents, sewage, auto grit, dog dirt, fertilizers, etc.) upon impervious surfaces such as parking lots. Additional phosphorus loadings are caused by contaminant laden runoff from impervious surfaces being jettisoned directly into a water body, rather than being allowed to percolate through soils – which adsorb and remove contaminants – and return to the water body as high quality ground water. Excess phosphorus leads to algae blooms, including increased growth of toxin emitting blue-green algae. Algae blooms lead to high bacteria growth that, in turn, deplete the reservoir bottom waters of dissolved oxygen. Low dissolved oxygen suffocates or drives off fish. Low oxygen levels cause a change in the biology of reservoir waters that result in impaired water taste, odor, and color. Iron, manganese and hydrogen sulfide are brought into the water column under these de-oxygenated conditions. Moreover, the higher levels of dead algae, bacteria and other chemicals in the water constitute an increase in organic matter that interact with chlorine during the drinking water disinfection process – likely causing elevations in levels of disinfection by-products; many of these chlorinated organic compounds are suspected by the EPA of being carcinogens and have been identified in a number of medical studies as a factor linked to early term miscarriages. Finally, the increased material suspended in the water, resulting from phosphorus-induced algae blooms, can interfere with the effectiveness of chlorination and help to transport waterborne pathogens to water consumers.

Turbidity in water can help to transport pathogens, serve as food for pathogens, promote the regrowth of pathogens in the water distribution system, and shelter pathogens from exposure to disinfectants such as chlorine. The organic particles that cause turbidity can also combine with chlorine to create problematic disinfection by-products that are possible carcinogens and suspected of increasing the risk of miscarriage. For these reasons, the EPA in its Surface Water Treatment Rule, prohibited raw water turbidity measurements in unfiltered drinking water at the intake to the distribution system in excess of 5 nephelometric turbidity units ("NTU"). See 40 CFR § 141.71(a)(2). For an overview of the public health concerns raised by turbidity in drinking water, see U.S. EPA, Guidance Manual for Compliance with the Interim Enhanced Surface Water Treatment Rule: Turbidity Provisions, Office of Water, EPA 815-R-99-010, April 1999, Chapter 7 (and numerous cited references); see also Kistemann, T., et al., Microbial Load of Drinking Water Reservoir Tributaries During Extreme Rainfall and Runoff, Applied

Environmental Microbiology, Vol. 68, No. 5, pp. 2188-2197 (May 2002); Naumova, E., et al., The Elderly and Waterborne Cryptosporidium Infection: Gastroenteritis Hospitalizations Before and During the 1993 Milwaukee Outbreak, Emerging Infectious Diseases, Vol. 9 No. 4, pp. 418-425 (2003).

#### IV. Specific Comments.

##### A. Post Treatment Pollutant Loadings are Underestimated.

A central element of any water quality analysis in the Watershed is a comparison of pre-development pollutant loadings to post-development pollutant loadings. (This assessment does not include the often significant pollutant loadings associated with sediment runoff from active construction sites; those loadings should be separately analyzed.) The DEIS incorrectly concludes that "[p]ost-development loads are approximately equal to or less than pre-development loads." DEIS at 1-7. This error is caused by the use of outdated methods to calculate pollutant loadings. Our calculations demonstrate a sizeable increase in pollutant loadings, particularly in the pollutant of central concern: phosphorus.

1. **Employ the "simple method" to calculate pollutant loading rather than the outdated "coefficient method."** Appendix C of the DEIS uses the "coefficient method" described in Reducing the Impacts of Stormwater Runoff from New Development (DEC 1992) to calculate pollutant loading for biochemical oxygen demand (BOD), total phosphorus (TP), and total nitrogen (TN). This method for calculating loading rates uses outdated data from 1983 (National Urban Runoff Program or "NURP" data) and inappropriate generic assumptions. In contrast, the "simple method" should be used to calculate pollutant loading in conjunction with the 1996 Terrene Institute's event mean concentrations for site specific impact analysis (A Watershed Approach to Urban Runoff). The simple method is site specific in that it employs local annual rainfall and actual runoff values for the subject area. We note that the Project sponsor's engineer, Insite Engineering, is familiar with these concerns and recently employed this up-to-date pollutant loading methodology with respect to the proposed "Camarda Park" recreational complex in the Town of Carmel.

2. **The pollutant loading reduction calculations presented in the DEIS for annual loads are underestimated.** The reduction in pollutant loads for runoff traveling through a series of stormwater treatment practices or technologies was incorrectly calculated by in the DEIS, as it assigned to each practice in the series an equal pollutant removal efficiency. However, each practice in series or in a treatment train does not provide equal pollution reduction. This is because the first practice removes the heavier particulate pollutants, whereas the second practice is left to treat the smaller or more colloidal or dissolved pollutants that settle out more slowly, if at all. In other words, if two identical stormwater treatment practices (e.g., water detention basins) are situated one tributary to the other, the second basin will not remove the same amount of pollutants as the first. As a result, there is a decreasing efficiency with each succeeding practice in a series. Using the more appropriate formula found in Appendix A in the NYS Stormwater Design Manual (August 2003), we re-calculated the pollutant loadings associated with one of the sub-basin areas covering *only a portion (38%)* of the Project site: "Sub-Area

1.1S." Table 1 provides the pollutant loads for Sub-Area 1.1S using the outdated "coefficient method" that appears in the DEIS.

**Table 1: Pollutant Loading Calculated Using the Coefficient Method: Sub-Area 1.1S**

	TSS	BOD	TP	TN
Pre - Development Load (pounds)	3,265	328	6.9	87.3
Post - Development Load (pounds)	19,679	4,322	43.5	367.4
Remaining Post Treatment (pounds)	157	951	9.6	188
Percent Increase	--	190%	41%	115%

Table 2 provides the pollutant loads for the same sub-area using the more appropriate "simple method."

**Table 2: Pollutant Loading Using the Simple Method: Sub-Area 1.1S**

	TSS	BOD	TP	TN
Pre - Development Load (pounds)	1,908	526	8.6	99
Post - Development Load (pounds)	14,267	3,912	61.5	560
Remaining Post Treatment (pounds)	114	861	13.5	287
Percent Increase	--	64%	57%	190%

For Sub Area 1.1S, the total removal efficiency that can be expected from the proposed series of treatment practices from Basin 1.1 to Basin 1.2 to Basin 1.4 is 78% for both total phosphorus (TP) and biochemical oxygen demand (BOD), and 48.8% for total nitrogen (TN) under the simple method. Therefore, approximately 22% of the phosphorus traveling through the treatment basins will not be "captured," will leave the Project site and enter the Watershed. In the 1.1S basin alone, this amounts to an annual increase of 4.4 pounds of phosphorus or a 57 % increase above natural conditions from just a portion of the Project site. Given that the phosphorus loads are already too high, this increase is very significant. Regardless of the method employed, the post-development analysis shows a significant increase in total phosphorus and nitrogen. A re-calculation of pollutant loadings should be undertaken for the entire site employing the simple method. The Project sponsor's assertion that pollutant loadings pre- and post development are "approximately equal" is incorrect and needs to be revised in the supplemental DEIS we recommend.

**3. Pollutant loadings associated with secondary growth must be evaluated; traffic impacts should be re-assessed.** The assessment of secondary growth from the Project is a basic requirement of SEQRA. The DEIS estimates that the proposed Project will create 516 new jobs.

DEIS at 2-25. Yet, the DEIS simply states, without any support whatsoever, that there would be no increase in resident population. DEIS at 3-4; 4.14-1. The U.S. Census Bureau estimates that the total population of Putnam County was 100,507 in 2005. The Putnam County unemployment rate is only 3.7 percent, according to the U.S. Department of Labor, Bureau of Labor Statistics. The DEIS should conduct a detailed, quantitative, assessment of the secondary growth potential associated with the addition of any new employees of the proposed Project. The construction disturbances, impervious surfaces and pollutant loadings associated with this secondary growth should be assessed.

Similarly, the DEIS identifies ten, often significant, roadway expansion projects that the Project's sponsor assumes will be undertaken by State DOT (e.g., additional turning lanes, traffic storage lanes, exit ramp lanes, etc.). These include work at: Route 52 and Route 311, Terry Hill Road and Route 311, Fair Street and Route 311, I-84 westbound and Route 311, I-84 eastbound and Route 311, Route 164 and Route 311, Route 52 and Barrett Hill Road, Route 52 and Horse Pond Road, Route 52 and Terry Hill Road, and Route 52 and Longfellow Drive. DEIS at 4.8-45 and 4.8-46. The DEIS must also fully assess the extent of construction disturbances, new impervious surfaces and pollutant loadings associated with this proposed secondary growth or any other secondary growth identified by a qualified professional planner.

State DOT indicates that it has not planned, budgeted or programmed any of the ten roadway expansion projects identified in the DEIS. The only project that is even tentatively slated for design is the intersection of Route 52 and Route 311, and then only in 2012 – no money is budgeted for actual construction and the project is not on the State DOT program. Therefore, it is unlikely that these roadway projects will occur anytime near the 2010 construction completion date for the proposed Project. Moreover, the expansion of roads within phosphorus impaired portions of the Watershed are highly disfavored due the potential of such projects to further degrade water quality. Consultations between the State DOT and the SEQRA lead agency are strongly encouraged. As recognized in the DEIS at 4.8.4:

Existing traffic volumes are already stressing the transportation network as evidenced by the current low levels of service at certain intersections. Additional projects in the area are expected to further increase delays at studied intersections. The traffic generated by the project would increase traffic at all studied intersections.

If this is accurate, and the "assumed" roadway projects will not occur, the Lead Agency should consider requiring a re-assessment of traffic congestion impacts caused by the proposed Project without any roadway expansions – a circumstance that will likely result in very serious episodes of local traffic congestion. On the other hand, if the expansions do occur, there will be additional severe impacts on water quality.

**4. The DEIS does not account for compliance with TMDL pollution budget requirements, potentially shifting a significant burden to the Towns of Kent and Patterson. As discussed, additional phosphorus pollutant loadings will result directly from the construction of the proposed Project, as well as secondary growth associated with new employees and the**

likely pressure for roadway expansion. Moreover, the East Branch and Middle Branch Reservoirs are already significantly impaired by excess phosphorus. Under the Clean Water Act's TMDL program and the municipal storm sewer system (MS4) stormwater pollution program, the Towns of Kent and Patterson are responsible for undertaking extensive efforts to reduce phosphorus loadings into these reservoirs. The proposed Project, however, has a high likelihood to add phosphorus to the Watershed above existing levels, and therefore, shift significant additional pollutant reduction burdens to the Towns. To address this situation, the DEIS should develop a detailed and quantified program by the Project sponsor to reduce all additional phosphorus loadings associated with the Project, including, as necessary, project re-design and off-site phosphorus reduction projects.

**B. The Post-Construction Stormwater Pollution Prevention Plan and Erosion and Sediment Control Plan Contain Numerous Deficiencies.**

The potential for construction to adversely impact water quality at the project site is significant. According to EPA, sediment runoff rates from one acre of a construction site are typically 1,000 to 2,000 times that of one forested acre.<sup>2</sup> Therefore, stormwater flowing from one uncontained acre of construction is generally equivalent to the sedimentation from two to three square miles of forest (1 square mile = 640 acres). Once eroded, clay particles often remain suspended for 6 to 9 months and even longer.<sup>3</sup> This period of suspension could allow particles to remain in the water as it flows from the Project site to the Middle Branch and East Branch Reservoirs and on into the New York City water distribution system. Similarly, the increased volume of stormwater from new impervious surfaces (e.g., parking lots, roadways, roof tops, etc.) is high. One acre of impervious surface creates the same amount of runoff as 16 acres of naturally vegetated meadow.<sup>4</sup> Therefore, new impervious surfaces (as well as the substantially less-pervious surfaces created by the removal of vegetation and compaction of soils associated with construction excavations) can transmit very high volumes of stormwater relative to natural conditions that then operate to destabilize streams and cause additional erosion. Thus, the stormwater from the project must be carefully analyzed and fully addressed. In general, development projects in the Watershed should be located away from steep slopes, wetlands, and

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<sup>2</sup> EPA Storm Water Phase II Final Rule: Small Construction Program Overview EPA 833-F-00-013 (Fact Sheet 3.0) January 2000 (available at [www.epa.gov/owm/sw/phase2](http://www.epa.gov/owm/sw/phase2)); see generally, 64 F.R. 68722, 68728 to 68731 (December 8, 1999) (EPA Phase II Stormwater Pollution Control Program, Final Rule and Report to Congress summarizing adverse impacts of runoff from construction sites); National Research Council Watershed Management for Potable Water Supply: Assessing the New York City Strategy at 416-426 (2000) (discussing attributes and effectiveness of SPPPs in the context of the New York City Watershed).

<sup>3</sup> See, e.g., R.J. Davies-Colley, W.N. Vant, D.G. Smith, Colour and Clarity of Natural Waters, at 25 (1993).

<sup>4</sup> T. Schuler, The Importance of Imperviousness at p. 100, Watershed Protection Techniques, Vol. 1, Issue 3 (1994).

wetland buffer zones to limit adverse impacts associated with new development that cannot be fully mitigated by existing stormwater management practices.

The specific comments on the stormwater and erosion control plans are as follows:

**1. Evaluate stormwater controls and quantify pollutant loadings for all alternatives, including the low build alternative.** Stormwater management protocols were not developed for the different development alternatives. DEIS Section 5. As a result, the stormwater management practices associated with the development alternatives did not receive a necessary evaluation in the DEIS, so as to allow for an informed choice among alternatives. The same is true with respect to the calculation of pollutant loadings. As discussed, a true "low build" alternative involving a 60% reduction in impervious surfaces (two stores and some stacked parking) should be included in a supplemental DEIS and fully evaluated.

**2. Remove storm water basins from steep slopes.** The construction of a number of large stormwater management basins are proposed for the steep sections of the Project site in excess of a 15% slope. These must be relocated to flatter land. As specified in Table 7-2 of the NYS Stormwater Management Design Manual (August 2003), stormwater management basins are not to be constructed on slopes that exceed 15%.

**3. Limit all development on steep slopes.** A comparison of drawing no. SP-1 (overall site plan) with figure 4.2-1 (soils map) and Figure 4.3-3 (slope disturbance map) shows extensive construction on slopes over 15%, including: (i) stormwater management basins 3.1 and 3.2; (ii) significant portions of buildings H and I, with associated parking; large portions of building A, its access road and parking lot. Significant amounts of slopes over 25% are also slated to be disturbed in these areas.

In sensitive watersheds, it is best to avoid construction on slopes that exceed 15 percent. Slopes exceeding 15 percent are designated as "steep slopes" by the New York State Erosion Control Manual. Slope influences the retention and movement of water, the potential for soil slippage, accelerated erosion, the ease with which machinery can be used and the engineering uses of soils. Given the sensitivity of the site, we recommend that extra stabilization measures be undertaken on slopes of 10 percent and that very limited construction be allowed on slopes over 15 percent. It has been our experience that construction on steep slopes often results in large stormwater erosion events during construction activity, even where a full stormwater pollution prevention plan is being implemented.

**4. Provide a detailed plan for clearing and grubbing waste disposal.** The current, undeveloped project site is predominately wooded land. The clearing and grubbing of this site would generate large quantities of waste materials (e.g., brush, sod, and stumps). There is no mention in the DEIS of how this material will be handled or managed. If the waste material is to be buried onsite, an erosion and sediment control plan needs to be developed to account for additional deforestation and to address newly created stormwater concerns.

**5. A revised schedule to stabilize soil with vegetative cover is needed.** There are a number of statements in the DEIS that prescribe seeding on disturbed soils at different times. They vary from immediately to seven days to fifteen days. We recommend that the word "immediately" be replaced with "within 24 hours." In addition, we recommend that all other graded slopes be seeded within seven days, due to the sensitivity of the NYC drinking water supply and the presence of wetlands downslope. Seeding after fifteen days exceeds the fourteen days allowed in the State DEC State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-02-01).

Similarly, on DEIS page 2-21, item 5 states "[a]fter completion of each stage of site construction all lawn areas will be fine graded with a layer of topsoil and seeded with permanent lawn mix." These "stages" need to be further defined and incorporated into the phasing plan so that contractors and inspectors know when earth work at specific areas has been completed and when they should be stabilized.

**6. Review and revise the construction phasing plan so that no more than five acres are disturbed at one time in accordance with the State DEC General Permit.** A phasing plan is described in Section 4 and shown on drawing SP-4.1. On DEIS page 4.2-5, the final paragraph states that "no greater than five acres" of soil will be disturbed during each phase – as is required by the State DEC General Permit. We reviewed a portion of the phasing plan with respect to the excavation of the "Entrance Road to Sta. 1300." This would involve a maximum cut of 45 feet or more, with an estimated anticipated excavated volume of 120,370 cubic yards. This volume is to be removed and placed as the fill for a pad at the northern most building and parking lot. This operation alone would *disturb over nine acres* of soil, in contravention of State requirements. Thus, the entire phasing plan should be reviewed and more site specific operational details developed to insure that no more than five acres of soil will be disturbed on site during a phase.

**7. Place the phasing plan on the grading plan sheets to better assure it will be followed.** In order to better manage cuts, fills, waste materials, construction, and stabilization efforts at the project site, the phasing plan should be established on the grading plan sheets (see the SWPPP in Appendix F). This will provide more control at the site and further clarify the step by step details of construction for the construction contractor.

**8. Important portions of the stormwater management plan are missing.** DEIS Section 2.3.6 "Sewage Disposal System" and Appendix M "Wastewater Report" describes an approximately 11,000 gallon per day subsurface sewage treatment system. The erosion and sediment control details for construction of this system are not presented in the SWPPP.

**9. Provide design details for stormwater management practices.** A table should be placed on the construction drawings indicating the important design attributes of each stormwater management practice showing design elements, elevations, and volumes required. This includes volumes for water quality treatment, pre-treatment, detention, and a listing of important elevations, such as inlet inverts, outlet inverts and over flow crest elevations.

10. Do not use hay bale check dams; design and locate rock check dams using the appropriate formula. On DEIS page 4.2-7, the first paragraph states that hay bale check dams could be used as an option to control flow velocity in swales. However, hay bale check dams are not allowed by the NYS Erosion and Sediment Standards and Specifications (August 2005) for swale erosion control. As a result, hay bale check dams need to be replaced by an approved check dam. In addition, the final sentence in the paragraph states that "check dams will be placed so that unchecked flow lengths will not be greater than 100 feet," which implies spacing at 100' intervals. The spacing of check dams is critical to lowering the flow velocities in a swale to prevent erosion. The spacing of check dams must to be calculated on a site specific basis using the formula shown on page 5A.23 of the above referenced standards.

11. Employ proper standards when designing sediment traps. All temporary sediment traps are required to meet the volume and drainage area limits for their use pursuant to NYS Erosion and Sediment Standards and Specifications (August 2005). Stormwater management facilities used during construction operations should be designed using construction runoff factors, which consist of: (i) the construction condition runoff curve number; and (ii) the construction runoff time of concentration. Typically, the results for erosion and sediment control practices from this analysis will be greater than those calculated for the post-developed condition runoff and will require additional site controls. These additional calculations and associated site controls need to be presented in the DEIS.

12. The following detailed comments should be addressed as well:

(a) In accordance with the SPDES General Permit GP-02-01, the soil boundaries shown in Figure 4.2-1 of the DEIS are required to be placed on sheets SP-3.1 to SP-3.3 of the Grading Plans.

(b) Table 4.4-1 (Recharge Calculations) on page 4.4-4 should be presented with a site map that shows the location of the recharge area used in the "model." In addition, according to the proposed site development plan, approximately 36% of the site will become impervious. An explanation needs to be provided in the DEIS addressing how this amount of impervious surface will affect groundwater recharge.

(c) The silt fence shown at the roadway bench outlets on drawing SP 4-2 needs to be removed, as this practice is not to be used in concentrated flow areas (NYS Erosion and Sediment Standards and Specifications [August 2005]). The outlet of the swales should be stabilized with stone.

(d) The slope of "the road slope bench/cutoff swale" is so steep (almost 8%) that a stone lining or turf reinforcement mat should be installed as a permanent practice to prevent future erosion. This would replace the stone check dams shown on the drawings. At this grade (8% slope), the check dams would have to be placed 25 feet apart if they were constructed two feet high.

(e) Based on the type of commercial land use proposed, a lot of concrete will be poured.

As a result, a concrete washout area should be required to collect all of these discharges in one location, preferably away from storm drain inlets or swales. Concrete washout areas are typically stone lined depressions that trucks drive into and are washed out.

(f) The times of concentration that were used in the computer program (HydroCAD 7.10) are not documented in the DEIS. An accurate time of concentration is needed to assure that excessive or erosive flows do not impact downstream reaches. The calculations for the times of concentration and their flow paths need to be shown and validated in the DEIS.

(g) The computer output for the Sub-catchment PRE 3 lists 6.5 acres of impervious area. However, this impervious area does not appear to be included in the drainage area delineated on Map 2 in Appendix A. This discrepancy needs to be addressed in the DEIS.

(h) According to the computer output, Pond 1.4 will discharge stormwater at a rate of approximately 10 cubic feet per second for the 10-year storm event down a slope of 26%. The DEIS does not present any information to assure that the pond outlet is stable. This issue needs to be addressed in the DEIS.

(i) Drawing D-4 shows a surface sand filter (F-1) but it does not identify where it is to be placed on the project; nor are there any design computations supporting this practice. The SWPPP must include its location and all of the design calculations, both hydrologically and sizing, to support its selection and use.

(j) Following the NYS Stormwater Design Manual (August 2003), a P-5 pocket pond was designed for Basin 3.4. The pond is located on the northwest part of the project and its purpose is to control stormwater runoff from off site. This pocket pond is designed to have its permanent pool supplied by groundwater, as it intercepts the water table. A test pit should be excavated at the center of the proposed pond to assure that this practice will achieve its purpose.

### **C. Lower Build Alternative.**

A frequent defect in the draft EIS is a lack of adequate detail in the presentation of lower-build alternatives to the development desired by the Project's sponsor. SEQRA requires the lead agency to direct that the DEIS contain sufficiently detailed reduced-build and reduced-impact alternatives so as to *make the choice among alternatives a real one*. The Town of Patterson Planning Board should identify a much lower build alternative and specify an analysis of potentially adverse environmental impacts to the same extent as the alternative desired by the Project sponsor. The developer's preferred project should not be studied in detail while other alternatives are given only limited review. Any decision to reject a lower build alternative as not being feasible should be explained in detail. All alternatives should be developed to an extent that "apple to apple" comparisons can be made between them by the lead agency. We recommend that the project sponsor be required, in a supplemental DEIS, to develop in detail a lower build alternative that reduces impervious surfaces by 60%, keeps all development off slopes that exceed 15%, and avoids all wetlands and their associated buffers.

#### D. More Detailed Information is Needed to Assess Soils for Site Disturbance and Construction Impacts.

Table 4.2-1 entitled "Soil Characteristics and Limitations" in the DEIS presents information on the soil codes, soil types, hydrologic group, permeability, erosion factors; and potential construction limitations. The information provided was compiled from data presented in the USDA SCS 1994 Soil Survey of Putnam and Westchester Counties, New York. General slope information for the entire site was provided in the DEIS in Table 4.3-1. However, what the DEIS lacks is sufficient detailed information concerning soils at the Project site. During this project's scoping document review process, we requested that the DEIS provide the percent and acreage of each soil type that was projected to be disturbed at the project site. This site specific information was not presented in the DEIS. It is essential for a thorough evaluation of how the proposed disturbance and construction would impact site soils.

Table 3 below combines some of the information provided in the DEIS with additional soil characteristics (e.g., depth to high water, maximum percent of fine particles). Again, what is missing are the site specific details concerning how much of the various soils are being proposed to be disturbed at the site and for what land use purpose.

**Table 3: Patterson Crossing Retail Center Surface Soils that are to be Disturbed**

Soil Codes/ Map Units	Soil Type	Slope (%)	Acres of Soil to be Dis- turbed	Depth to High Water (feet)	Hydro- logic Soils Group	Erosion Factor (K)	Maxi- mum % of Fines
CsD	Chatfield*	15 - 35	not provided	>6.0 all year	B	0.20 - 0.24	75
PnB	Paxton	2 - 8	not provided	1.5 - 2.5 Feb-Apr	C	0.24 - 0.32	80
PnC	Paxton	8 - 15	not provided	1.5 - 2.5 Feb-Apr	C	0.24 - 0.32	80
PnD	Paxton	15 - 25	not provided	1.5 - 2.5 Feb-Apr	C	0.24 - 0.32	80
RdB	Ridgebury	3 - 8	not provided	0 - 1.5 Nov-May	C	0.24 - 0.32	60
WdB	Woodbridge	3 - 8	not provided	1.5 - 2.5 Nov-May	C	0.24 - 0.32	65
Total			68.4				

\* CsD = Chatfield (45%) - Charlton (35%)

1. **Depth to High Water:** Table 1 shows that the depth of soils to groundwater is shallow (less than 2.5 feet) in more than ~95% of the area proposed for construction disturbance. The top soils at the proposed subsurface wastewater treatment area are PnC and WdB soils. High ground water presents two fundamental problems for the proper operation of septic systems. First, shallow groundwater can be contaminated with human wastes. Second, saturated soil can limit the effectiveness of a septic system in treating and decomposing contaminants.

2. **Maximum % of Fines:** Fines are small particles, such as clays, which would pass through a standard screen, in contrast to coarser particles that are retained. As displayed in Table 3, the maximum percent of fines range from 65 to 80 percent. In other words, the soils on this site provide a significant source of small particle sediment. It is imperative that this sediment is controlled on site, otherwise the fines will adversely impact water resources.

Appendix 1 presents a more in-depth evaluation of site soils and how the proposed site disturbance and construction activities will potentially impact the soils.

The soil information that was missing in the DEIS contains highly relevant data for water quality impact analysis. The DEIS should be revised to thoroughly address all of the challenges presented by the soil and slope characteristics of the site, in relation to the design of the proposed project.

\* \* \* \* \*

In summary, due to the lack of a complete evaluation of project alternatives and the numerous deficiencies presented above, a supplemental DEIS should be required.

Respectfully submitted,

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September 25, 2006



## Appendix 1 Soil Evaluation

An analysis of the soils on site is provided below. The soils at the proposed site were evaluated using the following terminology:

**1. Soils Codes:** This column lists the soil codes (e.g., "CsD") that represent the specific soils (e.g., Chatfield-Charlton complex, 15 to 35 percent slopes) that were identified on a portion of the Project site. The soil codes (also called map unit symbols) presented in the first column were published in the 1994 Soil Survey of Putnam and Westchester Counties, New York.

**2. Soils Names:** This column lists the names of the soils associated with the soil codes.

**3. Slope (%):** This represents the slope of the land. Percent slope is the change in the vertical dimension over a horizontal distance or (y/x) times 100. Slopes exceeding 15% are designated as "steep slopes" by the New York State erosion control guidance manual. Slopes in excess of 15% are considered too steep and deemed unsuitable for siting septic systems in New York by the New York State Department of Health. See 10 NYCRR Part 75, Appendix 75-A p. 4503). Slope influences the retention and movement of water, the potential for soil slippage, accelerated erosion, the ease with which machinery can be used and the engineering uses of the soil.

**4. Acres of Soil to be Disturbed:** This Office has sent a letter to the applicant requesting the following site specific soils information: acreage and type of soil to be covered by: (1) buildings; (2) roadways, streets, and parking lots; (3) lawns and landscaping; and (4) septic systems. This information would reveal whether the soils underlying the proposed Project were suitable for their intended use. If the soils are not appropriate, the proposed development would present significant erosion, stormwater, and septic issues that could impact drinking water quality. Without this information, the environmental assessment of how the proposed project will impact soils, soil erosion, stormwater, septic system function, and ultimately water quality could be estimated but not completed.

**5. Depth to High Water:** Table 1 shows that the depth of soils to groundwater is shallow (less than 2.5 feet) in more than ~95% of the area proposed for construction disturbance. The top soils at the proposed subsurface wastewater treatment area are PnC and WdB soils. High ground water presents two fundamental problems for the proper operation of septic systems. First, shallow groundwater can be contaminated with human wastes. Second, saturated soil can limit the effectiveness of a septic system in treating and decomposing contaminants.

**5. Hydrologic Soils Group:** The NRCS has grouped soils into four distinct classes

based on how they respond to water. The four classes are hydrologic soils group:

- A: High Infiltration Rate (water "seeps" into the ground quickly)
- B: Moderate Infiltration Rate
- C: Slow Infiltration Rate
- D: Very Slow Infiltration Rate (if the site is "flat" water is prone to form puddles, if the site is "hilly" the water will likely flow downhill)

(NRCS 2003 Part 618.35). Group A soils are often sandy, whereas Group D soils often have a high clay content or a restrictive layer (e.g., bedrock). One soil at the project site is classified as B and the other five soils are classified as C. As a result, infiltration is generally slow.

**6. Erosion Factor (K):** Erosion is an important process that affects soil formation and may remove all or parts of the soils formed in natural landscapes. Evaluating the degree of erosion that takes place is important in assessing the health of the soil and in assessing the soil's potential for different uses. K erosion factors range from none (0.05) or slight to severe or very severe (0.69 in the northeastern US). The higher the K erosion factor the greater the probability that small particle erosion will occur. Soils at the project site have a K erosion factor range of .20 - .34, indicating that erosion at the project site is a significant concern. (NRCS 2003 Part 618.55).

**7. Maximum % of Fines:** Fines are small particles, such as clays, which would pass through a standard screen, in contrast to coarser particles that are retained. As displayed in Table 3, the maximum percent of fines range from 65 to 80 percent. In other words, the soils on this site provide a significant source of small particle sediment. It is imperative that this sediment is controlled on site, otherwise the fines will adversely impact water resources.

**8. Soil Interpretation Rating Guides:** Soil Interpretation Rating Guides prepared by the NRCS were employed to assess a soil's limitations for different uses. Based on the proposed land use at the Project site, the following soil interpretation rating classes were assessed:

- (1) dwellings with or without basements;
- (2) local roads and streets;
- (3) lawns, and landscaping; and
- (4) septic tank absorption fields

These soil ratings are defined in terms of severity such as "slight," "moderate," or "severe" (NRCS 2003 Part 620.03).

**(i) Slight (Not limited):** This rating is given to soils that have properties favorable for the use. The degree of limitation is minor and can be overcome

easily. Good performance and low maintenance can be expected.

**(ii) Moderate (Somewhat limited):** This rating is given to soils that have properties moderately favorable for the use. This degree of limitation can be overcome or modified by special planning, design, or maintenance. The expected performance of the structure or other planned use is somewhat less desirable than for soils rated slight. The needed measures usually increase the cost of establishing or maintaining the use, but the cost is generally not prohibitive.

**(iii) Severe (Very limited):** This rating is given to soils that have one or more properties unfavorable for the rated use. This degree of limitation generally requires major soil reclamation, special design, or intensive maintenance. Some of the soils, however, can be improved by reducing or removing the soil feature that limits use; but in most situations, it is difficult and costly to alter the soil or to design a structure so as to compensate for a severe degree of limitation. This rating does not imply that the soil cannot be adapted to a particular use, but rather that the cost of overcoming the limitation would be high.

Use of the soil interpretation rating guides in the planning and evaluation process allow the user to identify and recommend site selection and plan measures that minimize impacts on the soil resource (NCRS 2003 Part 620.05). Table 4 presents the soil types and construction constraints associated with each proposed land use at the subject property along with the missing information.

**Table 4: Patterson Crossing Retail Center Soils to be Disturbed & Construction Constraints**

Soil Codes /Map Units	Soil Type	Slope (%)	Acres of Soil to be Disturbed	----- Construction Constraints -----			
				Dwellings without Basements	Local Roads and Streets	Lawns & Land-scaping	Septic Tank Absorption Fields
CsD	Chatfield	15 - 25	(need)	severe	severe	severe	severe
PnB	Paxton	2 - 8	(need)	moderate	moderate	moderate	moderate*
PnC	Paxton	8 - 15	(need)	moderate	moderate	moderate	moderate*
PnD	Paxton	15 - 25	(need)	severe	severe	severe	severe
RdB	Ridgebury	3 - 8	(need)	severe	severe	severe	severe
WdB	Woodbridge	3 - 8	(need)	severe	severe	severe	moderate*
	Total		68.4				

\* Source - SSURGO Database 7-12-06 (<http://soildatamart.nrcs.usda.gov>).

As we can best glean from the DEIS, the soils on site present a number of potential problems such as a number of buildings, parking lots and roadways appear to set for construction in steeply sloped "PnD" and "CsD" soils. These soils are classified as "severely" restricted for their proposed land use by the U.S. Natural Resource Conservation Service.

The soil information that was missing in the DEIS contains highly relevant data for the water quality impact analysis. The DEIS should be revised to thoroughly address all of the challenges presented by the soil and slope characteristics of the site, in relation to the design of the proposed project.



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Town of Patterson Planning Board  
Attn:

DATE: Sept. 25, 2006

TO: Richard Williams

FAX # (845) 878-2019

FROM: JAMES M. TIERNEY Phone: (518) 474-4843

NUMBER OF PAGES (INCLUDING THIS PAGE): 21

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# Fax

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 Fax: 845-878-2019 Pages: 13  
 Phone: \_\_\_\_\_ Date: 9-25-06  
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**RIVERKEEPER.**

September 25, 2006

**Via Facsimile (845-878-2019) & U.S. Mail**

Herb Schech, Chairman  
& Town of Patterson Planning Board  
P.O. Box 470, 1142 Route 311  
Patterson, NY 12563

**Re: Patterson Crossing DEIS Comments**

Dear Chairman Schech & Members of the Planning Board:

Riverkeeper is dedicated to protecting the Hudson River, its tributaries, and the New York City unfiltered drinking water supply watershed. As a signatory to the 1997 Watershed Memorandum of Agreement, we have a demonstrated interest in all development proposals that may impact water quality in the watershed. As you know, we have a specific interest in the Patterson Crossing retail proposal (Patterson Crossing), and welcome the opportunity to provide comments on the Draft Environmental Impact Statement (DEIS.)

As currently proposed, the Patterson Crossing development encompasses some 90.5 acres of undeveloped, variable grade forest and meadowland within both the Towns of Patterson and Kent. To be built as part of this current proposal are a variety of commercial retail buildings totaling nearly a half-million square feet, together with several thousand parking spaces and a series of septic tanks leading to a nearly 9-acre disposal field.

The site of the proposed project ultimately drains to both the Middle Branch and East Branch Reservoirs, two of ten reservoirs in the Croton watershed system which serve as a drinking water source for New York City residents, 85% of Westchester County residents, and 15% of Putnam County residents. This collective supply provides up to 30% of the City's drinking water needs.

Riverkeeper believes this project, as proposed, poses the risk of undue impact to the New York City watershed. Patterson Crossing will create dozens of acres of new

impervious surface, and an unprecedented 8.7-acre wastewater disposal. The project also entails a staggering amount of blasting and cut and fill in order to accommodate the scale of buildings and parking on an unsuitable site. Runoff from all these sources will threaten the utility and viability of adjacent wetland areas and watercourses, and ultimately the Middle Branch and East Branch Reservoir basins in which the proposed project lies.

In addition to inadequately analyzing the true effects of the project on topography, drainage, and vegetation, and the sufficiency of stormwater and wastewater control plans, the DEIS is also severely lacking in its discussion of alternatives. Riverkeeper respectfully urges the Planning Board to require the applicant to address the specific DEIS deficiencies outlined below, and ultimately, to reject the application in its current form.

### **Wastewater Disposal**

The discussion of the proposed wastewater disposal method is grossly deficient. The applicant proposes the subsurface discharge of 10,740 gallons per day (gpd) of wastewater into an 8.7-acre disposal field.<sup>1</sup> Although no soil samples were taken within the proposed disposal field area,<sup>2</sup> the applicant's Soils Map indicates that the disposal field soils are predominantly Woodbridge loam,<sup>3</sup> which is limited for construction due to its characteristics of wetness and frost action.<sup>4</sup> The applicant claims that "[Woodbridge] soils are found throughout Putnam County and erosion potential has been addressed successfully through the use of standard engineering design practices and the use of Best Management Practices..."<sup>5</sup> However, the applicant fails to point out that subsurface sewage treatment systems (SSTs) the size of 10 football fields are *not* found throughout Putnam County. The applicant further claims that in compliance with requirements of New York State law,<sup>6</sup> no more than five acres of the site will be disturbed at one time during construction,<sup>7</sup> but the applicant fails to explain how "standard engineering design practices" will address erosion and sedimentation during the construction of a disposal field that will require two separate construction phases.

In addition, the applicant's fracture trace analysis identified a major fracture trace along border of the disposal field and a minor fracture trace that transects the proposed disposal field area.<sup>8</sup> These subsurface bedrock fractures were identified "to assist in the location and development of water supply wells for the project."<sup>9</sup> Accordingly, it is bewildering that the applicant chose to site a sewage disposal field directly over one of

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<sup>1</sup> DEIS, 1-15, 1-16, 4.10-1.

<sup>2</sup> *See Id.*, Figure 4.2-2: Soil Sample Locations.

<sup>3</sup> *See Id.*, Figure 4.2-1: Soils Map.

<sup>4</sup> *See Id.*, Table 4.2-1: Soil Characteristics and Limitations, 4.2-3.

<sup>5</sup> *Id.*, 4.2-3.

<sup>6</sup> NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITY, NO. GP-02-01.

<sup>7</sup> DEIS, 2-19.

<sup>8</sup> *See Id.*, Figure 4.4-1: Fracture Trace Map.

<sup>9</sup> *Id.*, 4.4-2.

these fractures, especially when that fracture is directly connected to a major fracture and one of the identified potential well locations.<sup>10</sup>

The applicant also predicted the minimum depth to groundwater mound of 2-3 feet within the proposed disposal field area.<sup>11</sup> The applicant's consultant, Connecticut Test Borings, LLC, conducted 32 soil borings on the project site in March 2004 and claimed that groundwater levels in 16 of the sites ranged from 6-26 feet with no groundwater encountered in the remaining 9 borings.<sup>12</sup> However, *not one* of these borings was conducted in the proposed disposal field area.

The Exploration Location Plan prepared by a second consultant, GeoDesign, appears to identify 10 borings around the perimeter of the proposed disposal field area, but only 4 borings within the limits of the disposal field.<sup>13</sup> One of the borings within the disposal field area (Boring S-9) recorded a depth to groundwater of only 2.2 feet, which may be due to the fracture trace that transects the proposed disposal field in the area of the boring.<sup>14</sup> In any event, constructing an 8.7-acre sewage disposal field over a fracture trace with a 2.2-foot depth to groundwater is extremely ill conceived. Although the remaining 3 borings recorded greater depths to groundwater, *all* of the boring logs contain a disclaimer stating that "fluctuations of groundwater may occur due to other factors than those present at the time measurements were made."<sup>15</sup> In fact, the consultant's exploration and analyses are fraught with additional limitations and disclaimers that suggest potentially insufficient investigation and cast doubt on the validity of the consultant's conclusions:

The analyses and conclusions submitted in this report are based in part upon the data obtained from widely spaced subsurface explorations. The nature and extent of variations between these explorations may become evident with further investigation. If such variations appear, it will be necessary to reevaluate the conclusions of this report...

[F]luctuations in the level of groundwater and flow rates may occur due to variations in rainfall, temperature and other factors occurring since the time the measurements were made...

[I]t is recognized that models developed using different programs and/or different assumptions could produce different flow patterns. It should also be noted that fluctuations in the flow patterns [sic] variations will occur due to changes in rate and sequence of sewage flows, seasonal precipitation and other climactic fluctuations, as well as other factors.<sup>16</sup>

In fact, during a discussion of groundwater mounding model calibration, the applicant's consultant concedes that "the groundwater elevations for the pre-

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<sup>10</sup> See *supra* note 8.

<sup>11</sup> DEIS, App. E, 12.

<sup>12</sup> See *Id.*, App. D, Boring Plan for Patterson Crossing.

<sup>13</sup> See *Id.*, App. E, Fig. 2.

<sup>14</sup> See *Id.*, App. E, Boring Log S-9.

<sup>15</sup> See *Id.*, App. E, Boring Logs.

<sup>16</sup> See *Id.*, App. E, Limitations.

construction condition include a peak between observation wells S-12 and S-9A that does not reflect actual conditions.”<sup>17</sup> This suggests that the model could not be calibrated properly in addition to its myriad other limitations.

The applicant’s consultant provided rainfall data provided by the National Weather Service Poughkeepsie Station. These data show that precipitation during the two boring sample periods was 1.87 inches in March 2004 and 3.78 inches in April 2005.<sup>18</sup> If these borings had been conducted during wetter months, the increases in rainfall may have raised the minimum depth of groundwater to grade level, under which conditions the proposed disposal field would fail to treat the waste stream.

Finally, the DEIS proposes construction of an 8.7-acre primary SSTS,<sup>19</sup> but the Wastewater Report claims that only 6.5 acres will be required for primary and expansion disposal fields of 3.25 acres each.<sup>20</sup> In addition to this discrepancy, it is unclear how the “expansion” field will function as intended if the absorption trenches are to be “distributed over the entire SSTS area (6.5 acres) to evenly disburse the wastewater.”<sup>21</sup> This suggests that the primary and expansion fields will be in operation simultaneously as a single system, in which case failure of either field to function properly will compromise the entire system.

If the proposed wastewater disposal system fails for any reason, the applicant proposes a treatment plant area “behind the wholesale warehouse store for installation of such a facility should it be necessary.”<sup>22</sup> The proposed treatment plant area has precipitously steep slopes, with a change in elevation of 90 feet over 300 linear feet (30% slope).<sup>23</sup> The soils in this area are of the Chatfield series, which have severe limitations for roads, parking lots, buildings without basements, and shallow excavations due to steep slopes.<sup>24</sup> The DEIS provides no discussion of construction constraints or erosion control on such steep slopes, no design plans for the treatment plant, and therefore there can be no possible informed review of this alternative wastewater treatment method. If the proposed disposal system fails, the treatment plant design, site preparation, construction, remediation of the failed disposal field, and rerouting of effluent conveyances from multiple septic tanks to the plant and from the plant to the disposal field will require many months, if not years, to complete. If breakout of leachate occurs during failure of the disposal field, 10,740 gpd of untreated wastewater effluent will be discharged overland until the treatment plant is designed, built and put into operation, unless all of the connected commercial facilities are forced to remain closed during remediation. In any case, the adverse environmental and economic impacts would be catastrophic, and the DEIS fails to address the issue of wastewater management and

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<sup>17</sup> *Id.*, App. E, 9.

