

III.F Noise

F. Noise

Comment III.F-1:

Noise is another potential issue. We want to be certain that noise surveys are taken and evaluated adjacent to the refinery and not only on the city streets that run parallel to the refinery and to the planned development.

(Lael Paulson, Manager, American Sugar Refining, Inc., Public Hearing, 4/29/2008, Page 77)

Response III.F-1:

Monitoring of existing noise conditions was performed for the DEIS at a number of locations within the project area of which the Palisades Point Towers are considered a part. The monitoring data obtained from these monitoring locations has been used to characterize the noise conditions throughout the City related to the overall development, appropriate to an EIS for this proposed action.

ASR is currently out of compliance with the City of Yonkers Noise Code (Yonkers City Code Chapter 66). City Code Section 66.5 (H) states that a sound level reading taken at an industrial property at any time, arising from any property source, above 70 dBA is evidence of a noise disturbance. Section 66.5 (F) states that a sound level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above seventy (70) dBA during the time period commencing at 7 AM and ending at 10 PM and above fifty (50) dBA during the time period commencing at 10 PM and ending at 7 AM the next day is also evidence of a noise disturbance. There are currently over a dozen existing residential dwellings, within 100 feet of the ASR facility.

Noise monitoring was performed near the ASR facility along Buena Vista Boulevard in a residential area. Existing sound levels were measured at this location (noise from the ASR facility was noted during monitoring). A later comment on the DEIS indicates that ASR has retained a noise consultant to study noise associated with the ASR Facility. A more detailed noise survey of the ASR facility would require sound measurements along the property boundaries of the sugar plant as well as specific onsite noise sources. A detailed noise study such as this should be performed by ASR's noise consultant to aid ASR in implementing required sound controls necessary to make the ASR Facility comply with current law.

Noise concerns expressed during the SEQR DEIS scoping process were associated with potential noise impacts due to traffic from the entire Project and were related to the potential impacts from the railroad activity adjacent to Palisades Point and on the potential for noise impacts of the Palisades Point (mechanical systems, etc.) on the residential neighborhood close by Palisades Point. The proposed buildings will, however, provide certain features designed to address noise issues. Building designs and materials of construction have not been finalized at this time. However, the exterior design and construction of Palisades Point will include typical materials such as brick exterior facing, concrete block, pre-cast concrete panels, with insulation and interior skin on the outer walls of sheetrock wall board (ie., ½ inch) or equivalent. The specific designs and materials may vary but will provide a level of sound attenuation sufficient to mitigate most outdoor to indoor noise and the noise from the ASR facility. . .

Comment III.F-2:

Regarding noise, the DEIS does not appear to have a sufficient evaluation of how noise from the sugar refinery will impact Palisades Point residents and employees. Our client is undertaking its own noise modeling, and will offer that assessment to SFC and the city for incorporation into the EIS analysis.

(Joseph DiSalvo, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Public Hearing, 4/29/2008, Page 91-92)

Response III.F-2:

Some results and conclusions based on noise modeling studies performed by the ASR noise consultant are presented in a later comment. However, details are not provided on how the noise modeling was performed nor on the major sources of noise at the ASR Facility. These details would be very helpful for SFC to assess ASR's potential noise impacts on Palisades Point. Details regarding how the modeling was performed with information (e.g., equipment, location on the site, sound level specifications, etc.) on the noise sources at the ASR Facility used in the modeling should be provided. However, the responsibility to control noise at the ASR sugar plant rests with this industrial user in accordance with the City of Yonkers Noise Code.

The DEIS indicates that the design and materials of construction to be used on the Palisades Point Towers including the south face of the South Tower will provide a sound transmission loss of at least 30 to 50 dB which will easily attenuate these expected outdoor sound levels to an acceptable 45 dBA or in most instances much less than 45 dBA.

However, this assessment for the proposed Palisades Point development has assumed that noise from the ASR plant will comply with the laws and regulations for noise control for industrial properties. This is the responsibility of ASR.

For further discussion of ASR sound levels as they relate to the proposed Palisades Point development, see Response III.F-1.

Comment III.F-3:

Number two, they are concerned about the noise impact. We have a railroad. The railroad goes right along. That's plenty noisy. Nobody is complaining about it. None of the buildings are complaining about it. They are saying they want to have research about the noise impact on residences. Residences are already nearby there. I feel the request for a delay is disingenuous and we need integrity in the process.

(Margaret Sotterholm, Public Hearing, 4/29/2008, Page 124-125)

Response III.F-3:

Comment Noted.

Comment III.F-4:

The DEIS addresses the noise impacts of Palisades Point on nearby residential uses. However, there appears to be no evaluation of how noise from the Sugar Refinery will impact Palisades Point residents and employees. Although the proposed 5-story parking facility may serve as a partial noise buffer, our consultants believe that such a buffer would only swerve the lower levels of the 25-story towers; despite the parking facility, the majority of the towers' residents still will have a direct line of sight to – and thus noise impacts from – the Sugar Refinery's power plant, various air cleaning devices, and crane unloading area. The DEIS ignores the fact that all of these Palisades Point residences could be adversely impacted by noise, and could require mitigation.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 4/28/2008)

Response III.F-4:

The DEIS does not “ignore the fact that all of the Palisades Point residences could be adversely impacted by noise and could require mitigation” as suggested in this comment. Measurements of existing noise levels on Buena Vista Boulevard, which included noise contribution from the ASR facility approximately 200 feet away, along with projected noise from train passbys, were not unlike the noise levels projected by the ASR noise consultant at the south face of the Palisades Point South Tower (i.e., existing background).

The DEIS indicates that the design and materials of construction to be used on the Palisades Point Towers including the south face of the South Tower will provide a sound transmission loss of at least 30 to 50 dB which will easily attenuate these expected outdoor sound levels to an acceptable 45 dBA or in most instances much less than 45 dBA.

However, this assessment for the proposed Palisades Point development has assumed that noise from the ASR plant will comply with the laws and regulations for noise control for industrial properties. This is the responsibility of ASR.

Comment III.F-5:

If the [Prospect Street] bridge is open 24 hours and so close to the building, will the car noise and pedestrians walking and talking disturb residents?

(Vincent Wilson, Representative, Scrimshaw House (Pier Point on the Hudson), Letter, 5/13/2008)

Response III.F-5:

Given concerns expressed by area residents and others, as well as cost factors, the proposed Prospect Street bridge has been eliminated from the Proposed Action. These concerns include issues of safety, security and traffic congestion for residents of the Scrimshaw House, and issues of potential impacts on the children's playground and parents' ability to drop-off their children at the Queen's Daughter daycare facility.

Comment III.F-6:

What is the ambient noise expected during games and other events?

(Aileen Kilcommon, Yonkers Rowing and Paddling Club, Letter, 5/19/2008)

Response III.F-6:

Ambient noise during baseball games will vary based on receptor location in relation to the stadium and particular noise sources (i.e., crowd, loud speakers, etc). The DEIS discusses stadium related noise in Section F.3.b.(1). The assessment of baseball stadium event noise is based, in part, on previous noise analyses that were performed for similar projects involving baseball stadium event noise. Specific noise estimates for the new ballpark are based on measurements taken at Qualcomm Stadium, a much larger stadium (40,000 seating capacity) than the proposed stadium seating capacity of 6,500. Therefore, the analysis performed can be considered very conservative.

The Leq for a game event has been estimated at approximately 65 dBA which roughly represents the average noise during a baseball game event, as well as existing measured background sound levels. The peak, or Lmax, noise levels during baseball events at the proposed stadium are estimated to be approximately 73 dBA (Lmax) at approximately 300 feet from the center of the baseball diamond. It is anticipated that peak noise levels occur approximately 10 percent of the time, with the remaining 90 percent of the event generating substantially less noise which will be conservatively estimated to be at an Leq(game event) level of 65 dBA (at approximately 300 feet from the center of the diamond).

The maximum noise levels from a ballpark event at the residential receptors located just beyond the outfield (around 450 feet from the center of the diamond) are projected to be approximately 62 dBA Leq(game event) and 70 dBA Lmax. For the residential tower receptors east and west of the stadium, the Lmax is estimated at 73 dBA (Lmax; east tower) and 76 dBA (Lmax; west tower). The existing sound levels (Leq) range from 65 dBA to 72 dBA in the project area and from 68 to 72 dBA in the River Park Center during the afternoon/evening. Additionally, the orientation of the field minimizes the noise impact on the community to the north of the Project. The majority of the stadium seating is located as far south as practical from the neighborhood along Palisades, Locust Hill, and St. Cashmir Avenues, decreasing the impact of crowd noise on the adjacent residential neighborhood. The outfield speakers will be directed away from these streets towards the seating, further reducing the noise impacts.

