

III.N Design and Engineering (DSN)

N. Design and Engineering (DSN)

Comment DSN-1:

How is the ballpark entered? In an emergency, will 5500 people plus those in a 2000 seat multiplex and shoppers all have to exit the entire mall through the same escalators? What if there is a fire in one of the condo towers over the ballpark? Will there be an uncontrolled panic in an attempt to depart?

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

Response DSN-1:

The ballpark is entered through the vertical core located off Nepperhan Avenue. Elevators and escalators bring spectators and shoppers to stores located on upper levels and to the ballpark. In an emergency, all of the ballpark patrons and shoppers will exit the project by utilizing one of many emergency egress towers. The project is designed by code to accommodate all of the people egressing out of the building onto the sidewalk surrounding the project. Escalators could be used to exit from the building, however the building code does not recognize them as permissible means of egress because of the rise from one step to the next. The residential towers are designed to building code standards and will accommodate the entire tower population in the event of an emergency egress situation such as a fire. The term “uncontrolled panic” is a relative term and there is no way to design a structure to prevent someone from being panicked.

Comment DSN-2:

What U.S. Green Building Council LEED standard (Leadership in Energy and Environmental Design) does SFC plan to achieve with the mall construction? Will they use geo-thermal practices, as they must excavate anyway? What about solar? What about sustainable building materials?

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

Response DSN-2:

Certain components of the project will be LEED certified. The “Mall” or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time. See also Responses III.H-26, LA-15.

Comment DSN-3:

What U.S. Green Building Council LEED standard (Leadership in Energy and Environmental Design) does SFC plan to achieve with the Parcel H&I construction? Will they use geo-thermal practices, as they must excavate anyway? What about solar? What about sustainable building materials?

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

Response DSN-3:

The Applicant proposes to build Palisades Point to a standard adequate to make it eligible for LEED certification.

Comment DSN-4:

What U.S. Green Building Council LEED standard (Leadership in Energy and Environmental Design) does SFC plan to achieve with the Cacace Center construction? Will they use geo-thermal practices, as they must excavate anyway? What about solar? What about sustainable building materials?

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

Response DSN-4:

The Applicant proposes to build the Cacace Center to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy.

Comment DSN-5:

What U.S. Green Building Council LEED standard (Leadership in Energy and Environmental Design) does SFC plan to achieve with the Palisade Office Building construction? Will they use geo-thermal practices, as they must excavate anyway? What about solar? What about sustainable building materials?

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

Response DSN-5:

The Applicant proposes to build the Palisade Avenue office building to a standard adequate to make it eligible for LEED certification.

Comment DSN-6:

We support these efforts and encourage the developer to incorporate as many "green" or sustainable building methods and technologies as possible into the proposed development. Such efforts are increasingly common - and expected. Many communities have begun to amending local codes to make "green" design and building practices mandatory. Further, developments that have a type of environmental certification are recognized as environmentally responsible, profitable and healthy places to live and work. These developments are often seen as premium properties. Nationally recognized rating systems (such as LEEDS - Leadership in Energy and Environmental Design) and organizations can assist the City in recommending sustainable elements of building and site design and in the ongoing assessment of this project.

(Westchester County Planning Board, Westchester County, Letter, 5/29/2008, Page 22)

Response DSN-6:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-7:

Appendix 1.F states, “The potential impact of any green building requirements or standards for parking structures have not been assessed, but are generally considered higher than (sic) the costs estimates developed by the Redeveloper and City’s consultant..” As green building standards should be encouraged, we recommend that the EIS assess such potential measures and costs.

(Westchester County Department of Planning, Westchester County, Letter, 5/29/2008, Page 15-16)

Response DSN-7:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The “Mall” or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time. See also Responses LA-15.

Comment DSN-8:

I haven’t read the whole thing yet, but I can tell you that some of the unsatisfactory responses include that there is a very limited description of planned environmentally sound building practices that was requested on page 20 of the scope.

(Terry Joshi, Yonkers Green Policy Task Force, Public Hearing, 5/13/2008, Page 103)

Response DSN-8:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-9:

And I would like to see either energy star building codes be incorporated into the project, and I think that would be a great way to go on the project.