<sup>18</sup> *See Id.*, App. E, Table 3: Historical Precipitation at Station KPOU Poughkeepsie, NY.

<sup>19</sup> *See Id.*, 4.10-1.

<sup>20</sup> *See Id.*, App. M.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*, 4.10-2.

<sup>23</sup> *See Id.*, Sediment and Erosion Control Plan Drawing SP-4.4.

<sup>24</sup> *See Id.*, 4.2-3, Figure 4.2-1: Soils Map.

mitigation during the months of plant design and construction should the proposed disposal system fail.

To summarize, the applicant proposes to discharge 10,740 gallons of wastewater into an SSTS under the following conditions:

1. The disposal field will be 8.7 acres in area and will require two construction phases;
2. Disposal field soils have inherent wetness and frost action characteristics that have severe limitations for shallow excavations;
3. Depth to groundwater within the disposal field area was only 2.2 feet at one boring;
4. There is a paucity of soil boring data from within the disposal field area (4 out of 47 borings between two consultants);
5. Groundwater mounding and flow analysis models are severely limited and have potentially flawed calibration and application;
6. A subsurface bedrock fracture transects the disposal field and is connected to a potential water supply well site;
7. There are no design plans for a treatment plant in the event that the proposed SSTS fails;
8. The treatment plant would be constructed on 30% slopes, the soils of which are severely limited for construction activities.
9. There is no discussion of wastewater management practices and mitigation should the proposed disposal system fail.

For all of the foregoing reasons, the applicant's discussion of proposed wastewater disposal is deficient and unacceptable. The Town Board cannot reasonably approve the project as proposed until all of the identified deficiencies have been remedied.

### **Surface Water**

The proposed project site straddles the Middle Branch and East Branch Reservoir sub-basins of the Croton watershed.<sup>25</sup> Approximately 69 acres of the site are situated in the East Branch Reservoir sub-basin and 21 acres are situated in the Middle Branch Reservoir sub-basin.<sup>26</sup> Although the applicant claims that "existing drainage patterns would generally be maintained,"<sup>27</sup> the degree of proposed topography and surface alteration will affect pollutant loadings. The applicant proposes to blast and remove 119,000 cubic yards of rock,<sup>28</sup> cut 566,500 cubic yards of soil, and fill 508,500 yards of soil in order to level the top of a mountain – to fit the existing site – to the desired project. Even if leveling the project site "generally" maintains the stormwater discharge design points and reduces peak flow rates as claimed,<sup>29</sup> the stormwater runoff associated with

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<sup>25</sup> See *Id.*, 4.5-1.

<sup>26</sup> See *Id.*, 4.5-3.

<sup>27</sup> *Id.*, 1-7.

<sup>28</sup> See *Id.*, 1-3.

<sup>29</sup> See *Id.*, 4.5-12.

the proposed increase in impervious surfaces will generate potential increases in pollutant loading, despite the applicant's assertion to the contrary.

DEIS Table 4.5-6 predicts potential increases in BOD, TP, and TN at Design Points 1 and 3, and a 1,411-lb/year increase in TSS at Design Point 2.<sup>30</sup> The post-development pollutant loadings are expressed as a range of expected loadings. Although the lower limits for Design Points 1 and 2 are below pre-development loadings for TP, TN, and TSS, the upper limits exceed pre-development loadings. Without an expressed post-development median loading, there is no way to predict where within the range the loadings most often occur. Therefore, the applicant's claim that post-construction levels of TP, TN and TSS are significantly reduced at these design points is not supported by the information provided in the DEIS.

In addition to the Middle Branch Croton River, The DEIS identifies five NYCDEP-regulated watercourses on the project site. Although the applicant claims that "no changes area proposed to existing streams on the site,"<sup>31</sup> Drawing SP-1 identifies a NYCDEP-regulated stream in which the applicant proposes to site three stormwater detention basins. The DEIS notes conditions of channel erosion and biological inactivity in what appears to be the stream in question,<sup>32</sup> however, it is highly counterintuitive to attempt to restore stream function by siting detention basins within a stream channel and its adjacent buffer area.

Drawing SP-1 labels one detention basin "Lake Carmel Stormwater Improvement Area" and notes that this basin is intended to improve the quality of stormwater runoff from Concord Road. This would be better accomplished with conventional stream restoration practices than by fragmenting the stream with three stormwater management basins. The basins will displace not only reaches of the natural stream channel but adjacent buffer areas as well. Buffers provide transitional areas that intercept stormwater before it reaches streams or other aquatic habitat. Buffers maintain or improve water quality by trapping sediment and other pollutants; they also reduce thermal impacts (shade), process nutrients uptake, provide infiltration, reduce erosion, and restore and maintaining the chemical, physical and biological integrity of water resources.<sup>33</sup> The DEIS alludes to proposed stream channel improvements,<sup>34</sup> which may provide some water quality benefits. But restoration of the regulated stream and buffer functions will not be accomplished by fragmenting the stream and buffer with three stormwater detention basins. Accordingly, the applicant should be required to site the stormwater management practices elsewhere on the project site and perform any restoration work necessary to ensure that no eroded sediments are exported from the site.

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<sup>30</sup> See *Id.*, 4.5-13.

<sup>31</sup> *Id.*, 4.6-7.

<sup>32</sup> See *Id.*, 4.6-4.

<sup>33</sup> US ENVIRONMENTAL PROTECTION AGENCY, MODEL ORDINANCES TO PROTECT LOCAL RESOURCES, available at <http://www.epa.gov/owow/nps/ordinance/buffers.htm>.

<sup>34</sup> DEIS, 4.6-7.

The applicant's proposal to use Low Impact Development (LID) techniques is commendable. The proposed practices of rainwater collection from rooftops, decentralized swales, detention basins and recessed parking area islands, porous paving surfaces, and below-grade roadway islands<sup>35</sup> will enhance the capture, treatment and recycling of stormwater runoff. Reduction of paved areas to accommodate the stormwater basins may be accomplished by constructing a multistory parking garage—even a two-story parking facility would reduce the footprint of the parking lot area by half.

## **Traffic**

The DEIS provides a 55-page study of the predicted traffic impacts of the proposed project.<sup>36</sup> The study examines existing and future levels of service, improvements warranted, trip rates, peak hour traffic, and other factors that will be affected under the proposed build conditions.

The proposed site access to the project is located on NYS Route 311, just west of I-84. NYS Route 311 and other roads in the project vicinity are two-lane roads which, in order to safely accommodate the increase of traffic that will be generated by the project, will require improvements such as road widening, the addition of turn lanes, and additional signalized intersections.<sup>37</sup> To achieve an acceptable level of service for NYS Route 311 and I-84 eastbound and westbound ramps, the following improvements would be required:

- a) Provide an extra through lane at westbound NYS Route 311 at eastbound off ramp.
- b) Widen both the off ramps so the right turn lanes can be striped as formal lanes.
- c) Provide a second left turn lane at off ramp of westbound Interstate 84.
- d) Provide a separate left turn lane for eastbound NS Route 311.<sup>38</sup>

These improvements on state-owned I-84 and Route 311, as well as others, require commitments and funding from the New York State Department of Transportation (NYSDOT), which is the agency responsible for undertaking the improvement projects on state-owned roads. The DEIS traffic study suggests that:

... the Applicant will work with the appropriate authorities to identify intersections where improvements are warranted as a result of the proposed action and will share in the cost of those improvements. The applicant also commits to working aggressively with the Town, the County and the DOT towards funding an improvement program for road and infrastructure updates in the project vicinity to ensure that the

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<sup>35</sup> See *Id.*, 4.5-19.

<sup>36</sup> See *Id.*, 4.8-1 *et seq.*

<sup>37</sup> *Id.*, 4.8-21.

<sup>38</sup> *Id.*, 4.8-46.

intersections in the study area operate at levels acceptable to the NYS DOT into the future.<sup>39</sup>

The applicant has failed, however, to provide any evidence to suggest that NYSDOT has planned, funded, or scheduled the improvements that would be required for the proposed action to move forward. The DEIS contains no contract between the applicant and NYSDOT to share the cost of improvements, no notice by the Town or County that they will fund an improvement plan, and no documentation from NYSDOT, the Town or County to suggest that the applicant's proposal is even remotely realistic. To assert that the applicant "will work with NYS DOT and others to fund and construct other improvements that would help alleviate traffic issues under the current conditions"<sup>40</sup> is speculative, presumptuous, and without merit in the absence of any corroboration by the regulatory agencies. For these reasons, the Town Board cannot approve the proposed project until the required road improvements have been planned, reviewed, funded, scheduled and executed by the responsible parties.

### **Wildlife**

The DEIS proposes the disturbance of 68.4 acres of the project site, and "much of this will be lost as future wildlife habitat."<sup>41</sup> The DEIS further claims that "[n]o protected wildlife species have been identified or observed on the project site. Thus, no impacts area projected to occur."<sup>42</sup> This statement is patently false, as evidenced by the applicant's own Wildlife List, which includes numerous protected species such as white-tailed deer, raccoon, gray squirrel, red fox, gray fox, cottontail rabbit, etc.<sup>43</sup> The DEIS also alludes to a list of birds in the Wildlife List; however, no bird species appear on the list.<sup>44</sup> Of the dozens of bird species that likely inhabit the project site, virtually all are federally protected.<sup>45</sup> This deficiency must be addressed in relation to impacts on protected wildlife.

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,<sup>46</sup> a discussion of the true impacts to wildlife and effective mitigation practices is lacking.

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<sup>39</sup> *Id.*, 4.8-54.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*, 4.7.7.

<sup>42</sup> *Id.*, 4.7.8.

<sup>43</sup> See *Id.*, 4.7.3, Table 4.7-1: Wildlife List.

<sup>44</sup> See *Id.*, 4.7.2.

<sup>45</sup> All migratory birds are protected by the Migratory Bird Treaty Act; only the introduced species European starling (*Sturnis vulgaris*), feral pigeon (*Columba livia*), and House sparrow (*Passer domesticus*) are exempt from federal protection.

<sup>46</sup> DEIS, 4.7.8-4.7.9.

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."<sup>47</sup> 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.<sup>48</sup>

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 naïve 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,"<sup>49</sup> the extirpation of wildlife species from their breeding and feeding territories attends potential population declines that must be researched and addressed.

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 stream banks, the applicant should offer to mitigate fragmentation of existing habitat by retaining or creating corridors. For all of the foregoing reasons, the Town Board should reject the DEIS as incomplete.

### **Alternatives**

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

As presented, the discussion of alternatives in the DEIS fails to provide clear and meaningful choices for informed public comment and agency decision-making. The applicant should be required to offer detailed analysis of a full range of alternatives, including lower-build or otherwise lower-impact alternatives.

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<sup>47</sup> *Id.*, 4.7.7.

<sup>48</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY, MID-ATLANTIC INTEGRATED ASSESSMENT, WILDLIFE, available at <http://www.epa.gov/maia/html/wildlife.html>.

<sup>49</sup> DEIS, 4.7.7.

### ***Alternative Scale or Magnitude***

The DEIS notes that the scoping document required two alternatives that include alternative scale or magnitude to the proposed project. Clearly the objective of such a requirement is to allow the lead agency to assess the relative impacts of such alternatives with the proffered purpose and need of the proposed project and the goals of the applicant.<sup>50</sup>

Rather than conform to such an objective with true alternative scale/magnitude proposals, the applicant has merely offered one with an *increase* in square footage in an altered layout, and one with a reduction in footprint of approximately 10%.<sup>51</sup> Not surprisingly, the perfunctory “analysis” accompanying the former of those alternatives concludes that a variety of impacts will be the same or greater than that of the preferred project.

The applicant also dismisses the concept of a multistory parking facility on the basis that it would actually increase environmental impact.<sup>52</sup> In particular, the applicant notes that the additional cost associated with such construction would have to be offset by revenue from additional retail buildings. Of course, there is no analysis whatsoever to substantiate such a claim. Moreover, if it were the applicant’s intention and need to construct additional buildings, it is not at all clear where such buildings would be sited as virtually all of the usable acreage (and some of it not suitable, for that matter) is already occupied by buildings, parking, and wastewater disposal under the current plan.

As for the “Alternate Project Size” proposal, which ultimately reduces building square footage by slightly more than 10% and eliminates a few hundred parking spots, the applicant rejects this alternative because it “does not utilize the site to its full potential” and “for a variety of financial reasons.”<sup>53</sup> The applicant’s complaint that these alternatives would not achieve its objectives is neither dispositive nor supported by any information provided in the DEIS. “The objectives of the sponsor in seeking to undertake the proposed action are an important but not always conclusive factor for determining the alternatives that must be considered in an EIS.” Gerrard, Environmental Impact Review in New York, §5.14[2][e].<sup>54</sup> According to DEC, a reduced scale

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<sup>50</sup> Indeed, as Riverkeeper noted in its scoping comments, “the draft scope should be refined to require a range of alternatives that not only consider alternate building orientation, minimize parking, and consider alternative use, but also require a range of low-impact/better site design alternatives that limit the amount of impervious surfaces, wetlands impacts, slope impacts, and other impacts to natural resources.” Riverkeeper Scoping Comments (Feb. 17, 2005).

<sup>51</sup> DEIS, 5-3 to 5-6.

<sup>52</sup> See *Id.*, 5-4 to 5-5.

<sup>53</sup> *Id.*, 5-5.

<sup>54</sup> This section elaborates, “In this regard, early drafts of what ultimately became the 1987 amendments to DEC’s SEQRA regulations called for a ‘description and evaluation of reasonable alternatives to the action which would achieve the same or similar objectives of the project sponsor.’ However, this language might have prevented lead agencies from considering alternatives that did not meet the sponsors’ actual or specific objectives. Thus, the regulation as actually adopted requires a ‘description and evaluation of the range of reasonable alternatives to the action which are feasible, considering the objectives and capabilities of the project sponsor.’ According to DEC, ‘the provision [was] reworded to require the lead agency to consider

alternative may be reasonable “if the proposed alternative meets the minimum functional size of the project.” NYSDEC, *SEQRA Handbook* at B-36. Consequently, New York courts have held that property owners are required to prove that they are unable to realize a reasonable return from certain alternatives. Without such proof, the lead agency could insist upon requiring a significantly reduced density alternative as compared with the Applicant's preferred alternative. See, e.g., *Save the Pine Bush, Inc. v. Zoning Bd. of Guilderland*, No. 01-95-ST5464 (Sup. Ct. Albany Co. June 26, 1995). Here, the applicant has made no showing that this alternative would not result in a reasonable return on the property.

In addition, the applicant actually asserts that this alternative would ultimately lead to increased impacts, as the reduction in retail space at this site would lead to development of other sites to make up for the retail “shortage.”<sup>55</sup> Again, there is no substantiation whatsoever for this assertion. It is abundantly clear that the sole purpose of the alternatives section in this DEIS is to direct the lead agency only to the applicant's preferred project.

### ***Alternative Use***

In keeping with the theme of the alternatives section, the applicant offers as “alternative use” four buildings of warehouse space totaling a quarter of a million *more* square feet than the preferred project, though less overall impervious surface from reduced parking. According to the DEIS there would be some 2.5 acres of reduced imperviousness from this alternative, a reduction of less than 8%.<sup>56</sup>

In proposing an “alternative use” that appears to be a maximum build-out under existing site zoning, the applicant has again left the lead agency with no real option or analysis with which to compare the preferred project. As with the limited discussion of comparative impacts of alternatives above, here again the applicant gives quick conclusory statements about the impacts. Under SEQRA, “[t]he description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of alternatives discussed.” 6 NYCRR § 617.9(b)(5)(v). “The degree of detail with which each alternative must be discussed will, of course, vary with the circumstances and nature of each proposal.” *Webster*, 59 N.Y.2d at 228. In this case, the proposed project is vast, with numerous potential impacts. The dedication of but a few of these pages to a discussion of alternatives, which is at the heart of the SEQRA mandate to mitigate adverse environmental impacts through reasoned and informed decision-making, is grossly inadequate.

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the objectives and capabilities of the project sponsor. This more general wording will provide guidance to lead agencies in defining reasonable alternatives without unduly limiting their discretion.’ Thus, the objectives of the sponsor are relevant, but are not conclusive, to the lead agency's determination of which reasonable alternatives are to be considered.”

<sup>55</sup> DEIS, 5-5.

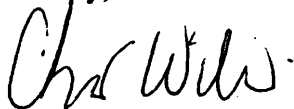
<sup>56</sup> See *Id.*, 5-9.

Recall that as the lead agency, your ultimate findings must “certify that consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.” 6 NYCRR § 617.11(d)(5). Accordingly, “[i]t is not necessary that every possible alternative be thoroughly explored. The only requirement is that information permitting a reasoned choice be considered.” *Natural Resources Defense Council v. City of New York*, 446 N.Y.S.2d 871, 873 (Sup. Ct. 1982). “The purpose of requiring inclusion of reasonable alternatives to a proposed project is to aid the public and governmental bodies in assessing the relative costs and benefits of the proposal. To be meaningful, such an assessment must be based on an awareness of all reasonable options other than the proposed action.” *Webster Assocs. v. Town of Webster*, 59 N.Y.2d 220, 228 (1983). As seen above, the alternatives considered in the DEIS are merely slight alterations of the same proposed project or those with even greater site disturbance, not the presentation of a “reasonable range” of alternatives necessary for informed decision-making with the goal of minimizing environmental impacts.

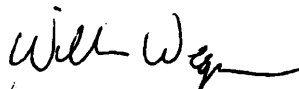
The regulations suggest that the range of alternatives may include: “alternative (a) sites; (b) technology; (c) scale or magnitude; (d) design; (e) timing; (f) use; and (g) types of action.” 6 NYCRR § 617.9(b)(5)(v). Although the range of alternatives will likely reflect the objectives and capabilities of an applicant, here the applicant has failed to take into consideration the above suggestions for developing an adequate range of alternatives. Most critically, the applicant should be required to use better site design principles that can reduce the impact of the project, which in all of its permutations includes huge amounts of impervious surface area from buildings and parking lots. The documented benefits of properly implemented better site design techniques include the following: protecting local streams, lakes, wetlands, estuaries, forests, and habitats, reducing stormwater pollutants, reducing soil erosion during construction, reducing development and construction costs, increasing local property values and tax revenue, encouraging pedestrian-friendly neighborhoods and safer residential streets, promoting compliance with wetland and other resource protection regulations, creating more aesthetic and naturally attractive landscapes, incorporating neighborhood designs that provide a sense of community, and increasing urban wildlife habitats through preservation of natural areas.

Riverkeeper anticipates deliberate and informed consideration by the Patterson Planning Board of this proposed development and the complicated issues pertaining to it. If we may provide any clarification regarding the above comments, or any additional information, please contact us at 914.422.4343.

Sincerely,



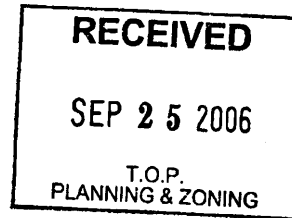
Christopher M. Wilde  
Staff Attorney  
& Watershed Program Director



William Wegner  
Watershed Analyst

31 Oneonta Road  
Carmel, New York 10512  
September 21, 2006

Town of Patterson Planning Board  
P.O. Box 470  
1142 Route 311  
Patterson, New York 12563



Dear Board Members:

The proposed Patterson Crossing Shopping Center is all wrong! This huge project is completely inappropriate for the proposed site, adjacent to a densely populated lake community.

The developer and his backers are pushing their agenda – much like bullies – over the very real and serious objections of Putnam County citizens, particularly those whose backyards abut the site property. Their very homes, health and well-being, as well as their safety, are threatened.

How is your Board being good neighbors to the residents of the Town of Kent?

The touted gains of the proposed center will be shopping, jobs and tax relief. What a sham! We are not fooled. Ask the residents in nearby Southeast. They have not benefited from Brewster Highlands in any significant way. Legal counsel for the stores keep filing for tax relief. Jobs are usually part-time, non-career positions and don't pay well. All this at a high price to the Main Street Putnam County merchants, who close their businesses one after another!

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.

There will be new pollutants introduced - especially worrisome to near-by homeowners – due to the construction activities and there will thereafter be harmful fumes from many delivery trucks and cars on the site. When construction begins, with all the vast disturbances to the site, the danger to Lake Carmel and to our wells from the run-off is a real threat.

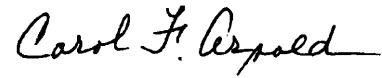
The use of Echo Road as an emergency road is outrageous! This is a narrow, country road and is unsuitable and inadequate.

As has been called for by others, including professionals, there needs to be a separate, more detailed and thorough, traffic study. Not only Lake Carmel roads, particularly Terry Hill Road and Towners Road, but Fair Street and Routes 52, 311 and 22 also can

be negatively impacted – increasing congestion and heavy traffic. I am very concerned about the safety of our children, who walk and bike in the Lake Carmel park district, and the many children of the Carmel School District riding the school buses.

Another shopping center, at what price?

Very truly yours,

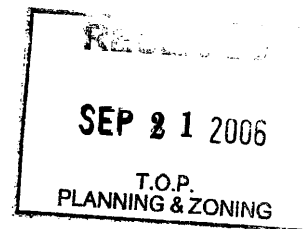
A handwritten signature in cursive script that reads "Carol F. Arnold".

Carol F. Arnold

From the desk of Hugh Austin

67 Sparrow Ridge Rd., Carmel, NY 10512

Herb Schech, Chairman  
Michael Montesano, Vice Chairman  
Maria DiSalvo  
David Pierro  
Shawn Rogan



Patterson Town Hall  
1142 Route 311 / P.O. Box 470  
Patterson, NY 12563

Members of the Patterson Planning Board,

I was present at the Patterson Recreation Center on September 13, 2006 at the public hearing regarding the proposed Patterson Crossing Retail Center. I came to the public hearing to express my support for the project being presented to the Planning Board. When I arrived at 5:30pm I was standing outside the recreation center and I heard a group of people strategizing on how they were against the project and what they were going to say and who was going to speak. When I got inside at 6:00pm, I observed as these individuals spoke, they were organized and they had one common goal and that was to try to stop the project and intimidate those who supported it. I decided not to speak because of the individuals that were present. There were attorney's (not from Putnam), Engineer's (not from Putnam), environmentalist (not from Putnam), many of these speakers were from NYC, Bedford, Katonah and other areas. I was disappointed to hear people from other counties speaking on issues that impact the residents of Putnam County. These individuals do not care if I get a tax benefit from Patterson Crossing.

Those are just some of my thoughts, I live in Kent and I fully support the proposed Patterson Crossing project. I am tired of traveling to Dutchess County or Danbury to do my shopping. I would love to spend my money in the community where I live and see my sales tax revenue stay in Putnam County.

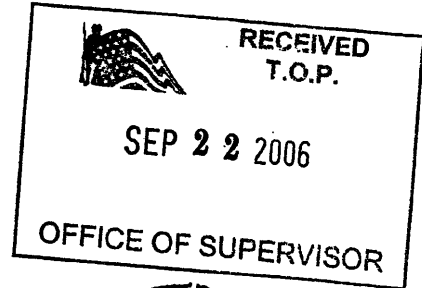
Sincerely,  
*Hugh Austin*  
Hugh Austin

(845) 228-0791



**supervisor**

**From:** Kevin Bailey [pedc@Computer.net]  
**Sent:** Wednesday, September 20, 2006 3:09 PM  
**To:** supervisor@pattersonny.org; anordstrom@townofkent.gov  
**Cc:** crilic@comcast.net; invest.co@suscom.net  
**Subject:** Tally on Emails about Patterson Crossing



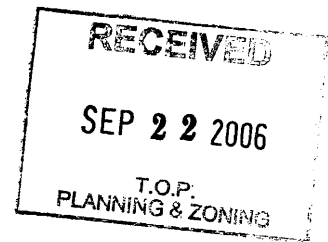
TB  
TC TP

FYI only,  
We have received a total of 65 emails concerning patterson crossing

Yes—41.....79%  
No—14.....21%

Just a thought on my end, I understand during the 1<sup>st</sup> night there were some people from nyc speaking out against the project.....isn't it ironic that the people who live in nyc have the lowest property taxes in nys....why? .....they have commercial development to pay the majority of their taxes.....lucky people

Kevin Bailey, President  
Putnam County EDC  
34 Gleneida Ave.  
Carmel, NY 10512  
[pedc@computer.net](mailto:pedc@computer.net)  
(845) 225-2300 - Voice  
(845) 225-0311 - Fax  
(845) 590-6803 - Cell





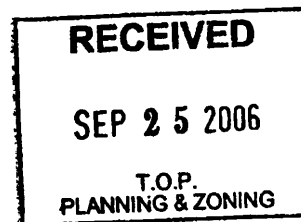
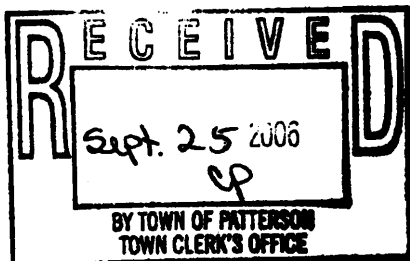
**ELENA BAO**11 Amersk Road  
Lake Carmel, NY 10512

Home: 914.548.2173

Work: 203.761.3306

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Email: ElenaBao11@hotmail.com



September 25, 2006

Patterson Planning Board  
Town Hall - 1142 Route 311  
Patterson, NY 12563Re: *Patterson Crossing DEIS Commentary*

Members of the Patterson Planning Board:

Attached please find my written commentary to the Patterson Crossing DEIS for the purposes of SEQRA. The following is an index of items that comprise my commentary:

1. **Patterson Crossing DEIS Commentary - 30 Pages**  
*Description: Excerpts of the DEIS with my corresponding commentary.*
2. **Legal Boundaries of the Lake Carmel Park District - 1 Page**  
*Description: A description of the park district accompanied by a boundary map.*
3. **Community Character & Quality of Life: A Photo Album of the Lake Carmel Park District - 20 Pages**  
*Description: A photo album of the park district to illustrate existing community character.*
4. **Lake Carmel Clubhouse - 2 pages**  
*Description: Photos of the Lake Carmel Clubhouse circa 1931 located at the corner of Clubhouse Road and Vernon.*
5. **NY State Department of Transportation Region 8, "Working Projects" as of 9/06 - 21 pages**  
*Description: A list of transportation projects in process in our region as of 9/06. I have included this report to illustrate the high costs of traffic infrastructure modifications. This report is intended to underscore the need for the Applicant to estimate the costs of this project's infrastructure costs as they will be exorbitant.*
6. **NY State Department of Taxation & Finance, Year-Round Sales/Use Tax Exemption on Clothing & Footwear - 6 pages**  
*Description: Recently enacted state sales/use tax exemption for clothing and footwear.*
7. **"Is Common Worth Costs", Article By Chris McKenna, Times Herald Record - 3 pages**  
*Description: Article about the costs generated by Woodbury Commons within the context of the revenue it generates. The conclusion is that Woodbury Commons is barely "pulling its weight" financially.*
8. **Financial Reports from the Office of the NY State Comptroller**  
*Local Government Sales Tax in NY State, March 2006, Alan G. Hevesi*  
*Property Taxes in NY State, April 2006, Alan G. Hevesi*  
*Smart Growth in NY State, March 2005, Alan G. Hevesi*
9. **Big-Box Economic Impact Studies**  
*The Andersonville Study of Retail Economics, October 2004*  
*Local Merchants Vs. Chain Retailers, December 2002*  
*Understanding The Fiscal Impacts Of Land Use In Ohio, August 2004*  
*Understanding The Tax Base Consequences of Local Economic Development Programs, 1998*
10. **Unemployment Data For New York State, August 2006**

Please note that my commentary is incomplete as I could not finish my DEIS review in the timeframe provided. Please consider re-opening the public comment period an additional 30 days. In closing I would like to say that the fate of the Lake Carmel Park District is in your hands and I trust that you will make the right decision for our communities by denying this project. Should you have any questions regarding this submission, please contact me per the information above.

Sincerely,

Elena Bao

# **STOP PATTERSON CROSSING**

**[www.StopPattersonCrossing.com](http://www.StopPattersonCrossing.com)**

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**DEIS Index Info**  
 1.1 Executive Summary  
 1.1 Description of the Proposed Action  
 Page 1-1

**DEIS Text Excerpt**

The primary benefit of the project would be the utilization of the site as a retail destination for the community and the surrounding region. Such use would generate additional property and sales tax revenues for the Towns of Patterson and Kent, the taxing districts in which the site is situated, and Putnam County as well as the State of New York and the Metropolitan Commuter Transportation District (MCTD). The site presently generates approximately \$56,000 in property taxes to the County, the towns of Kent and Patterson, and affiliated taxing districts, and the Carmel Central School District. Future projected annual property taxes would be approximately \$840,000 to these districts.

**DEIS Commentary**

The DEIS provides no context to weigh the "benefit" of this \$840,000 property tax figure. The DEIS must reflect that the 2006/2007 CCSD budget was \$82,506,876. The DEIS must state that the 2006/2007 budget increased by \$8,748,808 from the prior year (2005/2006). Patterson Crossing's property tax revenue would represent less than 1% of the CCSD budget for 2006/2007. I would like to note that this paltry sum would not prevent property taxes from increasing when our school budget increases several million dollars annually. It would take over 11 Patterson Crossings to generate enough property tax revenue to offset the school budget increase we saw last year. Patterson Crossing will not yield the property tax revenue that would be create a school tax burden reduction for residents of Patterson and Kent.

**1.3 Executive Summary**  
 1.3.1 Potential Impacts & Proposed Mitigation  
 1.3.1 Geology  
 Mitigation Measures  
 Page 1-3

Although extremely rare, blasting can cause shifts in local bedrock fractures and affect the yield of existing wells (no public water supply exists in this area). Any documented impact to private or local wells would be remedied by the blasting contractor. In order to document or substantiate claims of well damage due to blasting the applicant has developed a Blasting Mitigation Plan which details the proposed data to be collected (and method of collection) on wells within 500 feet of blasting sites, before, during and after blasting. Foundation surveys of structures within 500 feet of the blasting sites have been included in this plan. Copies of all documentation concerning off-site structures, including photographic and/or video documentation, will be provided to the Towns of Patterson and Kent. Refer to the plans at the rear of this document.

The phrase "although extremely rare" is problematic. As a native of Kent, my family and most residents I know in the area have experienced serious well-related problems at some time or other. My family has had our well run dry, there have been several instances of inadequate water yield, and my family has also experienced problems as a result of neighbors drilling deeper wells. Blasting in this area WILL create well problems based on the history of this area with our wells. The fact that the Applicant is stating that blasting will create well problems in "extremely rare" circumstances is false and minimizes the extremely serious and extremely expensive impact. The Applicant must correct this paragraph to accurately reflect the well situation in this area. Further, the Applicant is indicating that there will only be a commitment to mitigate well-related blasting impacts that occur to properties within 500 feet of the blasting site. This is unacceptable and this range needs to be increased to at least a 1-mile radius.

**1.3 Executive Summary**  
 1.3.2 Potential Impacts & Proposed Mitigation  
 1.3.4 Groundwater Resources  
 Mitigation Measures  
 Page 1-6

Pump tests were conducted to verify sufficient water supply for the proposed project. The on-site test wells were pumped for 72 hours at a rate of 22 gallons per minute each. This is a rate of three times the proposed project's need.

While no adverse impacts to groundwater resources are expected, several mitigation measures may prevent any future impacts to groundwater. Undeveloped and landscaped portions of the site will remain undeveloped and will allow continued recharge of the aquifer. The majority of stormwater collected from impervious surfaces will be collected and treated in stormwater management facilities where some of it may infiltrate into the ground contributing to recharge of the groundwater on-site.

The DEIS must list the various factors that could influence the 22-gallon yield per minute. For instance, could adverse blasting impacts lessen this yield? Could a "dry season" lessen this yield? Could increased demand from surrounding wells increase this yield? Could impervious surfaces on the Patterson Crossing project site decrease this yield? The Applicant is stating "no adverse impacts to groundwater are expected" - however this particular geographic area is historically an area where wellwater related issues occur on a frequent basis. Further, the Applicant states here that his proposed mitigation measures "may" prevent future groundwater impacts. "May" is just not good enough when there are hundreds of homes adjacent to the Patterson Crossing project site depending on that groundwater source to continue living in their homes. The Applicant @ must research this matter further.

**1.3 Executive Summary**  
 1.3.6 Wetlands, Streams, & Waterbodies  
 Potential Impacts  
 Page 1-6

The project site contains one wetland which measures 0.52 acres in size. It is regulated by the Town of Kent and the Army Corps of Engineers. This wetland is located adjacent to the Middle Branch of the Oraton River, in the northwest corner of the project site. No NYSDEC regulated wetlands are on the subject site. Lake Carmel is located downstream of the project site.

The applicant has not contacted the US Army Corps of Engineers (USACE) for a jurisdictional determination (JD) for this site. Due to a heavy work load, the USACE does not currently require JD's for projects where impacts to wetlands are not expected. At some point, based on USACE feedback during the environmental review process, the applicant may need to provide data sheets and other documentation to the agency to support these conclusions. Data sheets are provided in Appendix P of this DEIS.

The recent appearance of "cat tails" on the Entry/Exit Ramps of Exit 18 indicates that impacts to wetlands resulting from recent activity on the Patterson Crossing project site are already occurring. As such, the Applicant must contact the USACE for a Jurisdictional Determination. The new, undocumented wetlands at the entry/exit ramps of Exit 18 must be addressed by the appropriate agency(ies) and the results of that investigation must be properly reflected in the DEIS. Further, it should be stated how many feet Lake Carmel is from the Patterson Crossing project site. Failure to quantify the lake's proximity to the project site understates the potential impacts to the aquatic resource.