Typical Ldn's for non-transit sources range from 60 dBA in a "quiet" urban residential area to 70 dBA in a "very noisy" urban residential area and 80 dBA in a downtown city (FTA, 1995). Based on measurements performed in October 2006, the existing background sound levels (Leq) in downtown Yonkers (and the area of River Park Center) range from 65 dBA to 72 dBA during the afternoon/evening; similar to sound levels for a typical "noisy" urban residential area. Human speech falls in the range of 30 dBA (quiet whisper) to 75 dBA (loud talking); a decibel level of 65 dBA allows for undisturbed speech (talking in normal tones) at a distance of approximately three feet. The contribution from the ballgame to existing noise levels is not expected to be significant and is similar to existing measured background sound levels. The Project estimated peak noise levels during baseball game events are lower than the existing peak noise levels from other existing sources. Therefore, the baseball stadium is not expected to significantly increase existing background sound levels in the surrounding urban community, and mitigation in the form of sound barriers is not needed nor is it warranted.

Comment III.F-7:

How will the noise affect the new residents who will live by the sewer plant, what precaution will be put in place to avoid that from happened to the Collins project and the Pierview?

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-7:

The SEQRA scoping document requires a general description of the existing noise environment and discussion of existing noise generators in the study area. The sewer plant was not identified as a major noise generator in the study area. The sewer plant is not adjacent to the proposed project Site and currently operates with existing residences in close proximity. It is unclear that the sewer plant is a concern for noise impacts at the proposed development and was not noted as a significant sound contributing source during existing sound measurements. The sewer plant is not anticipated to be a major sound source for the proposed residential development. However, the sewer plant is subject to the City of Yonkers Noise Code and should comply with all applicable provisions of the City of Yonkers Noise Code.

In addition, while the material details and design of the proposed buildings have not yet been defined, the anticipated materials and construction techniques to be used at Palisades Point will provide a level of sound attenuation to mitigate most outdoor to indoor noise and especially as related to train pass bys. Final details regarding materials and design of the proposed buildings will be determined in coordination with the City of Yonkers' Planning Board during the Site Plan Review process and comply with all relevant City Codes and Ordinances.

Comment III.F-8:

What are the effects of the baseball stadium as it relates to the new residents at the River Park Center? What is the DBA level of the noise generated at a Ballpark?

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-8:

Ambient noise during baseball games will vary based on receptor location in relation to the stadium and particular noise sources (i.e., crowd, loud speakers, etc). The DEIS discusses stadium related noise in Section F.3.b.(1). The Leq for a game event has been estimated at approximately 65 dBA which roughly represents the average noise during a baseball game event, as well as existing urban background sound levels. The peak, or Lmax, noise levels during baseball events at the proposed stadium are estimated to be approximately 73 dBA (Lmax) at approximately 300 feet from the center of the baseball diamond. It is anticipated that peak noise levels occur approximately 10 percent of the time, with the remaining 90 percent of the event generating substantially less noise which will be conservatively estimated to be at an Leq(game event) level of 65 dBA (at approximately 300 feet from the center of the diamond), similar to existing measured background sound levels. This assessment of baseball stadium event noise is based in part on previous noise analyses that were performed for similar projects involving baseball stadium event noise. Specific noise estimates for the new ballpark are based on measurements taken at Qualcomm Stadium, a much larger stadium (40,000 seating capacity)

than the proposed stadium seating capacity of 6,500. In addition, information from previous noise analyses for 3Com Park (San Francisco, CA) and PETCO Stadium (San Diego, CA), were adapted for this study (LSA Associates, Inc. February 2006. Baseball Stadium in the Diridon/Arena Area EIR. Chapter V. Setting, Impacts and Mitigation Measures, Section E. Noise).

The maximum noise levels from a ballpark event at the residential receptors located just beyond the outfield (around 450 feet from the center of the diamond) are projected to be approximately 62 dBA Leq(game event) and 70 dBA Lmax. For the residential tower receptors east and west of the stadium, the Lmax is estimated at 73 dBA (Lmax; east tower) and 76 dBA (Lmax; west tower). The existing sound levels (Leq) range from 65 dBA to 72 dBA in the project area and from 68 to 72 dBA in the River Park Center during the afternoon/evening. Existing background sound levels were measured in October 2006 and are discussed in greater detail in Section F. 2. "Existing Conditions" of the DEIS. Projections of the ballgame indicate that there will not be an increase in sound levels of 3 dBA or greater. Therefore the contribution from the ballgame to existing noise levels is not expected to be significant.

Based on the analysis, several residential sites in the project area would be exposed to noise levels that would exceed the criteria with windows open. The greatest potential for noise impacts are anticipated to be upon the two proposed residential towers overlooking the stadium. The residents of these buildings would likely expect that there would be noise from non-baseball events at the ballpark. The anticipated materials and construction to be used will provide a level of sound attenuation to mitigate most outdoor to indoor noise and especially as related to ballpark events.

Comment III.F-9:

I believe that the DBA levels that are projected at the three intersections that are expected to have an increase in traffic volume during peak hour ballpark events as a result of the project exceed the existing Noise Ordinance - please advise.

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-9:

The increase in traffic due to stadium events does not exceed the incremental significant impact threshold (3 dBA increase) and is not expected to represent a significant increase in the ambient sound levels. Changes in noise level of this magnitude would be barely perceptible.

Comment III.F-10:

Our Lady of Mt Carmel Church is mentioned as particularly vulnerable to noise impacts during construction of River Park Center. What about Kingdom and Carmel Baptist Church? Please include them as well.

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-10:

The DEIS includes a discussion of noise generated by construction activities associated with construction equipment and construction traffic, not address each individual property that may experience noise impacts. Section F.4. of the DEIS discusses construction noise and provides a figure of distance contours in the area surrounding the River Park Center site. Typical sound levels associated with construction are compared to existing sound levels at these various distances. The DEIS states that sensitive receptors, including churches, other social and community services and residential dwellings located within 300 feet of the Site may experience noise impacts of greater than 3 dBA at times during construction. The City of Yonkers Noise Code does not regulate construction noise between the hours of 7:00 AM and 6:00 PM on weekdays [Section 66-4(F)]. Section 66-4(F) of the City of Yonkers Noise Code prohibits construction between the hours of 6:00 PM and 7:00 AM the following day or any time on weekends or legal holidays. The Applicant will attempt to perform all construction activities during the times prescribed in the City Code. However, at certain times, it may be necessary for the Applicant to perform some work outside of those prescribed times. In that case, the Applicant will apply to the Department of Housing and Buildings for a variance in order to operate certain construction equipment outside of the normally prescribed times. In addition, a noise and vibration mitigation work-plan will be developed to address construction activities.

Comment III.F-11:

Some kind of sound proofing should done during the construction of the River Park center residential towers for the benefit of those whose apartment directly faces the baseball field.

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-11:

The anticipated materials and construction to be used will provide a level of sound attenuation to mitigate most outdoor to indoor noise and especially as related to ballpark events. Building designs and materials of construction have not been finalized at this time; more detail will be provided as part of the Site Plan Approval process. It is anticipated that with construction and materials such as these with sound transmission loss of 30 to 50 dB, that estimated noise from the ballpark of an approximate L_{max} of 73 to 77 dBA will easily be attenuated to less than 45 dBA and in most cases much less likely than 35 dBA. Similarly, ballpark Leq levels are expected for the most part to be attenuated to 20 to 30 dBA inside residential tower units facing the ballpark. Some of the residential units facing the ballpark may have outdoor balconies that may be subject to unabated noise during baseball games or certain other events.

Comment III.F-12:

I would like the developers to work with a Sound consultant in order to create a happy coexistence between the stadium and the new residents – especially during times such as concerts when the impacts are expected to be significant and adverse to the environmental justice communities of concern.