(Robert Walters, Yonkers Green Policy Task Force, Public Hearing, 5/13/2008, Page 218-219)

Response DSN-9:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-10:

The green buildings promised by SFC must include roof cisterns to catch rain that can be used for watering roof gardens and piped to ground level for landscape watering.

(Terry Nagai, Resident, E-mail, 5/30/2008)

Response DSN-10:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-11:

I am appalled at the proportions of development in the Yonkers downtown area. At a time when Climate Change and a collapse in the real estate market are true threats to our society, we should be building only "green" buildings and on a very small scale that is in harmony with the historic industrial and residential architecture of Yonkers. When I recently went to visit the waterfront of Yonkers, I was so dismayed to find myself in the shadows of tall buildings under construction. Where is our moral conscience as a people? Develop the city of Yonkers for the people of Yonkers and as a place where there is a respect for our earth and our interaction with nature. Urban communities that rely on immense amounts of power to serve masses of people confined to a small amount of space are not sustainable.

(Ann Van Buren, Resident, E-mail, 5/30/2008)

Response DSN-11:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-12:

Riverkeeper encourages SFC to implement design features that embrace the movement towards buildings that have less of an impact on the surrounding environment. The fact that SFC proposes to incorporate green roofs and rain gardens into the design wherever feasible is worthy commendation and should not go unrecognized. However, Riverkeeper urges the developer to go further and implement these strategies on a wider scale. These technologies will benefit not only the sewer and stormwater management systems discussed above, but will also reduce the amount of electricity and fossil fuels required to heat and cool the buildings and will reduce the strain on the electrical grid cause by these new buildings.

Riverkeeper encourages SFC, in implementing these design features, to seek Leadership in Energy and Environmental Design ("LEED") certification. This rating system is a national standard for developing high-performance, sustainable buildings. Riverkeeper urges SFC to ascertain all requirements for various energy efficiency ratings, LEED certification, and to commit to the highest levels of achievement in this area. These standards serve to lessen the impacts of development on the surrounding environment and as such, must be evaluated in the DEIS.

(Andrew Rafter, Legal Intern, Letter, 5/30/2008)

Response DSN-12:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-13:

I would like to see the elevators at the parking structure in the Cacace Center equipped with voice activation as well as our new street signaling device for those who are visually impaired.

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

Response DSN-13:

All traffic signals and elevators in the parking structures will comply with the American with Disabilities Act as required by law. Details will be discussed as part of Site Plan approval.

Comment DSN-14:

I would like to see rooftop gardens, solar energy included in the plans as part of the project.

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

Response DSN-14:

Comment noted, see Responses DSN-3, DSN-4, DSN-5.

Comment DSN-15:

I would like to see windows installed that are designed to handle the extreme weather condition along the waterfront - this will ultimately save the residents in heating and cooling cost.

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

Response DSN-15:

The Project is still early in the design process and exact details have not yet been determined, however all windows installed will be insulated so as to meet or exceed code requirements. 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.

Comment DSN-16:

Can the use of grey water be incorporated into your plans?

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

Response DSN-16:

Grey water is not currently proposed to be recycled as part of the Project.

Comment DSN-17:

We are not speaking about building in any average flood prone location though. The building proposed is in federally designated sensitive Floodway and Floodplain areas. Our own meek regulations prohibit building in a floodway, ergo, SFC plans to change the course of the Saw Mill! No biggie- just reroute it in month 4 so River Park is dry and ready to go in month 5. This is ambitious and worthy of consideration- we must check this out with independent geologist/riparian engineering experts; especially with regard to the torque of the massive scale and size of the building with 1000's of toilets, sinks and other modern conveniences and necessities like fire hydrants, sprinkler systems dishwashers, or "insinkerators". The consequences could be great or tragic, and as asked before." Why should it take a tragedy or a catastrophe to get things right when we can get the right simulations today and figure out what margin of safety overload is needed to be built in.

(Barbara Howard, Memo, 5/30/2008)

Response DSN-17:

The Project was designed by professional engineers. The impact of the Project on utilities has been addressed in Chapter III.H of the DEIS and this FEIS.

Comment DSN-18:

As per the Flood Insurance Rate Map, Panel 317 of 426, Map 360936, adopted by the Council last September and which I provided to the Council as it was not provided by engineering or the administration, along with other maps, distinctly shows that a Floodway area which prohibits building is in Chicken Island and most of parcels H&I is a significant floodplain area.