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>1.7 Executive Summary 1.3.6 Wetlands, Streams, &amp; Waterbodies Potential Impacts Page 1-3</p>	<p>The Applicant is sensitive to the need to maintain the water quality of Lake Carmel. An analysis of drainage of stormwater runoff reveals that 19 percent of all impervious surfaces on the site will drain toward Lake Carmel. This runoff will be intercepted and treated by the stormwater management systems which will be installed on site.</p>	<p>The Applicant does not acknowledge that there is potential for failure of the stormwater treatment systems as it relates to drainage to Lake Carmel. Failure of the stormwater treatment system could result in a tremendous financial burden on the taxpayers of the Lake Carmel Park District. Residents of the park district have already funded a \$600,000 lake clean-up in recent years. The Lead Agency should require that the Applicant provide funding in escrow to protect park district residents from having to carry the financial burden of mitigation in the event the stormwater system fails at Peterson Crossing.</p>
<p>1.8 Executive Summary 1.3.6 Wetlands, Streams, &amp; Waterbodies Potential Impacts Page 1-3</p>	<p>With the exception of stream channel improvements proposed for the intermittent stream which drains from Concord Road, no changes are proposed to existing streams on the site.</p>	<p>There used to be a pond located on the project site. This pond is no longer on the site according to this DEIS. What happened to the pond and did this pond disappear while the site property was under the Applicant's control? "Before and after" photos would ascertain whether any changes have occurred to the waterbodies on the site while this property was under the Applicant's control. This matter should be investigated given that there does appear to be indications that some waterbody on the project site has been diverted in recent years. The evidence of this diversion can be seen on the East Bound Entry Ramp of Exit 18 and also on the West Bound Exit Ramp of Exit 18 - "cat tails" are growing along these ramps in places they were not growing a few years ago.</p>
<p>1.8 Executive Summary 1.3.7 Vegetation &amp; Wildlife Potential Impacts Page 1-9</p>	<p>Wildlife currently using habitat on the project site would relocate to areas with similar habitat off-site. Most wildlife movement from this site would be expected toward the north, south and east (beyond Interstate 84) of the property. These areas offer similar habitat and are less densely developed than the areas to the west.</p>	<p>The Applicant appears to have a misunderstanding of nature. Wildlife doesn't "relocate". The Applicant should state the truth here which is that the majority of the wildlife on the site will be destroyed or will perish due to loss of habitat.</p>
<p>1.8 Executive Summary 1.3.7 Vegetation &amp; Wildlife Potential Impacts Page 1-9</p>	<p>After the project development is completed, the composition of the wildlife population on the project site would adjust to final site conditions. Species better able to adapt to open and landscaped environments (such as raccoons, opossum, woodchucks, mice and certain songbirds) would have a greater ability to populate the site in comparison to species that are less tolerant of human activity.</p>	<p>The Applicant needs to clearly outline that certain "nuisance species" will make the Peterson Crossing retail center their new home. Specifically, rats and other scavenging rodent species. The surrounding area is a densely populated residential community so there is a public health issue that needs to be explored in this DEIS relative to the influx of rodents which will accompany a large scale retail/restaurant use on this site. With trash comes the rodents and an accurate description of the anticipated impact and mitigation plans are needed in this DEIS.</p>
<p>1.9 Executive Summary 1.3.7 Traffic &amp; Transportation Potential Impacts Page 1-10</p>	<p>The proposed action is expected to generate 1,571 external trips during the weekday p.m. peak hour and 2,152 external trips at the Saturday peak hour, including trips already passing the site. Although the effect of traffic generated by the site may be found on roads in the nearby area, the bulk of the traffic would travel the 880 feet along NYS Route 311 between the site access and Exit 18 of Interstate 84. An estimated 25 percent of site trips are already on the network. Of the remaining trips, 57 percent are expected to travel directly to/from Interstate 84.</p>	<p>Throughout the DEIS, the Applicant makes it a point to indicate that certain traffic will "only be traveling the 880 feet between the I-84 Exit Ramps and the project site entrance". I suspect the Applicant is attempting to imply that traveling this "tiny city" distance won't cause any traffic problems. However, this is not the case. There is a very real storage queue problem in this 880 feet and also on the I-84 ramps. I have serious concerns the proposed traffic lights will create a serious gridlock problem given the enormous increase in traffic hourly Peterson Crossing will generate, particularly during peak hours. I have read the traffic study, and admittedly, have had a very difficult time understanding the data. But what I do understand is how traffic in that area works given I have lived in this town my entire life and I get on and off Exit 18 every day of the week. I can't for the life of me figure out how the traffic modifications proposed will enable any flow of traffic given that thousands of additional cars will be added to the existing traffic flow.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>1.2 Executive Summary 1.2.7 Traffic &amp; Transportation Mitigation Measures Page 1-12, 1-13</p>	<p>The improvements identified in this DEIS will improve current conditions and allow the studied intersections to operate at acceptable levels, set by NYS DOT, with the proposed development. The project will facilitate road and intersection improvements that will improve existing conditions as well as improvements necessary to mitigate project specific impacts, helping to pay for both. The Applicant will be responsible for mitigating the project specific impacts to the greatest extent practicable and will work with the NYS DOT and others to fund and construct other improvements that would help alleviate traffic issues under the current conditions.</p> <p>Specifically, the Applicant is committed to participate in a significant way in the funding of intersection improvements in the area. In addition to the widening and signalization of Route 311 in front of the Applicant's property, the Applicant will work with the appropriate authorities to identify intersections where improvements are warranted as a result of the proposed action and will share in the cost of those improvements. The applicant also commits to working aggressively with the Town, the County and the DOT towards funding an improvement program for road and infrastructure updates in the project vicinity to ensure that the intersections in the study area operate at levels acceptable to the NYS DOT into the future.</p>	<p>Patterson Crossing's traffic conditions would require major modifications at almost every intersection within a 2 mile radius of the site. This is an obvious indication that the project will bring an unreasonable level of traffic to the area. The Applicant feels the project justifies the alteration of our entire roadway system and also feels it's appropriate for taxpayers to fund this project. Why should the state, Putnam County, Patterson, and Kent be forced to fund a private development? Not only is this project financially over-scaled, it will impose an unwarranted traffic burden on the surrounding towns. And to add insult to injury, the Applicant is concealing the traffic modification costs in this DEIS. The Applicant must prepare a supplemental traffic impact study which includes a detailed cost analysis for these modifications. The Applicant cannot be permitted to plan the project in a fashion which relies so heavily on taxpayer funding. The Applicant must commit to funding all traffic/road modifications.</p>
<p>1.2 Executive Summary 1.2.9 Noise Page 1-13</p>	<p>Analysis of existing and future noise levels requires the identification of noise receptors, or locations which can be expected to be affected by the noise generated from the project. The primary noise "receptor" in the vicinity of the project is the existing residential neighborhood located along the western edge of the property. No man-made noise is currently generated on the Patterson Crossing Retail Center property, since the site is undeveloped. Existing noise levels in the vicinity of the Patterson Crossing Retail Center site reflect surrounding land uses, which are primarily residential, but also include Interstate 84 and US Route 311. The highest levels of noise currently measured on the site are generated by the vehicular traffic on Interstate 84, which runs along the eastern border of the property.</p>	<p>The Applicant minimizes the noise impacts which would result from Patterson Crossing by failing to acknowledge that several hundred residents will be adversely impacted by the noise generated by the proposed Patterson Crossing retail center, not just the 26 or so residents who live on Concord Rd, Greenridge Court, or Vernon Drive. The DEIS must adequately reflect the number of households and citizens who will experience the adverse noise impacts so this impact can be weighted appropriately. Further, the unique "acoustic properties" of the Lake Carmel Park District valley must be discussed in the DEIS as anyone who lives in the valley around Lake Carmel will tell you that sound is enhanced in this area. For instance, I can hear truck traffic on Route 82 even though I live a significant distance away from Route 82 on the other side of the lake on Amnwalk Road. The DEIS must take these acoustics into consideration and weigh noise impacts within the context of the unique geographic location of the area.</p>
<p>1.2 Executive Summary 1.2.9 Noise Potential Impacts Page 1-14</p>	<p>Typically, blasting results in very short term, loud noise impacts. As indicated above, blasting may result in short term (seconds), noise in the range 68 to 100 dBA within 500 feet of the blasting site.</p>	<p>Patterson and Kent have local noise ordinances. What is to be done if the noise levels during the construction phase and post-build phases of Patterson Crossing exceed the maximum noise level allowed under local ordinances? Will it just be "too bad" for residents of the Lake Carmel Park District if project generated noise exceeds the allowable level?</p>
<p>1.2 Executive Summary 1.2.9 Noise Construction Noise Mitigation Page 1-14</p>	<p>Construction activity would be limited to hours between 7:00 AM and 6:00 PM, Monday through Saturday, exclusive of Sundays and national holidays. Typically, construction activities would be expected to cease prior to 6:00 PM. All construction vehicles and equipment would be expected to be well maintained and operated in an efficient manner.</p>	<p>Construction beginning at 7am will be invasive to residents. Those who have neighbors that mow their lawns this early in the morning can attest to how irritating this noise is at such early hours of the day. As such, construction should not begin before 9am and should cease at 4pm Monday through Friday. Construction should not occur on Saturdays as residents typically spend the weekends at home and should not have to contend with construction noise on the weekends.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>1.9 Executive Summary 1.3.9 Noise Construction Noise Mitigation Page 1-15</p>	<p>operation. Blasting would be conducted between the hours of 8:00 AM and 5:00 PM Monday through Friday, and would not be conducted on Saturdays, Sundays or national holidays. It is anticipated that rock blasting would occur for short periods of time over a two month interval.</p>	<p>Under NO circumstances should blasting take place before 9am and all blasting should cease at 4pm. Further, construction activity should schedule blasting activity at appropriate intervals so that the noise is "spread out" over reasonable timeframes so as not to inundate the surrounding residential community with sustained blasting noise.</p>
<p>1.9 Executive Summary 1.3.11 Community Services Police Protection Potential Impacts Page 1-17</p>	<p>The concerns for the police departments would be those associated with traffic to and from the retail center, the use of the neighboring residential properties for access to the proposed development, and general security at the retail center.</p>	<p>Crime Impact has not been addressed in this DEIS. Patterson Crossing will result in increased crime of all types including, but not limited to shoplifting, credit card fraud, theft in stores/homes, breaking/entering into stores/homes, loitering on the site and in surrounding residential neighborhoods, trespassing onto the project site and on private residential property, vandalism of the project site and in surrounding residential communities, traffic accidents and violations occurring not just "to and from" the retail center but elsewhere in the surrounding roadways resulting from the sizable increases in traffic levels, and potentially assault and/or rape. The Applicant must provide crime case study data derived from developments built close to residential developments. Without this data we cannot assess the safety/quality of life issues which crime impacts will impose on residents. Further, the DEIS must assess crime in terms of how it will translate into additional police costs. The Applicant should provide current crime statistics for this area as a context in which to discuss anticipated crime.</p>
<p>1.9 Executive Summary 1.3.11 Community Services Fire Protection Potential Impacts Page 1-18</p>	<p>The applicant met with the Patterson Fire Department and the Department has agreed to provide coverage to all of the Patterson Crossing Retail Center site, even though a small section is located within the Lake Carmel Fire District. Calls for fire/medical emergencies would be routed through the Putnam County Emergency Operations Center (EOC), where dispatchers would notify the Patterson Fire Department. The existing Mutual Aid agreement for all Fire Departments in Putnam County ensures that additional fire fighting and rescue resources are available if required.</p> <p>According to the Patterson Fire Department, the proposed project would not result in a significant impact to the Department. The Patterson Fire Department has all necessary equipment and manpower to respond to calls from the project site.</p>	<p>Despite the Patterson Fire Department's "agreement" to provide coverage to all of the Patterson Crossing retail center site and their assurance that they have the manpower and equipment to handle the job, the DEIS must include an analysis of whether this agency is able and equipped to provide the promised services. Their ability to respond is a matter of life or death so this matter must be researched and documented in the DEIS accordingly. An "agreement" between the Applicant and the Patterson Fire Department in this matter simply will not suffice. A cost analysis must also be included in the DEIS for fire services that the Patterson Crossing project site would require so that we can adequately assess the impacts on the county's and our towns' fire resources from a personnel and budgetary standpoint. We also should have data which supports the fire-fighting needs that a development like Patterson Crossing would require in the context of its proposed tenants. For instance, what is "stored" on the Patterson Crossing site will impact the potential for fire hazards (ie, warehouse etc).</p>
<p>1.9 Executive Summary 1.3.11 Community Services Health Care Facilities Potential Impacts Page 1-19</p>	<p>The need for emergency care at the Patterson Crossing Retail Center project would be met by contacting the "911" call center, where a dispatcher would determine the type of emergency response required and send the nearest appropriate unit. The anticipated response times to the project site for first responders would be under five minutes.</p>	<p>The DEIS must discuss how much providing "911" emergency service to Patterson Crossing will cost Putnam County. The DEIS should include data from similar developments and estimate how many "911" calls we can expect from Patterson Crossing annually. The Applicant must estimate the cost of this emergency service and also determine whether our county will need to contract additional emergency personnel/services.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>1.3 Executive Summary 1.3.12 Socioeconomics Potential Impacts Page 1-19</p>	<p>Some overlap of goods and services provided by the proposed uses at Patterson Crossing Retail Center and the goods and services offered by establishments in the Putnam Lake, Lake Carmel and Patterson Hamlet areas would be expected. This would most likely occur in the home improvement sector. Both of the Hamlets contain several stores that specialize in construction material sales, garden supplies, and hardware. Putnam Lake has no similar retailer. However, these establishments are likely to provide more specialized products and assistance for area contractors that now patronize them. Competition with the Home Depot and Linens-n-Things and to a lesser extent Kohli's at the Highlands has the potential to provide shoppers with a greater selection for the purpose of comparison shopping.</p>	<p>"Overlap" means a resident will be given a choice to buy from one retailer over another retailer when these retailers offer similar goods. This "choice" doesn't yield an increase in "net" sales revenue. The fact is that all of Patterson Crossing's retailers will overlap in significant ways with existing local retailers. Some of the overlaps I can think of are:</p> <ol style="list-style-type: none"> <li>1. Costco overlaps with all supermarkets in Kent, Patterson, and Carmel</li> <li>2. Costco overlaps with all pharmacies in Kent, Patterson, and Carmel</li> <li>3. Home Goods overlaps with Linens &amp; Things, Kohli's, Marshall's, and Kmart</li> <li>4. Patterson Crossing clothing store overlaps with Marshall's, Kohli's, and Kmart</li> <li>5. Lowe's overlaps with Home Depot and Dill's</li> <li>6. Lowe's Garden Center overlaps with Kent Nursery, Dill's, and the garden center at Home Depot</li> <li>7. Patterson Crossing electronics store overlaps with Radio Shack and Kmart</li> <li>8. Patterson Crossing Coffee Shop overlaps with DeLund, Lake Carmel General Store, Hesse Mart (Exit 17), and Durkin Donuts</li> <li>9. The Center at Costco overlaps with Mev's Discount Tire in Carmel and the various locally owned auto/body shops on Route 6 and Route 52.</li> </ol>
<p>1.3 Executive Summary 1.3.12 Socioeconomics Potential Impacts Page 1-20</p>	<p>The introduction of over 400,000 square feet of retail space may draw some shopping dollars away from the surrounding downtown areas. This would be more likely to occur among existing retailers that have a high degree of overlap with the goods and services to be provided at Patterson Crossing Retail Center. The increase in competition for a store like Dill's Best Home Center could potentially lead to secondary displacement should these establishments no longer remain viable from a competitive standpoint. Although unlikely, should secondary displacement occur, the vacated sites would most likely be reused by some other commercial enterprise allowed pursuant to zoning. This transition of businesses would not result in significant long term economic impacts to either the Lake Carmel or Route 22 commercial centers.</p>	<p>The adverse effects of big-box development on local businesses is a well-documented phenomenon. We know that big-box development puts local competitors out of business because small business cannot compete over the long-term with a big-box conglomerate. Is the Applicant suggesting here that if our small businesses can't "hang with the big-box stores" that the livelihoods of these small business owners, who are taxpaying residents of Putnam County, have to just "find something else" to do to make their living and support their family? Our local business people are decent, hard-working people who are invested in this community. I believe that local officials should promote commercial development that helps the small business rather than cripples them. Big-box retail development is not the answer for our community.</p>
<p>1.3 Executive Summary 1.3.12 Socioeconomics Mitigation Measures Page 1-20</p>	<p>There is no mitigation measure to offset the affects of retail competition. This has occurred historically in the region and will continue to occur in a capitalistic system of economics. Competition is not expected to cause land use blighting, and therefore avoidance measures are not needed.</p>	<p>Competition is not expected to cause land use blighting? The Applicant fails to mention in the DEIS that there are on Route 311, Route 52, and Route 6 blighted commercial spaces. In light of the current blight situation in Kent and Carmel, I would say that blight is an issue for this area and that avoidance measures for land-use blighting are warranted for this project and need to be discussed in the DEIS.</p>
<p>1.3 Executive Summary 1.3.12 Socioeconomics Mitigation Measures Page 1-20</p>	<p>In his 2006 Budget Message delivered in September of 2005, after noting the increases in the sales (1/2 percent) and property (10 percent) taxes and increases in costs exceeding \$14 million over the past 5 years, he noted that "the County has benefited from increased sales tax revenue generated by the opening of the Highlands Retail Shopping Center". Mr. Bondi proceeded to state the following: "Putnam County needs more retail shopping opportunities to generate the sales tax revenue necessary to fund our increasing mandated services and costs without raising taxes. Putnam County needs a second major retail shopping project, such as Patterson Crossing, to be approved quickly and begin generating sales tax dollars, otherwise our citizens will pay increasing sales and property taxes in future budgets. Without the additional sales tax dollars generated through increased shopping opportunities, the County will not be able to fund the debt service generated from an open space bond resolution without raising property taxes. There simply is not another source of revenue available to fund these purchases at this point in our history." The proposed project would generate an estimated \$6.2 to \$7.4 million in sales tax revenue annually to the County thereby offsetting future cost increases and reducing the need for future tax increases at the County level.</p>	<p>Mr. Bondi's fiscal mis-management of Putnam County is a topic of much concern in Putnam County at the present time. I would like to note here that it was inappropriate for Mr. Bondi (whose son is employed by the Applicant) to endorse the Patterson Crossing project as early as 2005 with no information about the potential adverse impacts this development would impose on our community. The Applicant's use of Mr. Bondi's endorsement in this DEIS is no credit to this project given that our County Executive has a history of endorsing projects that fail and which cost taxpayers hundreds of thousands of dollars annually. Bottom line? I don't trust Robert Bondi's financial judgement based on the obvious lack of business acumen of Mr. Bondi's endorsement of Patterson Crossing means nothing from a "project credibility" standpoint.</p>

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<p>1.1 Executive Summary 1.3.12 Socioeconomics Mitigation Measures Page 1-20</p>	<p>County Executive Bondi, in his 2006 State of the County Address, discusses the need to keep more of local resident's disposable income in the County and "solve the 'Putnam Paradox'". Currently, two thirds of the County's resident's disposal income, and its associated tax benefits, is spent outside of Putnam County. Mr. Bondi discussed a new partnering program that will "...help capture this 'Putnam Paradox' by providing an economic incentive to local municipalities to fast track smart commercial retail development" through providing a "...portion of the future sales tax revenue generated from new shopping opportunities back to the local municipalities for a project that they desire". This money could be used to assist in funding the development of "...a new library, town hall, or ball fields..."</p>	<p>No party has ever performed a study to determine WHY Putnam Residents are spending 2/3 of their disposable income outside of Putnam County. The Applicant and Putnam County Executive Robert Bondi would like Putnam residents to believe the Putnam Paradox is due to "lack of shopping opportunity". However there is no data to support this claim as no consumer spending habit studies in Putnam have been performed. Neither the Applicant or Mr. Bondi are in a position to propose a "cure" for the Putnam Paradox when they have no evidence that "lack of shopping" is what causes consumers to spend elsewhere! Only when we truly understand consumer spending habits in Putnam can we commit to actions to solve the issue. To permit the Applicant in this DEIS to jump to the naive and self-serving conclusion that Putnam residents need Patterson Crossing because they "don't have enough places to shop" is inappropriate and unacceptable. For the purposes of this DEIS, the Applicant's feeling about what causes the Putnam Paradox are an unsubstantiated "opinion" that doesn't belong in the DEIS.</p>
<p>1.2 Executive Summary 1.3.12 Socioeconomics Mitigation Measures Page 1-21</p>	<p>The project would not generate significant costs to either the Town of Patterson or the Town of Kent and would be expected to generate significant tax revenues that would benefit both municipalities, the County and other taxing jurisdictions.</p>	<p>Traffic modifications, police services, emergency response services, fire services, road maintenance costs associated with massive traffic volume increases, cost associated with the failure of any and all mitigation systems put in place at the Patterson Crossing project. All of these things cost money, and a significant amount of money at that. It is unacceptable for the Applicant to state this project will not generate "significant costs" to the state, county, Patterson, Kent, and the Lake Carmel Park District. It is unacceptable that the Applicant fail to itemize or estimate any of the costs associated with the Patterson Crossing project in this DEIS. The Applicant must be compelled to prepare a supplemental economic impact statement to fully explain the economic impacts of this project. Without this supplemental, this project cannot be "weighed" appropriately.</p>
<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-1</p>	<p>larger scale drawings at the rear of this DEIS. The project site's location at the crossroads of Interstate 84 and NYS Route 311 make it ideally suited for major retail uses that will draw patrons from other parts of the county and region.</p>	<p>I believe the use of the word "ideally" here is highly biased. At this time, it is unknown if the site is suited to a project of this scale and magnitude. SEQR will be the judge of this, not the Applicant.</p>
<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-1</p>	<p>former pasture land. Single family residences in the Town of Kent and the Town of Patterson about the site to the west. The site currently contains a cellular telecommunications facility</p>	<p>"Single family residences" doesn't cut in in terms of conveying what lies to the west of the project site. An accurate description of what lies to the west of the site is an extraordinarily densely populated rural residential lake community and the Lake Carmel Park District. This DEIS must accurately identify the number of households AND residents living within a 1 mile, 2 mile, and 3 mile radius of the project site so that the population density of the surrounding community is accurately represented in the DEIS. As the DEIS currently stands, there is no context whatsoever in which to assess the adverse impacts on the surrounding community from a population perspective. This is extremely inappropriate given the close proximity of the Patterson Crossing project site to our residential community. The Applicant must correct this glaring omission in the DEIS by quantifying the residential households and population data as indicated above.</p>

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<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-1</p>	<p>Over one third of the site would be retained as open space.</p>	<p>The Applicant uses terms like "open space" and "reservation area" throughout the DEIS. Each time this term is used in the DEIS, the Applicant must define what he means. If these terms indicate there will be legally recognized "conservation easements" created on the Patterson Crossing project site then it needs to state so specifically.</p> <p>Also, the Applicant should concede here that the reason for 1/3 of the site remaining open space is because the site topography won't permit him to "build out" this 1/3. By failing to outline this fact here, the Applicant is giving the false impression that the site plan design was intended to allow for a third open space, which is false. The reason why open space is integrated into this project plan is because the Applicant is unable to build out the land. So let's not pretend that the Applicant is doing a service to the community by keeping "open space" on the property.</p>
<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-2</p>	<p>The Applicant has developed residential and commercial properties throughout Putnam County over the past 16 years and has been in contract to purchase the subject property for the past four years. The portion of the site in the Town of Patterson was rezoned in 2003 as</p>	<p>The Applicant has never developed a retail center project of "regional" proportions like Patterson Crossing. If the Applicant elects to include his resume/credentials in this DEIS then he should expressly state that the Patterson Crossing project is the first regional retail center site plan he has proposed. Failure to clarify this point gives a false impression that the Applicant has experience with mitigating adverse impacts of the magnitude described in this DEIS - he does not.</p>
<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-2</p>	<p>the past four years. The portion of the site in the Town of Patterson was rezoned in 2003 as a result of recommendations found in the Town of Patterson Comprehensive Plan. While</p>	<p>The Applicant must be factual in this DEIS relative to this matter. The re-zoning the Applicant references here is Local Law 1 of 2004, which was filed with the Department of State and adopted on 2/11/04 (not in 2003). The Applicant should describe the nature of the zoning change which was "The Zoning Map dated May 1, 2003 shall be amended such that the southerly I-74 zoning boundary on the parcel identified as 33-2-23 shall be adjusted in a south-westerly direction". In English, several acres on the Patterson Crossing project site changed from residential zoning to industrial zoning on 2/11/04 and as early as 4/2/04, the Applicant announced his intent to resurrect the Patterson Crossing project. These two events were clearly related and this DEIS should accurately represent the relationship between the two. The Applicant's statement that the zoning change occurred as a result of "recommendations" unrelated to his project is misleading.</p>
<p>2.0 Project Description 2.1 Location 2.1.1 Background &amp; History Page 2-3</p>	<p>The proposed plan for the Patterson Crossing retail center evolved over the last three years and resulted from extensive meetings with local leaders, neighboring residents, and environmental groups. Early outreach included presentations to the Town Boards of the Town of Kent and the Town of Patterson in April 2004.</p>	<p>The Applicant states he has met "extensively" with residents and environmental groups relative to the Patterson Crossing project - this is false. There was an early "roundtable" discussion with environmental groups which amounted to nil since Mr. Camarda was unwilling to make any compromises on the project's scale. Mr. Camarda's interaction with residents has been limited due to vehement opposition from the community. I most certainly don't doubt, however, that Mr. Camarda has met with various county and municipal leaders - he is known to court favor with various officials as demonstrated by the recent findings of unethical meetings between Mr. Camarda and four Carmel Town Board members.</p> <p>The Applicant's intent here is to insinuate that he has "compromised" with the community in Patterson Crossing's planning and this is false. The reality is that this project has changed little since originally proposed. The current plan is no less offensive to residents and environmental groups now than when it was first proposed. The Applicant has always and continues to put his own needs before the needs of our community.</p>

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<p>2.0 Project Description</p> <p>2.1 Location</p> <p>2.1.1 Background &amp; History</p> <p>Page 2-2</p>	<p>To meet the growing demand for retail in Putnam County, the Applicant proposes a commercial development which would include a wholesale warehouse store, a home improvement center, a home goods store, an electronics store, and several other smaller commercial uses, including a coffee shop. By providing large scale stores that would offer a wider range of goods and products than are currently available in the County, the proposed project would respond to the need for increased retail services both locally and in Putnam County as a whole that have resulted from the primary focus of past planning efforts on residential needs. The proposed project would enhance the convenience of comparative</p>	<p>The "site center" should also be mentioned here. I would also like to note here that the Applicant is very clear that his objective with respect to this site has always been to build a commercial retail center of a scale that is <u>as large as the site can tolerate</u>. The Applicant has never even considered scaling this project down so that it would be tolerable to the surrounding community. The result is that the Applicant continues to push a grossly oversized project onto a community which simply cannot overcome the enormous adverse impacts that will result from this project - the project is just too large and too close to our densely populated lake community.</p>
<p>2.0 Project Description</p> <p>2.1 Location</p> <p>2.1.1 Background &amp; History</p> <p>Page 2-2</p>	<p>for irrigation. The proposed action also includes implementation of a SWPPP and a state-of-the-art wastewater treatment system, and the incorporation of human scale lighting and extensive landscaping to minimize the environmental and visual impacts of the project.</p>	<p>"Human Scale" lighting should be defined. I looked up this term but I could not find a definition for it.</p>
<p>2.0 Project Description</p> <p>2.1 Location</p> <p>2.1.2 Geographic Boundaries of the Project Site</p> <p>Page 2-3</p>	<p>The project would be located to the west of Interstate 84, southwest of its intersection with NYS Route 311. Regional and local settings are shown in Figure 2-1.</p>	<p>Figure 2-1 does not adequately illustrate the "Regional &amp; Local Setting". The Applicant should also include a map which clearly illustrates the boundaries of the Lake Carmel Park District with an overlay of the project site (this map can be obtained at Kent Town Hall). The Lake Carmel Park District map is critical in assessing the impacts of the Pettenon Crossing project on the park district. The Applicant was highly remiss in failing to make even one reference to the existence of the Lake Carmel Park District in this DEIS. This legal entity exists, and the Applicant must acknowledge the park district's existence. Further, this DEIS needs to discuss in detail the statutory definition of "park district" and also include the "legal purpose" per the statutes for the creation of a park district. This project's impacts MUST be analyzed within the particular context of the park district and that district's whole purpose for existing because the project itself <u>abuts</u> the park district. The dominant regional characteristic of the surrounding residential community is that of a "park district". This needs to be addressed in the DEIS.</p>
<p>2.0 Project Description</p> <p>2.1 Location</p> <p>2.1.2 Geographic Boundaries of the Project Site</p> <p>Page 2-3</p>	<p>Proposed site access is located approximately 880 feet west of Interstate 84 Ext 18. The project site's proximity to Interstate 84 would provide easy access for construction and delivery vehicles and store patrons while directing site generated traffic away from the residential streets to the west.</p>	<p>The Applicant states here that construction vehicles will access the site from I-84 but in other sections of this DEIS states specifically that local contractors will be accessing the site from local roads. As such, this is a false statement.</p> <p>Also, it is a false statement that site-generated traffic will be "directed away from the residential roads to the west". The Applicant is failing to concede here that patrons who live in the Lake Carmel Park District, Kent, and Carmel would enter and exit the project site from the west. The reality here is that ALL roads to the west of the project site are RESIDENTIAL roads because this project site borders the most densely populated lake community in Putnam County, Route 311 and Route 82, although major roadways, both about the shoreline of Lake Carmel and as such, are lined with homes which afford breathtaking views of Lake Carmel. As such, the Applicant's statement that site-generated traffic will be directed away from residential streets to the west is false.</p>

DEIS Index Info 2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-3	DEIS Text Excerpt	DEIS Commentary
2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-3	The Applicant intends to create a financially viable project that is compatible with the needs of the community and conforms to applicable zoning and land use regulations, including long-range plans for the area. The majority of the site is designated for industrial and commercial use. Its location at the crossroads of Interstate 84 and NYS Route 311, which is a major east-west thoroughfare in Putnam County, make the site appropriate for the size and type of development proposed. As indicated through the site's current zoning and in local plans, the project is consistent with plans and policies of local municipalities.	The reality here is that the Applicant has failed to design or scale back the project in ways compatible with the needs of the community which is why the majority of residents living within 3 miles of the site oppose the project. So let's not kid ourselves here - the proposed action is designed to be financially viable for the Applicant - period. An Applicant interested in creating a project compatible with the community's needs would propose viable lesser build alternatives and realistic alternative uses for the site in this DEIS. The alternatives the Applicant has put forth in this DEIS make a mockery of the SEQR process and indicate that the Applicant's only concern is HIS objectives and HIS "bottom line".
2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-3	Commercial use. Its location at the crossroads of Interstate 84 and NYS Route 311, which is a major east-west thoroughfare in Putnam County, make the site appropriate for the size and type of development proposed. As indicated through the site's current zoning and in local plans, the project is consistent with plans and policies of local municipalities.	The Applicant states here that the site is appropriate for the size of development proposed. This is incorrect - SEQR will determine whether the "size" of the project as proposed is appropriate for that site - it is not the Applicant's place to presume this. The Applicant also states that the zoning justifies the proposed action - again, although the zoning allows a retail use, it is SEQR which will determine whether or not the project is consistent with plans and policies and it's not the Applicant's place to presume this.
2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-3	Putnam County has experienced substantial residential growth in the past 20 years. This project would address the increasing public demand for commercial facilities by creating a regional retail center that would draw patrons from an approximately 20-plus-mile market area including surrounding towns and counties. The projected market area would be roughly bounded by northern Westchester County to the south, southern Dutchess County to the north, the Hudson River to the west and Fairfield County, Connecticut to the east.	The Applicant is over-stating the market area. This development will likely only draw patrons from a 10 mile radius. The reality here is that the retailers the Applicant is proposing for Patterson Crossing already have stores or a category competitor in Dutchess, Westchester, and Connecticut. A wholesale warehouse anchor at Patterson Crossing won't draw patrons from Dutchess, CT, or Westchester as these places already have their own warehouses: Costco Warehouse - Brookfield CT (21 Miles From Project Site) Sam's Club: Fishkill, NY (17 Miles From Project Site) Bj's Club: Weppingers Falls, NY 12580 (22 Miles From Project Site) Bj's Club: Yorktown Heights, NY 10598 (18 Miles From Project Site) Sam's Club: Elmford NY (40 Miles From Project Site)
2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-4	Finally, the design and layout of the project has been prepared in a manner that limits effects of the proposed project on adjacent neighboring residences through use of landscaped buffers, a 25 to 50 foot Reservation Area and appropriate fencing. Truck loading areas and an associated truck access route are located to the east of the proposed stores rather than on the sides of these structures that face residential properties to the west, whenever possible.	It is completely unacceptable for three truck loading areas for the "Kent buildings" to be situated adjacent to the residential community due to the adverse noise impacts from the trucks. The Applicant needs to change the site plan so that the truck loading area for the Kent buildings are located adjacent to I-84 (the same as the truck loading areas for the Patterson buildings).
2.0 Project Description 2.1 Location 2.1.3 Objectives of the Project Sponsor Page 2-4	A truck route is planned for the east side of the proposed buildings to accommodate deliveries. Placing truck access generally on the eastern side of the proposed development would also help to reduce noise from the project.	Not so. The Applicant designed truck access on the western side of the "Kent buildings". It is completely unacceptable to have a truck access route to the west of the Kent buildings due to the close proximity of the residential community. The truck access belongs on the other side of the Kent buildings so that residents will be less impacted by the truck noise.

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>2.2 Regional Setting 2.2.1 Existing Land Use &amp; Zoning</p>	<p>No excerpt.</p>	<p>Patterson's Comprehensive Zoning Plan imposes serious zoning incompatibility issues on the municipal border between Patterson and the Lake Carmel Park District. Patterson's zoning plan protects Patterson residents from adverse zoning-related impacts but fails to protect the Lake Carmel Park District residents from these impacts. This is wrong. There is a densely populated residential community abutting the Patterson Crossing project site, yet Patterson zoned this site industrially and permits a regional retail center use for the zone w/ no square footage caps to speak of. This poorly-conceived zoning enabled Paul Camerda to propose a grossly overvalued project for the site with enormous potential to irreparably degrade the Lake Carmel Park District community. Patterson Crossing should be denied as the project's adverse impacts are too severe and the Applicant has not made a valid case to support the existence of project benefits. A zoning amendment is warranted for this site to limit the scale and magnitude of adverse impacts that could result from development of these parcels.</p>
<p>2.6 Project Description 2.5 Design &amp; Layout 2.5.1 Structures Page 2-14</p>	<p>The proposed retail uses will offer a variety of goods and services ranging from food sales and convenience shopping to specialty products and big ticket electronic items such as televisions and computers. These uses, which are representative of uses that can be expected at the Patterson Crossing Retail Center, are based on conversations with prospective retailers and may change based on future circumstances.</p>	<p>There is no correspondence in this DEIS from any retailer the Applicant claims would be a tenant at Patterson Crossing. If the Applicant is promising, for example, a Costco then the Applicant should have a current letter from Costco in which the retailer expresses or reiterates their interest in becoming a tenant at Patterson Crossing. I don't think the Applicant should be claiming certain tenants are interested in this location when there aren't current letters of interest from these retailers in the DEIS - these letters should be provided.</p>
<p>2.6 Project Description 2.5 Design &amp; Layout 2.5.2 Parking Page 2-16</p>	<p>Screen walls have been proposed at each of the loading areas to limit direct line of sight of the loading spaces and delivery trucks with the exception of the loading area at the Coffee Shop. As the loading area for the Coffee Shop is perpendicular to the building, a screen wall would impede access. However, the final grade of the area between the northwest corner of this building and the residents to the west, along with the existing vegetation to remain undisturbed and the proposed fence and landscaping will effectively block this loading area from the adjacent resident's view.</p>	<p>I find it laughable that the Applicant screens this area from view as if the view was the problem and not the booming truck delivery noise residents feel from this loading area will hear at all hours of the morning, day, and night. This loading area shouldn't be on the west side of the buildings and should be designed for the opposite side of the buildings.</p>
<p>2.6 Project Description 2.5 Design &amp; Layout 2.5.3 Access Page 2-17</p>	<p>No sidewalks currently exist on NYS Route 311 in the vicinity of the project site and none are proposed. Marked pedestrian crossings will connect parking areas with sidewalks on the sides of proposed buildings abutting the parking areas.</p>	<p>If Patterson Crossing is intended as a retail destination for the surrounding Kent community, then why wouldn't the Applicant include sidewalks in the planning of this project on Route 311? The Lake Carmel residential community adjacent to this project site is literally a ¼ mile away from the site entrance. I would think that the Applicant would encourage pedestrian and bike access to the Patterson Crossing project site given that this development is literally proposed right on top of our residential community. If this atrocity of a project should get approved, I would think that residents living in the immediate vicinity should have the option of walking or biking to the project site rather than being forced to drive the ¼ mile to the entrance of Patterson Crossing. Granted, pedestrians would likely be killed by speeding traffic while walking over to Patterson Crossing but at least they'd get some fresh air before getting hit, right? Oh, that's right, I forgot. There won't be any fresh air left due to the thousands of additional cars and trucks the project will bring to the neighborhood daily! Too bad for Kent!</p>

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<p>2.0 Project Description 2.1 Design &amp; Layout 2.3.3 Access Page 2-17</p>	<p>connects to Echo Road. The proposed 12-foot wide emergency drive would split from the access drive just south of the property line, and connect with the parking area near the proposed wholesale warehouse store. The emergency access drive would be gated at both ends to prevent unauthorized use.</p>	<p>The emergency access road width requirements for a project of this type and scale should be detailed here. 12 feet is very narrow and considering the scale of this project, a 12 foot wide access seems too narrow to accommodate the massive amount of cars and trucks that would need to exit the site in an emergency evacuation scenario. Also, it should be stated here whether the applicable emergency service agencies have approved the suitability of Echo Road as a mass-evacuation transit route given that it is a narrow and steep road. The width requirements for Echo Road also need to be stated in this DEIS if it is to be used as an emergency exit so that we may know whether residential property would need to be taken by eminent domain for widening.</p>
<p>2.0 Project Description 2.3 Design &amp; Layout 2.3.4 Landscaping Page 2-17</p>	<p>At the western property line, between Brentwood Road and the existing telecommunications access drive, the landscaping plan shows evergreen plantings to provide an effective buffer screening for neighboring properties to the west. An eight foot high solid wood fence is also proposed along this stretch of the proposed "Preservation Area" to provide an additional visual barrier for neighboring residences. The evergreens will be planted on the Patterson Crossing Retail Center's side of the wooden fence. Additional details of the plantings</p>	<p>Since evergreen trees are being proposed as a viewshed mitigation for residents, the Applicant needs to state here how mature the trees planted will be. These trees should be of a sufficient height and cover to block residents' view of the big box store in their backyard. Residents should not have to wait a few decades for the trees to mature to get relief from the ugliness of big-box buildings. Also, the site owner should be at all times contractually obligated to keep these trees in good health and replace any trees that would die with trees of sufficient height and width to protect residents' viewshed.</p>
<p>2.0 Project Description 2.3 Design &amp; Layout 2.3.5 Water Supply Page 2-18</p>	<p>The uses proposed at the Patterson Crossing retail center were selected with the intention of limiting the water demand of the proposed development thereby limiting the amount of wastewater generated by the project. The uses that would require the greatest amount of water are the wholesale warehouse store and the coffee shop. Total water demand is projected to be less than 11,000 gallons per day.</p>	<p>It is silly for the Applicant to state he has chosen these uses to be sensitive to the water supply - this statement should be stricken from the DEIS. Also, the DEIS should give a better context of what water usage of 11,000 gallons per day means so that the figure can be understood by the average resident. For instance, the Applicant should state that the average home in this area uses "x" gallons of water per day. This way, those reading the DEIS will have a context in which to understand what 11,000 means to them and to our available water resources.</p> <p>Additionally, I'm not convinced by the data the Applicant has presented that a 11,000 gallon per day draw on the aquifer will have "no impact". Per my understanding, there was an aquifer study performed for Putnam County by Chazen Associates within the last few years. The Applicant does not discuss groundwater resources impacts in this DEIS within the context of this aquifer study. Additional research is needed here given the sensitivity of this area due to its close proximity to a densely populated residential area.</p>
<p>2.0 Project Description 2.3 Design &amp; Layout 2.3.6 Water Supply Page 2-18</p>	<p>Water supply for fire fighting purposes will be provided from a storage facility, consistent with the requirements of the proposed development and a request by the Patterson Fire Department. The water storage facility is proposed to have a capacity of 270,000 gallons in underground storage tanks located south of the wholesale warehouse building. An approximately 900 square-foot building would house the pumps and other equipment for this system.</p>	<p>The source for this 270,000 gallons of water needs to be stated here. Will this 270,000 be drawn from the project site? If so, will it be drawn all at once or in stages to minimize impacts to residents? Also, will this massive water supply be periodically "changed out" or replenished? If so, how often and where will the old water go and where will the new water come from? This large supply of water needs to be described in detail and the management of this water supply must be detailed here as well.</p>
<p>2.0 Project Description 2.3 Design &amp; Layout 2.3.6 Sewage Disposal System Page 2-18</p>	<p>There is currently no municipal sewer service at or near the project site. Because it is in the New York City watershed area, the project will utilize a subsurface treatment system compliant with NYCDEP watershed area requirements and those of the County Health Department. The proposed subsurface sewage treatment system is designed to treat a calculated flow of approximately 11,000 gallons per day and is proposed for the southern end of the project site between the gravel drive serving the cellular communications tower and the proposed emergency access drive. The subsurface sewage treatment system will be located at least 200 feet from the nearest residential property well to the west.</p>	<p>There is no discussion in this DEIS regarding the adverse impact of "odor" that will result from this massively-scaled sewage disposal system. Residents literally live feet from this sewage area. The odor of this septic area is a very serious issue that needs to be addressed in this DEIS.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.1 Construction Page 2-16</p>	<p>The development is expected to be constructed over a 24 to 36 month period with completion by 2010. Prior to the beginning of construction, a representative of the project sponsor will conduct a pre-construction conference with municipal and State representatives to review the provisions of the SWPPP and discuss their implementation. In general, underground utilities and drainage will be installed in the early phases and stormwater will be directed to the appropriate sediment basins throughout construction activities.</p>	<p>It seems unrealistic that a project of this scale and magnitude would be completed in a 2-3 year timeframe. I believe the Applicant is understating the construction period for this project since it is clear from the DEIS that construction-related impacts will be quite severe for the residential community located adjacent to the site. The Applicant must provide a realistic timeframe in which this project will be completed. It would seem that 5-7 years would be more accurate. The Applicant needs to provide case-study data from similar development projects to estimate the time of completion for this project. Stating that the project will be built from start to finish in 2-3 years is just not going to happen.</p>
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.1 Construction Page 2-22</p>	<p>Truck traffic will be generated initially during the mobilization of activities to clear the site and install roads and infrastructure, and later as the retail buildings are built, to bring in supplies including concrete, steel, framing materials and related building materials. Construction truck traffic would access NYS Route 311 from Interstate 84 and travel 850 feet to the project site entrance on the state road except for local contractors. As a result, it is expected that heavy construction truck traffic would not travel local roads to reach the site. This should minimize road damage and limit impacts on the Town's roads resulting from construction vehicles. The number of truck trips generated per day during construction will vary depending upon the phase and pace of construction. The grading plan has been designed to closely balance earthwork thereby limiting trucks moving materials on- or off-site.</p>	<p>The Applicant says "except for local contractors". We need to have an understanding of the type of truck volume we would be dealing with. How many trucks can we expect? Which routes will they use to access the site? How will this impact traffic flow? And we need to understand exactly how long we can expect this construction generated traffic. How many years?</p>
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.1 Construction Page 2-22</p>	<p><b>Dust Suppression</b></p> <p>Construction-generated dust will be controlled by the following procedures: i) minimizing the extent of soil left unvegetated at any one time; ii) using fast-germinating seed with mulch or other temporary soil cover; iii) spraying water on unpaved areas and areas of construction traffic when needed; and iv) covering construction vehicles used to transport soil.</p>	<p>How else will water be used during the construction phase? And how much water usage are we talking about here during the construction phase? The Applicant includes no discussion whatsoever in this DEIS regarding the gallons-per-day water usage during the construction phase. This is completely unacceptable given this site's proximity to a densely populated residential community with a long history of water and well problems. The construction phase of this project would go on for many years. This DEIS must have a study which quantifies the estimated daily water usage on this site during the construction phase.</p>
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.2 Operation Page 2-24</p>	<p>Tractor trailer deliveries may be scheduled after store hours. For this reason, loading areas and the truck route to them have been placed on the east side of the proposed buildings where possible, away from the nearest residences located to the west.</p>	<p>The truck loading areas for the Kant buildings are not on the "east" side, they are on the west side. Given the coffee shop would be in Kant, residents can expect early morning delivery truck noise. This is unacceptable. There are no noise mitigations proposed to protect these residents from truck delivery noise.</p>
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.2 Operation Page 2-24</p>	<p><b>Equipment and Material Storage/Shipping Areas</b></p> <p>Construction equipment will be brought to the site at the initiation of clearing and grubbing and will include backhoes, backhoes and excavators, dump trucks and ancillary vehicles that will be used to clear, grub and rough grade the site, install temporary sediment basins, permanent sediment basins, utilities and building pads and foundations. It is expected that such equipment will be brought to the site and remain on-site until the work is completed.</p>	<p>On page 2-21 it says and I quote: "Construction equipment will be restricted to those areas planned for development to reduce the impact on the site and wooded areas to be undisturbed". However here it says that all equipment that is brought to the site will remain on the site. Which is it?</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>2.0 Project Description 2.4 Construction &amp; Operation 2.4.2 Operation Page 2-25</p>	<p>Anticipated Number of Employees</p> <p>It is anticipated that the majority of the construction-related workers at the site will come from the Towns of Patterson and Kent and other municipalities in the immediately vicinity. The Patterson Crossing project is expected to generate up to 151 person-years of construction employment.</p> <p>At full operation, it is estimated that future businesses at the proposed development will employ approximately 516 people. Post-construction employment opportunities provided by the proposed retail development would include local part- and full-time positions that do not currently exist in this area.</p>	<p>The Applicant states the majority of the construction workers will be local contractors from Kent and Patterson. Hence, the Applicant is conceding that the majority of construction truck traffic will be using our local roads to access the site rather than I-84. So, how many contractors does "151 person-years" equal so we can understand the construction-phase truck traffic impact? Elsewhere in the DEIS (Executive Summary), the Applicant contradicts himself on this point by stating: "Construction truck traffic would access Route 311 from I-84 and travel 860 feet to the project site entrance on the state road except for local contractors. As a result, it is expected that heavy construction truck traffic would not travel local roads to reach the site thereby minimizing road damage and limiting impacts on town roads". Hence, when the Applicant wants to understate the traffic impact he says the traffic will come from I-84...when the Applicant wants to overstate the employment benefits he says the majority of contractors will be local. The Applicant "flip-flops" like this all over the DEIS.</p>
<p>3.0 Economic &amp; Social Benefits 3.1 Benefits of the Proposed Action 3.1.1 Economic Page 3-1</p>	<p>No excerpt.</p>	<p>The Final Scope requires that the Applicant include the following in this DEIS: "Discuss the expected, or anticipated costs of services and tax revenue generated by completed project for Patterson, Kent, Putnam County and Carmel Central schools". The Applicant's discussion and analysis of project-generated economic impacts in this DEIS is pathetic. The Applicant has failed to quantify any costs relative to this development as it relates to services as required in this Final Scope. This is unacceptable because it prevents one from being able to appropriately weigh expected benefits against anticipated impacts. A supplemental economic impact study is needed to provide a full financial picture inclusive of every project-generated cost w/ respect to the state of NY, Putnam County, Kent, Patterson and also the Lake Carmel Park District. The supplemental economic impact statement must include various budget data for the county, municipalities, and the Lake Carmel Park District so that any anticipated revenues from Patterson Crossing can be weighed in their appropriate budgetary context.</p>
<p>3.0 Economic &amp; Social Benefits 3.1 Benefits of the Proposed Action 3.1.1 Economic Overall Tax Revenue Page 3-1</p>	<p>The Patterson Crossing Retail Center is projected to generate overall tax revenues (sales tax combined with property tax) in the range of \$14.7 to \$17.4 million annually. Putnam</p>	<p>Where is the evidence that supports this amount of tax revenue being generated? I see no source data in this DEIS nor do I see an explanation of the methodology used to calculate these revenue projections. The Applicant must not claim revenue projections without providing data to support them. A supplemental economic impact statement is needed which should include a detailed analysis of how the retail sales projections for this project were calculated and how the corresponding sales tax revenue projections were arrived at.</p>
<p>3.0 Economic &amp; Social Benefits 3.1 Benefits of the Proposed Action 3.1.1 Economic Overall Tax Revenue Page 3-1</p>	<p>tax combined with property tax) in the range of \$14.7 to \$17.4 million annually. Putnam County's share of the projected combined tax revenues (sales and property) will range from just over \$8.2 to more than \$7.4 million annually. This is a significant amount of capital that will be available to a County that has recently cut 30% from the budgets of outside agencies providing services to the county and has called for residents to pay an additional 10% in property taxes to cover the County's proposed budget'. In addition, the Carmel Central</p>	<p>The Applicant has failed to provide budgetary data for Putnam County to allow one to assess what the generation of this revenue actually means within the context of the county budget. The "proposed" 2006/2007 Putnam County budget is approximately \$121 million (this is likely to be substantially larger once adopted in October 2006). The Applicant should state in the DEIS that the newly proposed 2006/2007 Putnam County budget relies on sales tax revenue for 36% of the county budget. According to reports from the NY State Comptroller, Putnam County's reliance on sales tax for revenue ranks 3rd out of 67 counties (the average county has sales tax reliance of 28%)! The NY State Comptroller warns that heavy reliance on sales tax as a revenue source is imprudent given that market conditions can make this revenue source vulnerable. Putnam County will likely be relying on sales tax for over 40% of the budget in 2006/2007, a substantially larger reliance than the majority of the other counties in NY. This project is not fiscally prudent given it would cause our county to rely on sales even more than we do now.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Overall Tax Revenue</p> <p>Page 3-1</p>	<p>Just over \$6.2 to more than \$7.4 million annually. This is a significant amount of capital that will be available to a County that has recently cut 30% from the budgets of outside agencies providing services to the county and has called for residents to pay an additional 10% in property taxes to cover the County's proposed budget'. In addition, the Carmel Central School District stands to benefit from roughly \$600,000 annually in estimated property taxes to be generated by the proposed project. Finally, it is projected that New York State will</p>	<p>The Applicant must not state this tax revenue will be "available for the county" because the Applicant has not performed a valid cost analysis for the Patterson Crossing project in this DEIS. Based on this DEIS, we have no idea whether ANY revenue will be available for our county because we don't know what the Patterson Crossing project will COST the state, the county, our towns, and the Lake Carmel Park District.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Overall Tax Revenue</p> <p>Page 3-1</p>	<p>property taxes to cover the County's proposed budget'. In addition, the Carmel Central School District stands to benefit from roughly \$600,000 annually in estimated property taxes to be generated by the proposed project. Finally, it is projected that New York State will</p>	<p>The Applicant has failed to provide budgetary data for the Carmel Central School District which would allow one to be able to assess what the generation of \$600,000 in school taxes actually MEANS within the larger context of the entire budget. The 2006/2008 Carmel Central School Tax Budget was over \$92 million. This fact needs to be included here to underscore that \$600,000 is a pathetically small financial contribution given the enormity of the budget. The Applicant should also be required to outline the Carmel Central School District budget history for the last 5 years to demonstrate the trends in budget increases. Each year, our school tax budget has been increasing by several million dollars annually. Hence, a \$600,000 (less than 1% of the budget!) school tax contribution is not a contribution that could prevent school tax increases since the budgets increase many millions every year. I would like to note here that this project's meager compensation of \$600,000 annually in school taxes is most certainly not a justification for the destruction of the Lake Carmel Park District.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Overall Tax Revenue</p> <p>Page 3-1</p>	<p>property taxes to cover the County's proposed budget'. In addition, the Carmel Central School District stands to benefit from roughly \$600,000 annually in estimated property taxes to be generated by the proposed project. Finally, it is projected that New York State will</p>	<p>Again, the Applicant must not state that our schools "stand to benefit" from anything when the Applicant has not performed a valid cost analysis for the Patterson Crossing project in this DEIS. Based on this DEIS, we have no idea whether ANY revenue will be available for our schools because we don't know what the Patterson Crossing project will COST the county or our towns.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>Projected Project Generated Sales Tax Revenue</p> <p>Page 3-4</p>	<p>In addition, the proposed project would support the County's "Shop Putnam" Initiative. Through this initiative, residents are made aware of the goods and services available to them through businesses throughout the County. As part of the initiative, the website ShopPutnamToday.com encourages citizens to patronize Putnam County businesses by providing a convenient source of information on locally available goods and services. The Putnam County Economic Development Corporation's website states that "Shopping locally helps our County's economy by supporting local businesses and creating jobs, especially for young people and senior citizens. It also keeps our sales tax dollars working for us by providing the revenue necessary to provide vital services while keeping sales and Real Property tax rates low." The proposed action would provide short and long-term employment opportunities, expand the number and types of goods available locally and provide a substantial amount of money to the County in the form of tax revenues all of which are in-line with the County's initiative.</p>	<p>Patterson Crossing, according to various economic studies, will actually not be beneficial to the "Shop Putnam" initiative since many of our local small businesses will be put out of business by Patterson Crossing's big-box stores. I have included numerous studies in the Appendices of these written comments which clearly demonstrate the adverse impact of big-box development on the small business economy.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>Projected Project Generated Sales Tax Revenue</p> <p>Page 3-4</p>	<p>To project future sales at the proposed development, average sales per square foot for various shopping centers around the county were reviewed based on data compiled by the International Council of Shopping Centers. Given the likely tenants for this project, the range of sales per square foot of retail space is projected to fall between \$500 and \$600. Annual sales at the proposed development based on these rates would thus range between \$200 to \$240 million.</p>	<p>SEQR requires a DEIS to include a level of detail directly proportional to the scale and magnitude of the proposed action. The over-implication of this sales revenue projection is actually quite absurd. The Applicant needs to do much better here. A thorough discussion of ALL FACTORS that will have an "offsetting" effect on this project's revenues must be included in this DEIS. For instance, we need to know all state, county, town, and park district costs which will offset any revenue benefit from this project. Also, a large portion of revenue generated at Patterson Crossing won't be "newly generated revenue" but will be revenue that has been siphoned from an existing competitor in the area. Another offsetting factor is that many small businesses will exit the market because they can't compete with a big-box conglomerate - the result of this is loss of the revenue that small businesses were adding to the economy. A supplemental economic impact statement must be prepared to truly determine whether Patterson Crossing will yield "net economic benefit" to our community when all offsetting factors are considered.</p>

**DEIS Index Info**

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.1 Economic  
 Projected Project Generated Sales Tax Revenue  
 Page 3-4

**DEIS Text Excerpt**

A portion of the annual sales at the proposed 145,000 square foot wholesale warehouse center would be exempt from sales tax. The proposed wholesale warehouse center sells many items, including various food products, beverages, health supplements, drugs and medical supplies which are exempt from sales tax in New York State. Based on information provided by a similar tenant, which currently operates 13 warehouse centers in New York, approximately 35 percent of their total sales are exempt from sales taxes. This would equate to roughly 12 percent of the total sales of the shopping center.