(Patricia McDow, City Council Member, City of Yonkers, Letter, 5/30/2008)

Response III.F-12:

The Applicant will look to design an appropriate level of sound attenuation. The anticipated materials and construction to be used will provide a level of sound attenuation for residential use. Building designs and materials of construction have not been finalized at this time. It is anticipated that with construction and materials such as these with sound transmission loss of 30 to 50 dB, that estimated noise from the ballpark of an approximate L_{max} of 73 to 77 dBA will easily be attenuated to less than 45 dBA and in most cases much less likely than 35 dBA. Similarly, ballpark Leq levels are expected for the most part to be attenuated to 20 to 30 dBA inside residential tower units facing the ballpark. Some of the residential units facing the ballpark may have outdoor balconies that may be subject to unabated noise from ballpark events.

Because of the uncertainty with regards to the type of concerts and significant differences in sound character, sound systems and physical layout from baseball game events, it has been recommended that a Noise Management Plan be prepared prior to proposed concerts to minimize disturbance of nearby residents. This plan will be submitted to City officials prior to the special event. It will address the specifics related to any proposed concerts, and be approved by the City of Yonkers. The plan would assess the concert and specify appropriate mitigation measures. In general, concert venues are unique and require a site specific Noise Management Plan that should be related to the type of concert event planned. The Noise Management Plan should be customized to the River Park Center Stadium. An example Noise Management Plan can be found online (http://www.edo.org.au/edoact/fact_sheets/Legn_Regs_Policies/outdoorconcertnoisepp.pdf).

Comment III.F-13:

Reference to increase in noise level with the ballpark shows only a relatively small number of decibels increase. However, the decibel scale is not arithmetic (i.e., not linear), it is logarithmic (a change greater than linear). Review of design should be made to lower noise levels from the ballpark. Also future residents of the proposed two towers near the ballpark should be made aware of potential disturbing noise from the ballpark. The DEIS suggests residents keep their windows closed. That is not the answer. The DEIS refers to a Noise Management Plan. Yes, that should be implemented.

(Paul Wieland, Letter, Not Dated)

Response III.F-13:

The existing sound levels (Leq(1)) range from 65 dBA to 72 dBA in the Project area, including River Park Center, during the daytime. Projections indicate that there will not be an increase in sound levels of 3 dBA or greater. Therefore the contribution from the ballgame to existing noise levels is not expected to be significant. The Project estimated peak noise levels during baseball game events are lower than the existing peak noise levels from other existing sources.

The developer will provide appropriate sound attenuation to the residential towers. The anticipated materials and construction to be used will provide a level of sound attenuation to mitigate most outdoor to indoor noise and especially as related to ballpark events. Building designs and materials of construction have not been finalized at this time. It is anticipated that with construction and materials such as these with sound transmission loss of 30 to 50 dB, that estimated noise from the ballpark of an approximate L_{max} of 73 to 77 dBA will easily be

attenuated to less than 45 dBA and in most cases much less likely than 35 dBA. Similarly, ballpark Leq levels are expected for the most part to be attenuated to 20 to 30 dBA inside residential tower units facing the ballpark. Some of the residential units facing the ballpark may have outdoor balconies that may be subject to unabated noise from ballpark events.

Because of the uncertainty with regards to the type of concerts and significant differences in sound character, sound systems and physical layout from baseball game events, it has been recommended that a Noise Management Plan be prepared prior to proposed concerts to minimize disturbance of nearby residents. The DEIS recommends that this noise management plan address the specifics related to any proposed concerts, and be approved by the City of Yonkers. The plan would assess the concert and specify appropriate mitigation measures.

Comment III.F-14:

Table III.F-11 does not show blasting noise levels.

(Paul Wieland, Letter, Not Dated)

Response III.F-14:

The extent and duration of blasting has not been fully identified at this time. Noise levels during blasting can vary based on the type of blasting and methods utilized. Noise due to blasting events can be diminished through the use of good blasting techniques. If blasting is to be performed, a comprehensive blast plan will be prepared. In addition, a noise and vibration mitigation work-plan will be developed for addressing construction activities.

Comment III.F-15:

NYSDEC published a guidance documents that indicates that a noise increase of 10 dBA deserved consideration of avoidance and mitigation measured in most cases, and in non-industrial settings the SPL (sound pressure level) should probably not exceed ambient noise by more than 6dBA at the receptor. In most cases there was an increase of dBA at receptor. But ask the question is there any cases, [concert events] either during or post construction, where there will be a noise increase of 6 dBA's, and if so, what has been done to avoid or mitigate impact.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-15:

The DEIS addresses potential noise impacts using appropriate criteria and discusses mitigation. In many cases the criteria used are an increase of 3 dBA (more conservative than the 6 dBA referred to in the NYSDEC guidance document). The New York State Department of Environmental Conservation (NYSDEC) policy and guidance document titled Assessing and Mitigating Noise Impacts (February 2, 2001) provides guidance on thresholds for significant sound pressure level (SPL) increase. This document indicates that increases ranging from 0 to 3 dBA should have no appreciable effect on receptors, increases from 3 to 6 dBA may have potential for adverse noise impact only in cases where the most sensitive of receptors are present, and sound pressure increases of more than 6 dBA may require a closer analysis of impact potential depending on existing sound pressure levels (SPLs) and the character of surrounding

land use and receptors. The guidance indicates that a noise increase of 10 dBA deserves consideration of avoidance and mitigation measures in most cases, and in non-industrial settings the SPL should probably not exceed ambient noise by more than 6 dBA at the receptor. An increase of 6 dBA may cause complaints, however there may be occasions where an increase in SPLs of 6 dBA or greater might be acceptable.

There are no significant impacts during the day-to-day operations (including ballgames), however occasional events may cause increases in noise levels and will be addressed on a case by case basis. Please refer to the noise evaluation criteria for each sub-section of Chapter III.F Noise of the DEIS.

Noise evaluation criteria for each subsection of the noise chapter of the DEIS includes:

Traffic

A sound pressure increase of more than 3 dBA was the threshold/impact criteria used in the Traffic analysis. Results of noise modeling indicate that traffic associated with the proposed Project will increase noise at the three intersections with the greatest increase in traffic volume by an approximate 1 to 2.5 dBA above the projected No-Build condition sound levels. The estimated noise level increase at these three roadway segments are less than the 3 dBA threshold (detectable by the human ear). Therefore, the projected traffic noise increase due to Project related traffic is not expected to represent a significant increase in the ambient noise levels. Changes in noise level of this magnitude would be barely perceptible.

River Park Stadium

The NYSDEC noise guidance has been used to assess stadium related noise (baseball games, concerts, etc.). A sound pressure increase of more than 3 dBA was the threshold/impact criteria used in the Stadium analysis (the increase in sound levels that may have potential for adverse noise impact only in cases where the most sensitive of receptors are present). Projections indicate that there will not be an increase in sound levels of 3 dBA or greater. Therefore the contribution from the ballgame to existing noise levels is not expected to be significant.

Concert Event Noise

The NYSDEC noise guidance has been used to assess concert related noise. A significant impact would exist if the Project increases the ambient noise levels in the project vicinity more than 6 dBA over levels existing without the project (the increase in sound levels that may require a closer analysis of impact potential depending on existing sound pressure levels and the character of surrounding land use and receptors). There is potential for noise from concerts at the stadium to significantly increase the ambient sound levels in the area, especially to the north, during concert hours. Development of a Noise Management Plan is recommended to minimize disturbance of nearby residents from concert events with sound amplification at the Stadium that addresses the specifics related to any proposed concerts, and should be approved by the City of Yonkers.

Indoor Noise Levels

The interior noise level used in this DEIS analysis was established by the EPA. The interior noise level required to protect public health is 45 dBA Ldn for residential uses.

Noise from Mechanical Systems

The City of Yonkers Noise Code was used in this DEIS for assessment of mechanical systems. Potential noise impacts from these 'Project' related mechanical systems will be minimized by a combination of design considerations, sound attenuation due to distance from the residences, and mitigation measures as may be needed. Mitigation measures such as mechanical equipment placement within an acoustically treated area (i.e., screening around HVAC systems, generators in enclosures, etc.), use of smaller HVAC units and design considerations such as mechanical systems "sunken" into the roof level of the towers will minimize noise impacts. The River Park Center mechanical systems will be designed to avoid causing any significant noise impacts and will conform to applicable local noise code requirements.

Construction Noise

Three approaches are used to assess significant noise impact from construction.

The first approach uses absolute noise level limits (such as FTA Construction Noise Guidelines). The Federal Transit Administration has established a one-hour residential construction noise guideline daytime noise level of 90 dBA Leq at a sensitive receptor.

