From: Paul Cecere <raygun@optonline.net>

To: Rocky Richard

Sent: Fri May 30 11:03:19 2008 Subject: development opinion.

The scope of the downtown waterfront development can only be described as stupid and greedy. Why would we as a city benefit from effectively "walling off" the river front? The transportation, issues are already a problem. Look at how the current developers have used so called prime real estate for waterfront viewed parking garages. Like that makes sense.

There should be a more graduated approach to the river allowing for a more human scope to the waterfront directly. The larger and taller buildings should be further up towards the main roads they would still have wonderful views and the waterfront could be a true meeting place for many people instead of an isolated few.

From: Mintzer [mailto:seymourmintzer@yahoo.com]

Sent: Friday, May 30, 2008 9:18 PM

To: Rocky Richard

Subject: Yonkers downtown development, SFC phase 1

Dear Mr. Richard,

As owners of an apartment at the Scrimshaw, 23 Water Grant street, we strongly disagree with the overall height and size of the proposed Palisades Point complex, part of SFC's Phase 1 proposal that is now before the City Council.

The complex is oversized and overpowering for the area and will negatively impact its surrounding area.

We do support the re-development plan in general and hope that you consider the above concern shared by many in the community.

Sincerely, Seymour and Rosane Mintzer

From: ssansone@yonkersdowntown.com <ssansone@yonkersdowntown.com>

To: Rocky Richard

CC: Patricia McDow; Kenneth Dearden kdearden@dwcap.com

Sent: Fri May 30 09:54:18 2008 Subject: Comments on DEIS for SFC

Rocky Richards

Office of City Council President Lesnick City Hall, Yonkers, NY 10701

Email to: <mailto:rocky.richard@yonkersny.gov> rocky.richard@yonkersny.gov

Ms. Richards:

The Yonkers Downtown Business Improvement District submits the following comments related to the Struever Fidelco Cappelli LLC Draft Environmental Impact Statement.

- BID Description

The DEIS in Section III.J ("Community Services and

1.1

Facilities") - i. The Yonkers Downtown Waterfront Business Improvement District (page III.J-15) includes outdated and inaccurate information on the Downtown BID.

- BID Boundaries

1.2

The Applicant's proposed River Park Center project is half in the BID and half outside of the BID because of the School Street boundary of the District. The DEIS states that the Applicant will work to extend the BID boundaries to include the entire RPC project site.

Further clarification is required as to what the obligations of the BID will be in completing the change in boundaries.

Marketing Study

The DEIS in Section III. I ("Socio-Economic

1.3

Conditions") - c. Mitigation (page III. I-26) references a study to be prepared by SFC and the BID of recommended business marketing and management strategies and techniques. We would like to see further clarification of what this study will entail, the involvement required of the BID, the financial implications to the BID of the study, and generally more detail on the proposed study. Also we would like to see the Applicant in

conjunction with the BID to conduct seminars for existing businesses on similar topics of the proposed study to supplement or replace the study.

Small Business Enhancement

The DEIS in Section I. ("Executive Summary") - c.

"Environmental Justice" (page I-29) makes reference to the Applicant providing the BID assistance to "further enhance its revenue". Further clarification is needed. Additionally, the Environmental Justice section (Section III.I - 5) does not include a further elaboration as to what is stated in the Executive Summary.

Garbage

The DEIS in Section III. J ("Community Services and

Facilities") - g. "Public Works" (page III. J-14) makes reference to the City of Yonkers' Department of Public Works discontinuing the commercial refuse collection in the BID. Such a discontinuation would have a materially negative impact on the BID. The DEIS says "the DPW hopes to phase out this service in the next few years" which has not been communicated to us. Further clarification is needed from either the Applicant or DPW as to statements in the DPW regarding the BID and commercial refuse.

- Parking

The downtown area of the City continues to be redeveloped which increases the parking needs of the BID membership. Further clarification is needed on parking impacts under a "no build" scenario as relates to the retail needs in the BID boundaries.

Thank you.

Steve Sansone Executive Director Yonkers Downtown/Waterfront BID 4 Hudson Street, Yonkers, NY 10701

Website: www.YonkersDowntown.com/ http://www.yonkersdowntown.com/

Tel: 914-969-6660 Fax: 914-969-0331

2.1

Rocky Richard

From:

tmnagai@optonline.net

Sent:

Friday, May 30, 2008 7:22 AM

To:

Rocky Richard

Subject:

Comments re SFC Phase 1 from Terry Nagai, 679 Warburton Ave, Yonkers

C89

To Chuck Lesnick and Council Members:

DO NOT APPROVE OF PALISADE POINT (2 25 STORY TOWERS) ON HUDSON WATERFRONT 1) REASONS: 1) economically unsound due to slow housing market

2) property and lives of residents placed in jeopardy due to flooding

caused by

rising sea levels caused by global warming/climate

change...possibility of

law suits (city cannot plead ignorance of scientists predicting

coastal flooding

every 10 yrs. for next century)

3) poor quality of life for residents b/c towers too close to Sugar

Co. which cause

noise, dust pollution

4) 1998 Downtown Waterfront Master Plan: No buildings over 8 floors, architecture should reflect Hudson Valley rivertown features,

should blend

with landscape, not overshadow it

SPECIAL NOTE: I propose the City should have a MORATORIUM ON RIVER HOUSING- INCLUDING SFC'S PALISADE PT. AND ALEXANDER ST. DEVELOPMENTS FOR ABOVE REASONS #1,2,3,4. NY State COASTAL MANAGEMENT POLICIES DATED 1982 ARE OUT-OF-DATE RE NEGATIVE EFFECTS OF GLOBAL WARMING/CLIMATE CHANGE. YONKERS MUST BE "CITY OF VISION" -MAKING WISE DECISIONS NOT ONLY FOR PRESENT, BUT ALSO FOR FUTURE GENERATIONS. "We must strive to be good ancestors." (Ralph Nader)

DO NOT APPROVE OF THE MINOR LEAGUE BALL PARK UNLESS IT CAN BE EASILY CONVERTED INTO A MULTI RECREATIONAL FACILITY WHEN NO BALL GAMES IN SESSION. YONKERS WESTSIDE FAMILIES/YOUTH DESPERATELY NEED A FITNESS-RECREATION CENTER (basketball, skateboard, exercise equipment, etc.) as a means to prevent crime. A SENIOR CENTER should also be incorporated in this area.

Rocky Richard

From:

tmnagai@optonline.net

Sent:

Friday, May 30, 2008 8:09 AM

To:

Rocky Richard

Subject:

Continued Comments re SFC Phase 1 from Terry Nagai, 679 Warburton Ave, Yonkers

To Chuck Lesnick and Council Members,

2.1

SFC has promised BIFURCATION (SEPARATION) OF SEWER AND STORM RUN-OFF PIPES. UNFORTUNATELY, THIS MEANS MANY MORE RUN-OFF PIPES WILL DRAIN INTO OUR PRECIOUS HUDSON RIVER. SFC also mentioned it will install "SMART" RUN-OFF PIPES that include an INTERNAL FILTRATION system to avoid polluting the River. There MUST be an OVERSEEING COMMITTEE that checks that this installation takes place, and A KNOWLEGABLE DPW CREW WHICH WILL MAINTAIN THE FILTRATION APPARATUS. Otherwise IN FUTURE, THE RIVER will be POLLUTED when filtration system breaks down.

SPECIAL NOTES: 1) TO OFFSET THE IMPENDING ADDITIONAL POLLUTION OF OUR PRECIOUS HUDSON RIVER BY THE RUN-OFF PIPES, I propose DIVERTING THE "SMART" RUN-OFFS FROM THE RIVER AND SETTING UP AN IRRIGATION SYSTEM FOR WATERING LANDSCAPES, PARKS, GARDENS, LAWNS IN SURROUNDING AREAS. THIS IS IN KEEPING WITH POLICIES OF LEED (LEADERSHIP IN ECONOMIC, ENVIRONMENTAL DESIGN). THIS "GREEN" PROPOSAL IS A CREATIVE CHALLENGE IN UTILIZING RUN-OFF AS A VALUABLE RESOURCE RATHER THAN A WASTE PROBLEM.