**DEIS Commentary**

The Applicant has failed to make any reference in this DEIS to the NY State sales tax exemption on clothing and footwear adopted in April 2006. Costco, the sporting goods store, the clothing store, and potentially the other "unnamed" stores at Patterson Crossing will sell clothing and footwear. Per my understanding, clothing sales account for around 10-15% of annual sales at Costco. Clothing and footwear account for over 50% of annual sales at Sports Authority per their 2005 10-K. The Applicant needs to perform an analysis of Patterson Crossing's projected retail sales by "category" to identify how much of the revenue will be generated by clothing and footwear sales. Accordingly, the Applicant must adjust the sales tax revenue projections to account for these sales tax exempt items.

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.1 Economic  
 Projected Project Generated Sales Tax Revenue  
 Page 3-6

Jurisdiction	Tax Rate	Annual Sales \$178 M Taxable Sales \$178 M	Annual Sales \$240 M Taxable Sales \$211 M
New York State	4.0%	\$7,040,000	\$8,440,000
Putnam County	3.8%	\$6,180,000	\$7,380,000
MGTD	0.375%	\$680,000	\$790,000
TOTAL		\$13,900,000	\$16,610,000

Prepared by: Tim Miller Associates, Inc., 2005

This table is all that is provided by the Applicant to show the financial impact of this project. This is just not good enough for the scale and magnitude of this project. We need to see the full financial picture.

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.1 Economic  
 Projected Project Generated Sales Tax Revenue  
 Page 3-6

Of the \$13.9 to \$16.6 million in sales tax revenue that would be generated to the aforementioned taxing agencies, at 3.5 percent, Putnam County would realize \$6.2 to \$7.4 million annually. New York State's share of the sales tax revenues estimated to be generated by the project would range from \$7.0 to \$8.4 million. A certain amount of those taxes would not be net income to Putnam County or New York State as some of those sales are already taking place at existing establishments either in the County or in the State. It is not known what the actual net increase may be as the spending patterns of persons in the trade area of the proposed shopping center are undocumented. It is projected, however, that the majority of sales taxes generated by the project will represent a net increase to taxing jurisdictions. The MGTD's 0.375% share of the overall sales tax revenues range from \$660,000 to \$792,000 per year.

This is one of my favorite paragraphs in the DEIS as the Applicant freely admits that he doesn't know much at all regarding the financial impact of Patterson Crossing. Here, the Applicant admits that his revenue projections in prior paragraphs may not be "net income" because sales that take place at Patterson Crossing will take place at the expense of a local competitor. Then the Applicant says that he has no clue whether Patterson Crossing will generate "new" sales since a consumer spending study for our area has never been performed. Laughably, the paragraph closes with "It is projected, however, that the majority of sales taxes generated by the project will represent a net increase to taxing jurisdictions". Classic Camarillo! The Applicant just finished saying he has no research available to determine if there will be net economic benefit and in the next breath claims the project will yield net economic benefit! The bottom line here is there is no data in this DEIS which would indicate this project would yield net economic benefit to our state, county, or towns.

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.1 Economic  
 Projected Project Generated Sales Tax Revenue  
 Page 3-6

It should be noted that the projected property and sales tax revenues are estimates as some of the actual uses and future tenants at the center are not known at this time. The actual tax revenue generated by the proposed development may vary from the figures presented above based on the manner in which the property is actually developed and assessed.

Here's the disclaimer: "Oh, by the way...this data might not be correct". I am also concerned by the statement "based on the manner in which the property is actually developed and assessed". Is the Applicant admitting here he might not be around to develop the property? If the Applicant gets a project approval, can we expect the Applicant to "tip" this property as he has done with his other projects? This would certainly explain why the Applicant has not made himself accountable for mitigating any of the project-related impacts. Rather, he has pushed accountability onto other parties.

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.1 Economic  
 Cost of Services Generated By The Project  
 Page 3-6

connections to existing municipal infrastructure. Increased need for roadway maintenance would be limited due to the nearby direct highway access of the project. Because most of the traffic generated by the project would travel on Interstate 84, State routes or County roads (see Chapter 4-6), the potential wear and tear and added maintenance on local town roads as a result of the project is not expected to be significant. A portion of the tax revenues collected by Patterson and Kent can be used by the local highway departments for maintenance of local roads.

The Applicant's extensive project-generated traffic infrastructure modifications as described in this DEIS have the potential of costing 10s of millions of dollars. I fail to understand how this type of expense would be deemed a "minimal" expense. The Applicant needs to provide a detailed cost analysis of this project's traffic modifications in a supplemental traffic impact study or a supplemental economic impact study. Further, the general "maintenance" costs the Applicant references here need to be itemized and quantified in dollars given the Applicant is conceding this will be a taxpayer expense.

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Cost of Services Generated By The Project</p> <p>Page 3-6</p>	<p>There would be no cost to the Carmel Central School district because the proposed commercial development would not result in an increase in the number of school-aged children. In addition, the project would generate more than \$550,000 in annual taxes for the school district. This revenue would benefit all tax payers within the school district.</p>	<p>This benefit will benefit all taxpayers within the school district. How exactly? The Carmel Central School District budget is \$62 million dollars! What benefit does \$550,000 translate to within the context of a school budget that is \$62 million dollars? When you weigh this \$550,000 pittance against the project costs and impacts, there is no benefit!</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Cost of Services Generated By The Project</p> <p>Page 3-6</p>	<p>As described in Chapter 4-11, police protection in the Town of Patterson is provided by the County Police or New York State Police. It is expected that routine patrols of the property by these police forces would occur when the project is operational and one or both forces would respond to emergency call situations at the completed development site. The provision of police services by the County and State would not have a direct cost on the Town of Patterson. However, there will be taxes generated by the project to both State and County coffers that would cumulatively accommodate growth in the service areas of the police.</p>	<p>The Applicant is not stating the facts here. Police services for the Patterson Crossing project site will be handled by the "closest car concept". The police agency that has the closest car to the site at the time of the police call will be the agency who handles the police call. By default, the Kent Police will likely handle the majority of police calls given their station is 1.5 miles from the project site. The Kent Police will be the police agency most impacted by the project.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.1 Economic</p> <p>Cost of Services Generated By The Project</p> <p>Page 3-6</p>	<p>The Town of Kent has its own police force that could potentially respond to situations at the project site entrance on Route 311 located in the Town. A portion of one of the building pacts falls within the Town of Kent. However, it is not known to what extent the Kent Police would patrol this portion of the project site, as it is only accessible by traveling through the Town of Patterson.</p> <p>Also, as the vast majority of the proposed building space is within the Town of Patterson, it may be inefficient for the Town of Kent Police to provide police services to a small portion of the proposed development. As such, it is likely that the County and State Police would provide police services within the development site and that the project would generate minimal demand on the Kent Police Department.</p>	<p>The Applicant is understating the impacts which will be imposed on the Kent Police. The police agencies involved here don't get to "choose" who responds to calls at this project. The police agency that must respond to calls is the closest officer to the site at the time of the call. Given the Kent Police station is 1.5 miles from the site, this agency will by default have to respond to the majority of project-generated calls. Given that it is well-documented that retail centers increase police calls exponentially, we can expect that there will be a severe impact on the Kent Police. The Applicant must provide detailed data on how many calls per year will be generated by the project so that the impact on the Kent Police can be properly assessed. This impact needs to be translated to dollars in terms of the cost of additional resources for Kent Police.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.2 Environment</p> <p>Page 3-7</p>	<p>The project will also reduce travel time, mileage and fuel consumption for local residents that currently travel long distances to shopping centers out of the county or state. The proposed project will benefit local residents by providing them with a wider variety of retail offerings than currently exists in Putnam County, precluding the need for them to travel long distances for comparative shopping and selection of goods that are currently available only in surrounding counties. This could potentially result in a significant reduction in vehicle miles traveled (VMT), resulting in lower vehicular emissions at the regional level, and a significant gas and time savings that would enhance quality of life for these residents. For local households in the Towns of Kent and Patterson that might shop at the future Patterson Crossing Retail Center on a weekly basis instead of traveling to major retail stores in surrounding counties, the reduction in distance traveled one way would be 10 to 15 miles with a corresponding reduction in the annual VMT of 6% to 8%. With high gasoline prices in the region and the potential for prices to rise in the future, a savings of over \$150 per year per household in fuel costs could be realized assuming an average vehicle performance of 20 miles per gallon. This is based on a typical annual household VMT of approximately 18,400 miles per year.</p>	<p>This whole paragraph is really quite a stretch. The Applicant implies that residents are traveling long distances to shop because we can't find what we need locally and implies we'll all drive less if Patterson Crossing is built. Silly. First off, 75% of Putnam residents travel an average of 45 minutes EACH WAY to work. Mon-Fri as Putnam has few high-paying jobs for its professional and educated residents. Whether Patterson Crossing is built or not, residents will STILL be traveling 45 minutes each way to work! I hate to break it to the Applicant, but the reason most residents don't shop locally is because we're not in the county enough to shop here! We spend 1.5-2 hours in a car each day and 8 hours making a living. It's a no-brainer that Putnam residents tend to spend disposable income outside the county because it's more convenient for us to shop and do our errands where we work. To state that a \$150 savings per year could be realized is ridiculous. I commute 2 hours a day to work which translates to fuel costs of about \$300 per month. Patterson Crossing can't save me \$ as it can't offer me a high-paying job close to home.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.3 Social</p> <p>Page 3-7</p>	<p>local employment, and spin-off sales at local establishments. These revenues would be available for County public projects and programs, such as parks and open space preservation, and social service programs, resulting in an enhanced quality of life for county residents.</p>	<p>As a resident of the Lake Carmel Park District, I will be forced by this project to accept a severely diminished quality of life as will the thousands of other residents in my community. So let me get this straight. The Applicant's Patterson Crossing will cause the destruction of the Lake Carmel Park District community so that this project's alleged revenues will preserve open space elsewhere, improve parks elsewhere, and to enhance the quality of life of residents elsewhere?</p>

<p><b>DEIS Index Info</b></p> <p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.3 Social</p> <p>Page 3-7</p>	<p><b>DEIS Text Excerpt</b></p> <p>Demographic data, market surveys, (refer to Section 4.12 herein) as well as local municipal policies articulated in local and county comprehensive plans all support the need for the proposed project. Moreover, no retailer will make the investment to locate to a particular site without substantial and strong market demographics and sales potential that support such an investment.</p>	<p><b>DEIS Commentary</b></p> <p>Putnam County experienced a \$3 million sales tax revenue shortfall this year. The consumer has spoken by "closing their wallets" in this tough economy. Hence, I would say that it's clear that a retail center of regional proportions is currently not needed in this area. I'd like to note here that this sales tax revenue shortfall is the very reason why NY State Comptroller Hevesi warns that no county should rely on sales tax revenue as a source of income for more than 25% of their budget. - this revenue source is extremely vulnerable to market conditions. Our county should not be committing to actions like Patterson Crossing which increase our reliance on sales tax when we are already relying on sales tax revenue to cover 40% of our budget. 40% is well above the average percentage of reliance on sales tax for other counties in our state.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.3 Social</p> <p>Page 3-9</p>	<p>development that is appropriate for large scale non-residential development. It should also be noted that the Executive Board of the Patterson Chamber of Commerce, an organization comprised of local businesses in the Town of Patterson and organized to advance the business, professional, commercial, industrial, civic, and general residential interests of the Town of Patterson, has also indicated its support for the proposed Patterson Crossing Retail Center project.</p>	<p>Regarding the Patterson Chamber of Commerce - I would say that this organization's credibility is highly questionable given their un-Constitutional actions this summer relative to the handling of a resident who was distributing anti-Patterson Crossing flyers in front of the Patterson A&amp;P. The PCoC's endorsement of Patterson Crossing is hardly a credit to the Applicant given this organization's poor reputation in the community.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.4 Employment</p> <p>Existing Employment Conditions in The Area</p> <p>Page 3-10</p>	<p>Of the 4,145 workers in Patterson who reported their place of work in the 1990 Census, 82 percent worked in Putnam, 82 percent worked in other New York locations, such as White Plains or Manhattan, and 16 percent worked out of state, presumably in nearby Danbury, Connecticut, or other Fairfield County locations. This is similar to the destinations of workers throughout Putnam County. The average commute was 33 minutes for Patterson workers and the majority travel to work by car.</p>	<p>Why is a 1990 census being referenced here when there was a census performed in the year 2000? The Applicant must update this information with the most current data. The percentage of Putnam residents working outside the county is close to 80% and the average commute time one-way is close to 45 minutes. I'm also confused as to why employment data is provided for Patterson only. The Applicant should be providing employment data for Kent as well and I would say for Putnam County at large considering the Applicant claims Patterson Crossing's jobs are needed by all Putnam County residents. Additionally, I am confused as to why in a section about existing employment conditions Putnam County's current unemployment rate wouldn't be cited. Perhaps this number is not cited because the current unemployment rate in Putnam County is 3.6%, one of the lowest rates in the entire state! According to Putnam's unemployment rate, Patterson Crossing's jobs are just not needed, not to mention the fact that low-paying jobs like those that would be offered at Patterson Crossing would never meet the financial needs of a Putnam resident due to our cost of living.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.4 Employment</p> <p>Post-Construction Employment Opportunities</p> <p>Page 3-11</p>	<p><b>Post-Construction Employment Opportunities</b></p> <p>In addition to convenience and tax benefits, the project would also generate a variety of employment opportunities. It is estimated that upon completion and full operation, future businesses at the proposed development will employ approximately 516 employees. These jobs would represent a sizable increase in employment in the Towns of Patterson and Kent and in Putnam County, providing local part- and full-time employment opportunities that do not currently exist in this area. Potential beneficiaries of these new jobs would include younger workers such as high school students and seniors. The part-time job opportunities would also provide jobs for those recently unemployed as they transition to other full-time employment. According to information from the NYS Department of Labor, a total of 22,850 people were employed within Putnam County in July, 2002. The projected distribution of employment within the proposed development is shown in Table 3-6.</p>	<p>As stated above, with an unemployment rate of 3.6% in Putnam County, the "creation" of 516 low-paying jobs isn't a benefit to Putnam County or our towns. Since the Applicant is stating that "young people" would be employed at Patterson Crossing, the hiring practices of anticipated retailers need to be discussed in this DEIS so we can know for sure whether these retailers would employ young adults under the age of 18. Many big-box retailers do not offer employment to those under 18.</p>
<p>3.0 Economic &amp; Social Benefits</p> <p>3.1 Benefits of the Proposed Action</p> <p>3.1.4 Employment</p> <p>Post-Construction Employment Opportunities</p> <p>Page 3-11</p>	<p>Long term employment opportunities would be created on the project site for retail and service workers. These jobs would include sales positions, stock positions, managerial positions, coffee shop workers, maintenance workers and administrative positions. Salaries would range from moderate income sales positions and administrative positions to lower paying full time jobs, including clerks and stock personnel, janitorial staff, and service staff. Part time jobs such as some sales clerk positions would provide an employment benefit for local seniors and youth that often seek this type of employment exclusively. The U.S. Department of Labor Bureau of Labor Statistics indicates that non-supervisory retail industry workers earned an average of \$12.26 per hour in February 2005. For the leisure and hospitality industry, the average hourly wage was \$9.03 in February 2005.<sup>1</sup></p>	<p>I live in Putnam County. I could never afford to live on a wage of \$9 - \$12 per hour. I would like to note that the Brewster Highlands retail center is in a perpetual state of hiring for the very same types of jobs Patterson Crossing would offer. The Brewster Highlands retail center is 4 minutes from the Patterson Crossing project site. I fail to understand how the Applicant can imply that retailers will find employees in the Putnam County employee pool when the Brewster Highlands cannot find employees in the Putnam County employee pool.</p>

**DEIS Text Excerpt**

**DEIS Index Info**

3.0 Benefits & Social Benefits  
 3.1 Benefits of the Proposed Action  
 3.1.4 Employment  
 Post-Construction Employment  
 Opportunities  
 Page 3-11

Use	Intensity	Employees
Coffee Shop	4,750 SF	9 employees
Retail Store	10,200 SF	10 employees
Retail Store	13,700 SF	14 employees
Home Goods Store	24,800 SF	25 employees
Clothing Store	20,000 SF	20 employees
Sporting Goods Store	22,200 SF	23 employees
Electronics Store	30,000 SF	30 employees
Home Improvement Store	135,200 SF	200 employees
Wholesale Warehouse Store	145,000 SF	165 employees
<b>Total</b>		<b>518 employees</b>

Source: "Based on information provided by Energy Information Administration (www.eia.doe.gov) for the Food Services Industry. Number of employees for the Wholesale Warehouse store and the Home Improvement Store is based on information provided by industry sources. Number of employees (1,000 per square foot per worker) for the remainder of the proposed retail uses are based on research conducted by the Energy Information Administration."

4.3 Traffic & Transportation  
 Improvement Measurements  
 Overall Benefits  
 Page 4.8-47

The traffic signal analysis includes key aspects of signal timing including short cycle length and queue management. Short cycle lengths on the signals are important in maintaining the short queue lengths on NYS Route 311 between the Interstate 84 ramps. Queue management is as important as level of service when considering volume at an intersection. Priority needs to be given to the westbound off ramp traffic to avoid the potential of backing traffic up onto Interstate 84 through lanes. This ramp would have green time priority over the NYS Route 311 southbound approach to the intersection. As the volume of traffic on the ramp is expected to increase faster than the NYS Route 311 traffic traveling from Patterson, capacity on NYS Route 311 will need to be reduced to compensate for increases in ramp volumes. The purpose of adding traffic signals to NYS Route 311 is to shift capacity from NYS Route 311 to the side streets. The increased capacity for the minor street, permits the minor street traffic to enter NYS Route 311 more easily.

4.3 Traffic & Transportation  
 Improvement Measurements  
 Overall Benefits  
 Page 4.8-47

Overall Benefits

Network improvements will reduce delays to acceptable levels. The project is anticipated to capture trips passing by on Interstate 84 currently destined for other shopping opportunities. The project is also expected to capture commuter trips passing the site during the p.m. weekday commute and capture Saturday trips of local residents that might otherwise have left the Town, County, and/or state for other shopping opportunities. This will reduce the number of longer distant trips currently taken by local residents.

**DEIS Commentary**

This table doesn't detail how many of these positions are full-time versus part-time. The table should break out part vs full time to adequately illustrate the "job opportunities" at Patterson Crossing.

The purpose of adding traffic signals to Route 311 is to shift capacity from Route 311 to our side streets? But throughout this DEIS the Applicant said there would be no impact to local roads! This is simply unacceptable.

"Network improvements will reduce delays to acceptable levels"? The Applicant's project will be adding thousands of vehicles per hour to our roadways. It is unacceptable for the Applicant to state that these traffic modifications will yield a benefit to the community when all we'll get for spending millions of dollars is thousands more cars per hour and a minimum level of service from our roadways. These traffic infrastructure modifications are not being planned to benefit the community, they are being planned to accommodate a grossly oversized development at an inappropriate location. No traffic agency has given any indication these infrastructure changes are even feasible! The Applicant needs to come back from fantasy-land and give us concrete data. We need a supplemental traffic impact study that is the result of extensive consultation with all the appropriate traffic authorities. A project of this scale and impact can't be approved without a thorough analysis of the traffic infrastructure modifications and the cost of this infrastructure.

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
4.18 Cultural Resources	No excerpt.	<p>The Applicant doesn't address the existence of the Lake Carmel Park District in this DEIS, and hence has not even acknowledged there will be any impact resulting from building a massive-scale regional retail center in such close proximity to our park district lake community. The character of the park district community is rural, quiet, and geared toward "recreational" county living. The Lake Carmel Park District is a significant cultural resource and is one of Kent's most prized aesthetic resources. Lake Carmel is the focal point of most of our community's gatherings, festivals, and daily recreational activities and is a 1/2 mile from the Patterson Crossing project's entrance.</p>
4.18 Cultural Resources	No excerpt.	<p>A massive traffic volume increase from Patterson Crossing will impede residents' ability to access Lake Carmel in the ways they have always done and are accustomed to doing (on foot, on bikes). It is clear from this DEIS that project-generated traffic will create an unsafe pedestrian situation on Route 311 and it will no longer be safe (or possible) for residents and their children to traverse Route 311 to access the lake. Those living in a park district should have unimpeded access to their lake given they pay taxes to the park district to enjoy the lake's amenities. A project that will degrade the rural character of the park district, create traffic on local roads so severe that it will impede residents' access to their lake isn't a project that is appropriate to build on the border of a park district. The park district itself is a valuable quality of life resource to thousands of residents who live in the park district. Patterson Crossing as planned cannot co-exist with the Lake Carmel Park District without degrading the park district.</p>
4.18 Cultural Resources	No excerpt.	<p>The influx of thousands of patrons from various parts of the county has the potential to degrade quality of life for residents of the park district. Bringing "strangers" into this area will "ruin" the beauty of our park district to those who may not have realized the park or the lake existed. This will lead to non-residents encroaching on the park district. The Applicant has not addressed this issue in the DEIS from a quality of life standpoint or from a park district service cost standpoint. How will the park district monitor and address such problems? How much more is it going to cost the park district to monitor and enforce the local rules we have in place to deal with non-residents using our lake? To what extent will our community be degraded by the invasive nature of crowds passing through? The beauty of our community is in plain view from Route 311 and Route 52 where thousands more people per day will travel in order to get to Patterson Crossing. Without question, this beauty will draw thousands of strangers to our lake-side which is an enormous imposition on park district residents.</p>
4.18 Cultural Resources	<p>change to the visual character of the site. The four buildings are proposed to be situated on the east side of the property along the Interstate 84 frontage such that they will be visible from the highway. Parking and most circulation will occur west of the buildings and out of</p>	<p>The Applicant has designed Patterson Crossing to be as conspicuous as possible from I-84 with no regard that doing so will degrade and "cheapen" the landscape with big-box stores. I believe Richard Williams in one of his SEQR Completeness reviews made note that he had concerns that the Applicant's building layout was insensitive to adverse visual impacts from I-84 yet the Applicant did nothing to address the planner's concerns on this. Brewster Highlands is an eye-sore at Exit 16. The Applicant's "marketing needs" for Patterson Crossing should not take precedence over Kent and Patterson's need to maintain the "rural character" of the Route 311 corridor and the surrounding Lake Carmel Park District and Patterson communities.</p>
4.18 Cultural Resources	<p>view from points east. Portions of the parking areas and the buildings beyond may be visible from residential properties immediately to the west and from public roads in the vicinity including Concord Road and the easternmost ends of Echo Road and several other roads.</p>	<p>"MAY" be visible from residential properties? Residents will see the parking lots, will see the access roads, and will see the buildings. There is no "may" in this situation.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
4.13 Cultural Resources 4.13.2 Visual Resources NYSDEC Guidance On Assessing Visual Impacts Page 4.13-5	No excerpt	<p>However "attractive" Exit 18 might be to developers for commerce, we cannot allow any party to exploit our community for financial gain while completely disregarding the community's character and values. We must not lose sight of the fact that Exit 18 is the "entrance" into the Kent/Lake Carmel Park District/Patterson communities and any project (if any) we allow on this site must embody the character of the surrounding communities. The Applicant shows no regard whatsoever to the sensitivity of this site in terms of the impacts it would have on the "look and feel" of the entrance to our community. Patterson Crossing most certainly doesn't say "Where the country begins" to visitors at Exit 18 and neither do the big-box buildings the Applicant wants to display so prominently on I-84. Patterson Crossing is not in keeping with the surrounding character of our community nor is it consistent with how we have historically defined our community. This project will force our community to redefine itself as a "big-box" shopping destination.</p>
4.13 Cultural Resources 4.13.2 Visual Resources NYSDEC Guidance On Assessing Visual Impacts Page 4.13-5	<p>facility may be seen. An aesthetic resource is a place, formally designated by a governing body, that is visited by the public for the purpose of enjoying its beauty. Designated resources in the area of the proposed project, if any exist, are evaluated in this study. Additionally, other scenic resources may be considered significant aesthetic resources for the purposes of the visual assessment based on their unique characteristics.</p>	<p>The Lake Carmel Park District, legally designated as a park district by a governing body, qualifies as an aesthetic resource per the definition provided here. The project related impacts described in this section were not discussed in the context of the Lake Carmel Park District and must be.</p>
4.13 Cultural Resources 4.13.1 Historic & Archaeological Resources Existing Conditions Page 4.13-3	<p>project parcel and no further investigation is required. A copy of this report has been submitted to OPRHP. Based on previous experience with OPRHP, the archaeologist anticipates that OPRHP reviewers will issue a finding that the project will have "No Impact" on archaeological and historic resources, allowing the project to proceed as proposed. The OPRHP letter will be included in the FEIS.</p>	<p>It is presumptuous of the Applicant to make assumptions about the OPRHP's findings. The OPRHP's findings should have been included with this DEIS. The Applicant has had years, literally, to get this report. Its absence in this DEIS is unacceptable.</p>
4.13 Cultural Resources 4.13.2 Visual Resources Page 4.13-4	<p>not automatically mean it has an adverse visual or aesthetic impact. Aesthetic impact occurs when there is a demonstrated detrimental effect on the public enjoyment of an aesthetic resource. Visual impact occurs when designed mitigation strategies, or the mitigating effects of perspective, do not adequately reduce the visibility of a facility from an aesthetic resource to an insignificant level.</p>	<p>Residents living in the Barnett Hill area enjoy a breathtaking view of Lake Carmel and the hills beyond it due to their high elevation on the hill. This DEIS does not include any watershed analysis for the Barnett Hill area when it is glaringly obvious that residents living in this area will experience significant adverse visual impacts and light pollution impacts from the Patterson Crossing project. The Applicant MUST perform a thorough watershed and light pollution analysis for the Barnett Hill area in both the winter and summer seasons to enable the visual impact from this vantage point to be assessed. This is an issue which cannot be ignored given these residents have Lake Carmel, a prominent aesthetic resource, in their watershed.</p>
4.13 Cultural Resources 4.13.2 Visual Resources Existing Visual Character & Views Into The Site Page 4.13-4	<p>The project site is located in a setting of rolling topography and modest density residential neighborhoods and some existing commercial development, where views are generally limited by the nearby hills, vegetation and curving roadway corridors. The Route 84 corridor provides clear views onto the project site from the east while moderate density residential development that adjoins the property to the west -- single family residences on Concord Road, Echo Road, Vernon Drive and nearby locations -- all have views of parts of the site that are limited by the existing woodland vegetation and topography.</p>	<p>The Applicant describes the residential area as being "modest density" and "moderate density". This is false. The area is a densely populated rural lake community that is a legally designated park district called the Lake Carmel Park District.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>4.13 Cultural Resources 4.13.2 Visual Resources Existing Visual Character &amp; Views Into The Site Page 4.13-4</p>	<p>distances than discussed in this chapter. The extent of the survey was initially determined by inspection of US Geological Survey topographic maps with the aid of 3D viewing computer software (<i>Terrain Navigator Pro</i>), which reveal the potential visibility of the project site based on topography. Thus, the survey encompassed the potential viewshed of the proposed project. The field survey refined this assessment based on limiting factors of the actual visibility of the site, accounting for topography, vegetation, and buildings. Photographs were taken from various locations to depict the existing conditions and are identified below.</p>	<p>I am unsure how the Barnett Hill area would have been left out of this DEIS from a visual impact assessment as the software described here clearly would have identified the Barnett Hill area as having a view of the site based on its elevation (higher than the Pelatmon Crossing site in some areas). It is unacceptable that the Barnett Hill area has been left out of this DEIS.</p>
<p>4.13 Cultural Resources 4.13.2 Visual Resources Existing Visual Character &amp; Views Into The Site Page 4.13-5</p>	<p>The field survey included identification of any prominent land forms, land cover types, and the visual character of the site and local area. The survey also sought to identify natural areas of significant scenic value and structures of significant architectural design in the vicinity of the project.</p>	<p>The "field survey" referred to here is a farce. The Applicant states a field survey was performed yet Lake Carmel wasn't identified as an aesthetic resource in this DEIS, the Applicant fails to acknowledge that this project would be a legally designated park district, and fails to identify the Lake Carmel Clubhouse on the corner of Clubhouse Drive and Vernon as a structure of significant architectural design.</p>
<p>4.13 Cultural Resources 4.13.2 Visual Resources Existing Visual Character &amp; Views Into The Site Page 4.13-5</p>	<p>slopes and wetlands. The Lake Carmel residential development dominates land west of the project site, primarily on west-facing slopes outside of the potential viewshed. The project</p>	<p>The Applicant uses the reference "Lake Carmel residential development". Why, when this is not its name? This area is called the Lake Carmel Park District. It is blatantly obvious that the Applicant has selectively chosen not to use the term "park district" in this entire DEIS in an effort to conceal the true character of the community the Pelatmon Crossing project will destroy. This is completely unacceptable and must be corrected in this DEIS. All references to the "Lake Carmel Hamlet" and "Lake Carmel residential development" need to be changed to the area's CORRECT name, which is the Lake Carmel Park District.</p>
<p>4.13 Cultural Resources 4.13.2 Visual Resources Existing Visual Character &amp; Views Into The Site Page 4.13-6</p>	<p>to natural constraints. The visual character of the immediate area can be generally characterized as rural development, consisting of single family homes, individual commercial and retail establishments, and a roadway pattern dominated by an interstate limited access highway.</p>	<p>The description of the visual character of the immediate area provided by the Applicant here conceals the true character of the community and minimizes project-generated social and visual impacts in this DEIS. The Applicant failed to include any scenic photos of the Lake Carmel Park District to illustrate its current community character. There are no photos of the residential neighborhoods, the residential streets, its breathtaking shorelines, lush green foliage, and the picturesque scenery which define our lake community. So there are no misunderstandings of what lies to the immediate west of the project site, I compiled a photo album of the Lake Carmel Park District (located in Appendices of my written comments) to accurately represent the community's character for the public record. The Applicant's omission of any reference to the park district community that will be most impacted by Pelatmon Crossing reflects poorly on the Applicant, who is required by SEQRA to provide an unbiased representation of project impacts. Treating the Lake Carmel Park District like it doesn't exist for the purposes of this DEIS is unacceptable &amp; inconsistent w/ the spirit and intent of SEQRA.</p>
<p>4.13 Cultural Resources 4.13.2 Visual Resources Aesthetic Resources Page 4.13-6</p>	<p>Aesthetic Resources  There are no designated aesthetic resources or public facilities of cultural importance identified within the site viewshed that would be sensitive to changes in the visual environment. No structures of significant architectural design were identified in the vicinity of the project.</p>	<p>No mention of the Barnett Hill Area? No mention of Lake Carmel or its many beaches a 1/4 mile from the project site? No mention of the Lake Carmel Clubhouses?</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>4.1.3 Cultural Resources 4.13.2 Visual Resources Aesthetic Resources Page 4-13-6</p>	<p>No excerpt.</p>	<p>There are no 3-dimensional models of the project site which allow an adequate assessment of visual impacts "post build". During the scoping session, this model was requested by a resident of Lake Carmel but the Lead Agency did not incorporate this item in the Final Scope. The visual impact issue is a critical one, given that this project is about the Lake Carmel Park District. The Applicant must certainly have the resources to prepare a 3-dimensional model (be it physical or computer generated). The Applicant must be compelled to provide this. At the very least, there should be artist sketches/renderings of the visual impacts of the project from any location which will have a view of the project or the lights from this project - including, but not limited to:</p> <ul style="list-style-type: none"> <li>84 East</li> <li>84 West</li> <li>Route 311 on the "Kent" side</li> <li>Route 311 from Ludingtonville Road area</li> <li>Route 52</li> <li>Barrett Hill Road area</li> <li>Concord Road</li> <li>Vernon Road</li> <li>Longfellow Drive</li> <li>Lake Carmel beach area</li> </ul>
<p>5.0 Alternatives Page 5-1</p>	<p>In addition to the proposed plan, the following alternative development concepts, as set forth in the Scoping Document, are examined in the DEIS:</p> <ul style="list-style-type: none"> <li>• No Action Alternative</li> <li>• Alternative Scale or Magnitude</li> <li>• Alternative Use</li> </ul>	<p>I have reviewed all of the written scoping comments submitted to the Patterson Planning Board in early 2005 as part of the Scoping phase of this project's SEQOR review. During scoping, many residents requested that the Applicant explore an alternative site given the sensitivity of a retail use on this site due to its close proximity to the residential community. Additionally, an alternative use of a corporate park was suggested by many given that the community has a great need for professional level, decent paying jobs (rather than the low-paying jobs which will be available at Patterson Crossing). Neither of these two alternatives were included in the Final Scope. At the very least, a corporate park should be explored in this DEIS for that site given that there is enormous need county-wide for high-paying professional-level jobs.</p>
<p>5.0 Alternatives 5.1 No Action Alternative Page 5-1</p>	<p>This alternative is not likely, considering the objectives of the applicant, the allowable uses permitted under local zoning, the relative scarcity of developable land that can be readily accessed by major roadways, and the increasing demand for such land in the market place.</p>	<p>It is false that there is a scarcity of developable land that can be accessed by major roadways. There are several hundred industrial/commercial acres for sale on Route 311 right now.</p>
<p>5.0 Alternatives 5.1 No Action Alternative Page 5-1</p>	<p>This alternative would not support the Comprehensive Plans for either the Town or Patterson or the Town of Kent, both of which identified the lack of existing retail facilities and the potential for future retail development in the project area. The revised draft of the Comprehensive Plan of the Town of Patterson specifically describes the project area, located at the intersection of Interstate 84 and Route 311, as being an appropriate location for large scale non-residential development.</p>	<p>While Patterson's Comprehensive Plan deems the intersection of Route 84 and Route 311 an appropriate location for retail, it is most certainly debatable whether the Applicant's proposed project size is appropriate given that it will pose too great of an impact on the surrounding community. It is unfortunate that the Town of Patterson did not adequately consider the fate of the Kent community when they adopted their comprehensive plan. The result of this failure is that Mr. Camarda has proposed an action that is grossly over-scaled for the site and surrounding community. The Town of Patterson should absolutely consider amending their zoning laws to impose a square footage cap on retail centers to protect both Patterson and Kent from poorly planned and grossly over-scaled projects such as Patterson Crossing.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>6.0 Alternatives 6.1 No Action Alternative Page 5-1</p>	<p>Additionally, this alternative would not support the 2003 draft master plan for Putnam County, known as "Vision 2010", since it would not provide residents the opportunities to live and work locally. This alternative would be contradictory to the County's "Shop Putnam Today" program, which was designed to help stem the drain of retail dollars to neighboring counties.</p>	<p>The Applicant implies here that Patterson Crossing would give residents the opportunity to "live and work locally" - this is silly. Putnam residents won't be quitting their high-paying professional jobs to work at Patterson Crossing's retail or restaurant establishments! We couldn't support ourselves on those low wages. Applicant states that the no-action alternative would contradict the Shop Putnam Initiative. Actually, the opposite is true. Big-box retail contradicts the Shop Putnam Initiative. Many studies show that locally owned businesses promote the health of the economy while big box retail harms the local economy by putting local businesses out of business and by not investing their earnings into the local community. These studies have been included with my comments to illustrate that these impacts are common-place and well-documented and we can expect these impacts right here in Putnam County as they have happened <del>in the past</del> <u>in the nearby big box stores</u>. The Applicant is not doing the "Shop Putnam" initiative any favors with Patterson Crossing. We will lose local businesses and the precious revenue they generate.</p>
<p>6.0 Alternatives 6.1 No Action Alternative Traffic &amp; Transportation Page 5-2</p>	<p>road would be constructed as part of this alternative. Without the new site access, the additional NYS Route 311 turn lanes and signalization of its intersection with the site access would not be implemented by the applicant. Under this alternative, traffic conditions in the project area would be the same as the "Future No Build" conditions cited in Section 4.8, Transportation. Specifically, the number of intersections at the worst levels of service (that is level of service E or F) would increase from the existing four to eight, unless transportation improvements are provided with or without the project. Tax revenues would be unavailable to offset state and county road improvement under the No Build Condition.</p>	<p>This section should simply state "Under the No Action alternative, there would be no project generated traffic". Period - end of story. It is completely inappropriate for the Applicant to try and sell this project as a "package deal" with traffic improvements when the Applicant's "package deal" comes with 2,200 additional cars per peak hour on our roads which will devastate our community.</p>
<p>6.0 Alternatives 6.1 No Action Alternative Community Facilities &amp; Utilities Page 5-2</p>	<p><u>Community Facilities and Utilities</u>: Since a No Action Alternative involves no changes to physical conditions at the proposed site, no impacts to community services would occur. There would be no demand for emergency services, and no improvement to those services as a result of tax generation at the site. There would be no additional demand for utilities and no change to existing utilities under the No Action alternative.</p>	<p>I would like to note here that the Applicant is conceding here that the proposed action <b>WOULD</b> have an increased demand on <b>community services and emergency services</b>. The Applicant must quantify what that increased demand on community services and emergency services entails from a financial, contractual, equipment, and resource standpoint.</p> <p>The Applicant states there would be "no improvement to those services as a result of tax generation at the site". The Applicant absolutely <b>HAS NOT</b> performed any cost/benefit analysis in this DEIS. Hence, the Applicant has not proven that this project will yield "net economic benefit". Failure to prove there will be net economic benefit means that the Applicant is in no position to state whether any money will be available for "improvement to services". We must not allow the Applicant to say this project will provide revenue for improvements when he hasn't proven there will be any revenue for said improvements.</p>
<p>6.0 Alternatives 6.1 No Action Alternative Socioeconomic Page 5-3</p>	<p><u>Socioeconomic</u>: No tax benefits resulting from the retail development would be realized for either the Town of Patterson or Kent, the school district, or Putnam County. The anticipated property and sales tax revenues would not occur. No jobs, either short term construction related or long term as a result of the retail and restaurant establishments, would be created in the area.</p>	<p>Again, the Applicant states "no tax benefits resulting from the retail development would be realized for either Patterson or Kent". However, the Applicant absolutely <b>HAS NOT</b> performed any cost/benefit analysis in this DEIS. Hence, the Applicant has not proven that this project will yield "net economic benefit". Failure to prove there will be net economic benefit means that the Applicant is in no position to state whether any money will be available for "improvement to services". We must not allow the Applicant to say this project will provide revenue for improvements when he hasn't proven there will be any revenue for said improvements.</p>
<p>6.0 Alternatives 6.2.1 Alternate Site Plan Layout Page 5-3</p>	<p>No excerpt.</p>	<p>Costco would likely be one of the most "heavy traffic" destinations on the project site. Why is the Costco building situated the "deepest" within the project site (ie, the "last" building)? Wouldn't it have been less of an impact on the community from a project-generated traffic noise standpoint to have placed one of the less busy businesses deepest into the site so that the high volume of traffic associated with Costco wouldn't pass by the homes adjacent to the project site?</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>5.2 Alternatives 5.2.1 Alternative Site Plan Layout Building Orientation Page 5-3</p>	<p>An alternative layout for a retail project was considered that concentrated the proposed buildings on the western side of the property and the parking on the eastern side. This layout is illustrated as Figure 5-1, Building Orientation Alternative. This alternative provides approximately 426,000 square feet of building space, a 28,800 square foot garden center and 2,138 parking spaces. The mixture of buildings and uses in this layout include the following:</p>	<p>This Alternative is an insult to residents and demonstrates the Applicant's callous disregard for the residents bordering the site. Not only does this design place the offensive big-box buildings ridiculously close to residents, but it would bring all the truck traffic noise and pollution and adverse visual impacts closer to the residential border! And to add insult to injury, this site plan INCREASES the square footage / honesty feet that the Applicant has made a "game" out of the Alternatives in the DEIS with the intent to propose alternatives that would be even more offensive than the proposed action so that the proposed action would seem "preferable" to the alternatives. This alternative brings more impervious surfaces, more water usage, more land clearing, more noise, greater visual impact, greater air quality impact, and greater cumulative impacts overall. This "alternative" is most certainly NOT a course of action that one would choose over the proposed action - which was exactly the intent of the Applicant's proposal of this absurd site plan!</p>
<p>5.2 Alternatives 5.2.2 Alternative Project Size Page 5-5</p>	<p>Under this alternative the northernmost building pad (consisting of three retail stores and a coffee shop) and associated parking area would be eliminated. This alternative has a total of 353,100 square feet of building area, a decrease by 52,750 square feet from the 405,850</p>	<p>The Final Scope outlined that the Applicant provide an alternative size site plan with retail space of 360,000 square feet. Why did the Lead Agency select such a high number of square feet for the "lesser build" alternative for the Final Scope? The sheer scale of this project has always been the major reason for resident opposition to the project and it would have been appropriate for the Lead Agency to have required a much lower number of square feet for the "lesser build" alternative. The Applicant should be required to provide an alternative for a site plan of ~200,000 square feet, approximately half size of the original action.</p>
<p>5.2 Alternatives 5.2.2 Alternative Project Size Page 5-5</p>	<p>It should be noted that this alternative, by reducing the total area of retail development at the project site, does not utilize the site to its full potential, does not provide retail synergy</p>	<p>I would like to note here that the site's potential is currently unknown at this time since all involved agencies have not arrived at their findings. This site's "potential" may actually prove to be significantly lower than the Applicant expects. Environmental constraints, the site's close proximity to a residential lake community, the nature of the existing road infrastructure, and various other issues are all factors which will impact the build "potential" of this site. So the Applicant's statement here that a lesser build alternative on the site "would not utilize the site to its full potential" is a completely baseless statement at this point in time.</p>
<p>5.2 Alternatives 5.2.2 Alternative Project Size Page 5-5</p>	<p>project site, does not utilize the site to its full potential, does not provide retail synergy between tenants, nor does it provide adequate gross square footage for ancillary retail. This scenario would likely result in the development of other sites in the area to provide supporting retail space and food services for the existing market demand. This alternative would increase traffic congestion, vehicle emissions and vehicle miles traveled along local roads. The development of associated retail and services at other sites would have increased impacts than the proposed development, such as visual resources.</p>	<p>The logic the Applicant uses here to "convince" the reader that the mix of stores proposed for this alternative would result in our area becoming even more developed is ridiculous. Development of vacant parcels in our towns will occur regardless of the types of stores that would go into Patterson Crossing. This is best demonstrated by the fact that the Applicant is proposing a Lowe's 3.5 miles from a Home Depot, a Home Goods store 3.5 miles from a L'Home-N-Things, a clothing store 3.5 miles from Marshalls and Kohl's, and a coffee shop 1/4 mile from the Lake Carmel General Store. The Applicant intends to saturate our local market with unnecessary stores to make a buck, and there is no question that other developers would do the same in pursuit of profit, despite which stores were located at Patterson Crossing. The Applicant's logic here is absurd.</p>
<p>5.2 Alternatives 5.2.2 Alternative Project Size Page 5-5</p>	<p>The applicant is unlikely to pursue this alternative for a variety of financial reasons.</p>	<p>This statement demonstrates the Applicant's unwillingness to deviate in any way from the proposed action. This statement confirms my conclusion that the Applicant, in suggesting these alternatives, is merely "going through the motions" in this SEQOR process, with no intent of working with officials and the community to create a project which minimizes impacts for the greater good of the host community. The size of the proposed project is the #1 reason for the large-scale opposition to the project, and the Applicant is just not willing to scale down the plan. This unwillingness to compromise reflects poorly on the Applicant. I also feel that if the Applicant is claiming he can't pursue a lesser build because of "financial reasons", then those financial reasons should be listed in the DEIS.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>5.2 Alternatives 5.2 Alternative Goals or Magnitude 5.2.2 Alternative Project Size Cultural Resources Page 5-6</p>	<p><b>Cultural Resources:</b> With less overall disturbance, this alternative would have reduced potential for impacts on cultural resources when compared with the proposed plan. The visual impacts would be less by eliminating the northernmost building pad. There would be no impacts to historic or archeological resources as a result of developing this project.</p>	<p>On page 5-4, under the "Cultural Resources" header, the Applicant states that both the proposed action and the alternative being discussed would have <u>NO</u> impact on historic or archeological resources. However, in this section, the Applicant by default implies that there are impacts on cultural resources with the proposed action and also with this action. This is contradictory data.</p>
<p>5.3 Alternatives 5.3 Alternative Use Page 5-7</p>	<p>An alternative consistent with the existing site zoning was considered. This alternative evaluates the development of the project parcel as light industrial. The site plan prepared for this alternative shows four buildings of warehouse space, totaling 740,000 square feet. However, due to lower parking requirements for warehousing, only 802 parking spaces are proposed for this alternative. The site plan for the Light Industrial Alternative is shown in Figure 5-3.</p>	<p>When I read this alternative I was shocked at the Applicant's audacity to even suggest an alternative with a 740,000 square foot building footprint. An alternative as insulting as this was not the intent of the Final Scope's inclusion of an alternative inclusive of "Industrial use". Again, what we have here is the Applicant putting forth an alternative that is more offensive than the proposed action, thereby making the proposed action a "preferable" alternative. It is worthy to note that this alternative's site plan covers almost as much "area" on the site as the proposed action, which doesn't resolve any of the impacts that will result from the original action's "size".</p>
<p>5.4 Alternatives 5.4 Alternative Use Page 5-7</p>	<p><b>Community, Facilities, and Utilities:</b> Like the proposed development, this industrial alternative would have minimal demand for community facilities and be served by its own water and wastewater systems. Impacts would thus be similar as the proposed project.</p>	<p>The Applicant states there will be "minimum demand" for community facilities but has never examined or quantified what those demands are in this DEIS. This is unacceptable. EVERY municipal, county, and state cost relative to this project must be identified and quantified in this DEIS. The Applicant must not be permitted to use descriptions like "minimum demand" when the requisite research was not performed to find out whether the demand is minimal or significant.</p>
<p>5.5 Alternatives Table 5-2 Comparison of Alternatives Page 5-9 thru 5-11</p>	<p>Not Applicable - See Table 5-2 in DEIS</p>	<p>In the "Comparison of Alternatives" table there is no section which provides the state, county, municipal, or park district COSTS associated with each alternative. The Applicant has failed to provide ANY financial cost analysis data in this entire DEIS which is quite unacceptable. A <u>comprehensive assessment</u> <u>must</u> <u>be</u> <u>included</u> <u>in</u> <u>the</u> <u>DEIS</u> <u>for</u> <u>the</u> <u>entire</u> <u>project</u> <u>given</u> <u>its</u> <u>magnitude</u> <u>and</u> <u>potential</u> <u>for</u> <u>imposing</u> <u>significant</u> <u>costs</u> <u>on</u> <u>the</u> <u>host</u> <u>communities</u>. The supplemental economic impact statement should also include a cost analysis of all the "alternatives" proposed. The result of this cost analysis for the alternatives must then be incorporated into Table 5-1, so the lead and other agencies can see at a glance the "costs" of each alternative in relation to the other alternatives. The costs of each alternative may very well be a major "deciding" factor as to whether each alternative is viable from a fiscal accountability perspective. Without this cost analysis data, it is impossible to weigh the alternatives appropriately.</p>
<p>5.6 Alternatives Table 5-2 Comparison of Alternatives Page 5-9 thru 5-11</p>	<p>Not Applicable - See Table 5-2 in DEIS</p>	<p>Reduction of residential property value for residences in the surrounding community are a socio-economic impact not discussed at all in this DEIS. The reduction of property value is a MAJOR issue Kent residents face as it relates to development on that project site. The Applicant must incorporate the topic of reduced property values as a potential impact in his discussion of alternatives. We must be able to at a glance see to what extent each alternative will raise or lower residential property values. Reduced property values are a "hidden cost" of development of this type so this matter must not be ignored by the Applicant.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>6.0 Alternatives Table 5-2 Comparison of Alternatives Page 5-9 thru 5-11</p>	<p>Not Applicable - See Table 5-2 in DEIS</p>	<p>I object to the using the phrase "job creator" in this DEIS as it relates to many of the jobs associated with Patterson Crossing. Patterson Crossing will create construction jobs, but the full and part time jobs "post build" will actually be drawing employees from competitors in the area. This doesn't constitute "new job" creation, but may actually result in the elimination of jobs as employers are forced to do more with less employees. Further, if Patterson Crossing puts local competitors out of business, that results in a reduction of net jobs. So it is not entirely accurate for the Applicant to state that Patterson Crossing will "create" jobs. It should state simply that there will be "x" amount of positions available at Patterson Crossing post build.</p>
<p>6.0 Alternatives Table 5-2 Comparison of Alternatives Page 5-9 thru 5-11</p>	<p>Not Applicable - See Table 5-2 in DEIS</p>	<p>I object to the phrase "tax benefits" as it relates to the socioeconomic section of the table. The Applicant has not provided any data to show that this project will yield "tax benefits". We should not permit the Applicant to state this project will yield tax benefits when this DEIS provides no data to indicate this is the case.</p>
<p>APPENDIX B, Correspondence NY State DEC, Betty A. Ketchum Date: 1/17/05</p>	<p>The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain any information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. For these reasons, we cannot provide a definitive statement on the presence or absence of rare or state-listed species, or of significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.</p> <p>Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.</p>	<p>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 1/05 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 the DEIS to be complete.</p>
<p>APPENDIX B, Correspondence Putnam County Sheriff, Donald B. Smith Date: 10/22/04</p>	<ul style="list-style-type: none"> <li>The Sheriff's Department has a minimum of one patrol assigned to the Patterson area 24 hours a day. The closest car concept is utilized in response to 911 emergency calls; either the Putnam County Sheriff's patrol unit, the New York State Police patrol unit, or the Kent Patrol Unit would be dispatched.</li> </ul>	<p>The "closest car" concept of response will apply to all police calls generated by Patterson Crossing. The Town of Kent Police Dept is located 1.6 miles from the project site, making it several times closer to the project site than either the state and county police facilities. As such, common sense tells us that the Kent Police Department will bear the greatest response burden for handling police calls generated by the Patterson Crossing project. The Applicant grossly underestimates the impact this project will have on the Kent Police Department from a resource and cost standpoint in this DEIS. This is unacceptable and must be corrected in the DEIS. Further, a thorough cost analysis must be performed by the Applicant to detail the project's impact on the Kent Police Department to enable an accurate assessment of police impacts from a resource and cost perspective.</p>
<p>APPENDIX B, Correspondence Putnam County Sheriff, Donald B. Smith Date: 10/22/04</p>	<ul style="list-style-type: none"> <li>We do not anticipate a significant impact to the Putnam County Sheriff's Department in providing police protection specifically attributed to the proposed Patterson Crossing project. However, with Putnam County being one of the fastest growing counties in New York State, the collective impact of many new developments on law enforcement would most certainly require more law enforcement resources in future years.</li> </ul>	<p>I'd like to note two things here. One, Sheriff Smith is in no position to state that Patterson Crossing won't significantly impact the Sheriff's Department because the Applicant provided no annual police call data to the Sheriff upon which to base such a conclusion. And two, it's clear that the Sheriff has reached this conclusion based on the reality that the Town of Kent will bear the greatest burden for responding to Patterson Crossing police calls since the "closest car concept" applies to police responses to this project site. The Town of Kent will likely always be the closest car to the site because their station is only 1.5 miles away from the site! As such, the Putnam County Sheriff's Department won't be responsible for the handling of the majority of the project generated police calls.</p>