The second approach assesses the incremental change from existing noise conditions (relative impact criteria). The second approach for incremental change in noise levels due to construction noise involves comparing the proposed construction Leq noise level to the existing noise level. During daytime with No-Build levels equal to or greater than 62 dB(A) Leq at a sensitive receptor, a significant impact would be an increase equal to or greater than 3 dB(A) Leq for the Build condition.

The third approach follows the NYSDOT noise analysis procedures for construction related noise. These procedures state that a significant impact will occur if noise levels exceed 80 dBA Leq at a sensitive receptor.

The approach that was the focus of the DEIS related to construction noise was the incremental change in noise levels from the existing noise levels. Project related construction noise is expected to show an increase in noise levels over existing background noise levels in the project area. Sensitive receptors located within 600 feet of the site boundaries are anticipated to experience noise impacts greater than 3 dBA at times during construction. Construction is temporary and limited to daytime hours. The City of Yonkers Noise Code does not regulate construction noise between the hours of 7:00 AM and 6:00 PM on weekdays [Section 66-4(F)]. Section 66-4(F) of the City of Yonkers Noise Code prohibits construction between the hours of 6:00 PM and 7:00 AM the following day or any time on weekends or legal holidays. Construction will be limited to the daytime hours (7:00 AM to 6:00 PM) in accordance with the City of Yonkers Noise Code. Chapter III.F.Noise.4.Construction Noise of the DEIS discusses construction noise and construction (noise) mitigation. Mitigation will include the preparation of a noise and vibration mitigation work-plan addressing construction activities, with a focus on potential pile driving and blasting impacts, prior to the start of construction activities.

Comment III.F-16:

Section 66-5(E) should be above seventy-five (75) DBA {not seventy (70)} during the period commencing at 7 AM and ending at 10 PM is evidence of a noise disturbance.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-16:

The Code of the City of Yonkers, New York (updated 05-15-2007, Supplement No. 11 and as updated 05-10-2008, Supplement No. 12) Part VII, Nuisances, Public Welfare and Criminal, Chapter 66, Noise, Article 1 General Provisions, 66-5. Prima Facie evidence of a noise disturbance [Amended 3-22-2005 by G.O. No. 4-2005] Sub-section E states “A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 70 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.”

Comment III.F-17:

III-F-3 I. c. City of Yonkers Noise Code: Does not discuss subsections 66-5-A through D which are lower levels of dBA relating to residential noise levels. Residential levels range between 45 and 55 dBA. There are existing residential areas in the study area.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-17:

The purpose of Chapter 66, Noise, “Article 1 General Provisions, 66-5. Prima Facie evidence of a noise disturbance” Subsections A and B are to regulate dwelling to dwelling complaints within a multi-dwelling building. This provision regulates sound levels generated and received between residential units within the same multi-dwelling unit building. Since the residential towers have not been built and no residents live in these proposed buildings, this is not applicable. Subsections C and D regulate sound levels taken at a residential property, arising from another residential property. These provisions are in place to regulate and enforce noise complaints between residential properties and are not applicable in this DEIS process.

Comment III.F-18:

There are no strictly residential noise monitoring locations selected. Specifically the DEIS should have a section on the residential uses on the Hudson River and the train pass-bys. The Collins waterfront apartments would be an appropriate residential receptor.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-18:

Existing noise was measured at several locations surrounding the proposed River Park Center, Cacace Center and Palisades Point sites during October 2006 at representative sensitive receptor locations (including residential) in the vicinity of the sites. Noise measurements were obtained at five (5) locations in the vicinity of the sites at various times for a total of 13 noise monitoring events including one 24-hour monitoring event. These residential noise monitoring locations were incorporated into the DEIS.

The Metro-North Hudson Line has approximately 100 commuter train pass-bys per day. The number of commuter train pass-bys is not expected to increase significantly. The contribution of sound levels from commuter train pass-bys to sound levels in the immediate area are not expected to have a significant impact. Train pass-bys last seconds in duration and no horn is sounded along the length of rail adjacent to Palisades Point. Noise monitoring was conducted at one residential location near the rail corridor and included train pass-bys. The train noise is momentary during pass-bys and was a minor contributor to the measured noise levels. No significant change to these background sound levels is expected in the future. Chapter III.F Noise 3.e.(3) discusses train noise in further detail. However, a more detailed study of train pass-bys at the Collins waterfront apartments is beyond the scope of the DEIS which is to provide a general description of the existing noise environment.

Comment III.F-19:

III-F-15 3.a. (3) Traffic Noise Impact Analysis Results "The existing and projected No-Build noise levels are just at or above the city of Yonkers' applicable daytime residential criteria of 70 dBA. The projected noise increase for the Build with Ballpark condition over the No-Build condition is less than 3 dBA, the incremental significant impact threshold." However there is no residential noise level at 70 dBA in the Noise Ordinance. It states that it's at the "applicable daytime residential criteria of 70dBA. That is wrong. Simply put, what are the existing noise levels at the intersections and what is the increase. Residential on residential is 45-55 dBA. Residential from commercial, industrial public space or right away is 75 dBA. An increase on dBA may put them over the 75 dBA depending on what they mean by at or just above 70 dBA.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-19:

The 70 dBA criteria is used in the DEIS based on the City of Yonkers Noise Code which states "a sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 70 dBA...". However, the impact is determined based on the significant impact threshold limits since certain noise source categories (including public roadways) are not regulated by either the State's or local noise control regulations. Chapter III.F.Noise.3.a.(1)Traffic discusses the traffic analysis in detail. The existing noise levels, projected noise levels and the noise increase in the Build with Ballpark condition above the No Build condition are included as Table III.F-7 Projected Vehicular Noise Levels. The estimated noise level increase at the three worst case roadway segments are less than the 3 dBA threshold (detectable by the human ear). Therefore, the projected traffic noise increase due to Project related traffic is not expected to represent a significant increase in the ambient noise levels. Changes in noise level of this magnitude would be barely perceptible.

Comment III.F-20:

III-F-17 3.b. (I) Baseball Games "It is reasonable to consider the outdoor balconies on the two residential towers an extension of the stadium to some extent." Explain what that means and how that impacted the noise calculation for residential units. [Residential uses must be treated as residential uses under the noise ordinance.] Are the proposed residential units in compliance with the noise ordinance? Baseball Stadium analysis fluctuates in their measurement mode, i.e. from dBA Leq to dBA Lmax. It would be helpful if explained why the change in decibel measurement for the layman.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-20:

The residents purchasing these units will not only have knowledge of the stadium, their balconies will overlook the stadium (hence the terminology used). The modeling calculations treated these residential uses the same as any other residential use in this analysis. Chapter III.F.Noise.3.a.(2) of the DEIS discusses the modeling, statistical descriptors (Leq and Lmax) and any potential impacts. To clarify, stadium noise is most appropriately measured, reported and assessed in terms of dBA (Leq and Lmax). The Leq roughly represents the average noise during a desired time period (in this case, a baseball game event) and the Lmax represents short periods of high noise levels, or peak levels. Projections of the ballgame indicate that there will not be an increase in sound levels of 3 dBA or greater. Results show that the contribution from the ballgame to existing noise levels is not expected to be significant.

Comment III.F-21:

III-F-18 3.b. (2) Building Material and Sound Transmission Loss. Yonkers Noise Code does not differentiate between indoor and outdoor noise limits.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-21:

Comment noted.

Comment III.F-22:

III-F-19-20 3. b. (3) Concert Event Noise Page 19 use "dB". Should that be dBA? Noise levels for outdoor concerts for a sound mixing board located approximately 100 feet from the stage is 95dB. [dBA?] Concerts may reach the NYSDEC criteria for raising the noise levels by 6 dBA. In that case mitigation or avoidance must be considered. It appears that the noise levels during concert events could rise by 20 dBA. This should be further studied.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-22:

A previous study (LSA Associates, Inc., 2006) that was referenced for this DEIS had reported this sound level as dB, however the referenced study used both dB and dBA interchangeably. Therefore the dB referenced should be dBA. Chapter III.F.Noise.3.a.(2) of the DEIS discusses ambient noise during concert events. The DEIS states that noise levels during concert events should be further studied and the development of a noise management plan for concert events is recommended.

Comment III.F-23:

III-F-21-22 3. c Noise from Building Systems States major equipment components generating noise include air handlers, chillers and any emergency generators. There are industry and or manufacturer standards of noise generated. The details of projected noise levels for the equipment should be provided. This should be done for the two boilers on the residential towers as well. The DEIS should specifically state the mitigation measures proposed as well as the resulting dBA. States that the mechanical systems will comply with the City Noise Code, but does that include the surrounding area, such as the ballpark. Will that put the area out of compliance?