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.

2.Z

Page 1 of 2

Rocky Richard

From:

Robert L. Moffitt [robert.moffitt2@gte.net]

C90

Sent:

Rocky Richard

Subject: Fw: Affordable Housing -- SFC'S Revitalization

Friday, May 30, 2008 12:31 PM

---- Original Message ----- From: Robert L. Moffitt

To: Rocky.Richard@YonkersNY.Gov Sent: Friday, May 30, 2008 12:28 PM

Subject: Fw: Affordable Housing -- SFC'S Revitalization

SFC's REVITALIZATION PROJECT.

I have read in the Journal News the Facts about the SFC'S plan for revitalization of Downtown Yonkers.

WHAT YOUR MAY HAVE HEARD

No provision is being made for affordable housing.

THE FACTS

Any approval plan will provide for affordable housing either through the designation of units within the project area or through financial contribution to fund additional; affordable units at other locations. SFC has proposed an allotment of 6% affordable housing to be built. The final amount of units will be determined by the City Council in further negotiations with SFC.

I am having a problem with this language. It is too broad a statement which means once again a problem for my community. I believe we need to know just where these units will be built before the council votes on this. The final amount of units to be determined by the council is ONE THING but the LOCATION is another. I do not recall any other project asking for such a request. You are requesting for 20% instead of 6% that SFC is asking for. This is the correct thing to do, but asking for this housing to be throughout the city including SW Yonkers, is not fair. Housing is one thing, and this project is another. It appears to me, you are bargainig allowing this project's housing to be scattered throughout the city.

True you negotiated for 13% instead of 20% with Ridge Hill but these units will be on site as they should be. I

True you negotiated for 13% instead of 20% with Ridge Hill but these units will be on site as they should be. I urge the council to realize that what ever decisions they make for today effects this city forever. Has a plan been formulated by SFC to identify the sites for this relocation of affordable housing. I understand help will be provided from other sources to aid in the affordable housing problem. I feel it is not proper accepting help form other sources. Let SFC, complete their own project. I do not believe they require outside help.

Again I stress ON SITE. Last year our deseg case ended establishing our quota has been met. Many watched as Chanel 12 filmed our Mayor signing the proper paperwork showing the City of Yonkers has fullfilled their obligation. Lets make the best decisions for the taxpayers of the City of Yonkers, considering we are the city's support. We need this project but it must be a win-win for all.

With this being said best to all of you as you tackle this massive project.

Thank you, Theresa Lucadamo

6/2/2008

Wondering what's for Dinner Tonight? Get new twists on family favorites at AOL Food. (http://food.aol.com/dinner-tonight?NCID=aolfod0003000000001)

From: Toni Van Loan <tvanloan@victorianpiano.com>

To: Rocky Richard

Sent: Fri May 30 08:48:24 2008

Subject: SFC Project

Dear Mr. Richard; My name is Toni Van Loan. I am a longtime resident, home and business owner in Northwest Yonkers, and the Housing chairperson for the Hudson River Community Association. [HRCA]

I actually do support the majority of Streuver Fidelco Capelli's pending project, but feel that some caveats are necessary. Most of these have to do with the waterfront, or "Palisades Park" buildings. I feel that two 25 story buildings are oversize for the site, which is actually quite small, and need to be scaled down to either A] 2 12 story buildings, the same height as Scrimshaw house, or B] 1 25 story building, built as far onto the south end of the property as possible. The obligatory parking garage would be next to the RR tracks, fronted by townhouses. The sculpture garden must stay in its entirety, with a nice wide promenade. [the smaller # of apartments will reduce the size of garage also.] A reasonable number of dedicated, ground level metered parking spaces for park visitors must be included.

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As for the main "Chicken Island" project, I would chiefly favor cutting the size if the towers down to 35 floors [above the large parking /mall structure]. I am OK with the ballpark, and absolutely think a hotel opposite City Hall is a great idea. My remaining beet has to do with affordable housing. I think SFC's offer of 6% is an insult to the people of Yonkers. I feel that we should ask for 20% and accept 15% as a minimum. Also SFC cannot construct all of their agreed upon affordable housing off their current project sites, nor can they wait to build or include it until after they have completed their main money making projects. This is very important. And the numbers and conditions listed above would qualify for all developers. Thank you; Toni Van Loan

May 30, 2008

VIA ELECTRONIC MAIL (Rocky.richard@yonkersNY.gov)

Rachelle Richard Chief of Staff, City of Yonkers City Council 40 South Broadway, Room 403 Yonkers, NY 10701

Re: Comments on River Park Center, Cacace Center, Palisades Point, and Larkin Plaza Draft Environmental Impact Statement

Dear Ms. Richard:

Please accept the following as Riverkeeper, Inc.'s ("Riverkeeper") comments on the Draft Environmental Impact Statement ("DEIS") for the proposed development projects at River Park Center, Cacace Center, Palisades Point, and Larkin Plaza in Yonkers, NY. These comments focus primarily on: (1) Riverkeeper's concern over possible historic site contamination, the risks posed by such conditions, and the remediation necessary to contain such risks; (2) potential problems arising from the daylighting of the Saw Mill River; (3) the importance of storm water management to reduce the problem of Combined Sewage Overflows ("CSOs") that compromise the integrity of aquatic habitats along the Hudson and Saw Mill Rivers; (4) concerns regarding whether sewer infrastructure is adequate to account for increased waste resulting from the development; (5) and the critical importance of implementing "green building" and sustainable design as a means to mitigate both storm water and sanitary sewage problems.

I. Organizational Background Information.

Riverkeeper is a member-supported, not-for-profit organization dedicated to protecting the Hudson River and its tributaries, and to safeguarding the drinking water supply for New York City. Since 1966, Riverkeeper has used litigation, science, advocacy, and public education to end pollution, restore ecological health, and revitalize waterfront use and access. Riverkeeper has a long history of fighting to protect the Hudson River from sewage and stormwater issues, and has, more recently, been advocating for sustainable, low-impact development solutions to stormwater management, the root cause of CSOs.

As you are undoubtedly aware, this project is one of many proposals along the shores of the Hudson River and its tributaries. In a period of such rapid change, it is essential to view each development in a broader context and ensure that it benefits the community at large and protects and enhances the natural beauty and ecology of the area. This must include a focus on eliminating or minimizing stormwater runoff and erosion, protecting ecologically sensitive areas

and otherwise ensuring that development will not impair nearby waters. Riverkeeper suggests that plans for the ecological restoration of the Hudson's waterfront be incorporated into every waterfront development plan, to help the Hudson continue to recover from past abuses and strengthen it against future threats.

Forty years ago, the Hudson River was choked with pollution – some called it an open sewer and various maps had marked it with black to indicate that the river was dead. Yet, over the past few decades, through changes in the industrial nature of the Hudson River Valley and through the hard work of citizens and grassroots organizations like Riverkeeper, the Hudson has made a tremendous recovery. Still, more remains to be done and vigilance is essential. The beauty of the Hudson is one of the major attractions drawing people and wealth to the Hudson Valley – and to the City of Yonkers.

II. On-Site Contamination Must be Fully and Responsibly Remediated.

Riverkeeper is concerned about the presence of toxic substances contaminating the soil at the proposed development site. As noted in the DEIS, the proposed development sites are located in an urban area that has seen many different stages of industrial, post-industrial and urban development. Soil sampling in the area revealed the presence of Volatile Organic Compounds ("VOCs"), Semi-volatile Organic Compounds, Metals, PCBs and pesticides. Likewise, groundwater testing has revealed the presence of these contaminants and the existence of mercury and petroleum contamination.

Riverkeeper fully supports Struever Fidelco Capelli, LLC's ("SFC") commitment to removing contaminated soil and groundwater pursuant to a DEC-regulated "Brownfields Cleanup Program." It is of the utmost importance that such actions are implemented and carried out in a manner that ensures that no contaminants are leeched into the Saw Mill River or any other bodies of ground or surface water. Such toxins pose a serious risk to both human and aquatic health and must be contained and thoroughly remediated.