DEIS Index Info	DEIS Text Excerpt	DEIS Commentary
<p>APPENDIX B. Correspondence Putnam County Sheriff, Donald B. Smith Date: 10/25/04</p>	<ul style="list-style-type: none"> <li>We do not anticipate a significant impact to the Putnam County Sheriff's Department in providing police protection specifically attributed to the proposed Patterson Crossing project. However, with Putnam County being one of the fastest growing counties in New York State, the collective impact of many new developments on law enforcement would most certainly require more law enforcement resources in future years.</li> </ul>	<p>I'd like to point out that the Applicant (on page 4.11-2 of the DEIS) uses Sheriff Smith's opinion "out of context" from his original letter which results in an incorrect impression that the Sheriff's opinion is that Patterson Crossing will have "little impact" on police services at large. The facts provided by Sheriff Smith in his letter indicate quite clearly that the Putnam County Sheriff's department will likely not handle the majority of Patterson Crossing's police calls because the "closest car concept" will make Kent responsible for handling the majority of the calls due to the application of the "closest car concept" when those police calls start pouring in.</p>
<p>APPENDIX B. Correspondence Kent Police Dept, Donald L. Smith Jr Date: 10/14/04</p>	<p>The Town of Kent Police Department has a total of 76 full time employees, 21 swing and 5 civilian. The department responds to approximately 100,000 calls per year. At any given shift there are a</p>	<p>The Applicant has not appropriately addressed project-related impacts on police services and costs in this DEIS. We need to know approximately how many additional police calls annually a project of Patterson Crossing's scale and type will generate for our state, county, and town police forces. We need to know how many police resources this increase will require. It is unacceptable that there is no data in this DEIS when it is a well-documented fact that police calls increase exponentially with a development like Patterson Crossing. Failure to include the data in this DEIS minimize the impact on police service and conceals the costs associated with project-generated police calls. This is unacceptable and needs to be addressed in a cost analysis in a supplemental economic impact statement.</p>
<p>APPENDIX B. Correspondence Kent Police Dept, Donald L. Smith Jr Date: 10/14/04</p>	<p>Although most of the project will be located in the Town of Kent, there are some serious concerns I have that may potentially impact my department. The amount of traffic this project will generate. According to the DEIS, the project driveway will be located in the Town of Kent and therefore all of the project's traffic will go through the town at one point or another increasing the possibility of traffic crashes and congestion. Also around the ancillary interchanges along Route 211 and the project site, the highway is already congested and any further increase in traffic volume could cause, in my opinion, severe impact.</p> <p>As far as other types of law enforcement response not associated directly to traffic, it would be difficult to determine at this time the impact this project would have on my department.</p>	<p>Chief of Police Donald L. Smith Jr has indicated he feels Patterson Crossing could "severely impact" his department. However the Applicant's "translation" of his opinion on page 4.11-2 of this DEIS is "The Town of Kent Police Department has made a comment regarding the impacts of additional traffic on the local road network. Chief Smith noted that impacts not related to traffic were difficult to determine at this time". It was Applicant's job in this DEIS to identify the project-related impacts which would affect the Town of Kent Police Department. Why has the Applicant instead concealed the severe impact Patterson Crossing will have on the Kent Police Department? The Applicant must determine the approximate number of additional police calls this project will generate to the state, county, and town police forces and must attach a projected service COST to these calls in terms of resources that will be required. This analysis needs to take place within a supplemental economic impact statement.</p>
<p>APPENDIX B. Correspondence NY OPRHP, Ruth L. Pierpoint Date: 6/29/04</p>	<p>Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP) concerning your project's potential impact/effect upon historic and/or prehistoric cultural resources. Our staff has reviewed the documentation that you provided on your project. Preliminary comments and/or requests for additional information are noted on separate enclosures accompanying this letter. A determination of impact/effect will be provided only after ALL documentation requirements noted on any enclosures have been met. Any questions concerning our preliminary comments and/or requests for additional information should be directed to the appropriate staff person identified on each enclosure.</p>	<p>There is no correspondence in this DEIS which indicates the Applicant has received a determination of impact/effect. This document is required.</p>

DEIS Index Info APPENDIX B - Correspondence NY OPRHP - Evaluation Comments Date: 8/24/04	DEIS Text Excerpt	DEIS Commentary
APPENDIX B - Correspondence Patterson Fire Dept, Paul Piazza, Brian Burdick Date: 10/14/04	<p style="text-align: center;"><b>BUILDINGS/STRUCTURES/DISTRICTS EVALUATION COMMENTS</b></p> <p style="text-align: center;"><b>PROJECT NUMBER 04PR03000</b></p> <p style="text-align: center;"><b>( Patterson Crossing Retail Center / I-84 and NY 311 / T/KENT / T/PATTERSON )</b></p> <p><input checked="" type="checkbox"/> Based upon a review of the information submitted and the scope of the project described, the NYS Office of Parks, Recreation and Historic Preservation has no concerns regarding historic buildings/structures/districts within your project area.</p> <p><input type="checkbox"/> The following State/National Registers of Historic Places listed/eligible property/district is located within or adjacent to your project area. However, given the scope of the project, the NYS Office of Parks, Recreation and Historic Preservation has no concerns regarding historic buildings/structures/districts within your project area.</p> <p>Please be advised that the Patterson Vol. Fire Dept is the responsible Fire Dept to provide the Fire and Emergency Medical Services for the Patterson Crossing project on Route 311 in the Town of Patterson.</p> <p>The Patterson Fire Dept. is a dedicated Volunteer Fire Dept. ready willing and able to provide the necessary protection for all areas within our fire district.</p> <p>As we have discussed in the past, the Patterson Crossing Project will be constructed under the guidance of the New York State Building and Fire Codes with the required fire separations and fire protection systems in place. The Patterson Fire Department, Officers and it's Members support this project.</p>	<p>The "check box" marked on this form indicates the Applicant failed to notify the OPRHP of the existence of the Lake Carmel Clubhouse, a large and prominent structure which exists on the corner of Clubhouse Road and Vernon, feet from the project site. Built in 1931 and retaining for the most part its original exterior appearance, this building is architecturally striking and is significant in the historical context of Lake Carmel. I have included photos of this structure in the Appendix of my comments. The Applicant has performed reconnaissance of this neighborhood so he knows this building is there yet he failed to mention this structure, which qualifies as a potentially significant historical structure, to the OPRHP. This structure needs to be addressed in this DEIS. The OPRHP needs to be re-contacted by the Applicant and a historical analysis of this structure must be performed to determine whether it qualifies for National Historic Register inclusion.</p> <p>Other than show that Paul Camarda's influence has permeated the Patterson Fire Department, what does this letter actually prove? My health and safety and the health and safety of my community depends on whether Patterson can respond to a fire at Patterson Crossing. Am I expected to take Paul Piazza's and Brian Burdick's "word" that they are willing and able to respond or should this organization be providing concrete data regarding the man-power and equipment they currently possess to prove that they can actually fight a fire at the Patterson Crossing project site. This agency needs to provide data supporting their claims they can handle a fire situation on this site. It is unacceptable for the Applicant to think he's "done his job" in researching this matter with this letter.</p>
APPENDIX B - Correspondence Patterson Fire Dept, Paul Piazza, Brian Burdick Date: 10/14/04	<p><b>No excerpt - general question relative to "relationships".</b></p> <p>Enclosed please find a diskette containing the information requested by Mr. Mavinn. Also included are a contents procedure for the dataset, the puntout, a laboratory methods table, a comments table, data entry code sheets, and a key to sampling locations. The data have been exported from SAS to an Excel spreadsheet. All data have been checked and corrected. If there are any questions regarding the information he will need to speak with David Robinson, Director, Kenisco Laboratory, 19 West Lake Drive, Valhalla, NY 10595, 914-287-7156 or the East of Hudson District hydrologist.</p> <p>This request contains 18 pages and 1 Excel file</p>	<p>Question - Is Patterson Fire Department President Brian M. Burdick, who clearly endorses the Patterson Crossing project, related to Marianne Burdick who is on the Patterson Zoning Board of appeals? Marianne Burdick will be instrumental in voting on whether to grant a special use permit and various other zoning variances relative to this project.</p> <p>Where are the other 17 pages of this correspondence? Also, where is the excel spreadsheet with the data referenced here? I could not find it in the DEIS.</p>
APPENDIX B - Correspondence NY State DEP, Kelly Seaback Date: 4/26/05		

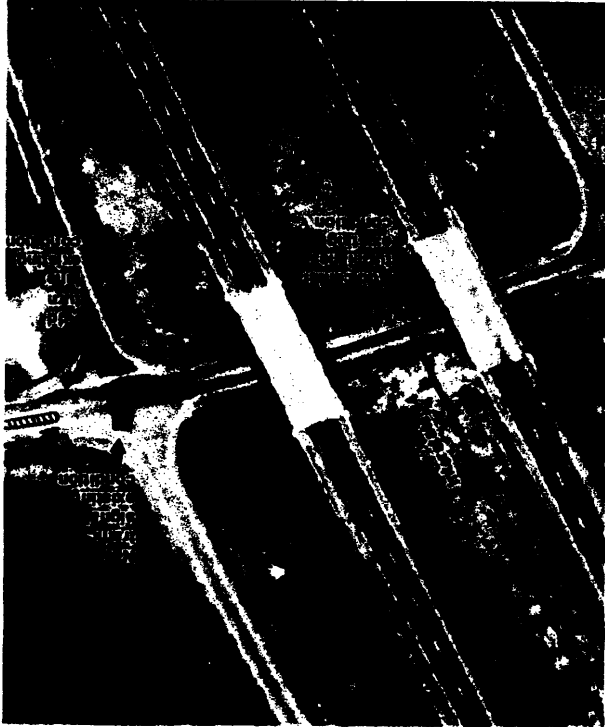


Figure K-12: Improvement Schematic I-84/NYS Route 311 and No Build Condition  
Patterson Crossing and Town of Patterson  
Putnam County, NY  
Source: NYS GIS Clearing House, New York State GIS Clearing House, 2004-2005

DEIS Commentary

The Applicant has drawn in extra lanes under the I-84 bridges where there is currently no space available to accommodate them. The proposed traffic modifications underneath these bridges would require that the bridges themselves be modified to accommodate the proposed traffic flow pattern beneath them. This DEIS doesn't say one word about bridgework needing to be done on I-84 to accommodate the Patterson Crossing project when this picture clearly indicates that bridgework would be a necessity. Bridge modifications are among the most costly traffic modifications there are - the Applicant needs to provide an estimated cost for these bridge modifications. Further, the Applicant needs to estimate every single other traffic modification cost associated with this project. A supplemental economic impact statement with traffic modification cost projections needs to be prepared. The lead and involved agencies cannot appropriately weigh this project without a detailed cost analysis of the traffic modifications this project would require.

Attachment A

Based on field observations, there is little pedestrian activity in this area likely due to the lack of pedestrian destinations. There are no nearby schools (see Attachment B). There are no sidewalks in the vicinity of the project. Paths worn from foot traffic were not observed. There are no major parks or train stations in the study area. Some vehicles pull off areas on US Route 82 near NYS Route 311, which may be used seasonally for fishing, were observed. There is a small "Park and Ride" facility at the intersection of NYS Route 311 and Ludingtonville Road, however, this does not appear to be a major pedestrian destination.

The Kent Government Complex, which includes the Town Hall, library and community center, is one mile and a quarter miles from the study area (NYS Route 52/NYS Route 311 intersection). There are no existing sidewalk connections between the project site and this Complex.

The Patterson Town Hall, library and community center in the downtown area are all over two and three quarter miles from the study area (NYS Route 311/Route 104 intersection). There are no existing sidewalk connections between the project site and downtown Patterson.

There are no major parks in the study area? How blatantly FALSE. This project site is located 1/4 mile from the legally designated Lake Carmel Park District. Lake Carmel itself is located within a 1/4 of the project site. On any given day you can see pedestrians jogging, walking, biking, walking their dogs around the park district and its roadways. The Applicant is concealing here that there is a scenic and beautiful recreational resource within 1/4 mile of the project site. The Applicant fails to reference the Lake Carmel Park District at all in this DEIS. This DEIS crosses the line in terms of its misrepresentation of the facts relative to social impacts in a most unacceptable fashion. Patterson Crossing would all feet from a legally designated park district, within a 1/4 mile of a beautiful and scenic lake that stretches for miles, in an area where residents regularly walk the streets to enjoy the park district. These are the facts - the Applicant must acknowledge these facts so that all agencies can weigh this project in an appropriate context in this DEIS.

**DEIS Index Info**

Appendix N - Cultural Resources Report

Phase 1

**DEIS Text Excerpt**

**Historic Structures**

A search of the site files maintained by the NYS Office of Parks, Recreation and Historic Preservation in Albany indicated one property determined eligible for listing on the National Register of Historic Places is located in the vicinity of the study area, the Taosac State Parkway south of the Dutchess County line, assigned Unique Site Number 07502.010025, passes well to the west of and out of sight of the study area. No structures currently listed, unlisted or determined eligible for listing on the State or National Register of Historic Places were found within one mile (1.6 kilometers) of the study area. No buildings that meet the minimum age requirements for listing were identified adjacent to or with a view of the proposed development.

**DEIS Commentary**

The Applicant failed to notify the OPRHP of the existence of the Lake Carmel Clubhouse, a large, prominent structure which exists on Clubhouse Road feet from the project site. Built in 1931 and largely retaining its original exterior appearance, this building is architecturally striking and is significant in the historical context of Lake Carmel. The Applicant has performed reconnaissance of this neighborhood so he knows this building is there yet he failed to mention this structure, which qualifies as a potentially significant historical structure, to the OPRHP. I have included a photo of this structure and this structure needs to be addressed in this DEIS. The OPRHP needs to be re-contacted by the Applicant and a historical analysis of this structure must be performed to determine whether it qualifies for inclusion on the list of National Register of Historic Places.

## Legal Boundaries of the Lake Carmel Park District

I obtained a map of the Lake Carmel Park District from the Town of Kent. This map shows the legal boundaries of the park district. The map is from the 1903s and very large, so I could not make a copy of it for this DEIS. I have created the electronic image below to show the boundaries of the park district based on the map (these boundaries are in red). I would encourage the Lead Agency to obtain a copy of this map from the Town of Kent.



As you can see, the Patterson Crossing project site is massive in scale and abuts the legal boundary of the Lake Carmel Park District. The park district is comprised largely of small summer cottages that have been converted to year-round residences. As you can see, the Lake Carmel Park District is heavily populated with hundreds of homes with thousands of residents. The focal point of the entire park district community is the large lake in the middle of the community, Lake Carmel. All who live in the park district enjoy the quiet "country living" that a lake community affords.

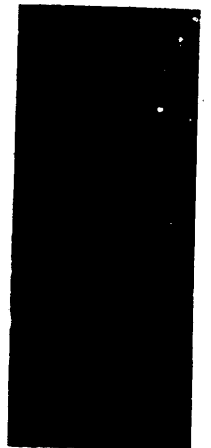
This regional retail center is massive and quite out-of-scale with the park district and the lake itself. You can see that Patterson Crossing, a big box complex, would be located at the "gateway" to the Lake Carmel Park District community and would be an out-of-character type of development for the entrance into a community known for its "country character" and natural beauty. Residents pay taxes to the park district. We pay for our quality of life! It is unjust for the Applicant to impose intolerable traffic, noise, an ugly landscape, and pollution on the residents of the Lake Carmel Park District by building this inappropriately scaled development on our municipal border with Patterson. If this project is approved, the Lake Carmel Park District residents will be forced to accept a diminished quality of life that they most certainly didn't expect when they purchased a home in a park district. All negative impacts associated with the Patterson Crossing project will be borne by the Lake Carmel Park District, a middle class community who will no longer be able to enjoy their community in the ways they are accustomed and entitled to. Patterson Crossing will destroy the rural character of the Lake Carmel Park District Community.

# **COMMUNITY CHARACTER & QUALITY OF LIFE: A Photo Album Of The Lake Carmel Park District**

All photos in this album were taken from locations within  $\frac{1}{4}$  to 1.5 miles of the Patterson Cross

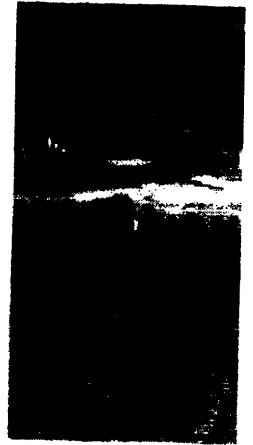
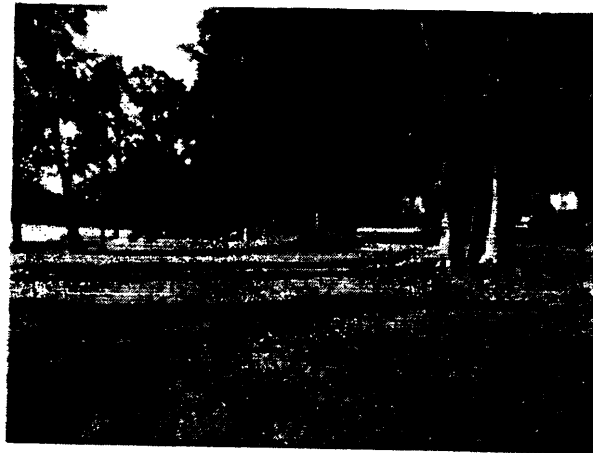
All photos below in this album were taken from locations within  $\frac{1}{4}$  to 1.5 miles of the Patterson pictures are of the Lake Carmel Park District, the legally designated "park district" which abuts the site. The Applicant has concealed the true character of the surrounding lake community in the Patterson Crossing project resulting in a gross understatement of the social and quality of life impacts that would occur by the Patterson Crossing regional retail center in such close proximity to the park district. I have included these photos so that you can see what lies to the immediate West of the Patterson Crossing project site - my community. The Patterson Crossing is a densely populated, rural residential lake community with thousands of residents. This community surrounds prominent aesthetic resources in Kent: Lake Carmel.

"Community Character" and "Quality of Life" can't be adequately described in text. As such, I have no words can articulate: the character of my community and the quality of life I and my fellow residents enjoy in the park district community. I am a native of the Lake Carmel Park District and I treasure the environment of my home and the quality of life it affords me. Patterson Crossing would violate my community's rural character, cause air pollution, and massive traffic. Please preserve the character of the Lake Carmel Park District you love for future generations and deny the Patterson Crossing project.



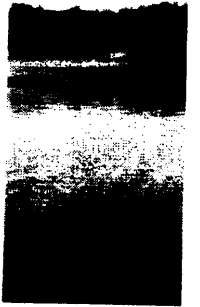
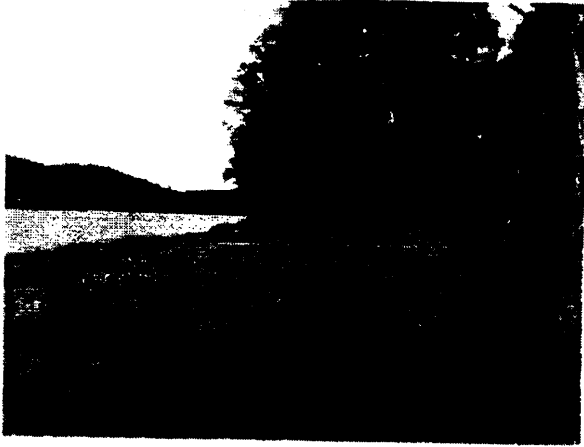
# A Photo Album Of The Lake Carmel Park District

All photos in this album were taken from locations within ¼ to 1.5 miles of the Patterson Crossi