Chicken Island contains a floodway area. Rerouting the Saw Mill will move the floodway to possibly more convenient area and hopefully the apparatus operates flawlessly forever. Legally and by DEC, and FEMA definition, " The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried out without substantial increases in flood heights." ID other words, logically: Encroachment or building in the floodway will cause floods elsewhere. Moving the river seems a plausible idea if done in a foolproof manner- yet to be established, i.e., flash floods are a regular occurrence where other rivers have been relocated particularly in the Midwest but also as close as the Bronx River which was relocated to accommodate Lawrence Hospital.

Parcels H&I are in "SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE OF FLOOD. The 1% annual flood (100 year flood) also known as the base flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. The Base Flood Elevation is the water surface elevation of the 1% annual chance flood." It is also logical to assume that building in the floodplain must be very sensitive or it will cause flooding elsewhere and can contribute to contamination and dangerous electrification of floodwaters.

(Barbara Howard, Memo, 5/30/2008)

Response DSN-18:

A Letter of Map Revision (LOMR) is required from FEMA to modify the effective Flood Insurance Rate Map and the Flood Boundary and Floodway Map. LOMR are based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway. The LOMR officially revises the Flood Boundary and Floodway Map. See Response III.D-73.

Comment DSN-19:

Climate change will increase tidal range of the Hudson River Estuary. In planning Palisades point will this be taken into consideration?

(Robert Walters, Yonkers Green Policy Task Force, Letter, Not Dated)

Response DSN-19:

Design of Palisades Point will be in accordance with all applicable regulations with respect to flood elevations and building floor elevations. All habitable spaces will be placed above the level of the 100 year flood elevation.

Comment DSN-20:

Climate change will increase the tidal range of the Hudson River Estuary. In planning the proposed boat launch ramp at Palisades Point is this taken into consideration?

(Robert Walters, Yonkers Green Policy Task Force, Letter, Not Dated)

Response DSN-20:

Boat ramp will be designed in accordance to design parameters associated with such a facility and the requirements of the NYSDEC and ACOE with respect to permitting the ramp. See also Response III.C-21.

Comment DSN-21:

LEED and Energy Star building standards are the future of good building. Will these standards be included in the Project?

(Robert Walters, Yonkers Green Policy Task Force, Letter, Not Dated)

Response DSN-21:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The "Mall" or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the

Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time.

Comment DSN-22:

(6) II., p. 19 The DEIS states at para. 3, "These small buildings provide opportunities to demonstrate green building techniques like green roofs and rain gardens.

Clarify whether the Project will in fact be utilizing green building techniques for these small buildings. If so, what will they be?

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

Response DSN-22:

See Responses DSN-3, DSN-4, DSN-5.

Comment DSN-23:

- 1) What are the current and proposed energy needs for each project site?
- 2) How are these needs broken down: i.e., heating and cooling, light, gas, other mechanicals, etc. at each project site? Will there be electric, oil or gas heat?
- 3) What percentage of the energy needs of each project site will be provided by electricity? By gas? By heating oil?
- 4) What percentage of the energy needs of each project site will be provided by geothermal, solar or wind power?

(Deirdre Hoare, Resident, Letter, 5/30/2008)

Response DSN-23:

Each site's energy needs are for heating, cooling and air conditioning, cooking, building lighting, elevators, site lighting, domestic water distribution, domestic hot water heating, fan energy for air distribution and exhaust. Electric will serve pump energy, fan energy, electric air conditioning, lighting, elevators and equipment. Utility fuel gas will serve domestic and commercial cooking, space heating equipment and domestic hot water heating. Fuel oil will not be used as a primary energy source. Fuel oil will only be used to serve emergency generators supporting life safety emergency needs. Each site energy cost will be approximately 50% for electric and 50% for gas on an annual basis. Each project site will not include geothermal, solar or wind power. However, utility electric power may include wind power between 1% and 10%.

Comment DSN-24:

Other than passing statements on energy star appliances, low-flow toilets and some maintenance items this DEIS appears to include no reference to LEED or any other standards for green or energy efficient design in the proposed projects. The Final Scoping Document did require the

applicants to explain in detail the 'green measures' to be used. This requirement has not been met.