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In light of the fact that the project sites are proposed for recreational and residential uses site remediation must be carried out to the fullest extent practicable. As such, substances posing risks to human health must be remediated, at a minimum, to the standards required by applicable guidelines. The process described in the DEIS whereby contaminated soils are capped to prevent contact with surface water and topsoil is less preferable than remediation to bring the soil into compliance with applicable laws. We recognize that in certain cases such remediation will be impossible and capping is the only feasible means of preventing the release of contaminants. But, as a general matter, the preferable course of action is total remediation of contaminated soils on site.

Riverkeeper advocates a similar approach for contaminated groundwater. Total remediation is the goal, at least to the fullest extent practicable. The contaminants discovered in groundwater testing pose grave risks to human health and must be abated to protect human health and to prevent contaminants from leaching into the Hudson and Saw Mill River.

With that said, the Saw Mill River watershed is undeniably urban and there will be sources of contamination that SFC will not be able to remediate because they lie further upstream. Riverkeeper understands that this is the case, but we fully expect SFC to ensure that its activities will effectively deal with contaminants over which it has control and to ensure that such activities will safeguard against future release of contaminants into groundwater, surface water or any other medium that will pose a risk to human or animal life in the area.

III. The Process of Daylighting the Saw Mill River is a Major Undertaking Requiring the Utmost Care in Safeguarding the Surrounding and Downstream Areas.

While the plan to daylight the Saw Mill River is a desirable project overall, that will likely benefit both the neighborhood and the river itself, Riverkeeper is concerned about certain aspects of the proposal that call for profound changes to the area. In particular, Riverkeeper is concerned about plans detailed in the DEIS to alter the course and grade of the riverbed and construct spillways and dams that could disrupt the upstream migration of local species of fish.

The proposed alterations of the riverbed call for profound changes in both the course and the grade of the river. Zone 1 calls for a reduction in the grade of the riverbed, and Zone 2 calls for a grade change of eight feet to help create "the Rapids."

This involves massive excavation of potentially contaminated soil that is subject to the concerns expressed above. The potential for disturbed contaminants to enter the reconstructed riverbed is a very real possibility that requires the utmost diligence in protecting against it.

SFC appears to be committed to ensuring the integrity of the Saw Mill River as regards in-situ contamination via its use of a geotextile membrane underlying the riverbed. Riverkeeper does not object to this proposal but urges SFC to develop a plan to monitor the river to ensure that the membrane is intact and its integrity is maintained. Otherwise, the soil underlying the riverbed should be remediated to a point where there is no risk of contamination.

The DEIS also states that in Zone 3 of the river, SFC intends to widen the existing river, construct a spillway to create a still water area and a small dam to separate brackish and freshwater areas. Riverkeeper supports SFC's promise to build spillways and dams in a manner that does not restrict the upstream migration of indigenous fish species by implementing features such as fish ladders. However, the DEIS does not address this issue in sufficient detail. It must specify the types of structures that will be implemented to avoid disruption of fish migration. Riverkeeper urges the use of fish ladders or fish elevators of proven design and effectiveness to ensure that there will be no disruption caused by such features of the proposed development.

Riverkeeper encourages SFC to implement its plan to construct naturalized riverbeds through the use of stone, stabilized rip rap and the utilization of native species of plants. Such practices will help to remediate wastes in the Saw Mill River by exposing them to sunlight, plants and bacteria that naturally breakdown substances in the water. It will also encourage the return of aquatic life to this section of the river by recreating habitats that have been lost since the river was buried under the city years ago. This aspect of the project presents a unique opportunity to restore some

3.1

of the river's natural beauty and in the process reclaim water quality and protect downstream ecosystems in the Hudson River and elsewhere.

An element of this project that presents the possibility of significant risks to the environment is the diversion of the Saw Mill River to facilitate the construction of the new riverbed. Riverkeeper urges SFC to seek out all necessary Article 15 Stream Diversion Permits and to pledge strict compliance with those permits. This will minimize the short term impact of the diversion as any deviation from these permits has the potential to threaten downstream habitats and water quality.

IV. The DEIS Fails to Adequately Address Problems of Sewage Treatment and the Importance of Stormwater Management.

While Riverkeeper commends SFC for taking into account the problem of CSOs in the Yonkers Municipal and Westchester County Trunk sewers, there is more that can be done to actually reduce the strain on the local sewer infrastructure. Rather than simply not adding to the CSO problem, SFC should take advantage of this opportunity to further mitigate storm water and sanitary sewage outflow in an effort to *reduce* the volume of waste that enters the sewer systems rather than simply maintaining the status quo by not contributing to the problem.

CSOs have been and continue to be a major problem at the Yonkers Joint Wastewater Treatment ("YJWT") Plant. In addition, the plant has a history of violations. According to a 2002 Natural Resources Defense Council report ("NRDC") report entitled "Cape May to Montauk: A Coastal Protection Report Card" the Yonkers plant is one of the top twelve worst sewage treatment plants in the New York-New Jersey Harbor Bight (the Atlantic Coastline stretching from Cape May to New York City and across to Montauk). In addition, a search of the Environmental Protection Agency Echo Enforcement database reveals that the Yonkers Sewage Plant has been in violation of its Clean Water Act permit during all of the past twelve quarters. During the most recent posted inspection, the plant violated its limits for Coliform by 9900%. Obviously the plant is operated by Westchester County and as such SFC cannot be faulted for these failures, but the DEIS should account for these problems in the context of assessing the impact of the sanitary sewer outflows on the sewage treatment plant.

This only reinforces the need for future development planning to incorporate designs and technologies that reduce the risk of CSOs. In light of this situation, Riverkeeper applauds the fact that SFC's proposal calls for rerouting stormwater into a separate water treatment system because this will significantly reduce the strain on the sewer system during rain events. In addition, the daylighting of the Saw Mill River will reduce the amount of impervious surfaces and consequently reduce the amount of runoff that must be treated in the YJTW plant. While this is commendable as a start, the use of "green building" practices and sustainable technologies

¹ See, http://www.nrdc.org/water/conservation/hb/contents.asp

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² Coliform is a bacteria found in the digestive tracts of humans and other animals. E.coli is one type of coliform and the most common type found in the fecal matter of both humans and animals. *See*, http://www.health.state.ny.us/environmental/water/drinking/coliform_bacteria.htm

such as green roofs, catch basins and other technologies designed to reduce the amount of runoff generated by impervious surfaces should also be implemented.³

By reducing the amount of stormwater generated by the impervious surfaces of the development using these techniques, less stormwater will have to be treated by the underground treatment systems described in the DEIS. This would allow for the potential rerouting of adjacent runoff through these systems to further reduce the amount of stormwater that enters the combined sewer system. The DEIS anticipates at least 452,750 gallons per day of additional wastewater directed to the Yonkers sewage treatment plant. The impact of this amount of sewage on the YJTW plant needs to be studied and addressed in the EIS especially given that CSOs are already a problem at the plant. Although the DEIS states that the project will not add to stormwater flow into the combined sewers, the fact that it adds wastewater to the system at all means that it will still worsen the CSO problem, albeit indirectly. Further mitigation of storm water from adjacent properties through the proposed stormwater treatment facilities as well as sustainable stormwater management practices would be an effective strategy to mitigate the impact of the added sewage on the existing sewer system.

The management of stormwater in cities such as Yonkers, which have combined sewer systems, is critical as wet weather events often overload the sewage treatment plants and result in CSOs. In studying the problem elsewhere, Riverkeeper has advocated the incorporation of a sustainable approach to CSOs that give appropriate consideration to stormwater source controls. Control of stormwater sources keeps stormwater from ever entering sewage system in the first place. Such measures include street trees, "Greenstreets" (smaller, vegetated areas on streets), green roofs, rain barrels, and direct injection into the groundwater. Riverkeeper advocates a no net increase in stormwater policy for all development and commends SFC for embracing similar goals.