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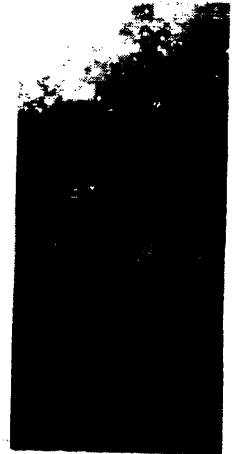
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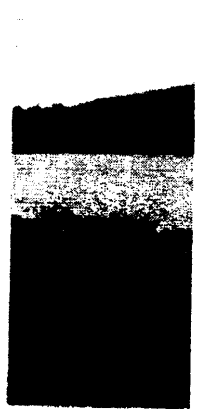
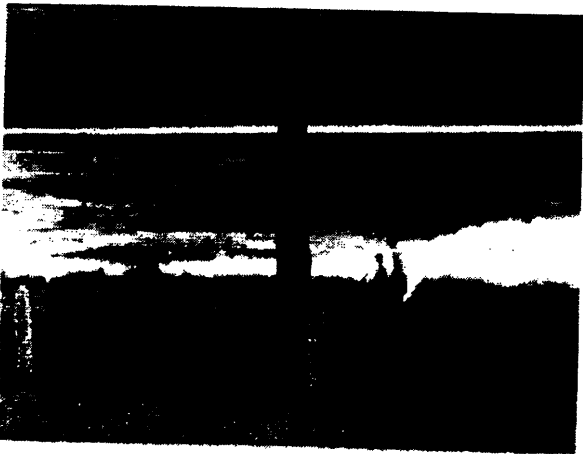
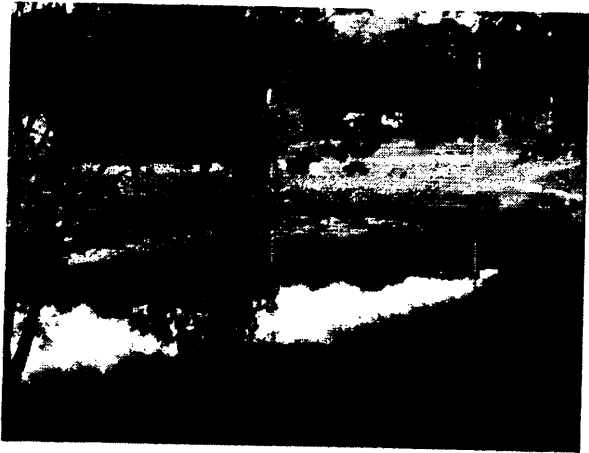
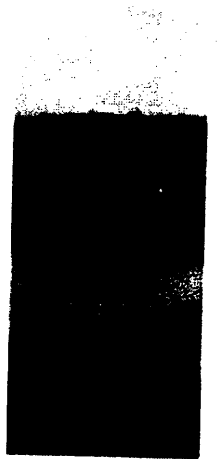
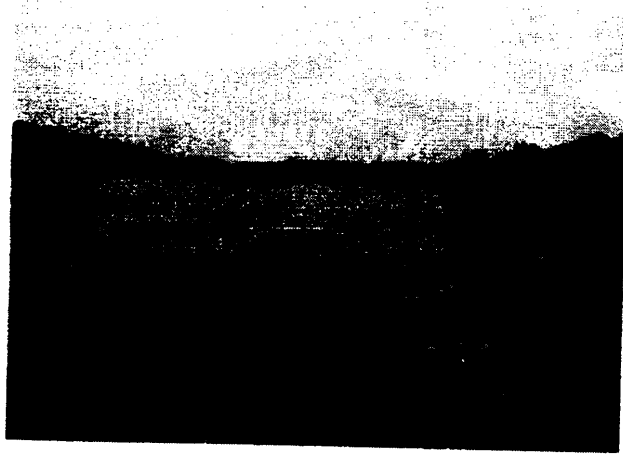
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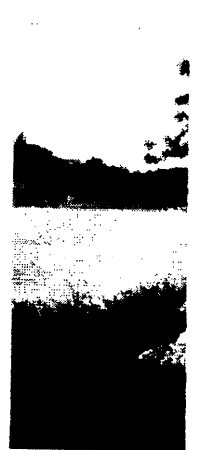
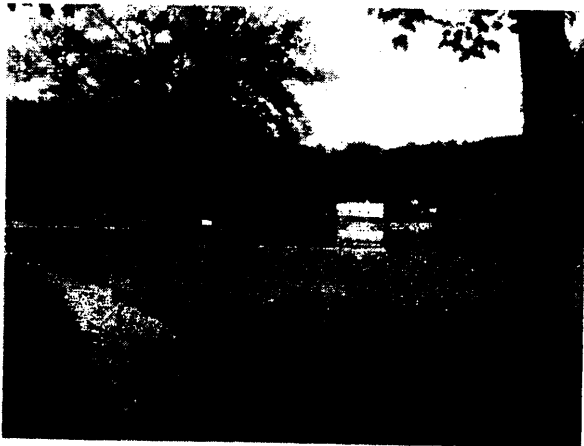
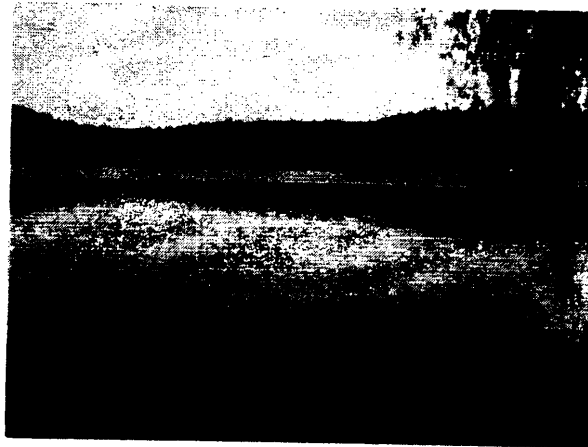
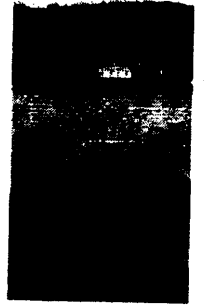
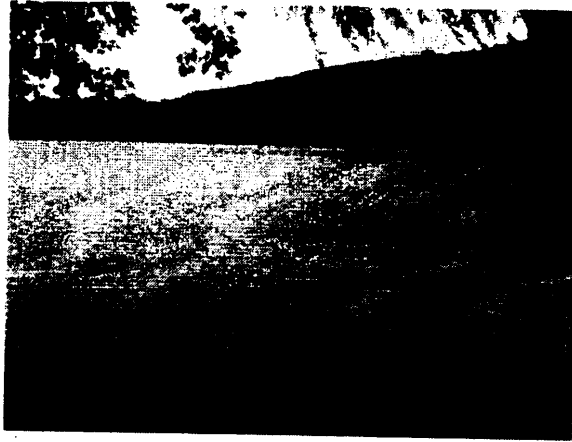
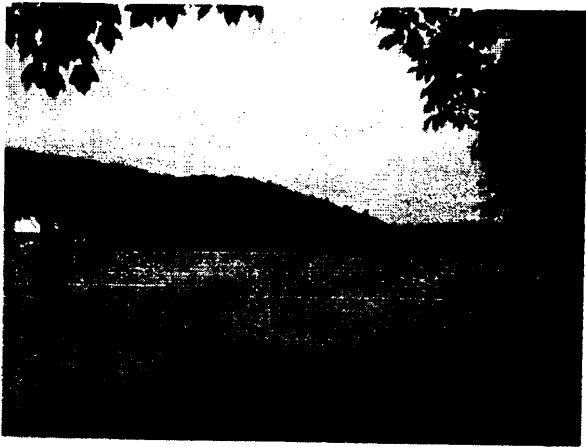
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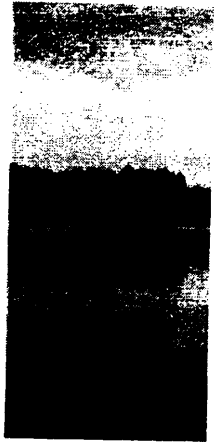
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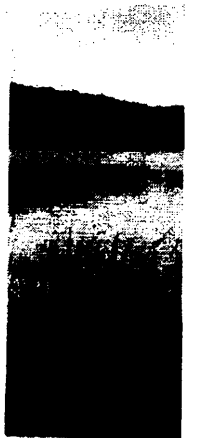
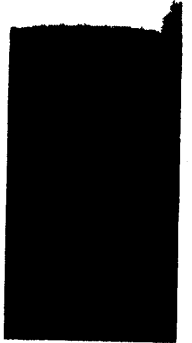
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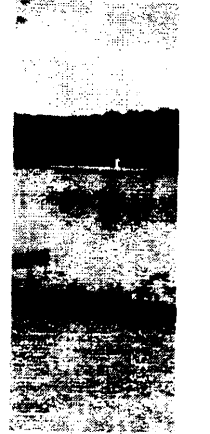
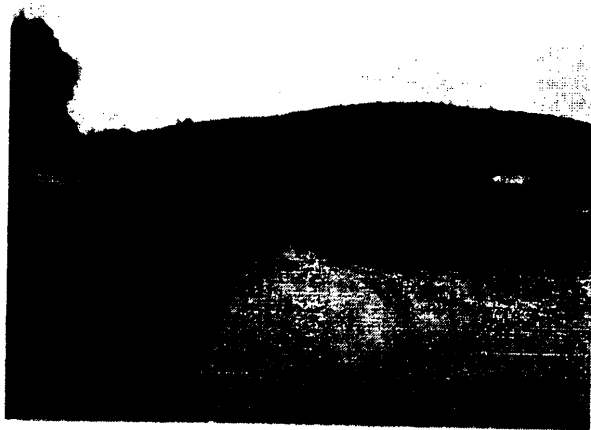
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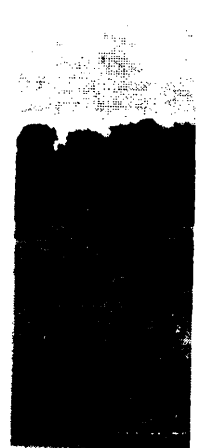
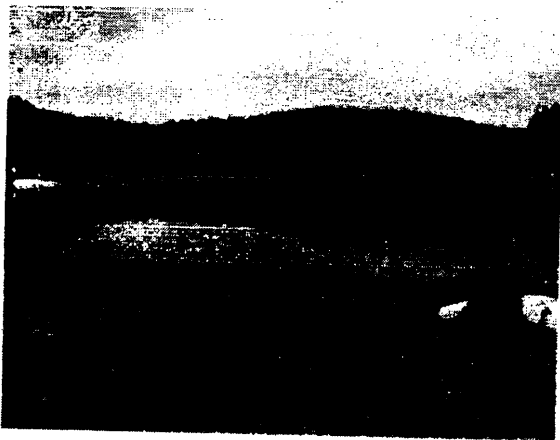
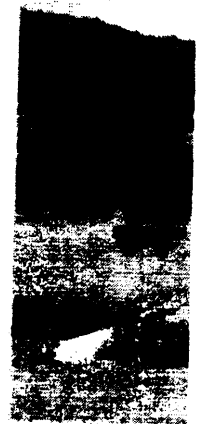
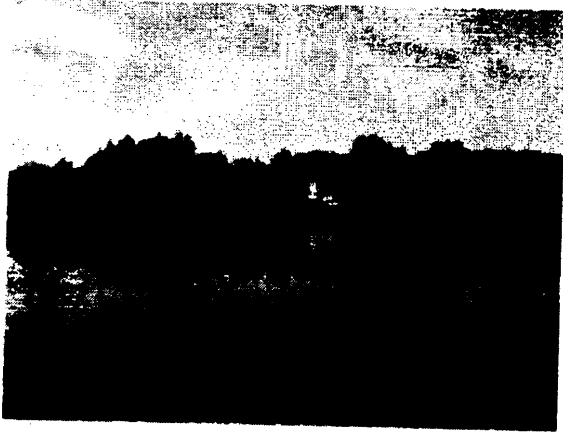
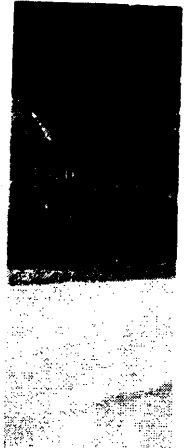
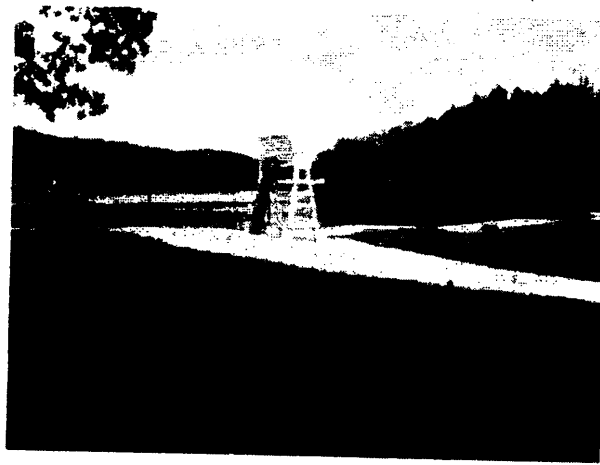
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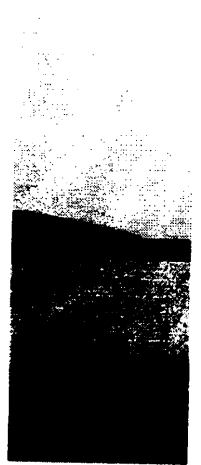
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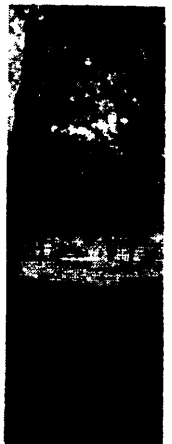
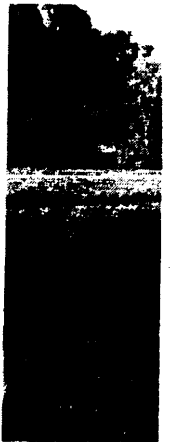
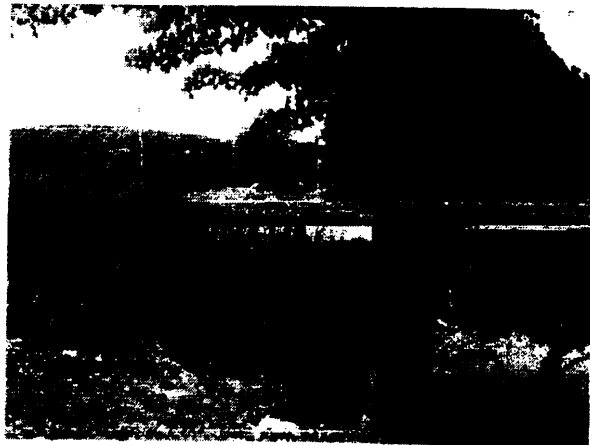
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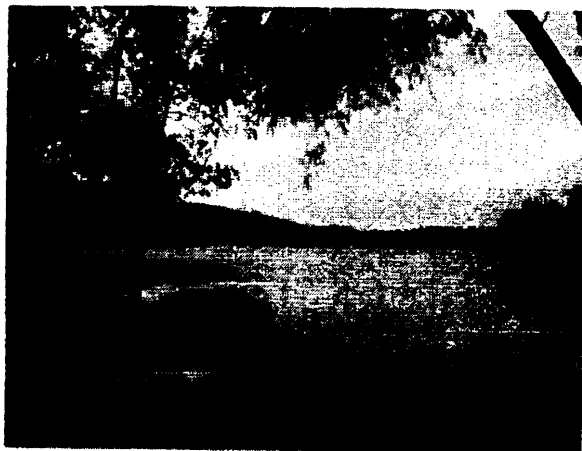
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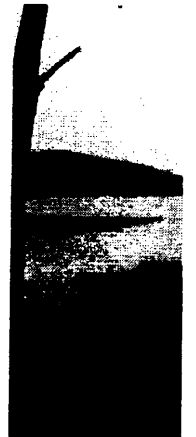
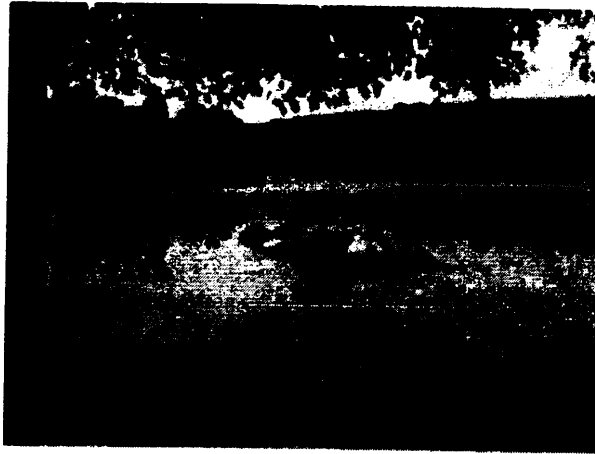
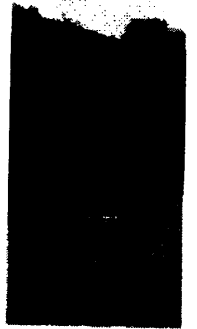
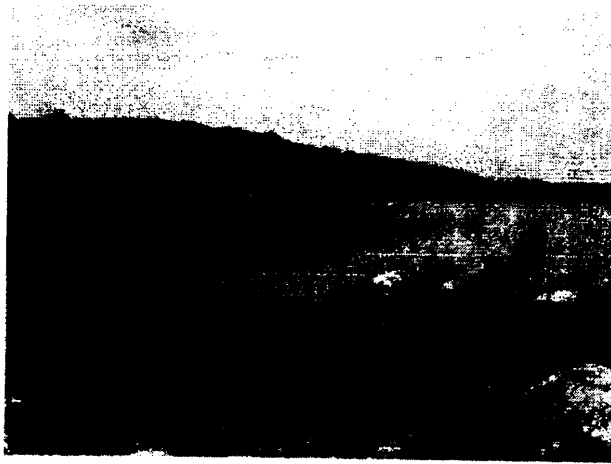
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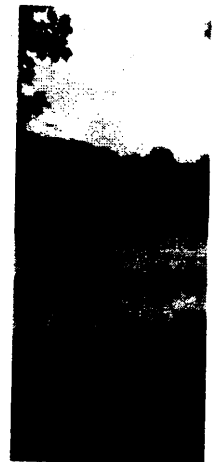
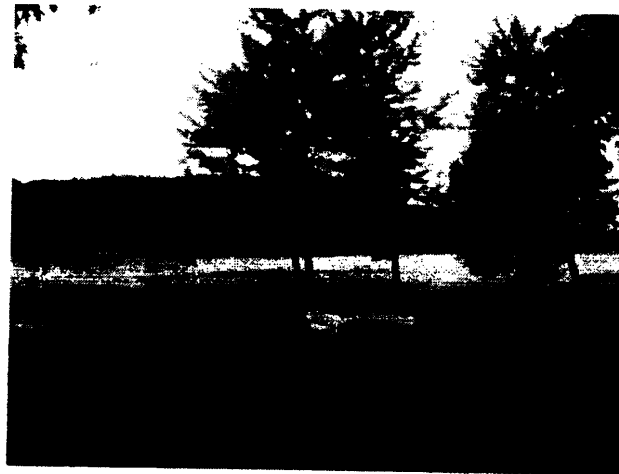
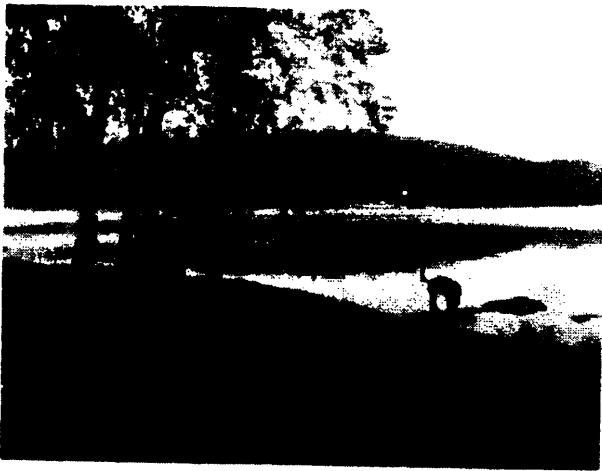
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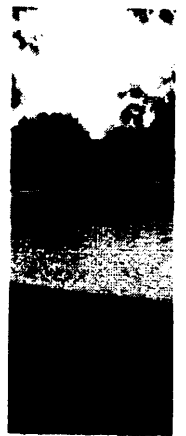
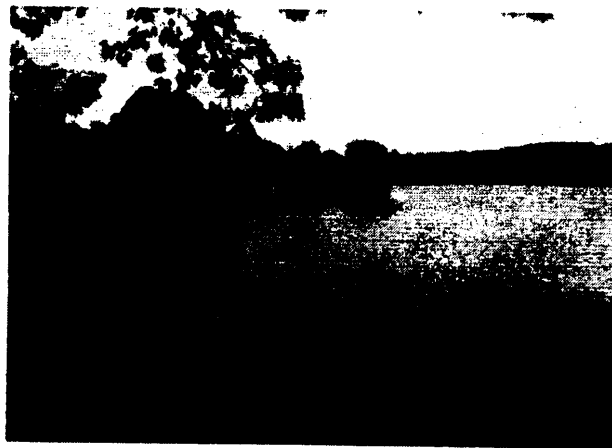
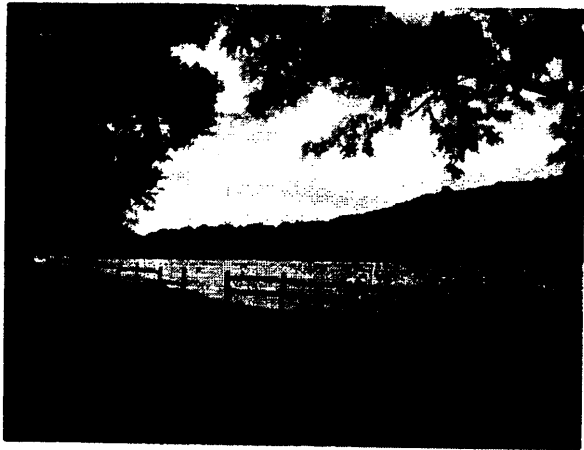
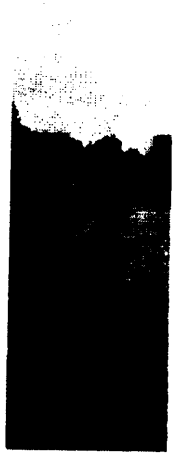
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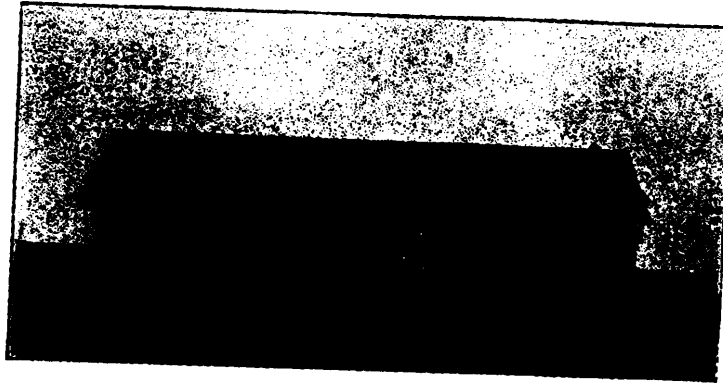
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PUTNAM COUNTY YEAR BOOK, 1931



Clubhouse at Lake Carmel overlooking the lake and the countryside for miles in every direction.

The Daily Mirror desires to thank its friends and well-wishers in Putnam County for their co-operation in accomplishing the creation of Lake Carmel, located in Kent and Patterson townships.

It also desires to announce that the few lots remaining unsold can still be had at the original price of \$96.50 each; \$12.50 down, and \$3.50 per month.

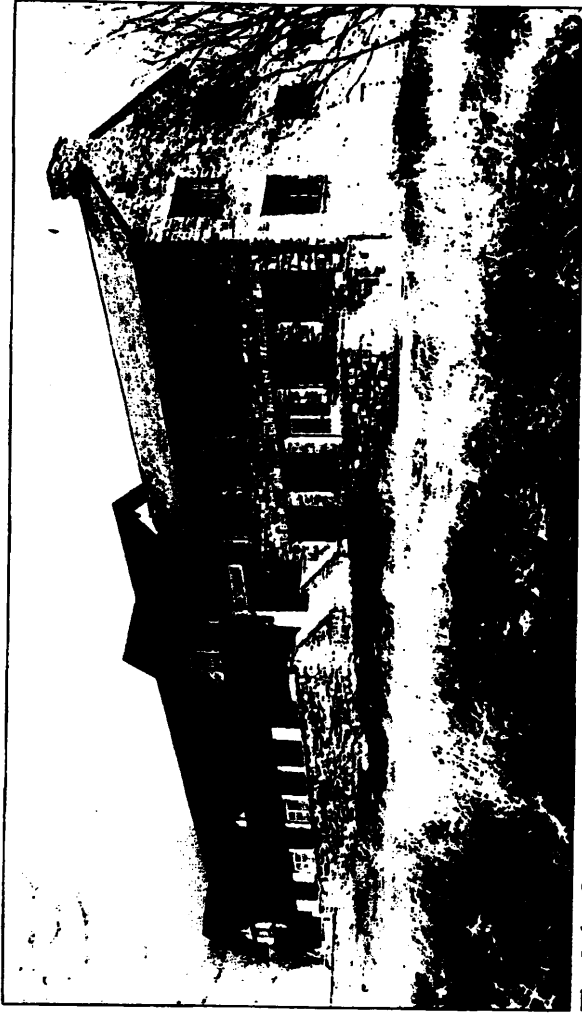
ADDRESS:

# DAILY MIRROR

*SUBSCRIPTION DEPARTMENT*

235 EAST 45th STREET, NEW YORK CITY

Please Mention This Year Book when Consulting Advertisers



The Lake Carmel Clubhouse was built c. 1933. It served as a meetinghouse and recreation building of Lake Carmel property owners. During the summers, rooms were rented to guests on a short-term basis. The building housed several restaurants until the 1960s. Today, the building is privately owned and consists of several rental apartments. (Courtesy of Willie Crew.)



Carmel from the top of Barrett Hill c. 1932. The new Route 311 passes and Patterson. The old road lies under the man-made lake on the right. Lake Carmel is in the cove next to the causeway. (Courtesy of Putnam file.)



## ENJOY ALL YOUR SUMMERS THE DAILY MIRROR



Makes this possible by offering to those who agree to become readers a building lot at

### LAKE CARMEL

PUTNAM COUNTY, NEW YORK

For only \$96.50 payable \$12.50 down \$3.50 monthly

ALL LOTS SAME PRICE

Lake Carmel is one of the few large lakes in either Westchester or Putnam Counties where you can have

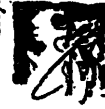
**BOATING - SWIMMING - FISHING**

Over five miles of shore front, sandy beaches, within the 50 mile radius of New York City.

Remember most of the lakes in these counties are not available, being owned by the City of New York for water supply



For Information Send in Attached Card . . . No Postage Necessary



Lake Carmel was owned and developed by the Smadbeck brothers in the early 1930s. The land was divided into lots and sold through the *Daily Mirror* newspaper. A minimum of four lots was required to build a cottage. The first groups of homeowners were mostly Irish and German police officers and firefighters from New York City. The lake communities were geared for middle-class families. After the Depression years and especially after World War II, times were prosperous and families were able to live comfortably on one lot. (Courtesy of Danie Cerafi)



WEBRPT.TXT

REALEND / /

DNUMBER D259690  
CONTR INTERCOUNTY PAVING ASSOC. LLC  
PERCENT 15.188  
LOWBID 8,244,244.26

COUNTY DUTCHESS WEST ROCKLAND DUTCHESS D  
PUTNAM ULSTER  
ORANGE COLUMBIA

LOCATION RTE.9G@SO.CROSS RD.,HYDE PARK  
DESCRIPT Intersection Reconstr on Rte 9G @ South Cross Rd & Fallkill Rd  
HydePk Asph Concr Resurfacing & Full Depth Widening, Lft Trn Lane, Traf Sign  
PROJTYPE

AWARD 08/23/04  
START 10/01/04  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259654  
CONTR A. COLARUSSO & SON, INC.  
PERCENT 24.791  
LOWBID 1,094,724.95

COUNTY DUTCHESS WEST ROCKLAND DUTCHESS D  
PUTNAM ULSTER  
ORANGE COLUMBIA

LOCATION CONSTR.EXIT RAMP RTE.987G(TSP)  
DESCRIPT Constr of new exit ramp on Rte 987G(TSP). Project will include  
work asph. concr reconstr, resurfacing, guiderail, drainage & traffic signal  
PROJTYPE NEW CONSTRUCTION

AWARD 12/31/04  
START 01/25/05  
COMPLETE 06/30/06  
REALEND / /

DNUMBER D259725  
CONTR BEN CICCONE, INC.  
PERCENT 45.551  
LOWBID 3,936,647.00

COUNTY DUTCHESS WEST ROCKLAND DUTCHESS D  
PUTNAM ULSTER  
ORANGE COLUMBIA

LOCATION RTE. 376 BRIDGE OVER THE WHORTLEKILL  
DESCRIPT Replacement of Route 376 Bridge over the Whortlekill in the Town  
PROJTYPE n of East Fishkill

WEBRPT.TXT

AWARD 05/13/05  
 START 06/21/05  
 COMPLETE 09/30/05  
 REALEND / /

DNUMBER D259824  
 CONTR RHOMBUS ENTERPRISES LLC  
 PERCENT 0.000  
 LOWBID 623,951.00

COUNTY ORANGE WEST ROCKLAND DUTCHESS  
 PUTNAM ULSTER  
 ORANGE 0 COLUMBIA

LOCATION REPLACE RT. 17 BRIDGE, WALLKILL  
 DECRIPT Replace.Rte. 17 Bridges over Wallkill River,T. of wallkill.

PROJTYPE

AWARD 06/24/02  
 START 07/08/02  
 COMPLETE 12/31/05  
 REALEND / /

DNUMBER D258965  
 CONTR HARRISON & BURROWES BRIDGE CONSTRUCTORS INC  
 PERCENT 57.861  
 LOWBID 11,777,777.68

COUNTY ORANGE WEST ROCKLAND DUTCHESS  
 PUTNAM ULSTER  
 ORANGE 0 COLUMBIA

LOCATION RTE. 17M BRIDGE OVER NY RTE. 17  
 DECRIPT Replacement of Route 17M Bridge over NY Route 17 in the Village  
 of Chester

PROJTYPE

AWARD 05/12/05  
 START 06/01/05  
 COMPLETE 06/01/06  
 REALEND / /

DNUMBER D258991  
 CONTR EASTERN STATES CONSTRUCTION INC.  
 PERCENT 0.000  
 → LOWBID 4,200,000.00

COUNTY ORANGE WEST ROCKLAND DUTCHESS  
 PUTNAM ULSTER  
 ORANGE 0 COLUMBIA

LOCATION BRIDGE REPLACE.OVER RT.17, ORANGE CO  
 Page 3

DESCRIPT Bridge (prestressed concrete) Replacment over NY Rte 17

PROJTYPE

AWARD 06/27/04  
START 07/15/04  
COMPLETE 11/30/05  
REALEND / /

DNUMBER D259602  
CONTR EASTERN STATES CONSTRUCTION INC.  
PERCENT 21.614  
LOWBID 5,216,499.00

COUNTY ORANGE WEST ROCKLAND DUTCHESS  
PUTNAM ULSTER  
ORANGE 0 COLUMBIA

LOCATION RTE.300 INTERSECTION IMPVTS. ORANGE  
DESCRIPT Intersection Improvements of Route 32 @ Route 300 in the Town o  
PROJTYPE f Newburgh

AWARD 10/22/04  
START 11/01/04  
COMPLETE 09/30/05  
REALEND / /

DNUMBER D259613  
CONTR PALEEN CONSTRUCTION CORP  
PERCENT 39.010  
LOWBID 2,141,952.07

COUNTY ORANGE WEST ROCKLAND DUTCHESS  
PUTNAM ULSTER  
ORANGE 0 COLUMBIA

LOCATION RTE. 17/17A PARK&RIDE, TUXEDO  
DESCRIPT Reconstruction of Route 17/17A Park & Ride Lot in the Town of T  
PROJTYPE uxedo

AWARD 10/06/04  
START 10/22/04  
COMPLETE 07/14/05  
REALEND / /

DNUMBER D259704  
CONTR PERRELLO INC  
PERCENT 8.893  
LOWBID 508,926.56

COUNTY PUTNAM WEST ROCKLAND DUTCHESS  
PUTNAM ULSTER  
P COLUMBIA

ORANGE

LOCATION .RTE.6 BRDG OVER MIDDLE BRANCH PUTNAM  
 DECRPT Replace. Rte.6 Bridge over Middle Branch Croton Reservoir Town  
 of Southeast. Contractor, LAWS Const. Corp.  
 PROJTYPE BRIDGE REPLACEMENT  
 ASPHALT CONCRETE  
 AWARD 07/16/03  
 START 07/25/03  
 COMPLETE 11/30/05  
 REALEND / /  
 DNUMBER D259055  
 CONTR LAWS CONSTRUCTION CORP.  
 PERCENT 62.025  
 LOWBID 4,142,571.30

COUNTY ROCKLAND WEST DUTCHESS  
 ROCKLAND R ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION RTE.59 BRIDGE OVER METRO-NORTH  
 DECRPT Replace.of N.Y.S.Rte.59 Bridge over Metro-North RR in Ramapo.

PROJTYPE

AWARD 07/13/00  
 START 09/21/00  
 COMPLETE 06/30/05  
 REALEND / /

DNUMBER D258209  
 CONTR ST. PAUL COMPANIES A/C CBE CONTRACTING CORP  
 PERCENT 81.022  
 LOWBID 3,645,580.53

COUNTY ROCKLAND WEST DUTCHESS  
 ROCKLAND R ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION RT.59 BRDG(TALLMAN)OVER METRO-NORTH  
 DECRPT Replacement of Rte 59 Bridge (Tallman) over Metro North RR in  
 Ramapo

PROJTYPE

AWARD 06/13/03  
 START 07/14/03  
 COMPLETE 09/19/06  
 REALEND / /

DNUMBER D259144  
 CONTR A SERVIDONE/B ANTHONY CONSTR CORP (JV)  
 PERCENT 75.817  
 LOWBID 6,143,803.85



CONTR PERCENT 0.000  
 → LOWBID 2,091,945.00

COUNTY ULSTER WEST ROCKLAND DUTCHESS  
 PUTNAM ULSTER U  
 ORANGE COLUMBIA

LOCATION RECONSTR. RTE.9W,TWN OF LLOYD,ULSTER  
 DESCRIPT Reconstruction of Rte 9W from South Chapel Hill Road to Vineyard Avenue in the Town of Lloyd  
 PROJTYPE Route 9W Reconstruction

AWARD 01/21/04  
 START 02/15/04  
 COMPLETE 11/30/05  
 REALEND / /

DNUMBER D259345  
 CONTR PARSIPPANY CONSTRUCTION COMPANY INC  
 PERCENT 58.482  
 → LOWBID 9,471,111.00

COUNTY ULSTER WEST ROCKLAND DUTCHESS  
 PUTNAM ULSTER U  
 ORANGE COLUMBIA

LOCATION REPLACE I-587 BRIDGE OVER RR,ULSTER  
 DESCRIPT Replacement of Interstate 587 Bridge over Railroad (prestressed concrete beam) in the City of Kingston.  
 PROJTYPE

AWARD 05/11/05  
 → START 05/12/05  
 COMPLETE 10/30/06  
 REALEND / /

DNUMBER D259810  
 CONTR BETTE & CRING,LLC  
 PERCENT 14.083  
 → LOWBID 6,063,356.00

COUNTY VARIOUS WEST W DUTCHESS D  
 ROCKLAND R ULSTER U  
 PUTNAM P COLUMBIA C  
 ORANGE O

LOCATION WHERE & WHEN GRAFFITI REMOVAL  
 DESCRIPT Where/when Graffiti Removal at various locations.

PROJTYPE

AWARD 06/11/02  
 START 07/01/02  
 COMPLETE 12/31/05

WEBRPT.TXT

REALEND / /

DNUMBER D259066  
CONTR ELQ INDUSTRIES INC  
PERCENT 82.760  
LOWBID 333,080.00



COUNTY VARIOUS WEST ROCKLAND W DUTCHESS ULSTER U  
PUTNAM COLUMBIA  
ORANGE

LOCATION SIGN STRUCTURES,VAR LOC,ULSTER/WEST.  
DESCRIPT Sign Structures on Routes 9, 9A, 28, 100, 209 & TSP

PROJTYPE

AWARD 10/07/04  
START 03/28/05  
COMPLETE 10/31/05  
REALEND / /

DNUMBER D259688  
CONTR TRANSIT CONSTRUCTION CORP  
PERCENT 32.706  
LOWBID 621,450.00

COUNTY VARIOUS WEST ROCKLAND DUTCHESS ULSTER U  
PUTNAM COLUMBIA  
ORANGE O

D&A6HDLOCATION CULVERT REPL./REPAIRS,VARIOUS LOC.  
DESCRIPT Culvert replacement & repairs at various locations

PROJTYPE CulvReplace&Repair

AWARD 06/01/04  
START 07/12/04  
COMPLETE 10/31/05  
REALEND / /

DNUMBER D259495  
CONTR DOYLE CONTRACTING INC.  
PERCENT 88.644  
LOWBID 1,670,537.00

COUNTY VARIOUS WEST ROCKLAND W DUTCHESS D  
PUTNAM P ULSTER  
ORANGE COLUMBIA

LOCATION PAINTING 5 BRIDGES, VARIOUS COUNTIES  
DESCRIPT Painting 5 Bridges at Various Locations

PROJTYPE

WEBRPT.TXT

AWARD 07/16/04  
START 09/15/04  
COMPLETE 12/30/05  
REALEND / /

DNUMBER D259657  
CONTR PENZA CONTRACTORS INC  
PERCENT 60.070  
LOWBID 1,142,105.00

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION WHERE & WHEN BRIDGE CONTRACT  
DESCRIPT Where & When Bridge Repair Contract

PROJTYPE

AWARD 10/14/03  
START 11/19/04  
COMPLETE 10/31/05  
REALEND / /

DNUMBER D259381  
CONTR C.P. WARD  
PERCENT 42.565  
LOWBID 1,880,455.50

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION GUIDERAIL/SHOULDERS/CULVERTS VAR LOC  
DESCRIPT Guide Rail Replacement, Shoulder Improvements and Replacement o  
f three culverts at various locations  
PROJTYPE 00/01 Guide Rails

AWARD 01/21/04  
START 03/01/04  
COMPLETE 06/30/05  
REALEND / /

DNUMBER D259457  
CONTR REALIFE LAND IMPROVEMENT, INC  
PERCENT 82.569  
LOWBID 3,693,000.00

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION MOWING/LITTER REMOVAL PIP, ROCKLAND  
DESCRIPT Mowing & Litter on Palisades Interstate Parkway

WEBRPT.TXT

PROJTYPE

AWARD 04/30/04  
START 05/06/04  
COMPLETE 10/31/05  
REALEND / /

DNUMBER D259511  
CONTR EASTWOOD INDUSTRIES, INC.  
PERCENT 59.432  
LOWBID 487,487.00

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND ULSTER  
PUTNAM P COLUMBIA C  
ORANGE

LOCATION VPP,RTS.203/20/987G/312/6/9A/22/9  
DESCRIPT VPP - Routes 203, 20, 987G(TSP), 312, 6, 9A, 22 & 9 in Various  
Towns  
PROJTYPE VPP C/D/P/W

AWARD 04/28/04  
START 06/01/04  
COMPLETE 06/30/06  
REALEND / /

DNUMBER D259565  
CONTR INTERCOUNTY PAVING ASSOC. LLC  
PERCENT 57.454  
LOWBID 2,077,777.77

COUNTY VARIOUS WEST R DUTCHESS U  
ROCKLAND ULSTER  
PUTNAM O COLUMBIA  
ORANGE

LOCATION Guide Rail Replacement at Various Locations (Orange, Rockland &  
DESCRIPT Ulster)  
PROJTYPE

AWARD 09/09/04  
START 12/15/04  
COMPLETE 09/30/05  
REALEND / /

DNUMBER D259658  
CONTR EMI GUIDE RAIL, LLC  
PERCENT 68.818  
LOWBID 1,587,892.51

COUNTY VARIOUS WEST O DUTCHESS U  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

WEBRPT.TXT

LOCATION CATCH BASIN REPAIR/REPLC. VAR. LOC.  
DESCRIPT Catch Basin Repair or Replacement at Various Locations

PROJTYPE

AWARD 12/03/04  
START 06/01/05  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259732  
CONTR TRANSIT CONSTRUCTION CORP  
PERCENT 0.000  
LOWBID 1,011,285.00

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION UPGRADE/INSTALL TRAFFIC SIGNALS  
DESCRIPT Traffic Signal Requirements Contracts. Upgrade of existing & installation of new traffic signals at various locations.  
PROJTYPE

AWARD 05/28/04  
START 08/16/04  
COMPLETE 10/31/05  
REALEND / /

DNUMBER D259585  
CONTR PLANERT UTILITY, INC.  
PERCENT 17.135  
LOWBID 1,044,367.00

COUNTY VARIOUS WEST DUTCHESS D  
ROCKLAND ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION REHAB. 39 BRIDGES ON I-84,VAR. LOC.  
DESCRIPT Rehabilitation of 39 Bridges on I-84. Bearings, Joint, Wearing Surface, Monodeck, Bridge Rail, Concrete & Steel Repair at Various Locations  
PROJTYPE

AWARD 08/05/04  
START 09/13/04  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259582  
CONTR MCNAMEE CONST CORP  
PERCENT 47.162  
LOWBID 4,699,187.00

COUNTY VARIOUS WEST W DUTCHESS D

	WEBRPT.TXT		
ROCKLAND	R	ULSTER	U
PUTNAM	P	COLUMBIA	C
ORANGE	O		

LOCATION SFY 04/05 BRIDGE WHERE & WHEN  
 DECRPT SFY 04/05 Bridge Where & When

PROJTYPE Bridge where & when

AWARD 05/13/04  
 START 05/26/04  
 COMPLETE 05/31/06  
 REALEND / /

DNUMBER D259598  
 CONTR E. DASKAL CORP  
 PERCENT 70.495  
 LOWBID 1,862,977.50

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 COUNTY VARIOUS WEST W DUTCHESS D  
 ROCKLAND R ULSTER U  
 PUTNAM P COLUMBIA C  
 ORANGE O

LOCATION  
 DECRPT Installation and Replacement of Guide Rail at Various Locations

PROJTYPE

AWARD 07/21/04  
 START 10/08/04  
 COMPLETE 12/30/05  
 REALEND / /

DNUMBER D259651  
 CONTR MOHEGAN ASSOCIATES INC  
 PERCENT 70.518  
 LOWBID 2,920,687.95

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 COUNTY VARIOUS WEST W DUTCHESS  
 ROCKLAND R ULSTER  
 PUTNAM P COLUMBIA C  
 ORANGE

LOCATION  
 DECRPT Guide Rail Replacement at Various Locations in Columbia, Putnam  
 & Westchester Counties ( Routes 20, 301, 9A & 100)

PROJTYPE

AWARD 09/09/04  
 START 10/11/04  
 COMPLETE 09/30/05  
 REALEND / /

DNUMBER D259668  
 CONTR ELDERLEE INC  
 PERCENT 43.209  
 LOWBID 1,269,064.05



WEBRPT.TXT

CONTR DANDROW'S PAINTING INC  
PERCENT 8.160  
LOWBID 243,890.00

COUNTY VARIOUS WEST ROCKLAND DUTCHESS D  
PUTNAM P ULSTER C  
ORANGE COLUMBIA C

LOCATION RESURFACING RTS. 9H,44,311&987G(TSP)  
DESCRIPT 26.9 kilometers of asphalt concrete resurfacing on Routes 9H, 4  
& 6H  
PROJTYPE 4, 311 & 987G(TSP)

AWARD 12/21/04  
START 04/13/05  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259740  
CONTR A. COLARUSSO & SON, INC.  
PERCENT 48.259  
LOWBID 3,352,600.00

COUNTY VARIOUS WEST ROCKLAND W DUTCHESS D  
PUTNAM P ULSTER U  
ORANGE O COLUMBIA C

LOCATION TREE REMOVAL CONTRACT, ALL COUNTIES  
DESCRIPT Tree Removal - All Counties, Region 8  
PROJTYPE

AWARD 02/23/05  
START 04/04/05  
COMPLETE 11/30/05  
REALEND / /

DNUMBER D259751  
CONTR ADIRONDACK TREE SURGEONS, INC  
PERCENT 0.000  
LOWBID 1,521,367.00

COUNTY VARIOUS WEST ROCKLAND W DUTCHESS D  
PUTNAM P ULSTER U  
ORANGE O COLUMBIA C

LOCATION Installation of Traffic Signals at Various Locations in Region 8  
DESCRIPT #125,000 each  
PROJTYPE

AWARD 03/17/05  
START / /  
COMPLETE 10/31/06

*Traffic Signals*

WEBRPT.TXT

REALEND / /  
DNUMBER D259771  
CONTR PLANERT UTILITY, INC.  
PERCENT 0.000  
LOWBID 1,024,177.00

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COUNTY VARIOUS WEST WEST DUTCHESS  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

LOCATION  
DESCRIPT Asphalt Concrete Resurfacing on Routes 9, 987D, & 984E at Various Locations  
PROJTYPE

AWARD 03/04/05  
START 05/16/05  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259777  
CONTR BILOTTA CONSTRUCTION CORP  
PERCENT 53.460  
LOWBID 1,528,752.78

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COUNTY VARIOUS WEST WEST DUTCHESS D  
ROCKLAND ULSTER  
PUTNAM COLUMBIA C  
ORANGE

LOCATION  
DESCRIPT SPECIAL PAVEMENT MARKINGS, VAR. LOC.  
Special Pavement Marking Contract at Various Locations - Columbia & Dutchess  
PROJTYPE

AWARD 03/11/05  
START 04/11/05  
COMPLETE 11/30/05  
REALEND / /

DNUMBER D259794  
CONTR SAFETY MARKING, INC.  
PERCENT 16.850  
LOWBID 755,580.80

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COUNTY VARIOUS WEST WEST DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION  
DESCRIPT LONG LINE PAVEMENT MARKINGS, VAR. LOC  
Long Line Pavement Markings at Various Locations - All Counties  
PROJTYPE

WEBRPT.TXT

AWARD 02/11/05  
 START 04/13/05  
 COMPLETE 11/30/05  
 REALEND / /  
 DNUMBER D259795  
 CONTR DENVILLE LINE PAINTING, INC.  
 PERCENT 42.520  
 LOWBID 1,723,800.00

COUNTY VARIOUS WEST ROCKLAND R DUTCHESS ULSTER U  
 PUTNAM O COLUMBIA

LOCATION RESURFACING VARIOUS LOC., VARIOUS CO.  
 DESCRIPT Asphalt Concrete Resurfacing, Shoulder Widening & Minor Drainage Work on Rtes 32, 208, 17, 94, 300, 9W, 45, 212 & 28 at Various Locations  
 PROJTYPE

AWARD 04/21/05  
 START 04/26/05  
 COMPLETE 12/31/05  
 REALEND / /  
 DNUMBER D259776  
 CONTR TILCON NEW YORK, INC.  
 PERCENT 0.000  
 LOWBID 6,398,000.00

COUNTY VARIOUS WEST ROCKLAND DUTCHESS D  
 PUTNAM P ULSTER  
 ORANGE O COLUMBIA

LOCATION SIGN STRUCTURES, I-84 D/O/P COUNTIES  
 DESCRIPT Removal or Replacement of Overhead Sign Structure on Route I-84 in Dutchess, Orange & Putnam Counties  
 PROJTYPE

AWARD 04/05/05  
 START 06/02/05  
 COMPLETE 01/31/06  
 REALEND / /  
 DNUMBER D259817  
 CONTR TRANSIT CONSTRUCTION CORP  
 PERCENT 3.840  
 LOWBID 2,305,705.00

COUNTY VARIOUS WEST ROCKLAND W DUTCHESS D  
 PUTNAM P ULSTER U  
 ORANGE O COLUMBIA

LOCATION Installation of Guide Rail at Various Locations - D/O/P/U/W  
 DESCRIPT  
 Page 16

WEBRPT.TXT

␣&a6H␣PROJTYPE

AWARD 03/29/04  
START 08/15/05  
COMPLETE 12/30/05  
REALEND / /

DNUMBER D259829  
CONTR EMI GUIDE RAIL, LLC  
PERCENT 0.000  
LOWBID 944,604.41

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION 04/05 HIGHWAY WHERE & WHEN CONTRACT  
DESCRIPT SFY 04/05 Highway where & when

PROJTYPE

AWARD 10/07/04  
START 10/27/04  
COMPLETE 03/31/06  
REALEND / /

DNUMBER D259708  
CONTR SUN UP ENTERPRISES INC.  
PERCENT 50.531  
LOWBID 1,438,350.00

COUNTY VARIOUS WEST W DUTCHESS D  
ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

LOCATION PAINTING BRIDGES, VARIOUS COUNTIES  
DESCRIPT Painting 10 Bridges at Various Locations - D/P/R/U

PROJTYPE

AWARD 07/19/05  
START 09/06/05  
COMPLETE 05/30/07  
REALEND / /

DNUMBER D259847  
CONTR ERIE PAINTING & MAINTENANCE INC  
PERCENT 0.000  
LOWBID 1,775,037.00

COUNTY VARIOUS WEST W DUTCHESS D  
␣&a6H␣ ROCKLAND R ULSTER U  
PUTNAM P COLUMBIA C  
ORANGE O

WEBRPT.TXT

LOCATION  
DESCRIPT      Emergency Standby Bridge Repair Contract at Various Locations

PROJTYPE

AWARD            05/12/05  
START            08/08/05  
COMPLETE        05/31/07  
REALEND         / /

DNUMBER        D259864  
CONTR            E. DASKAL CORP  
PERCENT         0.000  
LOWBID          1,932,773.70

COUNTY	VARIOUS	WEST	W	DUTCHESS	D
		ROCKLAND		ULSTER	U
		PUTNAM	P	COLUMBIA	C
		ORANGE	O		

LOCATION  
DESCRIPT      04/05 Annual Landscape Development (street planting, wildflower  
planting & other landscape-related items)

PROJTYPE

AWARD            05/17/05  
START            06/25/05  
COMPLETE        12/31/06  
REALEND         / /

DNUMBER        D259881  
CONTR            DACOSTA LANDSCAPING CONTRACTORS  
PERCENT         0.000  
LOWBID          234,734.00

COUNTY	WESTCHESTER	WEST	W	DUTCHESS
		ROCKLAND		ULSTER
		PUTNAM		COLUMBIA
		ORANGE		

LOCATION  
DESCRIPT      RTE. 22 OVER RYE LAKE, WESTCHESTER  
Rehab.of Rte. 22 Bridge over Rye Lake Outlet, North Castle.