(Gail Averill, President, Park Hill Land Conservancy, Inc., Letter, 5/30/2008)

Response DSN-24:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The "Mall" or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time.

Comment DSN-25:

III H-20 Water Mitigation Measures. The mitigation measures illustrated are common, "old fashioned" and do not seem to include more aggressive "LEED" type measures such as reclaiming water for secondary use.

- Why are such measures not being proposed? What sort of more aggressive measures could the applicant install?
- Can larger savings be gained in area buildings such as Schlobaum housing by the replace of fixtures with upgraded water saving fixtures?
- Are other easily controllable buildings/uses available for assistance within the primary area of impacts?

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

Response DSN-25:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The "Mall" or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time. See also Response LA-15.

Comment DSN-26:

At the DEIS stage is this a true statement? They have not completed the hydraulic study, are there impacts there that cannot be avoided?

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

Response DSN-26:

See Response III.H-34.

Comment DSN-27:

How can truck access be prohibited when there are moving vans that need to be permitted? Where will parking take place given that there is no parking available at most of the buildings on Guion Street?

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

Response DSN-27:

Limited truck access will be provided. Public parking will be available with the Cacace Center Garage. Details will be discussed as part of Site Plan approval.

Comment DSN-28:

Environmentally-Sustainable Building Practices. The Utilities Section of the original Scope Document required an analysis of sustainable building practices. SFC representatives have made public statements that they plan to achieve some level of LEED standards in their buildings. There is absolutely no mention of LEED or any other green building standard in the DEIS. A statement that low-flow shower heads and toilets will be used and that janitors will be advised to use “green” cleaning products is not a satisfactory response to one of the most significant requirements of the Scope and does not inspire confidence that the oft-repeated public statements about LEED standards have any validity.

(Board of Directors, Yonkers Committee for Smart Development, Letter, 5/30/2008)

Response DSN-28:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The “Mall” or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time.

Comment DSN-29:

8. Hardscape on roofs (I-32) Why would SFC not make the roofs completely “green?”

(Board of Directors, Yonkers Committee for Smart Development, Letter, 5/30/2008)

Response DSN-29:

Where possible, the Applicant will create green roofs on multifamily buildings. The roofs will be a combination of green spaces and hardscape so that a mix of amenities is offered to residents and tenants. Hardscape areas potentially include tennis courts, decks, etc.

Comment DSN-30:

b. Green roofs of small freestanding buildings in the plaza (see II-19). Why not have green roofs on the rest of the structures?

(Board of Directors, Yonkers Committee for Smart Development, Letter, 5/30/2008)

Response DSN-30:

See Response DSN-29.

Comment DSN-31:

Alternative sources of building energy must be a consideration of this and all future projects in Yonkers. Geo-thermal, solar, recyclable water: none of these matters are even addressed in a document designed to guide the city through a massive rehabilitation project.

(Board of Directors, Yonkers Committee for Smart Development, Letter, 5/30/2008)

Response DSN-31:

The environmental impacts required for study were detailed in the Lead Agency-approved Scoping Outline of Issues to be Addressed in the Draft Environmental Impact Study. Additionally studies of alternative sources of building energy, geo-thermal HVAC, solar-generated power, recycling and reduction of potable and non-potable water, etc. will be considered in the Applicant's site plan submission. The Applicant has further indicated that all residential buildings will be LEED certified.

Comment DSN-32:

Why hasn't LEED green building practices been incorporated into the four components of this project? (Energy Star and grey water collection are not nearly enough!) Independent power plants - solar photovoltaics and heat collectors (for preheating water) for each building, superinsulated walls, natural ventilation systems, autoclave-aerated cement exterior surfaces, residential tankless hot water heaters, pervious paved surfaces at ground level, even LED lighting fixtures indoor and out - these are easily doable and shamefully not even mentioned here, despite the enormous energy costs plaguing our nation today. This environmentally shortsighted project is far from "green" and sustainable, and in today's climate of environmental duress the lack of serious attention to energy consumption and "greenness" is unacceptable.

(Taffy Lee Williams, Resident, Letter, 5/30/2008)

Response DSN-32:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The “Mall” or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time.