However, SFC can and should go further to implement these practices in an effort to maximize sustainable stormwater management practices.

V. The DEIS fails to Fully Consider the Cumulative Impacts of Yonkers Development.

One particular area in which the DEIS is deficient is with regard to the cumulative impact that this project, and the many other development projects which are ongoing, recently completed or currently being planned for the City of Yonkers will have on municipal infrastructure. The scale of this project is massive, two fifty storey towers, a minor league ball park and other structures. This project is not occurring in a vacuum. The City of Yonkers is undergoing redevelopment on a massive and widespread scale and the various development projects throughout the city will inevitably have an impact on the environment and may overload infrastructure and utilities such as water and sewer. While the DEIS accounts for other developments in the Yonkers area, its discussion of this issue is limited primarily to a discussion of development-related traffic impacts. Further attention must be paid to the impact of this particular project in terms of

5.1

³ *See*, Riverkeeper's Sustainable Raindrops report, available at: http://riverkeeper.org/special/Sustainable_Raindrops_FINAL_2007-03-15.pdf.

stormwater management and sewage treatment. The DEIS does not look at these issues in the context of broader development within the city, especially the cumulative impact that these many projects will have on the Yonkers sewage treatment plant. Additionally, the sewage treatment plant treats municipal waste from communities outside the City of Yonkers, municipalities that are also experiencing tremendous growth and development. As such, the DEIS should look beyond Yonkers to ascertain the cumulative impact from development projects in cities and towns whose waste is treated at the plant in order to fully discuss and plan for the cumulative impact of this project on sewage treatment and consequently, CSOs.

Without an analysis of the cumulative impacts of all of these projects, the data relied on in the DEIS is fatally flawed and legally deficient. SEQRA regulations require that an EIS assess all "reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts." 6 NYCRR §617.9(b)(5)(iii)(a). The DEC has separate, and similar obligations to evaluate cumulative impacts pursuant to New York State Environmental Conservation Law (ECL §3-0301(1)(b)).

Riverkeeper urges the City of Yonkers to undertake a comprehensive study of the effects of the combined redevelopment projects within the City, keeping in mind the Governor's recent Executive Order creating a Smart Growth Cabinet designed to help New York State address many of these very issues.

VI. <u>The DEIS Should Incorporate Discussion of Energy Resources, Sustainability</u> Objectives and "Green Architecture" and SFC Should Seek LEED Certification.

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.

VII. Public Access to the Waterfront Must be Maintained and Enhanced.

New Development and redevelopment must ensure, preserve and augment meaningful public access to the waterfront, including a variety of water-dependant uses for riverfront property and an enhanced ability for citizens to actually reach the Hudson's waters (as opposed to simply

viewing them from buildings which overlook the water). Public open space along the waterfront is essential to ensuring that enjoying the Hudson River on a summer afternoon does not become an option only for those wealthy enough to live on the water's edge.

Since the Palisades Point section of this project lies directly on the banks of the Hudson, Riverkeeper stresses the importance of public space to SFC in an effort to ensure that the waterfront will remain open to the public in a meaningful way. Public parks with reasonable hours of operation are an essential part of any waterfront development and we encourage SFC to incorporate such parks into any plans for waterfront development.

7.1

VIII. Negative Socio-Economic Impacts Must be Fully Mitigated.

Riverkeeper maintains that a complete and detailed analysis of low and middle-income residential displacement due to the proposed project be included in the DEIS. Adequate mitigation of such displacement would require relocation in the vicinity, in comparable or improved shelter, at a comparable rent.

7.2

In addition, issues of environmental justice must be fully explored in the DEIS including alternatives that may avoid such issues. Where environmental justice implications of the project are inevitable, plans to mitigate any such impact must be fully explored and adopted by SFC.

7.3

IX. The DEIS does not Adequately Explain the Basis for Tax Calculations.

7.4

There is no articulated basis for the amount of tax gains articulated in the DEIS. One of the major incentives for the City of Yonkers to participate in and encourage developments such as this one is that the City's tax base stands to increase substantially as new residences are constructed, property values rise, and new businesses open in the area. According to the DEIS, the tax gain for the City would total approximately sixteen million dollars per year. This includes \$4.2 million in sales tax, \$2 million in "income and other tax," and \$9.9 million in property taxes. It is unclear how these figures are arrived at, and when these figures can realistically be reached. Without any substantiating or corroborative evidence these numbers become mere conjecture and leave commenters with no way to gauge their accuracy.

SFC should examine other developments of similar magnitude in Yonkers and other areas to determine the accuracy of these figures and to allow informed discussion of whether these numbers can reasonably be expected and how long it will take to achieve these tax figures. Study of similarly situated developments and their history of occupancy would be illustrative in determining whether these figures are accurate.

The accuracy of these figures is imperative because under the "tax increment funding" plan, the costs incurred by the City in upgrading utilities (e.g. water mains and sewer systems), as well as the undertaking of the Larkin Plaza project by the City, are to be offset by the increased tax revenues generated by the project. If these figures are not accurate, the City could potentially lose money due to reduced tax revenues. This in turn could have drastic effects on the feasibility of the entire project or could limit the City's ability to perform necessary upgrades leaving such

crucial elements as sewer upgrades unfinished, thereby jeopardizing the integrity of the surrounding waters through CSOs and other consequences of inadequate infrastructure.

X. The Project Should be Decreasing Impervious Surfaces in All Feasible Locations.

Riverkeeper believes that there is no reason for the project as proposed to increase the amount of impervious surfaces in the area to be developed. In particular, the Daylighting Project in River Park Center calls for a total increase of 1.2 to 1.5 acres of impervious area. Despite this increase, the DEIS states that there will be no net increase in stormwater discharge because the calculated flow discharge of pre and post development flows results in no net increase. It is unclear how this is possible and there is insufficient explanation of how these results were achieved.

While it is clear that SFC is committed to implementing the "latest stormwater treatment" before the runoff enters the Saw Mill River, the use of green building practices should be used to reduce the amount of stormwater that requires treatment. Through the use of pervious surfaces for streets and sidewalks as well as green roofs SFC can take steps to reduce impervious surfaces in the area, thereby reducing the total amount of stormwater that must be treated before it enters the Saw Mill River.

XI. The Proposed Construction at Palisades Point Poses Special Risks Due to its **Proximity to the Hudson River**

The Palisades Point section of the project is located directly on the shores of the Hudson River. As a result, it poses a special set of risks that must be discussed separately from the rest of the project.

Of particular concern to Riverkeeper is the potential risk to endangered species such as the Shortnose Sturgeon as well as the Atlantic Sturgeon.⁴ The DEIS acknowledges the possibility that these fish will be in the waters of the Hudson near the Palisades Point project. This increases the need for careful attention to minimizing the impact of construction practices to prevent any harm to these species in particular, and to other species inhabiting the river as well.

Adding to this factor is that the area has been designated an Essential Fish Habitat and is subject to special regulations. Riverkeeper expects a "compliance plus" policy from SFC to ensure that 8.3 more than the bare minimum of compliance is adhered to in this delicate environment along the shores of the river. This applies to all aspects of the project, from ensuring that construction waste and exposed topsoil does not enter the water, to ensuring that water-oriented construction activities such as the canoe/kayak launch are constructed in the most responsible manner possible.

Adding to this factor is that the area has been designated an Essential Fish Habitat and is subject to special regulations. Riverkeeper expects a "compliance plus" policy from SFC to ensure that

⁴ The Atlantic Sturgeon, while not endangered, is listed on NOAA Fisheries' list of "Species of Concern" and thus receives heightened attention from regulatory bodies for purposes of conservation. See, http://www.nmfs.noaa.gov/pr/species/concern/

more than the bare minimum of compliance is adhered to in this delicate environment along the shores of the river. This applies to all aspects of the project, from ensuring that construction waste and exposed topsoil does not enter the water, to ensuring that water-oriented construction activities such as the canoe/kayak launch are constructed in the most responsible manner possible.