PROJTYPE

AWARD            05/15/02  
START            05/29/02  
COMPLETE        09/30/05  
REALEND         / /

DNUMBER        D258528  
CONTR            ECCO III ENTERPRISES INC.  
PERCENT         96.279  
LOWBID          9,350,183.00

COUNTY	WESTCHESTER	WEST	W	DUTCHESS
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WEBRPT.TXT

ROCKLAND  
PUTNAM  
ORANGE  
ULSTER  
COLUMBIA

LOCATION INTEROPERABLE SIGNAL SYSTEM, WEST. CO.  
DESCRIPT Installation of Interoperable Coordinated Signal System in the  
City of White Plains  
PROJTYPE

AWARD 07/16/04  
START 08/23/04  
COMPLETE 11/30/05  
RELEND / /

DNUMBER D259630  
CONTR PHOENIX SIGNAL & ELECTRIC CORPORATION  
PERCENT 67.077  
LOWBID 568,816.60

COUNTY WESTCHESTER WEST W DUTCHESS  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

LOCATION I-287 RECONSTR. STAGE II, WEST. CO.  
DESCRIPT 2.9 kilos.asphalt/conc.reconst.&replace.variousbridges on I-287  
Village of Elmsford & Town of Greenburgh.  
PROJTYPE BRIDGE REPLACEMENT

AWARD 06/07/02  
START 06/17/02  
COMPLETE 10/13/05  
RELEND / /

DNUMBER D258972  
CONTR ECCO III ENTERPRISES INC.  
PERCENT 85.208  
LOWBID 81,285,728.67

COUNTY WESTCHESTER WEST W DUTCHESS  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

LOCATION RT.22 RECONST., I-684, EXIT 3, N. CASTLE  
DESCRIPT Reconstruction of Rte 22 at Exit 3 on I684 in the Town of North  
Castle

PROJTYPE  
0&a6HD

AWARD 06/30/03  
START 07/10/03  
COMPLETE 06/30/05  
RELEND / /

DNUMBER D259096  
CONTR THOMAS M BRENNAN DBA BRENNAN CONST.  
PERCENT 88.390  
LOWBID 7,054,346.80

WEBRPT.TXT

COUNTY WESTCHESTER WEST ROCKLAND W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION WILMOT RD. RECONST., NEW ROCHELLE  
 DECRPT 1.6 kilos. of Asp/Conc. reconst. Wilmot Rd. City of New Rochelle.

PROJTYPE

AWARD 06/03/03  
 START 06/24/03  
 COMPLETE 12/30/05  
 REALEND / /

DNUMBER D259249  
 CONTR PERSICO CONTRACTING & TRUCKING INC.  
 PERCENT 88.041  
 LOWBID 3,976,186.40

COUNTY WESTCHESTER WEST ROCKLAND W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION I-287 THRUWAY JOB  
 DECRPT I-287 STAGE I (NYSTA)

PROJTYPE

AWARD 02/23/01  
 START 02/23/01  
 COMPLETE 09/27/03  
 REALEND / /

DNUMBER D212928  
 CONTR YONKERS CONSTRUCTION CO. INC.  
 PERCENT 0.000  
 LOWBID 165,432,881.75

COUNTY WESTCHESTER WEST W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION RECONSTR 2 BRIDGES TSP, YORKTOWN  
 DECRPT 6 km reconstr. of TSP incl. 2 bridges; repl. Rt 132 Br over TSP  
 ; TSP Br over Shrub oak Brook (all precast concr.) TSP over Rt 6 (comp)

PROJTYPE

AWARD 07/22/03  
 START 08/14/03  
 COMPLETE 05/31/06  
 REALEND / /

DNUMBER D258924

CONTR GRANITE HALMAR CONST. CO. INC. WEBRPT.TXT  
 PERCENT 47.930  
 LOWBID 62,301,130.65

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COUNTY WESTCHESTER WEST W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION RTE. 35/202 CULVERT(CROMPOND RD)  
 DECRIPRT Replacement of Route 35/202 (Crompond Road) Culvert over Unnam  
 PROJTYPE d Creek in the Town of Cortlandt

AWARD 10/20/03  
 START 03/15/04  
 COMPLETE 12/31/04  
 REALEND / /

DNUMBER D259420  
 CONTR MCNAMEE CONST CORP  
 PERCENT 90.707  
 LOWBID 419,047.00

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COUNTY WESTCHESTER WEST W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION I-684,CWE TO C.R.32, WESTCHESTER CO.  
 DECRIPRT Resurfacing, Restoration & Rehabilitation of I-684, from Cross  
 PROJTYPE Westchester Expressway to County Route 32

AWARD 09/14/04  
 START 09/13/04  
 COMPLETE 12/03/05  
 REALEND / /

DNUMBER D259569  
 CONTR COLUMBUS CONSTRUCTION CORP.  
 PERCENT 55.162  
 LOWBID 16,175,500.00

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COUNTY WESTCHESTER WEST W DUTCHESS  
 ROCKLAND ULSTER  
 PUTNAM COLUMBIA  
 ORANGE

LOCATION Cleaning 219 Bridges and Sealing 97 Bridges at various location  
 DECRIPRT s. Westchester County.  
 PROJTYPE

AWARD 11/24/04  
 START 04/20/05  
 COMPLETE 10/31/05

WEBRPT.TXT

REALEND / /

DNUMBER D259730  
CONTR DANDROW'S PAINTING INC  
PERCENT 6.070  
LOWBID 617,000.00

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COUNTY WESTCHESTER WEST W DUTCHESS  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

LOCATION MEMORIAL HWY/DIVISION ST. I-95  
DESCRIPT Memorial Highway & Division Street over I95 and MetroNorth Rail  
road in the City of New Rochelle  
PROJTYPE

AWARD 08/01/05  
START 08/15/05  
COMPLETE 05/01/08  
REALEND / /

DNUMBER D259801  
CONTR ECCO III ENTERPRISES INC.  
PERCENT 0.000  
LOWBID 22,637,843.28

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COUNTY WESTCHESTER WEST W DUTCHESS  
ROCKLAND ULSTER  
PUTNAM COLUMBIA  
ORANGE

LOCATION Preventative Maintenance Initiative - Milling & Resurfacing at  
DESCRIPT Various Locations in Westchester County  
PROJTYPE

AWARD 05/12/05  
START 06/21/05  
COMPLETE 12/31/05  
REALEND / /

DNUMBER D259840  
CONTR PECKHAM ROAD CORP  
PERCENT 0.000  
LOWBID 3,623,840.48

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**Year-Round Sales and Use Tax Exemption of Clothing, Footwear,  
and Items Used to Make or Repair Exempt Clothing  
(Effective April 1, 2006)**

Beginning April 1, 2006, there will be a year-round exemption from New York State sales and use taxes for clothing, footwear, and items used to make or repair exempt clothing, costing less than \$110 per item or pair. The exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption.

The exemption will apply to the state's 4% sales and use taxes. The exemption also applies to the 3/8% sales and use taxes imposed by the state in the Metropolitan Commuter Transportation District (MCTD), but only in those areas of the MCTD located in a county or city in the MCTD which elects the exemption from its own local taxes. The MCTD consists of New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

New York City enacted a year-round exemption for clothing, footwear, and items used to make or repair exempt clothing that took effect September 1, 2005. However, the year-round exemption in New York City did not apply to the 3/8% MCTD taxes at that time. Effective April 1, 2006, in New York City, the year-round exemption for clothing, footwear, and items used to make exempt clothing will apply to the 4% New York State sales and use taxes, the 4% New York City local sales and use taxes, and the 3/8% MCTD taxes.

Chautauqua County enacted a year-round exemption from its 4 1/4% local sales and use taxes on clothing, footwear, and items used to make or repair exempt clothing that took effect March 1, 2006. This exemption remains in effect. See TSB-M-06(2)S, *Local Chautauqua County Sales and Compensating Use Tax Exemption of Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing, Effective March 1, 2006*. It should be noted that there is no limitation on the cost of eligible items of clothing and footwear, and items used to make or repair exempt clothing to qualify for Chautauqua County's local exemption.

See TSB-M-06(6.1)S, *Year-Round Sales and Use Tax Exemption of Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing—Effective April 1, 2006 (Exemption within counties and cities)* for a listing of local tax rates in the counties and cities where clothing and footwear remain subject to local tax and a listing of counties and cities where the state and local exemptions apply.

Information on transitional provisions that apply to the year-round exemption, a description of the clothing and footwear exemption, and a listing of exempt and taxable items are provided on the following pages.

### **Special Transitional Provisions for the year-round exemption**

#### **Mail and telephone orders**

New York State and local sales and use taxes (except the local taxes in Chautauqua County and New York City) will apply to purchases that are ordered by mail or by telephone if the orders are accepted by the vendor prior to April 1, 2006, even if the purchases are picked up or received on or after April 1, 2006. An order is accepted by the vendor when the vendor has taken an action to fill the order. Actions to fill an order include placing an in-date stamp on a mail order or assigning an order number to a telephone order. The same rule applies to orders made using the Internet and email.

#### **Rain checks**

The year-round exemption from sales and use taxes will apply to purchases made with a rain check on or after April 1, 2006, even though the customer uses a rain check that was issued before April 1, 2006.

### **Description of the clothing and footwear exemption**

The exemption applies only to clothing and footwear worn by humans. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. While the exemption applies to items of clothing and footwear worn on the body, not all items worn on the body qualify as clothing or footwear. Jewelry, watches, and like items remain taxable.

Equipment items, such as tool belts, hard hats, and sport, bicycle and motorcycle helmets, though worn on the body, remain taxable. Protective goggles and safety glasses (unless prescription) for sport or occupational use, protective sport or occupational masks or pads, hockey and baseball fielders' gloves or mitts, ice skates and roller skates, fireplace mittens, and similar pieces of equipment (sporting or otherwise) also remain taxable. Antique clothing and footwear are exempt if they are purchased for human wear and not as collector's items. All purchases of doll and pet clothes and footwear are taxable.

If exempt clothing or footwear is sold with other taxable merchandise as a single unit, the full price is subject to sales or use tax, unless the price of the clothing or footwear is separately stated. For example, a store has a boxed gift set for sale that has a French-cuff dress shirt, cufflinks and a tie tack. The gift set is sold for a single price of \$50. Although the shirt sold by itself would be exempt, the full price of the boxed gift set would be taxable because the cufflinks and tie tack are taxable and the selling price of the shirt is not separately stated.

**The following additional limitations will apply to the exemption.**

- The article of clothing or pair of shoes or other articles of footwear must be sold for less than \$110 per article or pair. This less than \$110 limitation also applies to each item of fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. A charge by the vendor for alterations to clothing sold by the vendor should be included when determining whether the less than \$110 limitation has been met, unless the vendor separately states a reasonable charge for the alteration on the receipt given to the purchaser of the clothing [see TSB-M-02(4)S].
- Costumes and rented formal wear are not eligible for exemption. Nor does the exemption apply to fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of costumes or rented formal wear or that are used to make or repair costumes or rented formal wear.
- Items of fabric, thread, yarn, buttons, snaps, hooks, zippers and like items used to make or repair otherwise exempt clothing are not eligible for exemption if the item is made from real or imitation pearls, or from real or imitation precious or semiprecious stones, jewels, or metals.
- Most accessories (such as handbags, umbrellas, watches, and watchbands) are not considered clothing and are taxable. However, belt buckles, handkerchiefs, sweatbands, head scarves, and neckwear, such as scarves and ties, are exempt.
- Fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items used to make or repair taxable products are taxable.
- Monogramming of clothing prior to its sale is eligible for exemption if the monogramming is sold in conjunction with the sale of the clothing and the price for the monogrammed item is less than \$110. However, if the monogramming is done separately by a vendor for a separate charge, the charge for this service is taxable. This limitation also applies to the application of decals, logos and like items (e.g., pictures or letters) by sewing, printing, imprinting, silk screening, and the like.

**Delivery, shipping, and handling charges (delivery)**

Reasonable, separately stated charges by the vendor for delivery of eligible clothing and footwear are not taken into account in determining if the cost of an item is less than the \$110 limitation. For example, if an article of clothing sells for \$95 and the vendor charges \$20 for delivery, the clothing and the delivery charge qualify for exemption. However, delivery charges by the vendor for items or pairs costing \$110 or more remain subject to tax.

**Coupons**

If a customer uses a manufacturer's coupon to pay for an article of clothing or a pair of shoes or other articles of footwear, the value of the coupon does not reduce the selling price for purposes of determining whether the article or pair is sold for less than \$110. But if a customer pays for clothing or footwear using a store coupon, for which the store receives no reimbursement, the store coupon does reduce the selling price of the clothing or footwear for purposes of determining whether the item is sold for less than \$110.

**Special reporting requirements for exemption items**

Vendors who make sales of exempt clothing, footwear, and items used to make or repair exempt clothing must file Schedule H to report those sales. All sales of these items must be separately reported on Schedule H for the locality in which the sales were made. Sales of exempt clothing, footwear, and items used to make or repair exempt clothing must be reported, by locality, whether they are subject to local tax (because a county or city did not elect for the exemption to apply) or are exempt from both state and local taxes.

Schedule H must be completed and filed by vendors who have made sales of eligible clothing and footwear during the period covered by the return. Schedule H will be supplied to all quarterly and annual filers of Forms ST-100, ST-101, ST-102, and ST-810 with their returns. This schedule should be completed and filed along with your quarterly or annual return.

The pages that follow contain lists of exempt and taxable clothing and footwear items. The lists are intended as a guide and are not all-inclusive. **Previously issued lists should not be used.**

**Sales and Use Tax Exemption of Clothing, Footwear,  
and Items Used to Make or Repair Exempt Clothing Effective April 1, 2006**

**Listing of exempt and taxable items**

**Exempt items**

Aerobic clothing	Garters/garter belts	Shoes (ballet, bicycle,
Antique clothing (for wear)	Girdles	bowling, cleated, football,
Aprons	Gloves (batting, bicycle, dress	golf, jazz/dance, soccer,
Arch supports*	[unless rented], garden, golf,	track, etc.)
Arm warmers	ski, tennis, work)	Shoe inserts
Athletic supporters	Graduation caps and gowns	Shoe laces
Athletic or sport uniforms or	(unless rented)	Shoulder pads for dresses,
clothing (but not equipment	Gym suits	jackets, etc. (but not athletic
such as mitts, helmets and	Hand muffs	or sport protective pads)
pads)	Handkerchiefs	Shower caps
Bandannas	Hats	Ski masks
Bathing caps	Hosiery (panty hose, peds,	Sleepwear
Bathing suits	etc.)	Slippers
Beach caps and coats	Insoles	Sneakers
Belt buckles	Jeans	Socks
Belts/suspenders	Jogging suits	Sports clothing and uniforms
Bibs (baby)	Lab coats	(but not equipment such as
Blouses	Leg warmers	mitts, helmets, and pads)
Boots (climbing, fishing,	Leotards	Stockings
riding, ski, waders)	Lingerie	Support hosiery
Bridal gowns and veils (unless	Pajamas	Suspenders
rented)	Ponchos	Sweat bands
Caps	Prom dress (unless rented)	Sweat suits
Coats and wraps	Rain wear	Ties/neckwear
Corset laces	Receiving blankets	Tights
Coveralls	Religious clothing	Tuxedo (unless rented)
Diapers (adult – including	Rented uniforms (unless	Underwear
disposable)*	formal wear/costume)	Uniforms (occupational,
Diapers (children – including	Riding pants	military, scouting, sport)
disposable)	Robes	Wet and dry suits
Dress shields	Scarves	Yard goods, and notions**
Dresses	Scout uniforms	
Ear muffs	Shawls and wraps	
Formal clothing (unless	Shirts	
rented)		
Fur clothing		

**Sales and Use Tax Exemption of Clothing, Footwear,  
and Items Used to Make or Repair Exempt Clothing Effective April 1, 2006**

**Taxable items**

Antique clothing (collectible not for wear)	Key cases	Sunglasses (unless prescription)
Barrettes	Mitts (baseball fielder's glove, hockey, etc.)	Umbrellas
Bobby pins	Party costumes	Wallets
Costumes	Personal flotation devices	Watch bands
Crib blankets	Protective masks (athletic, sport, or occupational)	Watches
Elastic ponytail holders	Roller skates	Wigs
Goggles (unless prescription*)	Safety glasses (unless prescription*)	Yard goods and notions**
Hair bows	Sewing accessories (not an integral part of clothing such as chalk, instruction books, knitting needles, measuring tapes, needles, patterns, scissors, pins, thimbles)	
Hair clips	Shin guards and padding	
Handbags and purses	Shoulder pads (football, hockey, etc.)	
Headbands (sweatbands are exempt)		
Helmets (sport, motorcycle, bicycle, etc.)		
Ice skates		
In-line skates		
Jewelry		

\* Items marked with an asterisk are exempt regardless of their price. See Publication 822, *Taxable Status of Medical Equipment and Supplies*. Do not report these items on Schedule H.

\*\* Yard goods and notions (fabric, thread, yarn, buttons, snaps, hooks, zippers and like items) used or consumed to make or repair exempt clothing which become a physical component part of the clothing are generally exempt. See page 3 for additional details concerning the taxability of yard goods and notions.



elenabao11@hotmail.com

Printed: Friday, September 15, 2006 12:28 PM

**From :** [REDACTED]

**Sent :** Thursday, August 24, 2006 9:29 AM

**To :** [REDACTED]

**Subject :** Do you remember this article?

[REDACTED]

Be sure you know what you are wishing for...

February 06, 2005

Is Common worth costs?

By Chris McKenna  
 Times Herald-Record  
 <mailto:cmckenna@th-record.com>cmckenna@th-record.com

Woodbury - In 1982, W. Averell Harriman, the aging former New York governor and heir to a railroad fortune, donated 137 family-owned acres to Woodbury to help his hometown "attract business and industry," as he put it in a letter.

Three years later, mission accomplished.

The first 25 stores of what would become a 220-store shopping mecca called Woodbury Common Premium Outlets opened at the busy nexus of Routes 17, 32 and 6 and beside an entrance to the New York State Thruway - an expressway for bargain shoppers from around the world.

The center that Harriman's land gift made possible succeeded beyond what the town and its retired statesman could have imagined 20 years ago, blossoming into a rich source of property and sales taxes.

But the outlet center has long been more whipping boy than savior for residents who once courted its taxes. For them, hosting the jewel of Orange County tourism means coping with traffic jams on Route 32 on weekends and holidays and paying police to arrest a steady stream of shoplifters.

So the perennial question in Woodbury is whether this growing town of 9,500 is getting its fair share to play host to one of the Hudson Valley's busiest tourist attractions.

The short answer - when comparing strictly what Woodbury Common pays the town in property taxes to what it generates in police costs - is that the shopping center is pulling its weight . just barely.

The proof is in the 2005 tax bill that its owner - Chelsea Property Group of Roseland, N.J. - was charged for its 171 acres. That bill came to \$862,720.

On the other side of the ledger, town police visited Woodbury Common 2,888 times in 2004 - just over a quarter of their total calls for service - and made 71 percent of their 356 arrests there.

Weighing the Woodbury Common calls slightly higher to account for the greater time officers spend making arrests and going to court, police Chief Robert Kwiatkowski estimates the department devoted roughly a third of its

time to the outlet center last year.

Since the police budget this year, including dispatchers, is \$2.5 million, almost \$820,000 therefore could be attributed to Woodbury Common activity - an amount just covered by property taxes, with change to spare.

Woodbury and Chelsea officials, who have sparred over the years about the traffic and police activity, most recently butted heads over an additional \$145,900 charge that Woodbury Common must pay the town for police to patrol its grounds on weekends.

The town wanted Chelsea to increase the amount by \$60,000 this year to cover rising costs, but Chelsea refused. The police responded by yanking the patrols this month and threatening to withhold them until April.

On Friday, Kwiatkowski and town Councilwoman Geraldine Gianzero met with two Woodbury Common representatives to try to resolve the disagreement - a meeting Chelsea requested after the dispute had been aired in the Times Herald-Record. The chief said afterward that Chelsea wants to shift how the funds are spent but probably won't raise the total amount.

Chelsea officials declined to be interviewed for this story.

Woodbury residents, it should be noted, also benefit from the whopping \$3.3 million Chelsea pays the Monroe-Woodbury School District - 4 percent of the district's tax levy - and indirectly from the \$520,895 it pays the county in property taxes.

In addition, Woodbury gets at least \$90,000 or so in Woodbury Common sales taxes back from the county. But that amount may be more of an insult than a reward for the host, given that the county as a whole takes in an estimated \$15 million to \$20 million in sales tax revenue from the shopping mecca.

And therein lies a conflict.

Under an old agreement between the county and its three cities, the county keeps about three-quarters of the sales taxes that its businesses collect and distributes the rest among its 40 municipalities, with cities getting a larger proportion.

Since those funds are distributed based on population and Woodbury isn't one of Orange's big boys, the portion left to it is less than .1 percent.

The enduring insult then for some Woodbury residents is that cities and towns halfway across the county get more Woodbury Common sales tax revenues than the one that puts up with the traffic and shoplifting.

Periodically, the question of whether the sales tax formula should be altered to give Woodbury a larger portion has arisen. But thus far, it hasn't gained any traction. The county and cities last renewed their tax agreement in February 2001 and will have it in place until March 2008.

County Legislature Chairman A. Alan Seidman says he understands the complaints about Woodbury Common traffic and crime and believes the county can do more to help relieve those problems - without distributing more sales taxes to the community.

"To make exceptions to the contract in this case isn't fair to everybody else," he says. "Everybody would say, 'We have needs, we have issues.'"

Seidman points to Woodbury Common's property taxes as a consolation for town residents - the prize they sought when they sold some of the Harriman land 20 years ago to bring a big shopping center to town.

"Woodbury is the one that approved Woodbury Common," he says. "I think it was a great decision."

Ka-ching!

Being one of the Hudson Valley's busiest tourist attractions means a lot of money changes hands at Woodbury Common Premium Outlets. On the receiving end, of course, are the manufacturers who sell designer clothes at discount prices in Woodbury Common's 220 stores - as well as Chelsea Property Group, the New Jersey-based operator of upscale outlet centers, which leases space to the clothing makers.

But every Gucci bag that exits in the hands of a British or Japanese tourist also generates sales tax that enriches the state of New York, Orange County and all 40 municipalities in the county. And Chelsea pays more than \$4 million in property taxes on its 171 acres to the Town of Woodbury, the county and Monroe-Woodbury School District.

Below are some of those figures, balanced against the police costs that Woodbury Common generates.

Sales tax: \$15 million to \$20 million for Orange County (at least \$90,000 trickles down to Woodbury)

2005 property tax: \$3.3 million for Monroe-Woodbury School District (2004-05 school year); \$862,720 for town; \$520,895 for county

2005 town police budget (including dispatchers): \$2,479,702 (Police estimate that roughly one-third, or \$818,302, can be attributed to shoplifting arrests and other activity at Woodbury Common)

#### Woodbury Common history

1982: W. Averell Harriman, former New York governor, ambassador and F.D.R. Cabinet member, donates 137 acres to Woodbury to help town attract business and industry.

Nov. 6, 1984: Woodbury residents vote 1,335 to 967 to sell 88 of the Harriman acres to developers seeking to build a \$10 million outlet shopping center at the juncture of Routes 17, 32 and 6. Price is \$10,000 an acre. The following June, Woodbury Associates buys 94 acres from the town for \$937,967.

November 1985: Five months after construction begins, what was then known just as Woodbury Common opens with 25 stores encompassing 115,000 square feet. It is said to be the first of three phases totaling 100 stores and 300,000 square feet.

1987: Two second phases are combined and built at once.

1993: Two more expansions completed. Outlet center now has roughly 150 stores - 552,000 square feet of leasable space.

1998: Fourth expansion brings Woodbury Common Premium Outlets to 220 stores encompassing 885,000 square feet. Woodbury police open satellite office at the outlet center to expedite shoplifting arrests.

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OFFICE OF THE NEW YORK STATE COMPTROLLER



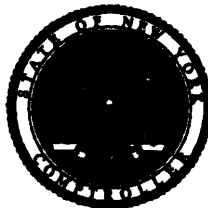
DIVISION OF LOCAL GOVERNMENT SERVICES  
& ECONOMIC DEVELOPMENT

# Local Government Sales Taxes in New York State

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DESCRIPTION, TRENDS AND ISSUES

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ALAN G. HEVESI

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# Executive Summary

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Sales taxes are a significant component of revenue for local governments in New York State, representing 8.6 percent of total local government revenues in 2004 (\$9.8 billion out of \$114.5 billion). Section One of this report describes various aspects of the sales tax, including current rates and methods of distribution to municipalities and school districts in those counties which share these revenues. It also discusses characteristics of the sales tax as a revenue source, long-term and recent revenue trends and other issues. Section Two provides technical and statutory information on the sales tax and provides answers to frequently asked questions about its administration.

- Local sales tax rates in New York range from 3 to 5.5 percent. When combined with the State sales tax of 4 percent, total sales tax rates in the State range from 7 to 9.5 percent.
- New York State has one of the highest combined state/local sales tax rates in the nation, with only Tennessee, Louisiana and Washington being higher. The State's average combined state-local sales tax rate of 8.25 percent for New York compares to a national average rate of 5.93 percent.
- While general State statute allows local tax rates up to 3 percent, only eight counties currently impose this base rate. The other 49 counties have received specific State approval for rates above the 3 percent statutory limit, including six counties with local rates that exceed 4 percent (Oneida, Erie, Allegany, Chautauqua, Nassau and Suffolk). New York City has a local sales tax rate of 4 percent. Although the rates in excess of 3 percent are often referred to as "temporary" taxes, in many cases these rates have been in effect for decades. Several downstate counties and the City are also subject to a 0.375 percent sales tax dedicated to the Metropolitan Transportation Authority.
- Today, approximately 85 percent of the State's population resides in areas where the combined tax rate is 8 percent or higher.
- Sales tax revenues grew by nearly 45 percent from 1993 to 2001, more than double the rate of growth of property taxes, which grew by 20 percent during this period. However, with the economic downturn that began in 2000, sales tax growth slowed to 15 percent from 2001 to 2003, below the growth of property taxes for that period (17 percent). Recent data suggest a return to more normal growth rates, albeit at a slower pace than in previous years.
- The majority of counties (43 out of the 57) have some form of sales tax sharing arrangement with other local governments within their boundaries. Five of these counties include school districts in their distributions. This report includes descriptions of county distribution formulas, which are based on a variety of measures including population, property value, and/or average daily attendance (for school districts). A number of counties earmark sales tax revenues for certain expenses such as Medicaid, capital projects and debt service.

# Overview

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This report describes various aspects of the local sales tax, including current rates and methods of distribution to municipalities and school districts in those counties which share these revenues. It also discusses characteristics of the sales tax as a revenue source, long-term and recent trends, administration and other issues.

Sales taxes represent an important source of revenue for New York State's local governments. This revenue stream has helped local governments cope with the rising costs of providing services and, in some instances, has helped to mitigate property tax increases. The degree to which local governments depend on the sales tax varies – counties and cities are more dependent upon this revenue source – and their reliance on sales tax in terms of the overall revenue mix has increased.

In New York State, counties and cities are authorized to levy a local sales tax, which is imposed in addition to the State sales tax of 4 percent. Generally, the sales tax is levied at the county level and sales tax proceeds are distributed to other units of government within county boundaries, in accordance with local sharing agreements. However, not all counties share a portion of their sales taxes.

All counties currently impose a sales tax, and most share a portion of the sales tax proceeds with other local governments within their borders. Cities generally have the right to pre-empt the county and levy a sales tax directly within their borders (i.e., rather than take a distribution from the county), and 22 cities currently do so. New York City (which is unique in that it is a city that encompasses five counties) also imposes a local sales tax of 4 percent. Several downstate counties and the City are also subject to a 0.375 percent sales tax dedicated to the Metropolitan Transportation Authority.

Many counties have received special legislative approval for local sales tax rates beyond 3 percent. Today, 49 of 57 counties and New York City have local sales tax rates that exceed the 3 percent statutory limit, including six counties with local rates exceeding 4 percent. Approximately 85 percent of the State's population resides in counties where the combined tax rate is 8 percent or higher.

Sales tax revenues are economically sensitive. During the economic expansion of the 1990s, sales tax revenue grew by nearly 45 percent, more than double the rate of growth for property tax revenues during this period. However, with the economic downturn that started in 2000 and was exacerbated by the terrorist events of 2001, many localities experienced sluggish sales tax growth. From 2001 to 2003, sales tax revenues grew by 15 percent, below the growth in property tax revenues of 17 percent. Recent trends indicate a return to sluggish but more normal growth.

20.4%	26.2%	25.6%	24.9%
16.3%	29.4%	17.3%	26.8%
8.7%	55.6%	9.2%	50.3%
5.6%	48.3%	5.5%	45.0%
1.3%	53.0%	1.0%	54.3%
6.3%	20.1%	6.7%	19.7%
8.0%	30.6%	8.6%	30.6%

*Source: Annual Financial Reports filed with the Office of the State Comptroller*

Counties and cities are the most reliant on sales tax revenues, and their relative dependence has increased over the last decade. In 1994, the property tax made up 26.2 percent of total county revenues and the sales tax made up 20.4 percent. By 2004, the property tax as a share of revenue dropped to 24.9 percent and the sales tax share increased to 25.6 percent—a reversal of relative importance. City and town reliance on sales taxes has also increased modestly. The percentage of revenue derived from sales tax revenues in villages and school districts is low and has remained relatively unchanged.

Using 2004 revenue data, nine of 61 cities rely more heavily on sales tax as a revenue source than they do the property tax. Sales tax as a percent of total city revenue ranges from a high of 29.2 percent to a low of 2.5 percent. On a county by county basis, 18 counties rely more heavily on the sales tax as a revenue source than the property tax. For this class, sales tax as a percent of total revenue ranges from a high of 43.5 percent to a low of 8.5 percent.

For the most part, sales tax revenues are used to fund current operations. However, there are instances where sales tax revenue is earmarked for specific purposes. One example is the Suffolk County Drinking Water Protection Program wherein a portion of the total revenues generated annually by the sales tax is dedicated to offsetting the County cost of its various environmental programs.

Because the sales tax is directly related to changes in economic conditions, budget forecasts can be difficult to construct, and conservative forecasting techniques can help avoid shortfalls in revenue projections. Collections histories, as well as statewide economic forecasts related to factors that affect the sales tax (such as GDP, employment trends, retail trade and wage growth) are all useful tools for developing projections.

By nature the sales tax is a regressive tax, meaning lower income individuals spend a higher proportion of their income on sales taxes relative to higher income individuals. To help mitigate this effect, many states exempt basic goods such as food or clothing from the sales tax.

All sales and use taxes in New York State are collected locally by vendors (stores and other retailers), with the tax paid at the point of sale. Vendors then forward tax collections to the NYS Department of Taxation and Finance, which sends the local portions of the revenues to counties (through the State Comptroller's Office).

# Section 1

## Current Local Sales Tax Rates

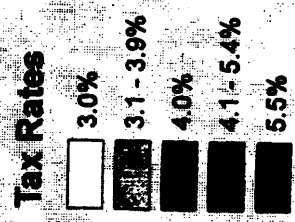
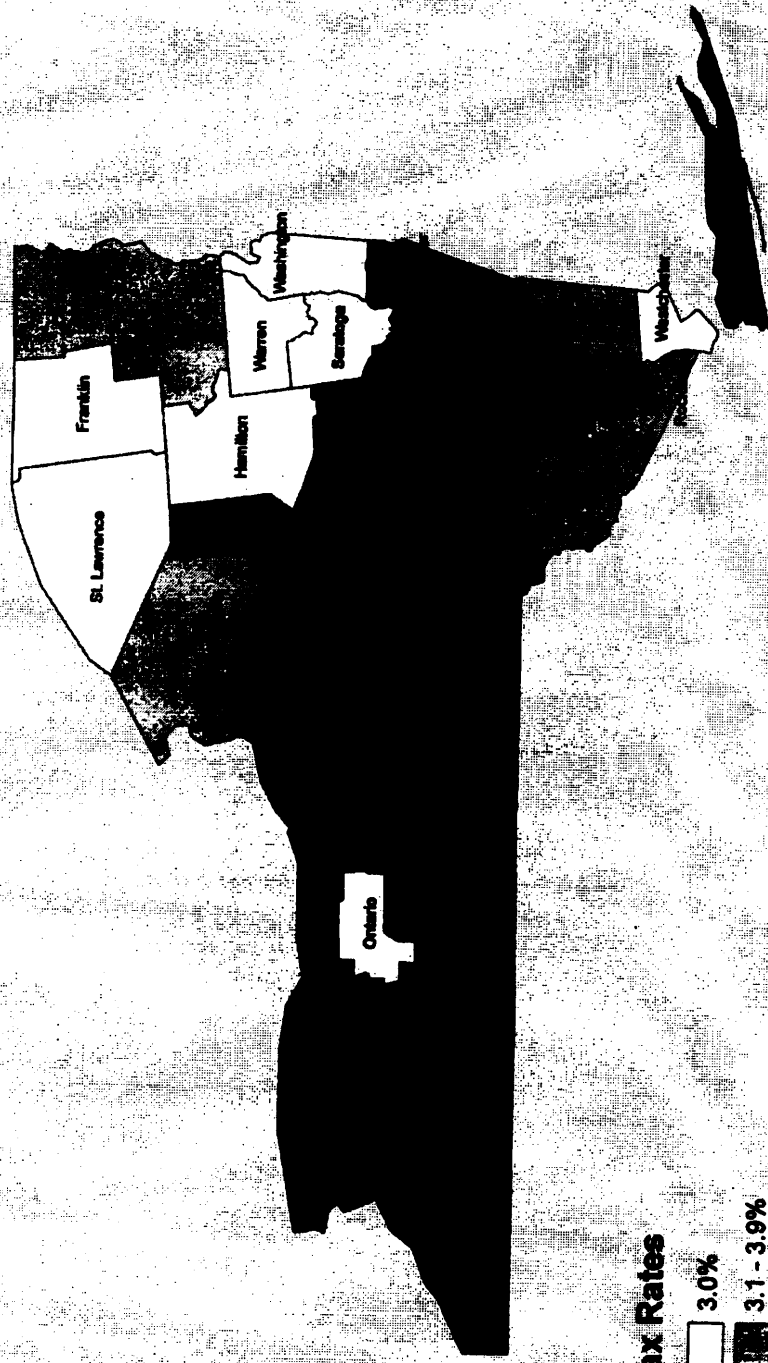
A local sales tax is imposed by all 57 counties and 22 cities (including New York City) at the following rates (as of March 2006):

- Eight counties have local sales tax rates of 3 percent: Franklin, Hamilton, Ontario, St. Lawrence, Saratoga, Warren, Washington and Westchester.
- Forty-nine counties have local sales tax rates exceeding 3 percent: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Fulton, Genesee, Greene, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, Niagara, Oneida, Onondaga, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming and Yates.
- New York City has a local rate of 4 percent.
- Six counties have sales tax rates above 4 percent: Allegany, Chautauqua, Erie, Nassau, Oneida, and Suffolk.
- Oneida County has the highest sales tax rate in the State at 5.5 percent—9.5 percent when combined with the State's 4 percent.
- Twenty-two cities levy their own sales tax (pre-empt): Auburn, Corning, Fulton, Glens Falls, Gloversville, Hornell, Ithaca, Johnstown, Mount Vernon, New Rochelle, New York City, Norwich, Olean, Oneida, Oswego, Rome, Salamanca, Saratoga Springs, Sherrill, Utica, White Plains and Yonkers. Local rates range from 1.5 percent to 4 percent (New York City, Oswego and Yonkers) with most cities at a rate of 1.5 percent. The sales tax rates of the cities of Canandaigua and Geneva were repealed effective March 1, 2006.
- Twelve counties are subject to the State-imposed Metropolitan Commuter Transportation District surcharge of 0.375 percent. This surcharge is applied in these counties: Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Westchester, and the five boroughs of New York City.

ONEIDA	5.50	LIVINGSTON	4.00	WYOMING	4.00
ERIE	4.75	MADISON	4.00	YATES	4.00
ALLEGANY	4.50	MONROE	4.00	CLINTON	3.75
CHAUTAUQUA	4.25	MONTGOMERY	4.00	DUTCHESS	3.75
NASSAU	4.25	NIAGARA	4.00	ESSEX	3.75
SUFFOLK	4.25	ONONDAGA	4.00	JEFFERSON	3.75
ALBANY	4.00	ORLEANS	4.00	LEWIS	3.75
BROOME	4.00	OSWEGO	4.00	ORANGE	3.75
CATTARAUGUS	4.00	OTSEGO	4.00	ROCKLAND	3.625
CAYUGA	4.00	RENSSELAER	4.00	PUTNAM	3.50
CHEMUNG	4.00	SCHENECTADY	4.00	SULLIVAN	3.50
CHENANGO	4.00	SCHOHARIE	4.00	FRANKLIN	3.00
COLUMBIA	4.00	SCHUYLER	4.00	HAMILTON	3.00
CORTLAND	4.00	SENECA	4.00	ONTARIO	3.00
DELAWARE	4.00	STEBEN	4.00	ST LAWRENCE	3.00
FULTON	4.00	TIOGA	4.00	SARATOGA	3.00
GENESEE	4.00	TOMPKINS	4.00	WARREN	3.00
GREENE	4.00	ULSTER	4.00	WASHINGTON	3.00
HERKIMER	4.00	WAYNE	4.00	WESTCHESTER	3.00

Since local sales tax rates can vary widely depending on the county or city in which a sale takes place, consumers often travel to other localities (or even out of state) to take advantage of lower sales tax rates.

# Sales Tax Rates by County





***"Temporary" Sales Tax***

Although current statute permits only a 3 percent local sales tax, nearly two-thirds of New York's counties have sought and obtained State approval to levy an additional 1 percent sales tax (or more) for a total local rate of 4 percent (or higher). Even though these additional tax rates are considered temporary increases which require legislative reauthorization to be continued after two years, virtually all counties have regularly sought State legislative approval of the additional rates. Indeed, as noted in the table, several of these additional tax rates have been renewed for many years. Most will have to be renewed again by November 2007.

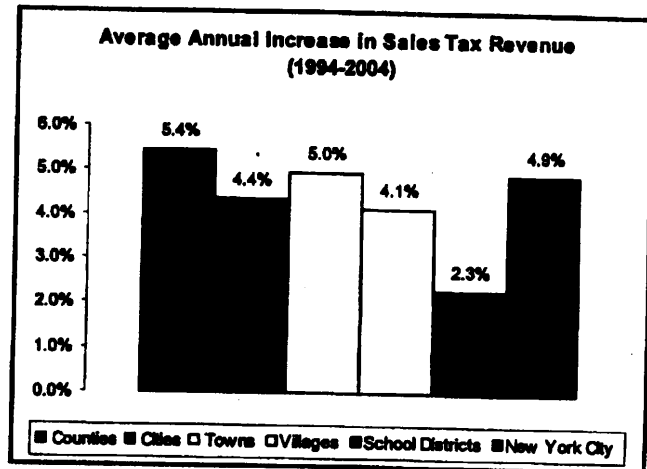
This process, which involves action at the local and State level, poses a significant administrative burden and creates uncertainty in budgeting for counties.

ERIE*	1984	SUFFOLK*	2001
CATTARAUGUS	1985	CHEMUNG	2002
ALLEGANY*	1986	CHEMUNGO	2002
NASSAU*	1991	SENECA	2002
ALBANY	1992	ULSTER	2002
ONEIDA*	1992	DELAWARE	2003
CAYUGA	1992	LIVINGSTON	2003
CORTLAND	1992	MONTGOMERY	2003
STEUBEN	1992	NIAGARA	2003
TOMPKINS	1992	OTSEGO	2003
WYOMING	1992	SCHENECTADY	2003
GREENE	1993	TIOGA	2003
MONROE	1993	WAYNE	2003
ORLEANS	1993	YATES	2003
BROOME	1994	MADISON	2004
GENESEE	1994	ONONDAGA	2004
HERKIMER	1994	OSWEGO	2004
RENSSELAER	1994	SCHOHARIE	2004
COLUMBIA	1995	CHAUTAUQUA*	2005
SCHUYLER	1999	FULTON	2005

# Revenue Trends

Statewide, sales tax revenues increased from \$6.0 billion to nearly \$9.8 billion between 1994 and 2004, an increase of 63 percent or 5.0 percent on an annualized basis.<sup>1</sup>

Outside of New York City, county sales tax revenue grew from \$2.6 billion in 1994 to \$4.3 billion in 2004, an increase of 70 percent or an average annual increase of 5.4 percent. City sales tax revenues increased from \$385.8 million to \$591.1 million over the same period, a 4.4 percent average annual increase. Town sales tax revenue increased from \$307.6 million to \$498.8 million, a 5.0 percent average annual increase. Village revenue increased from \$73.5 million to \$110.1 million, a 4.1 percent average annual increase. School district revenue increased from \$203.1 million to \$254.8 million, a 2.3 percent average annual increase. New York City sales tax revenues increased from \$2.5 billion to \$4.0 billion from 1994 to 2004, an increase of 62 percent or an average annual increase of 4.9 percent.

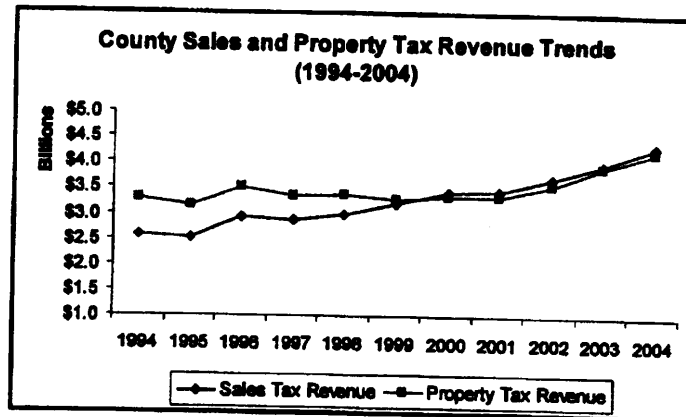


Although sales tax revenues are highly sensitive to economic conditions, they are also influenced by changes in tax law. The introduction of new exemptions or the expansion of the tax base or increases in tax rates can impact the level of sales tax revenues. However, even after adjusting for changes in tax law, statewide sales tax receipts continue to reflect slowed performance, with 4.6 percent growth from 2000 to 2001, a 3.5 percent decline from 2001 to 2002, only 1.4 percent growth from 2002 to 2003, and only 1.0 percent from 2003 to 2004.<sup>2</sup>

In the past, strong sales tax revenues have helped mitigate property tax increases for counties. However, with the economic downturn that began in 2000, revenue growth moderated while expenditures continued to climb. As a result, 20 counties have sought State approval to levy local sales tax rates above the 3 percent statutory limit since 2000. Generally, counties have asked for an additional 1 percent above the 3 percent. While such actions have provided counties with much needed budget relief, they also limit a municipality's future revenue flexibility should other needs arise. Presently, over four-fifths of the State's counties (49 of 57) levy a local tax higher than 3 percent.