Comment DSN-33:

2) The green buildings promised by SFC must include roof cisterns to catch rain that can be used for watering roof gardens and piped to ground level for landscape watering.

(Terry Nagai, Resident, E-mail, 5/30/2008)

Response DSN-33:

See Response DSN-31.

Comment DSN-34:

The term “green” as used repeatedly in the Executive Summary of the EIS is not clearly defined. Please define the term “green” and elaborate on the definition’s criteria with regard to established definitions and guidelines of the United States Green Building Council (LEED Standards, etc). At what point will the developer know with certainty what level of sustainable building practices will be used in the project?

(Molly Roffman, E-mail, 5/30/2008)

Response DSN-34:

The Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification. While the Applicant proposes to build the Project to a standard adequate to make it eligible for LEED certification, this may not apply to the parking garages because most LEED standards focus on building components related to human occupancy. The “Mall” or LEED for Retail is currently undergoing a Pilot program because of the unique nature of the retail environment and the different types of spaces that retailers need for the distinctive product lines. LEED for Retail is expected to launch sometime this year and when it does, and when the Applicant knows the nature of the types of retailers, the Applicant will investigate compliance at that time.

Comment DSN-35:

2. What are the design elements of the SFC master plan that are specifically energy efficient, beyond tenant appliances? Some of these design elements are found in the voluntary guidelines

of the LEED standards. What are the voluntary steps taken by SFC to become energy efficient overall. What are the renewable energy sources, if any, and will this be something to be incorporated in the future - when costs for it are lowered - if not now? And is SFC availing itself of all Federal and State incentives for energy efficiency in design? Has "geothermal" been a consideration, such as has been successfully used by 66 Main Street in Downtown Yonkers?

(Margaret Setterholm, Resident, E-mail, 5/30/2008)

Response DSN-35:

See Response DSN-31.

Comment DSN-36:

3. If affordable housing is planned for a separate unit, in an undetermined part of Yonkers, will this also be energy efficient?

(Margaret Setterholm, Resident, E-mail, 5/30/2008)

Response DSN-36:

Once specific affordable housing developments are defined, the issue of energy efficiency can be addressed.

Comment DSN-37:

Will "green roofs" like the ballpark, be designed for any other rooftops? These reduce heat in the summer, and increase warmth in the winter. Are these planned for the parking garages or other units, or will it be something that can be done at a future date?

(Margaret Setterholm, Resident, E-mail, 5/30/2008)

Response DSN-37:

There are green roofs planned for the rooftops of the five story structures at Palisades Point.

Comment DSN-38:

The DEIS insufficiently discusses the condition of the riprap revetment along the Hudson River at the northern portion of the Palisades Point site. The DEIS states at page III.M-7, "In the Applicant's opinion, this revetment should be able to support and protect properly designed additional upland development." The DEIS fails to explain the basis for this critical conclusion; if it is based on an engineering evaluation or other such study, that study must be identified and provided to the public in the Supplemental DEIS. If no such study was undertaken, one must be, as the safety of the Palisades Point development – for construction workers, residents, and visitors alike - is at stake.

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

Response DSN-38:

A shoreline inspection of the Palisades Point site was performed by the McLaren Engineering Group (MEG) on August 16, 2006. MEG conducted a visual survey and took measurements, including armor stone size and water depth soundings. A three dimensional survey recorded relative locations of points at approximately 25-foot intervals at the water level, the mean high water (MHW) mark, and the top of the riprapped slope. A complete photographic survey was also conducted from the water to document the general conditions and localized deficiencies.

The existing riprap located along the northern end of the Palisades Point site is approximately 600 feet in length and extends up to 6 feet above the MHW line at an average slope of 1:3. The revetment was recently constructed and is well graded, fairly tightly spaced and rests at a stable slope. The toe of the revetment extends to approximately 5 feet below mean low water (MLW). The existing riprap along the southern end of the project site is approximately 650 feet in length and extends 2 to 4 feet above the MHW elevation. The existing slope along the southern end generally varies between 1:2 and 1:2.5. Some of the shoreline along the southern end is experiencing erosion and is proposed to be rejuvenated with additional riprap, or other shoreline stabilization measures as required, to match the height and condition of the northern end of the project site.