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-23:

Industry and or manufacturer standards of equipment generated noise vary significantly based on the type, size, layout and model specification of the equipment. The scope of the DEIS is to determine whether noise from mechanical equipment will satisfy the City of Yonkers noise code and not result in any significant adverse impacts. Potential noise impacts from these mechanical systems will be minimized by a combination of design considerations, sound attenuation due to distance from the residences, location of boilers within the interior of the towers and mitigation measures as may be needed. Mitigation measures such as mechanical equipment placement within an acoustically treated area (i.e., screening around HVAC systems, generators in enclosures, etc.), use of smaller HVAC units and design considerations such as mechanical systems “sunken” into the roof level of the towers will minimize noise impacts. The River Park Center mechanical systems will be designed to avoid causing any significant noise impacts and will comply with the City Noise Code. Mitigation has not been included in the conceptual design at this time. Final mechanical system design will address potential noise impacts and will conform to applicable local noise code requirements.

Comment III.F-24:

III-F-23 3.e. (2) Noise from mechanical systems. Require applicant to limit time of day permitted to test emergency generator systems.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-24:

Comment Noted.

Comment III.F-25:

III-F-23 3.e. (2) Noise from mechanical systems. States major equipment components generating noise include compressors, motors, fans pumps etc. placed on the roof or top floors. There are industry and or manufacturer standards of noise generated. The details of projected noise levels for the equipment should be provided. This should be done for the two boilers on the residential towers as well. The DEIS should specifically state the mitigation measures proposed as well as the resulting dBA.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-25:

The project is currently in the conceptual design phase. Mitigation specific to individual pieces of equipment has not been included in this conceptual design phase. More detail will be provided as part of the Site Plan Approval process. Potential noise impacts from these mechanical systems will be minimized by a combination of design considerations, sound attenuation due to distance from the residences, location of boilers on the interior of the towers and mitigation measures as may be needed. Mitigation measures such as mechanical equipment placement within an acoustically treated area (i.e., screening around HVAC systems, generators in enclosures, etc.), use of smaller HVAC units and design considerations such as mechanical systems “sunken” into the roof level of the towers will minimize noise impacts. The River Park Center mechanical systems will be designed to avoid causing any significant noise impacts and will comply with the City Noise Code. Mitigation has not been included in the conceptual design at this time. Final mechanical system design will address potential noise impacts, any necessary mitigation and will conform to applicable local noise code requirements.

Comment III.F-26:

III-F-24 3.e. (3) Trains. Yonkers Noise Code does not differentiate between indoor and outdoor noise limits.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-26:

See Response III.F-21.

Comment III.F-27:

III-F-26 4.b. Construction Noise. Spell out prohibited construction periods. Section 66-4(F) Construction prohibited between the hours of 6:00 p.m. and 7:00 A.M the following day or any time on weekends or legal holidays.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-27:

According to the Yonkers City Code, construction is generally prohibited between the hours of 6:00 p.m. and 7:00 A.M the following day or any time on weekends or legal holidays. Allowable hours of construction, as well as the noise impacts of construction activities, are further discussed in Chapter III.M of the DEIS.

Comment III.F-28:

III-F-28 4.b. Construction Noise. The Noise Ordinance limits noise to a maximum of 75 dBA in the city, with lower levels at different uses [residential]. There is no exception for construction. "Noise associated with the construction phase of the Palisades Point site is estimated to range from 62 dBA to 77 dBA...." The applicant should explain the noise levels at the different uses, whether they will be in compliance and any mitigation proposed.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-28:

The City of Yonkers Noise Code does not regulate construction noise between the hours of 7:00 AM and 6:00 PM on weekdays [Section 66-4(F)]. Section 66-4(F) of the City of Yonkers Noise Code prohibits construction between the hours of 6:00 PM and 7:00 AM the following day or any time on weekends or legal holidays. Chapter III.F.Noise.4.Construction Noise of the DEIS discusses construction noise and construction (noise) mitigation.

Comment III.F-29:

III-F-28 4.d. Construction Mitigation. "Noise mitigation such as temporary sound barrier panes should be considered...Change considered to required.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-29:

Comment Noted.

Comment III.F-30:

III-F-30 4.d. Construction Mitigation. Notify neighborhood when blasting and other unusually loud work will be performed.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-30:

As stated on page III.M-17, all inhabitants or users of structures located within 500 feet of the blasting site at least 48 hours prior to commencement of any blasting operations. As noted on Page III.M-16 of the DEIS, the pre-blast survey will include all structures within 500 feet of the blast site. Also see Responses III.M-22, III.M-39.

Comment III.F-31:

III-F-31-32 4.d. Construction Mitigation Table III.F-9 Key to Sensitive Receptors. There are no residential uses listed on sensitive receptors, yet page III.F-28 specifically states "the most sensitive receptors located within 300 feet of the proposed site include...and residential dwellings."

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-31:

Residential receptors are discussed in the construction noise section and identified as sensitive receptors, however they were not included in Table III.F-9 Key to Sensitive Receptors (refer to Figure III.F-5) due to the amount of residential receptor locations (residential addresses). Instead, Figure III.F-5 does identify residential receptors in the Figure legend and they are color-coded on the Figure for identification.

Comment III.F-32:

III-F-31-32 6. Conclusions. Include estimated dBA generated from concert events at stadium for area residents. Include estimated dBA generated from fireworks displays. Formulate a plan/system to notify area residents of increased noise event. Include dBA noise levels from train pass-bys at Palisades Point Residential tower both indoors and outdoors. Include dBA from building mechanical systems, air handler, cooling towers and emergency systems.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-32:

Comment and suggestion noted.

Comment III.F-33:

General comment on Chapter III.F: Does not address the fact that there are areas that are already out of compliance and the additional impact of this development.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-33:

The DEIS discusses the impact of this development, based upon the existing urban environment in Yonkers, New York. Within this context, it is not clear which existing condition the commenter has identified as non-compliant.

Comment III.F-34:

General comment on Chapter III.F: Does not address the residential component

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-34:

The DEIS does address the residential component of the development and surrounding community.

Comment III.F-35:

General comment on Chapter III.F: Does not address the dual noise impacts of proposal and the Domino Sugar factory.

(Colleen Roche, AICP, Senior Planner, City of Yonkers, E-mail, 5/20/2008)

Response III.F-35:

Comment noted.

Comment III.F-36:

(23) III.F, p. 28 The DEIS states “Mitigation will not be necessary for construction related noise with the exception of “Our Lady of Mt. Carmel Church” located within 100 feet of the site boundary. Pile driving has the ability to create noise levels greater than 80 dBA within 600 feet of the Site boundary.....A noise management plan will be prepared for pile driving activities.”-- Clarify how the DEIS has determined that no other locations (including but not limited to the Getty Square commercial district which includes C.H. Martin) are within 600 feet of the Site boundary and will be exposed to noise levels that should require the use of sound barrier panels and/or other mitigation measures.

(Debra S. Cohen, Esq., Attorney, C.H. Martin, Letter, 5/30/2008)

Response III.F-36:

The DEIS states that sensitive receptors located within 600 feet of the Site boundaries are anticipated to experience significant noise impacts greater than 3 dBA at times during construction. The DEIS also states that “Noise mitigation such as temporary sound barrier panels should be considered for this and other sensitive receptors along the Project Site boundaries...” and “The use of acoustic barriers should be implemented along the perimeter of the River Park Center Site.” Additionally, the DEIS suggests several mitigation measures including, but not limited to, a “...noise and vibration mitigation work-plan addressing construction activities.”

Comment III.F-37:

III F-15 Does the noise study take into account reflected noise? For example noise at Nepperhan and School would now continue west but with the build would be reflected back to the south east. How is this accounted for? Similarly, does the presence of a building as a noise screen give credit to a project? Would the proposed shopping center block noise from Nepperhan Avenue from impacting residences on Locust Hill Avenue to the west?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-37:

The projected construction noise levels are considered conservative (the further the distance from the Site, the more likely existing structures would shield some noise). In addition, any proposed structures may provide some additional “shielding” from existing noise such as Nepperhan Avenue. Environmental factors (e.g., any buildings or structures between sources and receptors, buildings, vegetation, etc.) usually are not included in the modeling. Buildings/structures will tend to both contain the noise of indoor equipment and along with other nearby buildings can modify the noise radiation patterns of outdoor equipment. In addition to various noise sources, specific site conditions, equipment layout, and surrounding structures can influence sound propagation (distance, shielding, reflections, etc.). These factors have not been accounted for in this analysis and could serve to make actual noise levels lower than the conservative modeled estimates. This analysis is standard methodology for a DEIS level discussion.