In addition, the discussion of this particular aspect of the project calls for a rehabilitation of the waterfront. This too should be done in a way that both protects and enhances the aquatic habitat and minimizes the impact of indigenous species of fish and other organisms. Furthermore, the rehabilitation of the waterfront should incorporate public access to the river at least a portion of the site in order to ensure that this valuable public resource remains open and accessible to all.

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9.2

As a general matter, Riverkeeper is supportive of the plans to route stormwater through the proposed underground treatment facilities described in the DEIS. Such practices are truly on the cutting edge and SFC deserves to be commended for its commitment to reducing CSOs by keeping stormwater out of the combined sewers. That said, we cannot agree with the position articulated in the DEIS that impermeable surfaces are preferred over permeable ones. In stormwater management, the emphasis should first be placed on street trees, green streets and vegetation and the routing of stormwater into these locations. Not only does this provide a constructive use of stormwater that does not require sophisticated treatment technology or significant expense, it also benefits the community by improving air quality, lowering temperatures and beautifying the neighborhood. Such practices should be implemented in conjunction with a focus on permeable streets and sidewalks because filtration through soils and sediments is at least as effective as modern treatment technologies and is less expensive for the developer. Underground treatment technologies should be implemented once these strategies have been exhausted or become impracticable.

Thank you for your attention. Please do not hesitate to contact me or Riverkeeper Staff Attorney Joshua Verleun with any questions or comments at (914)478-4501 x 247, or at jverleun@riverkeeper.org.

Sincerely,

Andrew Rafter Legal Intern

Rocky Richard

C93

From:

Ann-Marie Mitroff, Saw Mill River Coalition [annmarie@groundworkyonkers.org]

Sent:

Friday, May 30, 2008 4:23 PM

To:

Rocky Richard

Cc:

Rick Magder; 'Peter Klein'; 'Steven L. Grogg'

Subject:

Comments on the DEIS from Groundwork Yonkers/Saw Mill River Coalition

Attachments: deis may 30 08 comments Itr to cc.doc

Attached please find our comments on the SFC DEIS. Thank you,

Ann-Marie Mitroff

Director of River Programs Groundwork Yonkers/Saw Mill River Coalition 6 Wells Avenue Yonkers, NY 10701

(914) 375-2151 (phone), (914) 815-5872 (cell) (914) 375-2153 (fax)

annmarie@groundworkyonkers.org



A program of Groundwork Yonkers 6 Wells Avenue, Yonkers, NY 10701 914-375-2151 Fax: 914-375-2153

May 30, 2008

City of Yonkers City Council
Attention: Rachelle Richard
Chief of Staff
40 South Broadway, Room 403
Yonkers, New York 10701
Submitted by email to: Rocky.richard@yonkersNY.gov

Honorable Members of the City Council:

We are very pleased to provide comments on the SFC DEIS that will lead to the daylighting of the Saw Mill River—the much maligned and forgotten river that can truly become a gem again to the City and its residents. Groundwork Yonkers was one of the earliest proponents of the idea—drawing upon the recommendations from a 1999 US Army Corps of Engineers report (Saw Mill River Basin, New York: Reconnaissance Study For Flood Control & Ecosystem Restoration).

As in any major redevelopment, there are compromises to be made—but ultimately—the long term viability and health of a river will only serve to make the project more viable itself. Thus, the main thrust of our comments is to assure that the science of bringing back a river is done carefully and with the attention to natural resource details that will sustain the project in an urban setting. If we neglect these "Mother Nature" details, then, as many other river re-design projects around the country have discovered, we may be saddled with a sterile, non-maintainable channel instead of a living, breathing, always-interesting water course with many ways to interact with it.

Our comments cover four points:

- (1) Technical review and oversight of project elements (the three areas below)
- (2) Science of the re-naturalized daylighting sections
- (3) Stormwater management design and construction management on-site
- (4) Water quality

3.2

(1) Technical review and oversight of project elements

This project is complicated from a construction standpoint (re-engineering a river) and a scientific standpoint (re-introducing/changing nature and hydraulic features). We have the utmost respect for McLaren Engineering's work on this to date and their interest in having the science available to work with (water quality, fish studies, etc.). Anticipating this project, Groundwork Yonkers applied for and has received a major grant of \$880,000 from the US EPA (Targeted Watersheds Grant) which will support among others things-(a) the scientific review of this project through the use of habitat restoration specialists, (b) stormwater management, and (c) a 3-year water quality monitoring program conducted by Manhattan College.

Our recommendation is that an oversight process for the project needs to include a mechanism to review the technical details of the final engineering and habitat/landscape plan, the final stormwater management plan and construction management details (erosion and sediment control), and elements of the plan related to water quality (specifically addressing any fecal coliform). This review, independent of the development team, should occur prior to the submission of the plan to the US Army Corps of Engineers for permitting. This oversight can take many forms and is often incorporated by way of a Technical Advisory Committee (TAC). In any event, the oversight needs to confirm the scientific details, make sure it addresses regional species, and must be done by professionals whose primary profession is rooted in the particular science, (for example, someone whose "practice" is habitat restoration, not someone who is primarily a landscape architect). The DEIS doesn't yet have the detail for this level of review.

(2) Science of the re-naturalizing daylighting sections
Indicative of the need for additional scientific "eyes" on the project is Sven Hoeger's
(our habitat restoration specialist) initial review of the DEIS section on natural resources:

"Some sections only mention the common names and others both common and scientific. Case in point is the occurrence of the rapidly dwindling American Bittersweet (reference is to Celastrus scandens on pages III-C-10 and 11). I would like to (actually) see the plants listed in the DEIS as I have yet to find an American bittersweet plant—probably the one found was the Asiatic bittersweet (Celastrus orbiculatus—an invasive species). Disappointing is the lack of herbaceous species altogether (except one mentioned as mugwort). It would be highly unlikely that the recorded sections of the Saw Mill River would only provide habitat to tree species. The report also omits the almost certain occurrence of the Snapping turtle. The proposed 'rip-rap' straight jacket of the future stream bed is not much different from the existing condition, but I am certain that improvements could be proposed."

Again, we would recommend a process that gives more collaboration and review to this very critical re-naturalization of the river. In discussion with the engineering and landscaping team, they were exceedingly appreciative of this type of assistance and

would welcome it. We have the funds from the US EPA grant to have our habitat restoration specialist work on reviewing the details of this project.

(3) Stormwater management design and construction management on-site This project could incorporate some of the Better Site Design principles that are the new NY State standard for stormwater management. Through our US EPA grant and a state DEC grant, we will be looking for demonstration models and would recommend that these very public sites incorporate such models.

4.1

Specifically, the erosion and sediment control plan calls for weekly inspections of the stormwater management controls during construction, including an inspection within 24-hours *after* a storm. We would request that there be such an inspection 24-hours *before* a predicted major storm to allow repair of critical sediment control elements on the site. This is a major construction project with potentially major impacts of sediment if control elements fail. There is an indication that we have fisheries below the River Park site. Sediment is potentially deadly to fish.

(4) Water quality

The 3-year water quality monitoring study conducted by Manhattan College for Groundwork will begin in June 2008 and follows on a 1-year study conducted in 2007. We have established a Technical Advisory Committee (TAC) that includes the City of Yonkers and McLaren Engineering (along with others). We recommend that the information from the on-going study and any water quality improvement plan be incorporated into the SFC project.

4.2

If you have any questions about our comments, please do not hesitate to contact us.

Respectfully submitted,

Ann-Marie Mitroff

Director of River Programs

Groundwork Yonkers

BARRY B. MCGOEY 656 YONKERS AVENUE YONKERS, NY 10704

May 30, 2008

Please accept these personal comments with regard to the DEIS on the Struever Fidelco Cappelli (SFC) (the "Project Sponsors") proposed Palisades Point, Cacace Center, River Park Center, and Larkin Plaza Projects ("Proposed Projects").