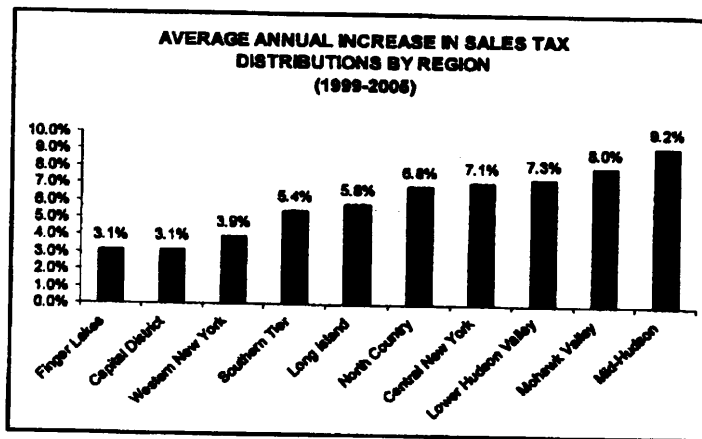
1. These data are based on Annual Financial Report filings and include New York City.  
 2. New York State Division of the Budget.

Counties do not always share the additional revenues raised by the increased rate with other municipalities—regardless of any pre-existing sharing agreement related to the base 3 percent. Indeed, six of the 13 counties that specifically address the additional 1 percent in their sharing agreements indicate that all proceeds generated by the additional tax are retained by the county.



Because so many of the additional 1 percent sales tax authorizations are no longer “temporary,” this issue has become a focal point of disagreement between local governments. For example, the State Legislature’s extension of the authorization for an additional 1 percent sales tax in Erie County was predicated on the County’s agreement to share a portion of this revenue with the City of Buffalo and other local governments.

When aggregated by region, sales tax revenue growth varies widely. As demonstrated in the chart, average annual growth from 1999 - 2005 ranges from a high of 9.2 percent in the Mid-Hudson Valley to 3.1 percent in the Finger Lakes and in the Capital District.



Fluctuations in sales tax revenue over time are a function of both general economic condition as well as changes in tax rates. While the Mid-Hudson Valley shows the greatest level of growth, it is important to recognize that four out of the five counties that make up this region instituted rate increases during the time period. In the Capital District, only one out of the eight counties that make up the region instituted a rate increase.

\$127,180,132	\$53,408,957	\$431,488,029	29.5%	12.4%
\$13,525,392	\$19,662,736	\$70,602,012	18.2%	27.9%
\$65,718,647	\$55,620,165	\$301,201,515	21.8%	18.5%
\$20,869,016	\$35,830,839	\$139,100,840	15.0%	25.8%
\$18,498,347	\$30,549,282	\$106,077,446	15.6%	25.6%
\$21,799,977	\$52,813,364	\$206,110,478	10.6%	28.8%
\$29,179,099	\$26,720,377	\$167,082,565	18.8%	17.0%
\$10,526,319	\$21,897,530	\$69,896,910	15.1%	31.3%
\$22,562,434	\$18,650,289	\$113,522,117	19.9%	16.4%
\$17,404,941	\$23,544,911	\$67,336,914	19.9%	27.0%
\$12,287,585	\$20,965,668	\$74,441,565	16.5%	26.2%
\$18,045,692	\$22,276,971	\$90,720,298	19.9%	24.6%
\$123,701,523	\$63,643,933	\$352,164,934	35.1%	18.1%
\$262,760,725	\$157,896,659	\$977,053,054	26.9%	16.2%
\$17,898,661	\$15,898,599	\$75,824,770	23.7%	21.0%
\$12,487,404	\$14,738,595	\$75,823,289	16.5%	19.5%
\$7,881,186	\$27,498,829	\$84,299,023	9.3%	32.6%
\$14,119,889	\$20,950,612	\$94,662,177	14.9%	22.1%
\$22,642,246	\$19,081,627	\$75,790,819	29.9%	25.2%
\$2,530,501	\$4,577,830	\$11,768,714	21.5%	38.9%
\$15,549,096	\$17,668,318	\$73,368,230	21.2%	24.1%
\$18,584,160	\$41,162,967	\$138,439,456	13.4%	29.7%
\$6,295,562	\$10,636,377	\$74,479,020	8.5%	14.3%
\$20,973,819	\$20,219,550	\$110,645,819	19.0%	18.3%
\$9,962,131	\$25,962,446	\$80,380,195	12.4%	32.3%
\$118,144,842	\$268,879,972	\$1,009,789,903	11.7%	26.8%
\$12,357,422	\$26,440,854	\$78,097,266	15.8%	33.9%
\$683,882,000	\$908,248,000	\$2,712,582,500	32.6%	33.5%
\$49,101,218	\$74,048,345	\$280,651,825	17.5%	26.4%
\$58,000,086	\$60,094,162	\$279,043,305	20.8%	21.5%
\$92,329,739	\$134,289,568	\$713,245,297	12.9%	18.8%
\$27,593,137	\$37,597,016	\$140,558,151	19.8%	26.7%
\$140,826,870	\$92,337,821	\$487,771,074	28.9%	18.9%
\$9,821,334	\$10,859,873	\$55,418,628	17.9%	19.6%
\$20,833,276	\$55,751,139	\$172,488,182	12.1%	32.3%
\$22,407,165	\$13,565,021	\$83,209,818	26.9%	16.3%
\$36,716,813	\$24,836,784	\$110,439,533	33.2%	22.5%
\$38,883,853	\$41,192,219	\$212,899,102	18.2%	19.3%
\$144,874,552	\$83,017,400	\$509,215,625	28.4%	16.3%
\$43,048,579	\$33,233,568	\$184,870,167	23.3%	18.0%
\$46,798,675	\$53,656,904	\$213,675,044	21.9%	25.1%
\$10,976,253	\$13,461,032	\$46,603,985	23.6%	28.9%
\$5,624,874	\$9,158,087	\$27,823,640	20.4%	29.5%
\$15,329,196	\$8,527,313	\$49,375,476	31.0%	17.3%
\$16,551,141	\$34,397,380	\$133,386,028	12.4%	25.8%
\$22,154,454	\$33,267,884	\$139,592,269	15.9%	23.8%
\$1,081,762,708	\$536,519,306	\$2,486,899,328	43.5%	21.6%
\$30,050,017	\$38,712,387	\$184,539,038	18.3%	23.5%
\$11,602,566	\$17,007,743	\$65,084,137	17.7%	26.1%
\$25,889,514	\$29,141,576	\$123,267,535	21.0%	23.6%
\$78,300,021	\$46,595,752	\$263,373,955	29.7%	17.7%
\$21,315,673	\$24,624,238	\$107,140,962	19.9%	23.0%
\$14,481,235	\$28,186,618	\$98,211,102	14.7%	28.7%
\$18,658,805	\$32,629,604	\$121,402,085	15.4%	26.9%
\$318,184,668	\$611,219,080	\$1,685,942,111	18.6%	36.3%
\$12,818,437	\$10,504,723	\$67,885,984	14.6%	12.0%
\$7,935,958	\$11,256,343	\$35,968,714	22.1%	31.3%

\$27,143,332	\$62,722,072	\$145,077,609	18.7%	43.2%
\$2,802,639	\$4,248,799	\$21,630,638	13.0%	19.6%
\$6,779,063	\$9,535,999	\$41,817,590	16.2%	22.8%
\$4,223,933	\$3,680,034	\$31,943,699	13.2%	11.5%
\$4,424,513	\$5,910,702	\$21,629,152	20.5%	27.3%
\$7,882,957	\$20,676,714	\$66,567,807	11.8%	31.1%
\$60,713,636	\$85,448,734	\$381,735,325	15.9%	22.4%
\$3,221,775	\$3,214,622	\$14,303,599	22.5%	22.5%
\$4,467,521	\$8,056,501	\$20,014,244	22.3%	30.3%
\$2,403,882	\$4,386,945	\$14,695,838	16.4%	29.9%
\$3,840,936	\$6,836,189	\$18,915,790	20.3%	36.1%
\$2,045,085	\$7,451,691	\$19,942,597	10.3%	37.4%
\$5,970,244	\$8,653,856	\$39,211,459	15.2%	22.1%
\$6,230,036	\$5,477,002	\$23,043,733	27.0%	23.8%
\$2,064,299	\$5,702,127	\$19,264,553	10.7%	29.8%
\$1,035,953	\$17,930,879	\$41,905,763	2.5%	42.8%
\$2,911,487	\$7,389,856	\$21,882,271	13.3%	33.8%
\$1,789,981	\$6,569,193	\$17,457,676	10.1%	37.7%
\$2,526,672	\$2,999,273	\$11,968,433	21.1%	25.1%
\$1,183,714	\$2,463,108	\$8,003,795	14.8%	30.8%
\$8,022,015	\$9,183,524	\$39,463,972	20.3%	23.3%
\$4,981,340	\$11,320,372	\$70,573,849	7.1%	16.0%
\$1,906,452	\$3,643,263	\$11,368,275	16.8%	32.0%
\$10,525,114	\$12,735,856	\$40,398,308	26.1%	31.5%
\$3,641,850	\$7,839,480	\$18,487,785	21.3%	42.4%
\$732,929	\$2,473,830	\$11,474,316	6.4%	21.6%
\$2,802,546	\$8,801,236	\$26,898,373	10.4%	32.7%
\$1,411,918	\$24,626,871	\$67,216,494	2.5%	43.0%
\$1,156,700	\$1,447,016	\$5,604,154	20.6%	25.8%
\$5,984,552	\$11,493,017	\$32,128,559	18.6%	35.8%
\$13,403,387	\$41,104,479	\$94,494,635	14.2%	43.5%
\$22,612,067	\$38,568,328	\$132,379,718	17.1%	29.1%
\$6,446,717	\$12,938,160	\$40,306,463	16.0%	32.1%
\$8,993,221	\$27,384,968	\$76,997,695	9.1%	35.6%
\$6,182,489	\$11,815,269	\$38,155,953	16.2%	31.0%
\$1,192,685	\$1,903,833	\$9,706,328	12.3%	19.6%
\$2,135,123	\$4,227,395	\$14,903,804	14.3%	28.4%
\$3,548,691	\$4,262,011	\$19,491,799	18.2%	21.9%
\$3,184,512	\$2,678,424	\$14,505,118	22.0%	18.5%
\$3,637,973	\$4,382,199	\$17,303,434	20.4%	25.3%
\$9,091,844	\$6,058,956	\$32,808,802	27.7%	18.5%
\$2,685,292	\$16,332,694	\$40,332,732	6.8%	40.5%
\$3,255,214	\$5,874,428	\$44,001,708	7.4%	13.4%
\$2,427,601	\$2,809,067	\$13,355,125	19.2%	21.0%
\$10,712,040	\$15,131,475	\$49,340,080	21.7%	30.7%
\$1,626,249	\$3,934,119	\$9,895,008	16.4%	39.8%
\$86,537,460	\$84,031,798	\$381,496,206	22.7%	16.8%
\$7,754,685	\$12,975,222	\$44,787,990	17.3%	29.0%
\$1,601,368	\$15,551,737	\$29,713,356	6.1%	62.3%
\$501,555	\$1,121,134	\$10,353,315	4.8%	10.8%
\$8,119,483	\$12,309,682	\$36,607,268	22.2%	33.6%
\$11,000,000	\$37,005,550	\$99,234,899	11.1%	37.3%
\$416,779	\$825,767	\$4,071,056	10.3%	22.7%
\$49,337,952	\$37,707,010	\$225,294,981	21.9%	16.7%
\$3,358,799	\$7,813,442	\$17,830,801	18.8%	42.7%
\$11,390,477	\$18,017,229	\$64,423,486	17.7%	28.0%
\$10,943,476	\$16,477,650	\$58,349,202	18.8%	28.2%
\$11,351,598	\$9,782,871	\$44,386,492	25.6%	22.0%
\$2,937,954	\$2,688,397	\$10,058,827	29.2%	26.7%
\$37,688,714	\$33,282,142	\$132,892,147	28.4%	25.0%
\$53,846,854	\$73,263,754	\$309,715,055	17.4%	23.7%

# Sales Tax Sharing

In general, counties may keep all of the proceeds from a sales tax or they may elect to share a portion with school districts, cities and towns within the county. Counties distribute sales tax proceeds in accordance with statute or sharing agreements approved by the county and the cities within the county. Sales tax agreements are required when county sales taxes are to be allocated between the cities in a county, and the area of the county outside the cities, on a basis other than population. Any sales tax distribution agreement must be approved by the Office of the State Comptroller (OSC).

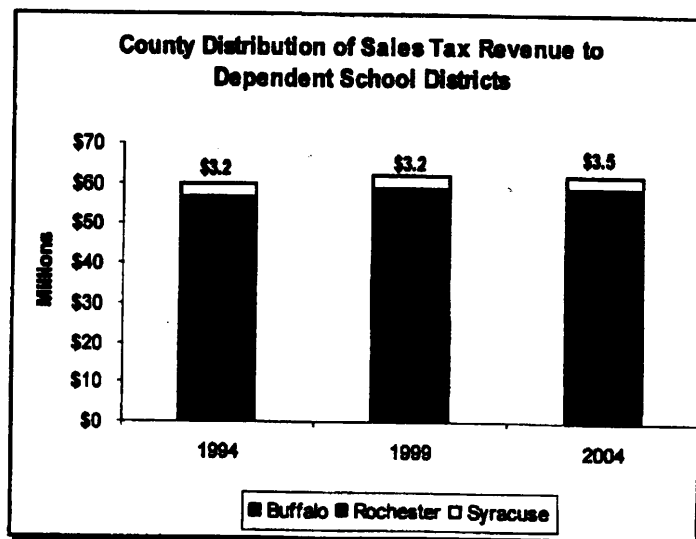
For those sales tax agreements that deviate from a population-based distribution formula, OSC generally reviews the distribution agreement language, verifies that the legal authorizations to execute the agreement are in order, and determines that the proposed distribution formula is "administratively workable," i.e., that it is structured in a manner that can be audited. Any modifications, renewals or extensions of these agreements are also subject to approval by OSC.

The majority of counties (43 out of 57), pursuant to statute or agreement, share sales taxes with other local governments located within their boundaries. However, the proportion of sales taxes retained by each county in accordance with these agreements varies greatly, ranging from a low of 31 percent in Monroe County to a high of 98 percent in Rockland County. The remaining 14 counties in the State retain 100 percent of the sales tax revenues generated within their borders.

A number of these sales tax sharing agreements distinguish between the "first 3 percent" and any additional tax individual counties have been authorized to levy. In some cases, counties share only those proceeds from the first 3 percent. In other cases, counties apply one sharing formula to the first 3 percent and a different formula to the additional tax. Counties that ask for authorization to impose an additional tax may do so with the intention of directing all the proceeds towards specific county expenditures. In recent years, Medicaid has been a popular program for this type of earmarking.

Generally, school districts that receive any distribution must be paid in cash. Cities and towns can receive their money in one of three ways: as an offset to first reduce county taxes levied in a city or town; in cash, at the option of the city or town; or a combination of the two. If a county shares sales tax revenues with its cities and towns, then a village can elect to receive direct cash payment of its proportionate amount of the town share.

Those cities that have exercised their right to pre-empt the county and impose their own sales tax retain all of those revenues for their own use. Presently, 22 cities levy their own sales tax, with rates ranging from 1.5 percent to 4 percent. In 2004, cities received \$591 million in sales tax revenue, towns \$499 million, villages \$110 million and school districts \$255 million.



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In three of the “Big Four” dependent city school districts (Buffalo, Rochester and Syracuse), sales tax revenue distributions go from the county via the city to the school district – after the city approves the annual school budget. In 2004, the Buffalo school district received the greatest amount of sales tax money at \$30.1 million, followed by Rochester at \$28.7 million. Syracuse received the least at \$3.5 million. For school districts located wholly in a city that imposes its own sales tax (Yonkers) there is no county distribution. The same holds true for New York City.

Because many sales tax sharing agreements are based on population, cities which have lost population are particularly vulnerable to sales tax revenue losses. A recent report from OSC describes how most of New York’s cities lost population from 1970 to 2000.<sup>3</sup> In 1970, 2.8 million residents lived within the boundaries of the State’s 61 cities (excluding NYC), but only 2.3 million resided in these same cities as of 2000—a decrease of 20 percent. At the same time, the population residing in towns increased by 16 percent.

The State’s large upstate cities have been particularly hard hit. For example, the City of Buffalo lost approximately half of its population from 1950 to 2000. This population loss is the fourth highest among large cities nationwide. Rochester (34 percent decline) and Syracuse (33 percent decline) experienced significant population reductions for the same period. Like Buffalo, these cities have had five consecutive decades of declining population levels. To address this, certain measures have been negotiated in some sales tax sharing agreements, including hold-harmless provisions and minimum guarantees.

As a group, the Big Four cities of Buffalo, Rochester, Syracuse and Yonkers experienced sales tax revenue growth at an average of 3.1 percent each year from 1990 to 2004. This significantly lags the growth for towns which, as a class, experienced average annual growth of 5.8 percent over the same time period. The average annual growth rate for all other cities (excluding the Big Four cities and NYC) was also 3.1 percent from 1990 to 2004.

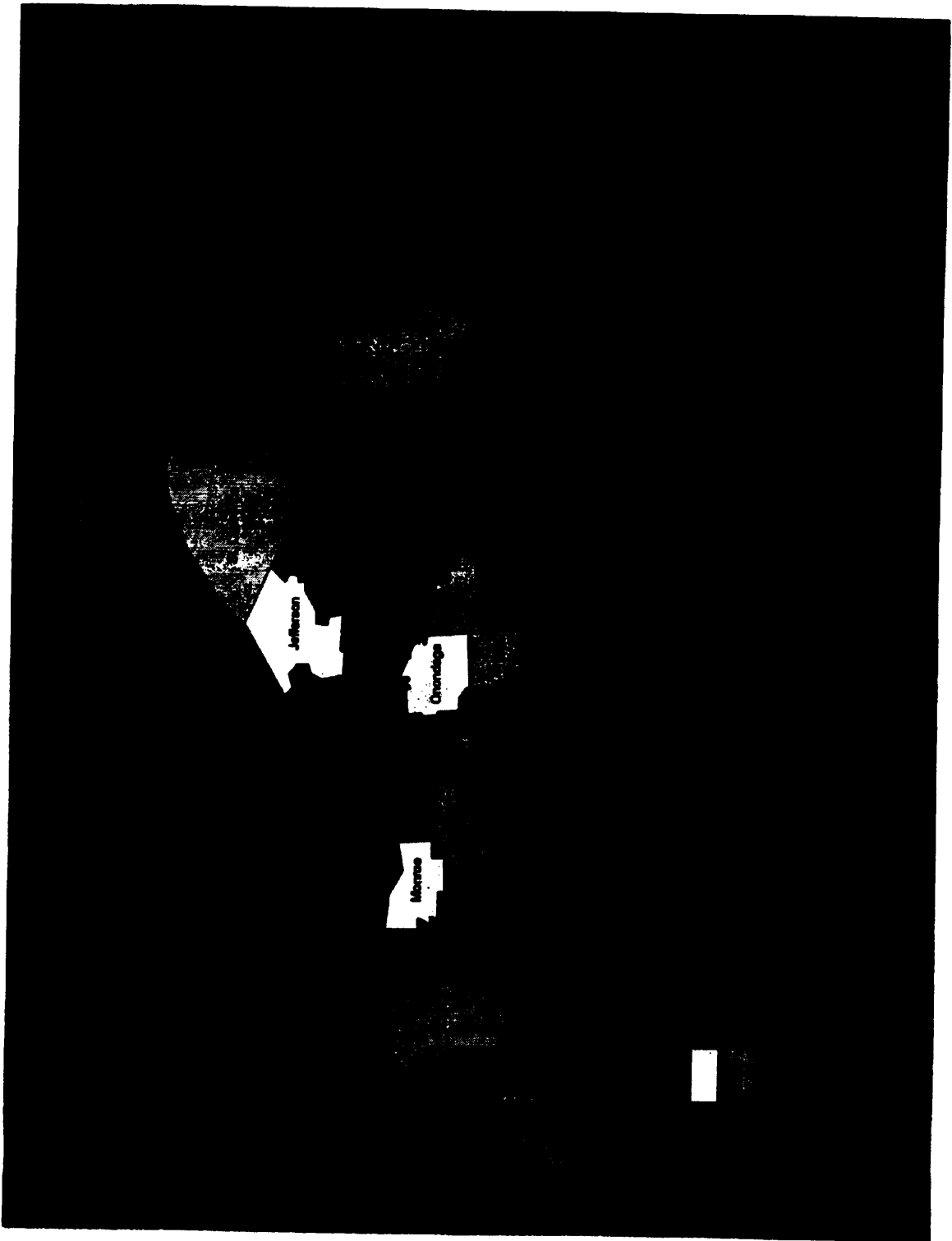
### *Specific Local Sharing Agreements*

In 2005, OSC staff surveyed county officials with regard to sales tax agreements currently in effect. These survey responses are included in Section 2. Generally:

- Forty-three counties have sharing agreements: Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Dutchess, Erie, Fulton, Genesee, Herkimer, Jefferson, Livingston, Madison, Monroe, Montgomery, Nassau, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Rensselaer, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuylcr, Steuben, Tioga, Tompkins, Ulster, Warren, Wayne and Westchester.
- Fourteen counties do not have sharing agreements: Allegany, Delaware, Essex, Franklin, Greene, Hamilton, Lewis, Putnam, Seneca, Suffolk, Sullivan, Washington, Wyoming and Yates.
- Five counties include school districts in their distribution agreements: Erie, Monroe, Onondaga, Wayne and Westchester.
- A number of counties earmark sales tax revenues for certain expenses such as Medicaid, capital projects and debt service.

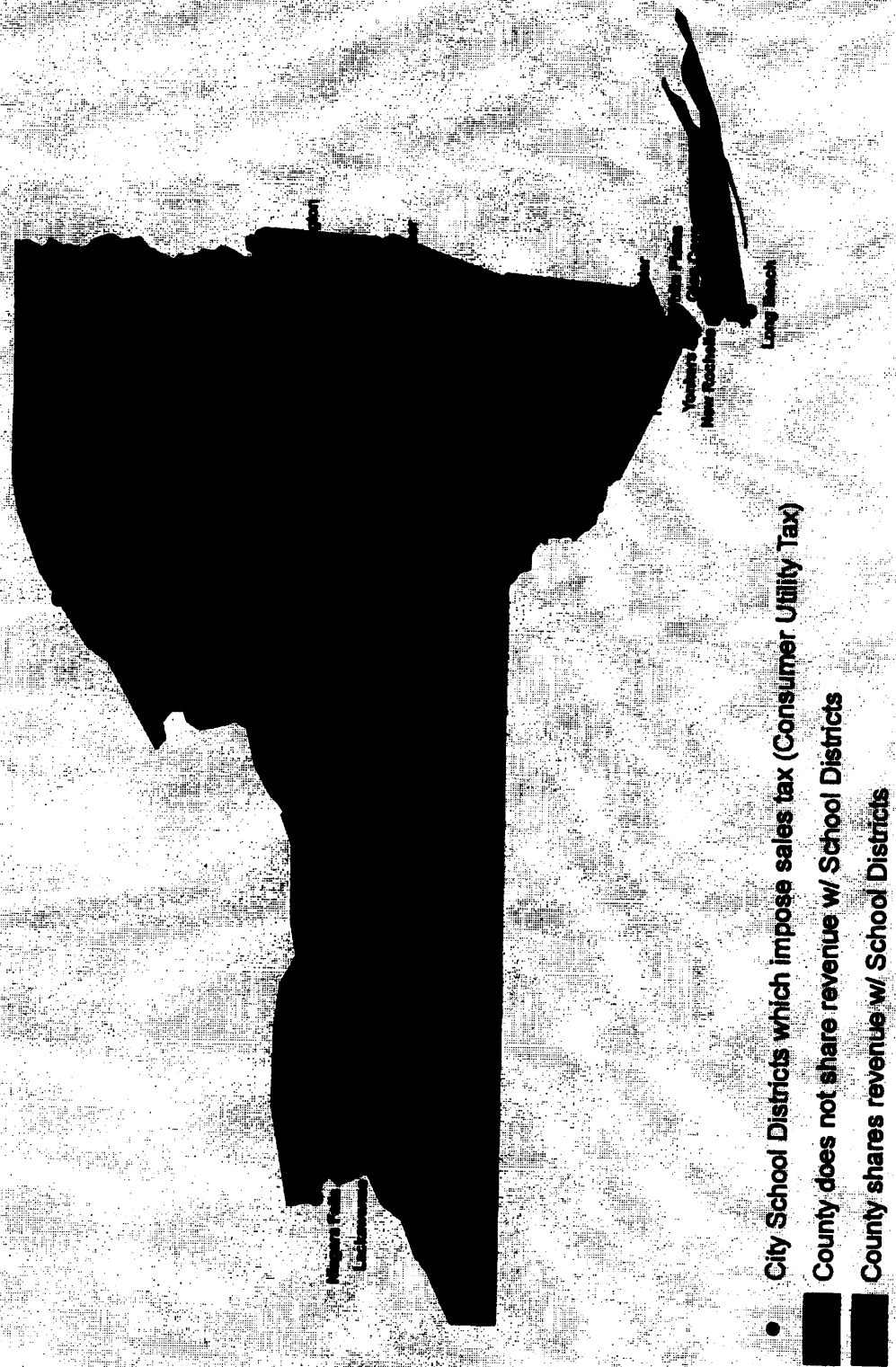
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3. “Population Trends in New York State’s Cities.” Office of the State Comptroller. December 2004.



\$13,525,392	\$13,525,392	100%
\$18,045,692	\$18,045,692	100%
\$17,886,661	\$17,886,661	100%
\$12,481,825	\$12,487,404	100%
\$22,642,246	\$22,642,246	100%
\$2,530,501	\$2,530,501	100%
\$6,295,562	\$6,295,562	100%
\$36,716,813	\$36,716,813	100%
\$15,329,196	\$15,329,196	100%
\$30,050,017	\$30,050,017	100%
\$1,081,762,708	\$1,081,762,708	100%
\$14,461,235	\$14,461,235	100%
\$12,818,437	\$12,818,437	100%
\$7,935,958	\$7,935,958	100%
\$147,829,374	\$144,674,552	98%
\$11,525,066	\$10,976,253	95%
\$22,065,037	\$20,973,819	95%
\$934,445,434	\$883,892,000	95%
\$22,768,521	\$20,833,276	92%
\$11,338,949	\$9,921,334	87%
\$91,463,758	\$78,300,021	86%
\$147,933,117	\$123,701,523	84%
\$398,111,009	\$318,184,668	80%
\$181,933,402	\$140,926,670	77%
\$29,367,301	\$22,407,165	76%
\$7,499,831	\$5,624,874	75%
\$15,809,610	\$11,502,566	74%
\$29,043,962	\$20,869,016	72%
\$22,030,108	\$15,549,096	71%
\$25,092,773	\$17,404,941	69%
\$57,788,846	\$38,683,653	67%
\$15,784,474	\$10,526,319	67%
\$98,858,189	\$65,718,647	66%
\$39,144,737	\$25,869,514	66%
\$86,436,683	\$58,000,066	66%
\$12,054,034	\$7,861,186	65%
\$34,498,595	\$22,154,454	64%
\$29,774,426	\$18,658,805	63%
\$48,898,558	\$29,179,099	63%
\$36,386,153	\$22,582,434	62%
\$26,728,953	\$16,498,347	62%
\$76,023,891	\$46,798,675	62%
\$20,544,211	\$12,357,422	60%
\$211,872,307	\$127,180,132	60%
\$85,179,754	\$49,101,218	58%
\$21,936,845	\$12,287,585	56%
\$17,833,536	\$9,962,131	56%
\$49,901,769	\$27,593,137	55%
\$481,872,848	\$262,760,725	55%
\$40,147,300	\$21,315,673	53%
\$85,153,719	\$43,048,579	51%
\$28,233,468	\$14,119,689	50%
\$33,102,281	\$16,551,141	50%
\$43,602,638	\$21,798,977	50%
\$44,103,310	\$18,584,180	42%
\$220,729,641	\$92,329,739	42%
\$375,173,108	\$118,144,842	31%

# School Districts Which Benefit from Sales Taxes



# Sales Taxes in a National Context

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## *Tax Burden*

Recently released data on state and local tax burdens documents how New York's tax burden is higher in comparison to national averages. For example, looking at New York's tax to income ratios, state taxes alone are virtually identical to the national average (\$6.39 per \$100 of personal income in New York in 2003 vs. \$6.35 nationally), whereas local taxes are nearly twice the national figure (\$6.74 per \$100 of personal income in New York in 2003 vs. \$3.77 nationally). Among the 50 states, New York ranks first in local taxes, fifth in local property taxes and third in local sales taxes.<sup>4</sup> Although the combined state-local sales tax rate varies considerably among counties in New York, it averages 8.25 percent, compared to a national average rate of 5.93 percent.<sup>5</sup>

Looking just at the sales tax, New York has one of the highest combined state/local sales tax rates in the nation compared to other states (only Tennessee, Louisiana and Washington are higher), and it is the local portion that drives up New York's overall rate.<sup>6</sup> However, local sales taxes in New York State have long been linked to the existence of a large county share of Medicaid costs, whereas most states do not require significant local contributions toward Medicaid.

One way to address the high sales tax burden in New York State, as well as the regressive nature of the sales tax, is to exempt certain parts of the sales tax base from taxation. For example, the states of New Jersey and Massachusetts allow for year-round sales tax exemptions on clothing and footwear. Until recently, New York allowed for only two one-week periods of clothing and footwear exemptions and was at a competitive disadvantage in attracting retail activity in this sector. The enacted 2006-07 State Budget includes a permanent exemption to these items. The exemption applies to the State sales tax of 4 percent and to the local sales tax at local option.

## *Internet Sales*

Competition from adjacent states, and from internet sales, is a serious tax policy issue in New York State. Each year, State and local sales tax revenues are lost to the growing popularity of e-commerce transactions (i.e., internet purchases), where sales tax is often not collected. As this form of commerce grows, so will the amount of uncollected sales tax revenue.<sup>7</sup>

Estimates of uncollected sales tax revenues vary widely due to varying assumptions related to compliance rates, definitions of e-commerce and measurements of e-commerce sales. A 2000 report from the General Accounting Office estimated state and local sales tax losses nationwide for 2000 between \$0.3 and \$3.8 billion, or 2 percent of projected sales tax revenue.<sup>8</sup> Projected losses

4. *2006-07 New York State Executive Budget -- Economic & Revenue Outlook* (p. 369).

5. *2006-07 New York State Executive Budget -- Economic & Revenue Outlook* (p. 361).

6. *The Sales Tax Clearinghouse*.

7. Although individuals making internet purchases are required to pay the sales and use tax directly to the Department of Taxation and Finance, few actually do. For further discussion on this issue, go to [http://www.tax.state.ny.us/pdf/publications/sales/pub774\\_206.pdf](http://www.tax.state.ny.us/pdf/publications/sales/pub774_206.pdf)

8. "Sales Taxes: Electronic Commerce Growth Presents Challenges; Revenue Losses Are Uncertain." General Accounting Office. June 2000.

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for 2003 were estimated between \$1.0 and \$12.4 billion, or 5 percent of projected sales tax revenue. More recent estimates have been released by various interest groups, including one which cites sales tax losses on the order of \$46 billion by 2006.

There have been attempts to address this issue on a national level. One such effort is the Streamlined Sales Tax Project which was launched in 2000 by representatives from various state/local governments and businesses. The group was charged with developing a set of recommendations for terms of an interstate agreement that would streamline and simplify sales and use tax systems. The long-term goal of the project is to reduce the burden of collection for all sellers and to create a voluntary collection system for remote sellers who have no requirement to collect and remit sales taxes. Although 44 states are participating in this workgroup, very few have gone so far as to change their sales tax laws to match the proposed agreement.

### *National Sales Tax*

A number of proposals creating a national sales tax have been advanced and debated at various times in Congress, though none have garnered the broad support necessary for passage. Although the proposals that have been forwarded on this issue vary in detail, most would involve replacing federal personal income taxes with a national retail sales tax. Other proposals also seek to expand the tax base to include taxing health care, home purchases and vehicle purchases.

Given that the sales tax is regressive by nature, most tax analysts generally agree that a national sales tax would "raise taxes substantially on most Americans and cut taxes substantially on the very well-off."<sup>9</sup> Moreover, studies have suggested that a national sales tax rate would have to reach 50-60 percent in order to replace the federal taxes. State governments would also have their ability to control the taxable base of sales.

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9. "The Effects of Replacing Most Federal Taxes with a National Sales Tax: A State-by-State Distributional Analysis." Institute on Taxation and Economic Policy. September 2004.

## Section 2

# Technical Discussion of the Sales Tax

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Local sales and use taxes in New York State were first authorized in New York City in 1934 to enable the City to raise additional revenues during the Depression.<sup>10</sup> Authorization was later extended to other cities and counties in 1947.<sup>11</sup> Towns and villages were excluded.

There are two components to sales tax revenue: the rate and the base (all the items or activities subject to the tax). Vendors are responsible for collecting both the State and local sales tax at the point of sale. Vendors then remit the collections to the NYS Department of Taxation and Finance either monthly, quarterly or annually, depending on the size of their revenue collections.

### *The Tax Rate*

A statewide sales and compensating use tax was enacted in 1965 at the rate of 2 percent. This statewide tax rate was increased to 3 percent in 1969, to 4 percent in 1971, to 4.25 percent in 2003 and then lowered to 4 percent in 2005.

Counties and cities are authorized by Article 29 of the New York State Tax Law to impose a tax on the sale of certain goods and services at a rate of up to 3 percent. Although the Tax Law generally only allows for up to a 3 percent local rate, counties may increase their rates above the 3 percent with approval from the State Legislature. Currently, local sales tax rates range between 3 percent and 5.5 percent and are added to the statewide sales tax rate of 4 percent. Accordingly, combined rates range from 7 percent to as much as 9.5 percent.

Although towns and villages are not allowed to impose sales taxes, these entities often share in county sales tax proceeds in accordance with local sales tax agreements. Presently, 43 counties share proceeds with other municipalities within their respective boundaries.

### *The Tax Base*

With a few minor exceptions, the State and local sales tax bases in New York are the same. The Tax Law describes the goods and services which are subject to the sales tax, including the following:

- Retail sales of tangible personal property
- Certain services
- Consumer utility billings
- Certain food and drink
- Hotel room occupancy
- Certain admissions, charges and club dues

The items listed above are sometimes referred to as the “general sales tax package.” If a municipality chooses to impose the general sales tax, it must impose the tax on all the categories at a uniform rate.

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10. Chapter 873, Laws of 1934.

11. Chapter 278, Laws of 1947.

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The last four categories listed on the previous page may be taxed selectively by a municipality that does not impose the general sales tax. Municipalities that apply sales tax in this manner are, in fact, applying a segmented tax. At this time, only five cities impose segmented taxes: Long Beach, Lockport, Port Jervis, Newburgh and Niagara Falls.

### ***Tangible Personal Property***

According to the New York State Department of Taxation and Finance, tangible personal property is described as “any physical personal property that has a material existence and is perceptible to the human senses.” Some examples include:

- Furniture, appliances and lighting fixtures
- Clothing and footwear
- Machinery and equipment, parts, tools and supplies
- Computers and software
- Motor vehicles
- Boats and yachts
- Fuels
- Candy and confections
- Bottled water, soda and beer
- Cigarettes and tobacco products
- Cosmetics and toiletries
- Jewelry

### ***Services***

Some services are also subject to the sales tax; they are generally referred to as “specifically enumerated services” and include:

- Provision of certain information services
- Rental of safe deposit boxes, vaults or similar storage facilities
- Provision of parking, garaging or storing services for motor vehicles
- Interior decorating or design
- Provision of protective or detective services
- Entertainment or information services provided by means of telephony or telegraphy

### ***Consumer Utility Taxes***

The Consumer Utility Tax is levied as a percentage (up to a maximum of 3 percent) of a consumer’s utility bill. Counties and cities may levy this tax as part of a county/city general sales tax, at a rate different from the county/city general sales tax rate or separately in lieu of imposing a general sales tax.

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School districts with territory in cities with populations of 125,000 or less may impose the Consumer Utility Tax as well. This tax may be levied in addition to a similar city or county tax, or a city or county general sales tax.

As a result, city school districts have legal authorization to impose a Consumer Utility Tax up to a maximum of 3 percent, exclusive of county and city rates. This utility tax, which is part of the general sales tax, may actually be imposed up to a combined ceiling of 6 percent. This is the only instance where the local combined sales tax rate may exceed 3 percent, as statute prohibits such tax pyramiding by counties and cities.

Twenty-one city school districts imposed the Consumer Utility Tax during the 2004 State fiscal year including: Albany, Batavia, Cohoes, Glen Cove, Gloversville, Hornell, Hudson, Johnstown, Lackawanna, Long Beach, Middletown, New Rochelle, Niagara Falls, Ogdensburg, Rensselaer, Schenectady, Troy, Utica, Watertown, Watervliet and White Plains. These districts retain the sales tax revenues for their own use.

In 2005, nearly \$34 million was collected in Consumer Utility Taxes, including \$1.3 million by cities and \$32.7 million by city school districts.<sup>12</sup>

#### ***Food and Drink***

Generally, prepared meals and beverages sold in restaurants, taverns or similar establishments are subject to sales and use tax. However, food sold in grocery stores is generally exempt.

#### ***Hotel Room Occupancy***

This category includes rent for occupancy of a room in a hotel or motel, including bed and breakfasts, boarding houses and guest houses.

#### ***Certain Admissions, Charges and Clubs***

Sales tax is applied on admission charges to athletic contests, shows and entertainment events, cabarets and clubs and on dues for social and athletic clubs.

#### ***Exempt Items***

New York State Tax Law exempts certain items from the sales tax, including the following items:<sup>13</sup>

- Certain purchases for resale
- Sales to or by Federal and New York State governments, charitable organizations and certain other exempt organizations

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12. NYS Department of Taxation and Finance 2004-2005 *New York State Tax Collections Statistical Summaries and Historical Tables*. October 2005.

13. Additional items exempt from the sales tax may be found at the New York State Tax and Finance website.

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- Sales of most food for consumption at home
  - Sales of prescription and non-prescription medications
  - Most services such as medical care, transportation, education and personal and professional services
  - Fuels and utility services used in manufacturing

### *State Clothing Exemption*

In March 2000, clothing and footwear items priced under \$110 were exempted from State sales and use tax. Counties and cities were given the option of exempting these items from the local portion of the sales tax as well. This exemption continued until the 2003-04 legislative session when the State Legislature suspended the permanent exemption and replaced it with two temporary "sales tax holidays." These holidays were designated for two specific one-week periods with local option and applied to clothing and footwear under \$110 per item. Localities could opt out of participating in the holidays. In 2005, the following counties opted out of the exemption period: Lewis, Nassau, Orange, Putnam and Westchester. The following cities also chose not to participate: Fulton, Mount Vernon, New Rochelle, Utica, White Plains and Yonkers.

The recently enacted 2006-07 State Budget includes a permanent exemption to these items. The exemption applies to the State sales tax of 4 percent and to the local sales tax at local option.

### *Empire Zones*

There are two sales tax credit and exemption programs associated with businesses located in designated Empire Zones, each of which can be implemented at local option. Generally, these programs provide a sales tax credit or refund for sales tax paid on building materials purchased to construct, expand or rehabilitate commercial/industrial property located in a zone. They also provide sales tax exemptions for businesses that are not only located in a zone but that are "certified" under Article 18-B of the General Municipal Law and that meet certain tests regarding employment in the zone and in the rest of the State.

### *Administration*

The NYS Department of Taxation and Finance is responsible for the administration and collection of sales tax proceeds. The State Comptroller's Office is responsible for processing payments of sales tax proceeds to counties and cities and for approving sales tax agreements between counties and cities, where the proceeds are distributed on any basis other than population.

Sales tax administration is a complex undertaking. Vendors (retail stores, for the most part) are responsible for collecting the tax at the point of sale. There is a substantial effort associated with bookkeeping and filing tax returns. Accordingly, vendors are allowed to retain a small portion of the sales tax they collect. This arrangement serves both as partial compensation for the administrative costs of collecting and remitting the tax and as an incentive for timely filing.<sup>14</sup>

14. NYS Division of Budget 2005-06 Executive Budget, Financial Plan.

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In the 2005 State fiscal year, \$21.4 billion in sales tax revenue was collected by the Department of Tax and Finance. Of that amount, \$10.8 billion was sent to localities and the balance was retained by the State.

Depending on how much sales tax is collected, vendors must remit revenues either annually, quarterly or monthly. Vendors collecting the largest amount of revenue are required to remit monthly, while those collecting the least amount remit annually. Although only 6 percent of vendors are required to make monthly remittances, they account for 80 percent of all sales tax revenue in New York.<sup>15</sup> Presently, there are about 640,000 registered vendors in the State. Of these, approximately 284,000 are required to make annual remittances, about 268,000 are required to make quarterly remittances and about 35,700 are required to make monthly remittances.

Vendors are also required to file sales tax returns quarterly. These returns contain information about the vendors' taxable sales for the period, including the location of the sales. Information on the location of each sale is important because it dictates where the local portion of the sales tax will be sent. In New York, the retail sales tax is a destination tax. The point of delivery or the point at which possession is transferred by the vendor to the purchaser determines the rate of local sales tax to be collected. Sales delivered outside New York State are exempt from tax.<sup>16</sup>

Because sales tax return information is not available until the end of a quarter, the Tax Department's payments to counties and cities (which typically occur on the 4th and 12th of each month)<sup>17</sup> are estimates based on the vendor's prior year sales tax return for that quarter.

Once the return information becomes available, the Department compares how much the county or city should have received against what the county or city did receive. The final payment to the county or city for the quarter is then adjusted in such a way that, when this amount is combined with the earlier estimated amount, the total amount paid to each county or city in the quarter equals the amount that should have been paid.

A variety of administrative factors affect sales tax collections and payment patterns. As mentioned above, not all vendors are required to file monthly. Because some vendors file quarterly, the months of March, June, September and December reflect higher collection figures. Additionally, transactions to correct previous filings (especially those related to large vendors) have an effect on collections once the correction is processed. These fluctuations will ultimately have an impact on cash flow for local governments.

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15. NYS Department of Taxation and Finance.

16. NYS Department of Taxation and Finance.

17. In December and June, the Department also processes a third distribution.

# Sales Tax Distribution Process

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