Comment III.F-38:

III-F-16 Tower residents must be made aware of traffic, noise, lighting and other operational impacts prior to leasing. The same should apply to the Palisades Point residents located next to the Sugar Refinery.

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-38:

Comment noted.

Comment III.F-39:

III F-20 Will the noise management plan be put into place before the site plan is submitted or as a part of the FEIS and findings?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-39:

It is recommended in the DEIS that the noise and vibration mitigation work-plan be prepared prior to the start of construction activities.

Comment III.F-40:

III F-20 The idea that private baseball games are a municipal event strains the definition of a municipally approved celebration. This is not a once a year event such as a 4th of July or a block party but a 80 time a year event. What is the expectation of fireworks at each game?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-40:

Minor league baseball teams (including the Newark Bears of the Atlantic League owned by one of the developers who make up the Applicant) use fireworks as a way of attracting fans to games. The fireworks display are arranged and financed by the baseball team and are not a City expense. Fireworks and other activities at the proposed ballpark will adhere to all local ordinances of the City of Yonkers. The City of Yonkers' Noise Ordinance does not currently regulate firework displays.

Comment III.F-41:

III F-22 Noise This section does not address the impacts of locating a residential tower adjacent and "over" a primary industry location. The sugar house is an inherently noisy operation prone to occasionally extreme noise events. What is the impact of locating residents at such a location? Will the location of residents over such a location have a chilling effect upon the industrial operation? What mitigation can be offered to the existing use to insulate it from residential expectations that are antithetical to its continued operation? Can there be an industrial equivalent of an agricultural district with "right to farm" provisions created to protect the sugar house?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-41:

The Palisades Point residences are proposed in a location identified for redevelopment for residential use. There are currently over a dozen existing residential dwellings, and a sensitive community facility, St. Mari's (Mar Mari's) church, that have property boundaries within 100 feet of ASR and approximately 30 residences within 250 feet of ASR.

The planned location of the Palisades Point South Residential Tower is approximately 230 feet from the ASR property boundary. Additional residences at the Palisades Point development are located 75 feet from the ASR property. The distance from ASR to the existing adjacent residences and St. Mari's Church along Buena Vista Boulevard is approximately 100 feet.

The DEIS addresses potential noise impacts associated with the Palisades Point at this location. Measurement of existing noise levels on Buena Vista Boulevard, which included noise contribution from the ASR facility approximately 200 feet away, along with projected noise from train passbys, were not unlike the noise levels projected by the ASR noise consultant at the south face of the Palisades Point South Tower (i.e., existing background).

It is not the purpose of this analysis to protect this industrial use from the addition of new residential uses. The ASR sugar plant, currently operating adjacent to residential and community facilities, is required by law to govern their own operations to within the City of Yonkers Noise Code. It is difficult to envision how these new residents in this location would have a "chilling effect on industrial operations," especially when development of this area is part of a Project to revitalize the City and is consistent with the Yonkers Master Redevelopment Plan.

The results provided in a later comment provided by ASR's noise consultant, indicates that ASR is currently exceeding (in violation of) the City's Noise Code as it applies to industrial facilities located in Yonkers. A variety of sound control methods are available to ASR to mitigate noise

from the ASR operations to bring them in to compliance with the City's Noise Code such as sound barrier walls, mufflers on exhausts, enclosures, acoustic louvers, baffles, acoustic windows, and proper maintenance of equipment, and limiting noisy operations to daytime hours, etc. The responsibility to operate within the bounds of the City of Yonkers Noise Code rests with ASR.

The ASR Facility is protected and regulated by provisions of the City's noise code as are other industrial facilities in Yonkers. An equivalent of the "right to farm" provision would not be needed nor would it be appropriate for this industrial use.

Comment III.F-42:

III F-26 Noise Did the DEIS evaluate the impact of Cacace construction noise upon adjacent sensitive receptors? Church, Church school, Hospital and court facility could be negatively impacted by the construction noise. Mitigation in terms of hours of day operation can address impacts upon these uses.

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-42:

Yes, the DEIS did evaluate the impact of Cacace construction noise upon adjacent sensitive receptors (See III.F.Noise.4.Construction Noise and specifically Figure III.F-5). Mitigation does discuss limiting construction activity to the daytime hours in accordance with the City of Yonkers Noise Code. The comment is noted.

Comment III.F-43:

Noise III F-36 The Stadium will be on 11th floor of the project. I do not recall any discussion of impacts of noise upon residences located at Locust Hill Avenue which is at the same height or higher than proposed project. Statement was made that the area impacts would be lessened because area receptors were lower. What is impact upon equivalent height but more distant residences?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-43:

The DEIS states (Chapter III.F.Noise.3.a.(2) River Park Center Stadium) that "The existing sound levels (Leq) range from 65 dBA to 72 dBA in the Project area, including River Park Center, during the daytime...Projections at residential locations to the north of the ballpark (outside the ballpark, at a similar height to the stadium and in direct line of sight) indicate that ballpark noise levels (during game events) are approximately 62 dBA Leq...Therefore the contribution from the ballgame to existing noise levels is not expected to be significant." Since noise attenuates with distance, residences located at a greater distance from the ballpark are expected to experience noise levels of approximately 62 dBA Leq or less.

Comment III.F-44:

III F-36 Noise - The DEIS notes that River Park Center residents will be notified of events as a means to reduce noise impacts. What offer of mitigation are made to nearby residences?

(Lee J. Ellman, Planning Director, Planning Bureau of Yonkers, City of Yonkers, Memo, 5/23/2008)

Response III.F-44:

The DEIS does address noise impacts on nearby residences. The development of a noise management plan is recommended to minimize disturbance of nearby residents from concert events. Because of the uncertainty with regards to the type of concerts and significant differences in sound character, sound systems and physical layout from baseball game events, it has been recommended that a Noise Management Plan be prepared prior to proposed concerts to minimize disturbance of nearby residents. The DEIS recommends that this noise management plan address the specifics related to any proposed concerts, and be approved by the City of Yonkers. The plan would assess the concert and specify appropriate mitigation measures.

Comment III.F-45:

The Applicant only conducted environmental sound monitoring for the entire Palisades Point development at one location, along Buena Vista Avenue (approximately 200 feet from the northeast corner of the ASR refinery). This monitoring fails to adequately describe ASR's sound impact on persons who will be attracted to the residences and recreational spaces that are integral to Palisades Point. The DEIS' noise study therefore is deficient in the following areas: 1. The selected sound monitoring location does not provide an appropriate representation of ASR sound impact at the Palisades Point receptors most likely to be adversely impacted by noise from the ASR refinery; and

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-45:

Monitoring of existing noise conditions was performed for the DEIS at a number of locations within the project area of which the Palisades Point Towers are considered a part. The monitoring data obtained from these monitoring locations has been used to characterize the noise conditions throughout the City related to the overall development.

Noise monitoring was performed near the ASR Facility along Buena Vista Boulevard in a residential area. Existing sound levels were measured at this location (noise from the ASR Facility was noted during monitoring). A later comment on the DEIS indicates that ASR has retained a noise consultant to study noise associated with the ASR Facility.

Contrary to the assertion by this commenter, the selected sound monitoring location does provide an adequate representation of the existing noise levels in the project area including potential impacts from the ASR Facility. The DEIS addresses potential noise impacts associated with Palisades Point at this location.

Measurement of existing noise levels on Buena Vista Boulevard, which included noise contribution from the ASR facility approximately 200 feet away, along with projected noise from train passbys, are not unlike the noise levels projected by the ASR noise consultant at the south face of the Palisades Point South Tower (i.e., existing background). In addition, there are proposed residences at Palisades Point within 100 feet. ASR, the sugar plant, needs to assess its own operations to assure the City of Yonkers that they are operating within the legal and regulatory bounds of an industrial use in this area of numerous residential uses.