I would like to start off by expressing my sincere displeasure with the Adopted Scope of the DEIS which, as adopted, failed to include within the parameters of the study many very important potential economic and environmental impacts of the Proposed Project. I and many other individuals had submitted numerous comments and suggestions regarding the Proposed Scope of the DEIS, however, very few, if any, of those comments were incorporated into the Scope of the DEIS and therefore were not considered or studied thoroughly enough for your body as Lead Agency to find the DEIS complete.

The Yonkers City Council as Lead Agency should not have accepted the DEIS as complete and should reconsider expanding the Scope of the DEIS and/or continue to study the many still unanswered or unstudied potential economic and environmental impacts of the Proposed Project. Even based upon the Adopted Scope of the DEIS, the Adopted DEIS has not adequately and completely addressed many of the areas required under the Adopted Scope of the DEIS, as limited as that Scope was. As required under NYCRR §617.11(d) (4) and (5), the DEIS must state with specificity the measures that will be taken to avoid or minimize the impacts identified in the DEIS. Since the DEIS did not fully address and identify all of the economic and environmental impacts of the Proposed Project, it has also not provided sufficient means to avoid and mitigate those impacts. Based upon this, the DEIS should not be approved, and if it is approved by the City Council as Lead Agency, I do not believe it will withstand the judicial scrutiny that is sure to ensue.

The most troubling, and potentially the most dangerous, assured impact that was barely addressed in the DEIS is the impact on the Fire Department of the City of Yonkers to adequately provide fire protection for the Proposed

Project, in general, and to the two (2) fifty (50) story residential towers to be built on top of a ten (10) story base in or near the area now commonly known as "Chicken Island."

Generally, buildings between seventy five (75) feet and four hundred ninety one (491) feet in height are, by most standards, considered high-rise buildings. Buildings taller than four hundred ninety two (492) feet are generally classified as "skyscrapers". At an elevation of five hundred ninety nine (599) feet, each of the two (2) proposed "Chicken Island" residential towers are indeed "skyscrapers."

Although the City of Yonkers has in recent years built several new high-rise residential buildings and the Fire Department has been able to provide sufficient levels of firefighting protection, the recent proliferation of high-rise development, particularly on the City's west side has been draining the resources and capabilities of the Fire Department. We have been fortunate that there have been no major structure fires, collapses, or other emergencies at these growing number of high-rises, but the several incidents that we have had, has strained the limited resources of the Fire Department and required the redeployment of personnel and equipment away from other areas of the City, leaving those areas, particularly the South East and North East sections of the City without sufficient protection, sometimes for extended periods of time.

As difficult and resource-straining as high-rise operations are, they are small in comparison to operations at a "skyscraper." I am not an expert in firefighting operations in skyscrapers, but there are many experts in the field and I believe there are many Firefighters and Fire Officers in the Yonkers Fire Department who could provide expert opinions in this regard. My point is that the DEIS did not seek, or receive, any expert opinions regarding firefighting operations in "skyscrapers."

2.1

The failure to address the potentially life-threatening (to residents and firefighters alike) impacts of fires and other emergencies in "skyscrapers" is a gross dereliction of duty, at best, and potentially criminal at worst. As Lead Agency, the City Council is obligated to identify such potentially dangerous impacts and to provide adequate mitigation. The DEIS does not even address the issue of firefighting and emergency operations in "skyscrapers."

The Project Sponsors have said they will comply with all fire and building codes which will require fire-resistant building materials, smoke detectors, sprinklers, fire safety directors and programs, etc. While such measures do help, they are not fool-proof and fires in fire-resistant buildings often get out of control and lives are lost. Compound that with a phenomenon recently experienced in a high-rise fire in Chicago, wherein the occupants remembered the collapse of the World Trade Centers and fled from the safety of their apartments into the stairs and other areas of the building while the firefighters were attempting to locate and extinguish the fire. As a result, lives were unnecessarily lost.

Also, the installation of fire sprinklers does not remove the life-safety risks of fires, as most fire victims succumb to smoke inhalation and not burns. Fire sprinkler systems are not fail-safe and require regular maintenance and testing, and are often shut down for these and other purposes, and sometimes tampered with intentionally. Fire sprinkler systems are not a replacement for firefighters, and if working properly, act rather as a containment and extinguishment tool to assist the firefighters in completely extinguishing a fire and getting occupants and others to safety.

Before a fire is extinguished by a sprinkler system or a firefighters hose line, the fire will have produced a considerable amount of toxic and deadly smoke. In every structure fire, smoke, heat, and gas rises, often to the stairwells where occupants are attempting to escape.

The Project Sponsors may point to the "high-rise" buildings recently built in New Rochelle and White Plains and proclaim that they are safe and adequately protected. The truth is that good luck has been on their side and on the sides of the residents of those buildings. Both the New Rochelle and White Plains Fire Departments are woefully understaffed to adequately deal with a major incident at one of the high-rises in their jurisdictions. Indeed, the Yonkers Fire Department, significantly larger than both New Rochelle and White Plains would not have enough personnel and equipment to effectively fight a fire in some of the high-rises in these jurisdictions, never mind right here in Yonkers with significantly higher "skyscrapers."

Mutual aid, while helpful, is also not the answer. Other than New York City, most surrounding jurisdictions have very sparsely manned fire apparatus and have relatively limited mutual aid capacity. Even New York City would take time to respond with enough resources to provide adequate

assistance. By the time enough mutual aid were to arrive on scene, too much time may have been lost to contain and fight the fire, and of course, save lives.

High-rise buildings, especially "skyscrapers" present numerous engineering and safety challenges; however, not every engineering marvel is worth the potential safety risks they pose. Large cities such as New York, Chicago, Boston, Los Angeles, and Dallas, have spent decades if not centuries, building an infrastructure that enables them to sufficiently deal with the life safety challenges of numerous high-rises and "skyscrapers." From a firefighting and fire-safety perspective, the most important part of that infrastructure is the personnel and equipment needed to deal with emergencies in such tall structures. All of the above cities have the infrastructure, personnel, and equipment necessary to protect lives in high-rises and "skyscrapers." Yonkers simply does not.

For example, there was recently a fire in the twenty-ninth floor of a forty story office building in New York City. The fire was at night and therefore there were a minimal number of occupants in the building who were able to evacuate safely. Although the building was fire-resistant and had many fire safety features such as smoke detectors, stand-pipes, etc., it took almost 150 members of the FDNY quite some time to contain and extinguish the fire, with numerous firefighters sustaining injuries.

Unlike the high-rise fire described above, the proposed buildings in Yonkers will be residential and will have maximum occupancy during the night when fires are most frequent. Also, unlike the FDNY which has over 10,000 members, over 1,000 of which are on-duty at all times, the Yonkers Fire Department only has 57 firefighters working at any given time throughout the entire City.

Based upon communications from the Yonkers Fire Commissioner, the Project Sponsors agree that the Yonkers Fire Department will incur additional runs or calls as a result of the Project, and the Project Sponsors concede that additional firefighters and apparatus will be needed to provide service to the Proposed Project. The Project Sponsors anticipate that the additional service calls of the Proposed Project can be met with the addition of one (1) additional Engine Company and one (1) additional Truck Company. It should be noted that the two (2) additional Companies will only provide the Yonkers Fire Department with six (6) additional firefighters

5.2

per tour, bringing the post-Project total firefighting force to sixty-three (63) firefighters. The Project Sponsors also argue that these two (2) additional Companies will be available to serve past and future projects and that the cost allocated to the Project should be limited to twenty (20%) percent of the total cost of the two (2) additional Companies.

The reasoning of the Project Sponsors is flawed because they only consider the number of additional calls or runs, and not the potential of a structure fire or other disaster in one of the "skyscrapers" they plan on building. The Proposed Project will most certainly result in numerous additional calls for fire related service, more than justifying the additional two (2) Companies. However, the cost allocated to the Proposed Project should be much closer to one hundred (100%) percent than their estimated twenty (20%) percent.