The MEG inspection concluded that the revetment along the southern half of the site exhibits significant instabilities and is in poor condition. The revetment has displaced and caused moderate erosion to the upland area. With continued exposure to ice flow, current and wake action, the rate of upland erosion will increase due to the deteriorated condition of the revetment. The existing revetment is insufficient to support or protect future upland development and should be replaced with a properly engineered and installed revetment as part of any planned site improvements.

Comment DSN-39:

The DEIS is similarly vague with respect to the apparently unsatisfactory condition and replacement of the southern portion of the revetment, which lies immediately adjacent to ASR's refinery. After concluding at page III.M-7 (without any support or reference to study) that this revetment area is insufficient to support future development, the DEIS states only that the revetment "will be replaced with a properly engineered and installed revetment as part of the planned site improvements." ASR's operations rely on barge and large vessel traffic to deliver raw sugar to the refinery; any hindrance of such deliveries would be catastrophic for its business. Thus, it is critical for ASR to understand the nature of improvements, the timing, and the means for constructing those improvements, planned by the Applicant.

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

Response DSN-39:

See Responses III.C-61, DSN-38.

Comment DSN-40:

The DEIS also states, at page III.M-7, that "extensive site improvements to the publicly accessible open space will extend down to the waterfront." Elsewhere, a boat slip or kayak launch are referenced. But remarkably, the DEIS fails to analyze, let alone consider, how such waterfront development will affect ASR's shipping operations. As stated above, the ability of barges to dock at ASR is critical to the sugar refinery's operations. The DEIS not only lacks this detail, but in fact, incorrectly states that it does not exist. The most glaring example of this may be found in Appendix LB, Response to New York State Coastal Policies. In response to Policy 2, which aims to "Protect Water Dependent Use," the Applicant notes that "a public canoe and kayak launch will be provided at the southern portion of site," immediately adjacent to ASR's sugar refinery. The Applicant's response to Policy 2.1 is that "there are no existing water dependant uses located on or adjacent to the Palisades Point site that will be affected by the proposed development." (Appx. I.B at pages 2-3 (emphasis supplied.) This statement, made without any analysis or justification, is plainly incorrect.

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

Response DSN-40:

The response to New York State Coastal Policy 2.1 will be corrected to note the existing adjacent maritime structures and operations conducted by ASR. See Appendix F of the FEIS which presents responses to the 44 Coastal Policies as requested by the NYS Department of State. The U.S. Coast Guard will be consulted about measures which might be implemented to inform casual boaters about ASR's maritime structures, such as informational signage at the canoe/kayak launch facility to notify boaters of exclusion zones and potential hazards. See Responses III.A-198, III.A-199.

Comment DSN-41:

Moreover, the road leading from the ASR refinery's north gate cannot be obstructed by construction vehicles, construction staging, or other activity associated with Palisades Point. The sugar refinery's normal truck route sends trucks over the Metro North railroad tracks by crossing the Ludlow Street Bridge, to enter at the refinery's south gate. Although the DEIS fails to acknowledge it, ASR is the beneficiary of an easement ("Easement") that allows ASR to route truck traffic through its north gate and over the Palisades Point site at any time on a limited basis, and on an unlimited basis in the event of an "emergency" such as the Ludlow Street Bridge being closed. Without this Easement, which allows truck passage under the railroad tracks, ASR would have no way of bringing trucks in or out of the refinery if the Ludlow Street Bridge closed.

The Easement grants ASR the right to have a limited number of vehicles use the Easement over certain periods of time ("Limitations"), but the Limitations do not apply "during emergency situations [such as the unavailability of the Ludlow Street Bridge] caused by circumstances beyond the control of [ASR]." Any development on the Palisades Point site must keep the Easement path available to accommodate ASR's limited rights of access during normal conditions and its unlimited right of access during an "emergency." Accordingly, the EIS should both describe the Easement in the Supplemental DEIS, and commit to formulating and

implementing a construction and staging plan that would allow ASR to route its trucks pursuant to the Easement's terms.

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

Response DSN-41:

The City will require the Applicant to prepare a construction management plan for each project site that is consistent with the construction phasing and staging information provided in the DEIS. The plan for Palisades Point will be required to maintain ASR's use of the easement during construction.