Comment III.F-46:

2. The sound monitoring undertaken by the Applicant, which consisted of only three 20-minute samples, does not adequately describe ASR refinery sound emissions, which can vary significantly from day to day depending on refinery operating conditions.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-46:

Monitoring of existing noise conditions was performed for the DEIS at a number of locations within the project area of which the Palisades Point Towers are considered a part. The monitoring data obtained from these monitoring locations has been used to characterize the noise conditions throughout the City related to the overall development.

Noise monitoring was performed near the ASR Facility along Buena Vista Boulevard in a residential area. Existing sound levels were measured at this location (noise from the ASR Facility was noted during monitoring). A later comment on the DEIS indicates that ASR has retained a noise consultant to study noise associated with the ASR Facility.

The DEIS addresses potential noise impacts associated with Palisades Point at this location. Measurement of existing noise levels on Buena Vista Boulevard, which included noise contribution from the ASR facility approximately 200 feet away, along with projected noise from train passbys, are not unlike the noise levels projected by the ASR noise consultant at the south face of the Palisades Point South Tower (i.e., existing background). The selected sound monitoring location does provide an adequate representation of the existing noise levels in the project area as described in the DEIS. The addition of residential uses proposed within 100 feet of the ASR facility is similar to the existing nearby residences and sensitive receptors.

Comment III.F-47:

The attached Figure 1 (attached hereto as Exhibit "A"), prepared by CTA, presents estimates of ASR facility impacts on proposed residential spaces. These data indicate that ASR sound levels are expected to be as high as 65 dBA at the nearest residences at the south end of the development (5 story residential/retail), and could reach 55 dBA at the south face of the 25-story south tower. Since ASR operates continuously, these sound levels might occur during both daytime and nighttime periods. Given that Palisades Point will introduce residential land uses adjacent to ASR's refinery; and given that the Yonkers Noise Code limits maximum permissible

sound levels at residential land uses to 50 dBA during nighttime hours, a clear description of sound mitigation for these impacted residences is required. ASR's sugar refinery has been in operation for over 100 years at this industrially-zoned area. The Applicant now proposes that a residential use abut the preexisting industrial use, without indicating how noise impacts will be mitigated.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-47:

The levels shown on Figure 1 and Figure 2 prepared by the ASR noise consultant indicate that the ASR facility operations are currently exceeding (in violation of) the City of Yonkers Noise Code of 70 dBA, applicable to industrial facilities.

The commenter states that modeled noise levels of ASR noise sources results in noise levels due to ASR operations of 65 dBA on the Palisades Point Site at the five story residential units (approximately 75 feet from the ASR property boundary) and 55 dBA at the south face of the Palisades Point South Tower (approximately 230 feet from the ASR property boundary). In addition, another comment by this commenter states that noise levels from ASR noise sources results in noise levels of 60 dBA to 70 dBA in outdoor locations on the Palisades Point Site. This data, when extrapolated to determine the noise levels at the ASR property boundary, indicates that ASR noise sources, or combined noise levels, must therefore exceed 70 dBA to result in these noise levels at these locations, based on sound modeling methodology, in violation of the noise code. Therefore the noise at ASR will need to be controlled for ASR to come into compliance with the current Yonkers Noise Code.

When the noise levels from the ASR Facility are controlled such that ASR comes into compliance with the City Noise Code provisions applicable to industrial facilities located in the City, the resultant potential noise impacts predicted by the ASR noise consultant will be reduced such that the impacts alleged by ASR, by operations at ASR, to the Palisades Point development will be acceptable.

A variety of sound control methods are available to ASR to mitigate noise from the ASR operations to bring them into compliance with the City's Noise Code such as sound barrier walls, mufflers on exhausts, enclosures, acoustic louvers, baffles, acoustic windows, and proper maintenance of equipment, and limiting noisy operations to daytime hours, etc. However, this mitigation from industrial operations is the responsibility of ASR, not the Applicant proposing redevelopment in accordance with the Yonkers' Redevelopment Master Plan.

There are currently over a dozen existing residential dwellings, including St. Mari's (Mar Mari's) church, which have boundaries within 100 feet of the sugar plant operations. The Palisades Point development includes a residential/retail facility within 100 feet of ASR as well as the Southern Tower approximately 230 feet from the ASR Facility. The distance to the existing adjacent residences, and St. Mari's (Mar Mari's) church, is a similar distance from the sugar plant operation as the proposed Palisades Point development.

The existing background noise along Buena Vista Blvd was measured at approximately 57 dBA (L90) during the day and 52 dBA (L90) at night. This includes noise associated with the sugar

plant operation (at a distance of 200 feet from ASR). The measurement location is approximately 100 feet beyond the property line of the adjacent St. Mari's (Mar Mari's) church (that bounds the sugar plant). The monitored sound levels are similar to those estimated by ASR's noise consultant.

The DEIS indicates that the design and materials of construction to be used on the Palisades Point Towers including the south face of the South Tower will provide a sound transmission loss of at least 30 to 50 dB which will easily attenuate these expected outdoor sound levels to an acceptable 45 dBA or in most instances much less than 45 dBA. The Applicant has provided an analysis and response appropriate to their responsibility under SEQRA to present the proposed development in a setting that will be acceptable under current laws and codes. ASR, the sugar plant, needs to assess its own operations to assure the City of Yonkers that they are operating within the legal and regulatory bounds of an industrial use in this area of numerous residential uses.

The City of Yonkers Downtown Waterfront Master Plan is a part of the revitalization of the City. The Planned Redevelopment District (PRD) is proposed to be approved as Planned Urban Redevelopment (PUR) for the benefit of the City of Yonkers.

Comment III.F-48:

Figure 2 (attached hereto as Exhibit "B"), also prepared by CTA, presents estimates of ASR sound levels at various outdoors locations on the south side of the Palisades Point site. These data indicate sound levels that range between 60 to 70 dBA. The DEIS also suggests that no performance standards with respect to noise have been promulgated for the proposed palisades Point project. However, the DEIS fails to explain how the placement of residential structures adjacent to ASR's sugar refinery will comply with the Yonkers Code for residential areas.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-48:

The levels shown on Figure 1 and Figure 2 prepared by the ASR noise consultant indicate that the ASR facility operations are currently exceeding (in violation of) the City of Yonkers Noise Code applicable to industrial facilities. The commenter states that modeled noise levels of ASR noise sources results in noise levels due to ASR operations of 65 dBA on the Palisades Point site at the five story residential units (approximately 75 feet from the ASR property boundary) and 55 dBA at the south face of the Palisades Point South Tower (approximately 230 feet from the ASR property boundary). In addition, another comment by this commenter states that noise levels from ASR noise sources results in noise levels of 60 dBA to 70 dBA in outdoor locations on the Palisades Point site. This data, when extrapolated to determine the noise levels at the ASR property boundary, indicates that ASR noise sources, or combined noise levels, must therefore exceed 70 dBA in violation of the Noise Code. Therefore the noise at ASR needs to be controlled for ASR to come into compliance with the current Yonkers Noise Code.

When the noise levels from the ASR facility are controlled by ASR, such that ASR comes into compliance with the City Noise Code provisions applicable to industrial facilities, the resultant noise impacts on the Palisades Point site will be reduced to acceptable levels.

The DEIS indicates that the Palisades Point development will be designed to be in compliance with the Yonkers Noise Code and will satisfy the City's required performance standards.

With regards to "placement of residential structures adjacent to ASR's sugar refinery", there are currently over a dozen existing residential dwellings and a church within 100 feet of the ASR site and approximately 30 residences within 250 feet of the ASR site.

The greatest potential for noise impacts is anticipated to be on the Palisades Point South Tower closest to the ASR site. Building designs and materials of construction have not been finalized at this time. However, the exterior design and construction of Palisades Point will include typical materials such as brick exterior facing, concrete block, pre-cast concrete panels, with insulation and interior skin on the outer walls of sheetrock wall board (ie., ½ inch) or equivalent. The specific designs and materials may vary but will provide a level of sound attenuation sufficient to mitigate most outdoor to indoor noise and the noise from the ASR facility.

Although sound "carries" over water, the Applicant's consultants do not anticipate that the Hudson River will have any material affect on the reception of sound at Palisades Point or that the river will amplify materially the noise from the development beyond the described noise levels above.