Additionally, since the Project Sponsors have not even considered the additional firefighting impact of high-rises and "skyscrapers" the DEIS should be rejected for failing to identify and mitigate this impact. Again, the failure to address the potentially life-threatening (to residents and firefighters alike) impacts of fires and other emergencies in "skyscrapers" is a gross dereliction of duty, at best, and potentially criminal at worst.

I have another Fire Department related comment that needs to be further studied and addressed before the City Council as the Lead Agency can approve the Proposed Project. As you know, the Proposed Project calls for the demolition and relocation of Fire Headquarters from New School Street to the corner of Nepperhan Avenue, at the base of the Cacace Justice Center. The Project Sponsors proposed to renovate a nearby commercial building, temporarily relocate Fire Headquarters into that temporary facility for at least a year, and then finally move Fire Headquarters into a new yet to be built structure. This is unacceptable and should not be allowed.

A fire station is a very unique structure that usually cannot be configured into the footprint and layout of an existing structure without incurring a tremendous cost and effort. It is my understanding that the Project Sponsors submitted plans to the Fire Commissioner to relocate Fire Headquarters (temporarily) to an existing building on Elm Street and Palisade Avenue that has been used in the past as an automotive transmission shop, and more recently as an automotive repair facility. It appears from correspondence in the DEIS that the Fire Commissioner reviewed the architectural plans for the temporary fire station with two of his Chiefs, and that the Fire

Commissioner found the facility to be adequate, if renovated as called for in the plans he reviewed. There was no indication that the site was tested for environmental contaminations or violations or similar hazards. A facility formerly used as an auto repair facility, using, storing, and possibly leaking petroleum products is not an acceptable site for a fire station, where the men and women assigned could possible be put at risk of health and other hazards.

It has recently come to my attention that the Project Sponsors have begun to consider other, possibly less hazardous sites for the temporary facility. Again, the acquisition of the site and the cost involved in retrofitting an existing building to comply with the requirement of a fire station, for a period of months, just doesn't pass the smell test. It is obvious to me, that unless the City Council as Lead Agency requires the Project Sponsors to build the new permanent replacement Fire Headquarters BEFORE demolishing the existing building, that the promised new building will never be built.

Again, if the City Council as Lead Agency decides to approve the Proposed Project, then a required condition of the Project should be that the permanent replacement Fire Headquarters be built, approved, and occupied by the Fire Department BEFORE the existing building is allowed to be demolished.

In their numerous presentations to various groups through the City, some of which I attended myself, the Project Sponsors highlighted and promoted the "New Six Bay Fire Headquarters" as a major component of the Proposed Project. Indeed, I witnessed many people almost swoon over the beautiful artist renderings of this promised new Fire Headquarters and other features such as the re-daylighted Saw Mill River. I would imagine that much of the perceived public support for the Proposed Project was won over with these and other promises. The City Council has very recently heard the Project Sponsor back-pedal on the daylighting of the Saw Mill River at Larkin Plaza, although at their public presentations and in their beautiful brochures and renderings, the Project Sponsors promoted the Proposed Project as including the daylighting of the Saw Mill River at BOTH River park Center AND Larkin Plaza. Now the City Council has learned that the Project Sponsors have no obligation to daylight the river at Larkin Plaza, that any state funds allocated to the daylighting component of the Project will be used at River Park Center, and if the City wants to daylight the river at Larkin Plaza the City will have to either fund that project itself or find its

own state, federal, or other funding. Do not allow the Project Sponsors the opportunity to avoid building the new Fire Headquarters in the future, for economic or other reasons. We are currently experiencing an economic period of decline, especially in the real estate markets. Projects all over the region are in jeopardy and costs continue to rise every day, putting profitability in jeopardy for real estate developers. If the economy continues to decline, you can be assured that the Project Sponsors will not be willing to reduce their expected profits by expending money on anything that is not absolutely necessary. Make the replacement Fire Headquarters absolutely necessary. Do not allow the Project Sponsors building the replacement Fire Headquarters BEFORE the existing Fire Headquarters is demolished or vacated.

I have numerous other comments regarding the Proposed Project and I will highlight several more areas of concern in the following pages, but again I contend that the DEIS has not identified numerous economic and environmental impacts as outlined in the Scope of the DEIS and has not provided adequate measures to avoid or mitigate those impacts. Proof of this assertion was recently provided at a City of Yonkers Budget Hearing wherein Councilperson Barbato inquired of a city Commissioner as to the adequacy of the limited number of additional personnel requested in the DEIS to provide his department's services to the Proposed Project and the rest of the city. The Commissioner responded by saying that his department had provided some information and input some time ago, but that he would be interested in providing the City Council with additional information and data at a future date. Obviously, this Commissioner was not consulted with enough while the DEIS was being completed and he may still be able to provide the information and data necessary to assist in formulating the avoidance and mitigation measures needed to deal with the Proposed Project's possible impacts.

I was present at the Budget Hearing for the Fire Department which was held on an earlier date and no such inquiry was made of the Fire Commissioner as to the adequacy of the additional firefighting personnel requested in the DEIS to provide fire and other emergency services to the Proposed Project, how the Fire Department proposed to deal with high-rise fires and emergencies, and how the rest of the City could be affected by the increased demands placed upon the Fire Department by the Proposed Project. In fact, I see nothing in the DEIS, other than a few footnotes referring to

communications and interviews with various department commissioners as to how the potential impacts of the Proposed Project would be avoided or mitigated. The Real Estate Committee of the City Council has said they will be requesting members of the various city departments to attend upcoming Real Estate Committee Meetings to address the impact of the Proposed Project upon their respective departments. It's a little too late for that! Those department heads should have been requested to attend meetings and answer questions long ago, before the DEIS was declared complete. The City Council should make available for public inspection copies of all correspondence sent between the various city departments and their commissioners with the Project Sponsors and the consultants who prepared the DEIS. The time to provide additional information and data as to the potential economic and environmental impacts of the Proposed Project has passed. If the City Council has not required that every city department be fully briefed on the Proposed Project and has not inquired of those department heads as to the adequacy and reliability of the information preferred in the DEIS then the City Council as Lead Agency has no other choice but to reject the DEIS.

When I submitted comments on the Scope of the DEIS some time ago, I requested that as the City Council prepared to embark on the arduous task of developing the framework for the EIS analysis and designing the procedures to be followed in the preparation of the DEIS, that the City Council as Lead Agency seek input from as many different "interested parties" as possible in studying the issues and completing the DEIS. Of course that would necessarily include the public, the City Administration and its various departments and agencies, as well as the Project Sponsors and their engineers and consultants. I also suggested that the City Council and its consultants should also actively seek the input of the leaders of the City's various municipal unions who represent the workers who actually provide the services that allow this City to operate and who will provide the services that will be required by the Proposed Projects. As I said in my comments on the Scope, no one knows how the City of Yonkers operates on a daily basis better than the labor leaders and through them you will get an unfiltered assessment of how the Proposed Projects will affect the City of Yonkers and the services it provides to its citizens. If the City Council had done so, I think the DEIS would have been more complete and more reliable.

Many of the concerns that I commented on during the DEIS Scope process are still unanswered and I repeat them in these comments on the DEIS:

• In the Adopted Scope of the DEIS it states that identifying the community services and facilities likely to be affected by the proposed project will be accomplished "through a review of departmental capital and operating plans, phone interviews and/or written communication with department representatives, school officials, and local medical service providers." It is obvious from the lack of information and supporting documentation in the DEIS that this was not accomplished. I suggested that the Scope be expanded to include input from the leaders of the municipal unions affected, particularly police, fire, emergency services, public schools, and public works. The municipal unions could have possibly provided additional information leading to a contrary opinion from the administration's department heads as to the "descriptions of capacity, staff, or equipment associated with each facility or service" affected. As a result of the absence of such essential input, the DEIS has not identified the true impacts that the Proposed Projects will have on the levels of service within the City of Yonkers.