Comment III.F-49:

The Supplemental DEIS should resolve internal contradictions regarding the sound-isolation characteristics (here, expressed as an "STC rating") planned for the Palisades Point building exteriors. Although the DEIS commits that "[b]uilding design will include a low STC rating on each building envelop" (III.F-23 (emphasis supplied)), in fact, higher STC ratings generally are more effective at preventing sound transmission through the partition. Why the DEIS commits the Application only to low performance sound isolation in its building design, is unclear at best.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-49:

Comment noted. The statement in the DEIS should read "high STC rating on each building envelope".

Comment III.F-50:

As with indoor space, the DEIS fails to address the need for measures to mitigate environmental sound at outdoors spaces at Palisades Point. These outdoors areas include (i) the waterfront esplanade, (ii) the open space area along the Hudson River, (iii) the canoe/kayak launch, (iv) the roof garden above the south parking garage, and (v) balconies at residences. (Notably, Palisades

Point balconies are depicted on Exhibits II-23, II-24, and III.B.-4a through 4d, but not discussed anywhere in the DEIS.)

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-50:

The results provided in another comment of modeling of the ASR Facility noise sources provided by ASR's noise consultant, indicates that ASR is currently exceeding (in violation of) the City's Noise Code as it applies to industrial facilities located in Yonkers. The commenter states that modeled noise levels of ASR noise sources results in noise levels due to ASR operations of 65 dBA on the Palisades Point Site at the five story residential units (approximately 75 feet from the ASR property boundary) and 55 dBA at the south face of the Palisades Point South Tower (approximately 230 feet from the ASR property boundary). In addition, another comment by this commenter states that noise levels from ASR noise sources results in noise levels of 60 dBA to 70 dBA in outdoor locations on the Palisades Point Site. This data, when extrapolated to determine the noise levels at the ASR property boundary, indicates that ASR noise sources, or combined noise levels, must therefore exceed 70 dBA to result in these noise levels at these locations, based on sound modeling methodology, in violation of the noise code.

A variety of sound control methods are available to ASR to mitigate noise from the ASR operations to bring them in compliance with the City's Noise Code such as sound barrier walls, mufflers on exhausts, enclosures, acoustic louvers, baffles, acoustic windows, and proper maintenance of equipment, and limiting noisy operations to daytime hours, etc.

When the noise levels from the ASR Facility are controlled such that ASR comes into compliance with the City Noise Code provisions applicable to industrial facilities located in the City, the resultant noise impacts predicted by the ASR noise consultant will be reduced such that the impacts alleged by ASR, by operations at ASR, on Palisades Point will be acceptable. It is the responsibility of ASR to control, mitigate and comply with the laws and regulations controlling their industrial operations within a location which currently includes residential uses.

Comment III.F-51:

Recognizing the obvious incompatibility associated with locating residences and public recreational spaces directly adjacent to ASR's established industrial facility, the DEIS states only that "[a] 10 foot buffer strip and 65 ± foot setback is proposed between Palisades Point and the American Sugar Refinery." (III.A-30.) However, this proposed buffer and setback will not provide effective control of ASR's sound impacts on Palisades Point. At a minimum, appropriate sound mitigation measures to be undertaken by the Applicant, and to be described in the Supplemental DEIS, should include: The prohibition of balconies - which are depicted on Exhibits II-23, II-24, and III.B.-4a through 4d but not discussed in the DEIS - at all Palisades Point residences where ASR sound impacts exceed 50 dBA; The provision of non-operable windows at all Palisades Point residences where ASR sound impacts exceed 50 dBA, and the design of such nonoperable windows to reduce ASR sound in interior spaces to less than 40 dBA; The provision of sound barriers at the south side of the Palisades Point site to reduce ASR sound levels at all ground-level public spaces to 60 dBA or less; and The provision of sound

barriers at the south side of the Palisades Point roof garden (above the 3-story parking garage) to reduce ASR sound levels to 55 dBA or less.

(Daniel Riesel, Esq., Sive, Paget & Riesel, P.C., American Sugar Refining, Inc., Letter, 5/30/2008)

Response III.F-51:

The commenter criticism of the buffer and setback of this development proposal is flawed for several reasons, first, it ignores the fact that ASR is currently in violation of the City of Yonkers Noise Code based on results of their own noise modeling of ASR by the ASR noise consultant.

The commenter states that modeled noise levels of ASR noise sources results in noise levels due to ASR operations of 65 dBA on the Palisades Point Site at the five story residential units (approximately 75 feet from the ASR property boundary) and 55 dBA at the south face of the Palisades Point South Tower (approximately 230 feet from the ASR property boundary). In addition, another comment by this commenter states that noise levels from ASR noise sources results in noise levels of 60 dBA to 70 dBA in outdoor locations on the Palisades Point Site. This data, when extrapolated to determine the noise levels at the ASR property boundary, indicates that ASR noise sources, or combined noise levels, must therefore exceed 70 dBA to result in these noise levels at these locations, based on sound modeling methodology, in violation of the noise code.

Secondly, the commenter has erroneously assigned the responsibility to control the sound emanating from the industrial property to this new use. This is not correct, it is the responsibility of the industrial user, ASR, to control the noise from its operations to within the standards set by the laws and regulations of the State of New York and the City of Yonkers.

In addition, the ASR commenter seems to be prescribing various extraordinary and restrictive design requirements for Palisades Point Towers based on unsubstantiated allegations as depicted on two Figures (Figure 1 and Figure 2) prepared by the ASR noise consultant without providing any technical report, backup data, or any information on the ASR noise sources modeled.

The modeling results of the ASR noise sources provided by ASR's noise consultant indicates that ASR is currently exceeding (in violation of) the City of Yonkers Noise Code as it applies to industrial facilities located in Yonkers. ASR should look into how the sugar plant noise can be controlled to meet the City of Yonkers Noise Code, as it is not appropriate to suggest that the Palisades Point development protect themselves from ASR's existing noise violations.

Regarding the "provisions of sound barriers", the commenter should be prescribing sound barriers or other sound controls for ASR to come into compliance with the City of Yonkers Noise Code. The appropriate sound mitigation measures to be undertaken by the ASR facility to mitigate noise from the ASR operations should include sound barriers along the northern property boundary of the ASR facility to reduce ASR sound levels at all ground-level public spaces to 60 dBA or less and other sound controls to reduce ASR sound levels to 55 dBA or less at the south side of the Palisades Point roof garden (above the 3-story parking garage) and at the nearest residences including, but not limited to, mufflers on exhausts, enclosures, acoustic louvers, baffles, acoustic windows, and proper maintenance of equipment, and limiting noisy

operations to daytime hours, etc. The responsibility to operate within the bounds of the City of Yonkers Noise Code rests with ASR.

Comment III.F-52:

How will the development affect the noise, emissions, and odors that already emanate from the sugar refinery? Will they be intensified and concentrated directly on top of our property by the wall created by the proposed new towers? Who is responsible for avoiding/remedying that situation?

(George Sarkissian, President, Mar Mari Church Executive Committee, Letter, 5/29/2008)

Response III.F-52:

It is unlikely, given the sugar plant sound levels and distance to towers, that noise will be intensified and concentrated on top of the property in question by the design of the proposed towers. The sugar plant is responsible for noise related to the sugar plant and complying with the Noise Code of the City of Yonkers and the permissible sound level criteria.

The levels shown on Figure 1 and Figure 2 prepared by the ASR noise consultant indicate that the ASR facility operations are currently exceeding the City of Yonkers Noise Code applicable to industrial facilities. The commenter states that modeled noise levels of ASR noise sources results in noise levels due to ASR operations of 65 dBA on the Palisades Point Site at the five story residential units (approximately 75 feet from the ASR property boundary) and 55 dBA at the south face of the Palisades Point South Tower (approximately 230 feet from the ASR property boundary). In addition, another comment by this commenter states that noise levels from ASR noise sources results in noise levels of 60 dBA to 70 dBA in outdoor locations on the Palisades Point Site. This data, when extrapolated to determine the noise levels at the ASR property boundary, indicates that ASR noise sources, or combined noise levels, must therefore exceed 70 dBA to result in these noise levels at these locations, based on sound modeling methodology, in violation of the noise code. Therefore the noise at ASR needs to be controlled for ASR to come into compliance with the current Yonkers Noise Code.

When the noise levels from the ASR Facility are controlled such that ASR comes into compliance with the City Noise Code provisions applicable to industrial facilities located in the City, the resultant noise impacts predicted by the ASR noise consultant will be reduced such that the impacts alleged by ASR on the Palisades Point will be acceptable. This should be true for noise from ASR currently impacting the Mar Mari Church and other nearby residences on Buena Vista Boulevard.