For instance, the Scope of the DEIS proposed to analyze and assess the "potential impacts of the relocation of the Yonkers Fire Department Headquarters, and the future capability of the Yonkers Fire Department to adequately protect newly created high-rise buildings and the ballpark with existing personnel and equipment." I cautioned that this would not be a complete analysis or assessment if stopped at the administration's appointed Fire inquiry Commissioner. I suggested that in order to gain a more complete and accurate assessment of the potential impacts of the Proposed Projects the Scope should require consultation with the Yonkers Fire Department Union Leaders in addition to the Fire Commissioner. As it turns out, I was right. The DEIS barely addresses the capability of the Yonkers Fire Department as it relates to fighting fires in high-rise buildings, and what now turn out to be "skyscrapers."

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• In calculating the total projected revenue generated by the Proposed Projects, the Project Sponsors include revenue generated from the Yonkers Income Tax Surcharge (commonly referred to as a "sin tax"). It has long been a goal of the City of Yonkers to eliminate the Income Tax Surcharge altogether. Indeed, it is the elimination of such tax and the need for generating revenue that has been the impetus behind development within the City of Yonkers.

If the City Council as Lead Agency still desires the elimination of the Income Tax Surcharge, then the financial analysis of projected revenue should exclude projected Income Tax Surcharge revenues. In the alternative, the total projected revenues should have been presented in a side by side comparison with the total projected revenue including projected Income Tax Surcharge revenues versus total projected revenue excluding the Income Tax Surcharge revenues.

• One component of the Proposed Projects would require the demolition of the City owned Health Center Building located at 87 Nepperhan Avenue and the relocation of City offices presently located in the Health Building to a building proposed to be constructed at the southeast corner of Nepperhan Avenue and South Broadway ("proposed new building" a.k.a. the Carnegie Building). These relocated City offices would occupy two-thirds (150,000 sq. ft. out of 225,000 sq. ft.) of the proposed new building.

Currently the City of Yonkers owns the Health Center Building debt free. The Proposed Projects would require the City to turn this building over to the Project Sponsors thereby necessitating relocation of City offices to the proposed new building which will be owned by the Project Sponsors. The Project Sponsors will undoubtedly be charging the City of Yonkers rent for the occupation of two-thirds (150,000 sq. ft. out of 225,000 sq. ft.) of the proposed new building. However, as of yet the terms of this part of the project have not been fully determined and/or negotiated, or if they have been, such terms have not been made available to the public.

The DEIS did not determine whether such a transaction would be a sound economic business decision on the part of the City of Yonkers. The DEIS should have required a full analysis and disclosure as to the nature of the tenancy to be created in the proposed new building, specifically in terms of the interests, rights and obligations of the City of Yonkers and/or the terms of any proposed leasing of this building. As of today, I do not believe any terms have been disclosed relative to this tenancy and occupancy.

• Another component of the Proposed Project would expose the Saw Mill River between Elm Street and New Main Street to create an open channel of approximately 1,100 linear feet and approximately 30 feet wide, with accompanying landscaping, pedestrian pathways, overlooks, and bridges ("Daylighting").

In footnote 5 of the Phase I Application the Project Sponsors indicate that:

"The daylighting of the Saw Mill River is anticipated to be funded by grants from the State and potentially from the County and federal government. To date, the City has been advised that the State will make \$34,000,000 available to defray the costs of daylighting the river at Larkin Plaza and River Park Center."

To date, there has only been a commitment from the State of New York for funding in the amount of \$34 million dollars. The Project Sponsors have not provided any evidence of additional governmental funding commitments for the Daylighting project from either Westchester County or the Federal Government. Furthermore, based upon the recent New York State proposed budget, the \$34 million dollars previously thought to be "committed" may be in jeopardy.

The DEIS should have required a full disclosure of the total estimated cost of the Daylighting project and an assessment of how the Project Sponsors propose to fund the Daylighting project in the event that the anticipated governmental funding does not materialize or if the governmental funding levels turn out to be lower than the total estimated cost. As it turns out, a representative of the Project Sponsor

recently advised the City Council Real Estate Committee that the committed funds will not be enough to cover the costs, and that no part of the committed state and federal funds would be used to daylight that portion of the Saw Mill River at Larkin Plaza, despite the Project Sponsor promoting the daylighting component to the citizens of Yonkers in its public informational sessions and literature.

The DEIS should have also required a determination of the impact on the Proposed Projects, as a whole, if governmental funding is not provided at the levels necessary to make the Daylighting project feasible or possible.

TAX INCREMENT FINANCING

• A core element of the Project Sponsors' Proposed Projects is Tax Increment Financing ("TIF").

"As SFC has indicated to the City Council on many occasions, an essential component of the City's participation is City funding for the construction of the approximately 5,000 public parking spaces at Palisades Point, River Park Center and Cacace Center and the public sewer, water and road and other infrastructure improvements needed to support the Phase I Projects, which are currently estimated to cost more than \$170,000,000." (SFC Phase I Application p.15).

The Project Sponsors have held several public informational sessions regarding the TIF and yet little is known about how a TIF of this scale and magnitude would work in the State of New York. Perhaps this is because TIF has only been used twice in the State of New York and both times on a much smaller scale. TIF was used in the town of Victor in Ontario County to provide approximately \$8 million in financing for the renovation and expansion of a mall. In the Town of Greenburgh TIF was used to fund approximately \$1.2 million to make road improvements including legal settlement costs after the Town of Greenburgh was sued over the price it paid for a property in its TIF district. The TIF proposed by the Project Sponsors in the City of Yonkers for \$160 million dollars worth of public parking (\$120 million) and infrastructure improvements (\$40 million) will

require the City to issue almost \$200 million dollars in TIF bonds. This requested single TIF bonding in the City of Yonkers would be almost 200 times larger than any TIF project that has ever been conducted in the State of New York. As a matter of fact, large scale TIF projects have been proposed in the City of New York and other jurisdictions but to date have been resoundingly rejected.

As I indicated in the preceding paragraph, there is little information available to judge the effectiveness or usefulness of TIF within the State of New York in light of the enabling legislation and the unique taxing characteristics of a jurisdiction similar to the City of Yonkers. It is for this reason that I requested in my comments of the Scope of the DEIS that it was IMPERATIVE that the City Council as Lead Agency require that DEIS fully and completely explore <u>all</u> financing options available to the City of Yonkers and the Project Sponsors in addition to conducting a thorough analysis of the proposed TIF financing scheme.

The City Council's consultant did prepare a TIF feasibility study, however that study leaves more questions unanswered than it answers. After reading the feasibility study I cannot see how anyone can determine whether or not the TIF component of the Proposed Project is feasible at all.

The Project Sponsors took painstaking care to point out that TIF's were being used throughout the nation to provide necessary public funding for public infrastructure to benefit private development. The Project Sponsors pointed to cities such as Baltimore, Chicago, and other cities where TIF have been successfully employed. It won't take anyone long to Google search TIF in Chicago to find out how little TIF's have done to benefit that City's economic condition. Chicago has finally begun to question the extensive use of TIF's and have found that in addition to draining much desperately needed funds for public education (similar to Yonkers' present plight) that the real estate taxes for the rest of Chicago have been soaring in recent years to make up the short fall of revenue not received due to TIF districts. Additionally, Chicago and Cook County combined sales tax rate has very recently been raised to over ten (10%) percent.

Since the DEIS and the TIF feasibility study are so lacking of specific information and details of the proposed TIF in the City of Yonkers as well as the fact that there have only been two prior TIF's in the State of New York (which as stated before were miniscule in comparison) it is almost

impossible for me to even compile a comprehensive list of comments regarding completeness of the DEIS and the TIF feasibility study. I do however maintain that the following questions have not been fully studied or analyzed in either the DEIS or the TIF feasibility study:

• The TIF proposed by the Project Sponsors in the City of Yonkers for \$160 million dollars worth of public parking (\$120 million) and infrastructure improvements (\$40 million) will require the City to issue almost \$200 million dollars in TIF bonds. Neither the DEIS nor the TIF feasibility study adequately addresses the TIF bond placement costs, the increased construction cost estimates during the tendency of the DEIS process, and the possible "moral obligation" of the City to honor the TIF bonds in the event the Project Sponsor defaults or otherwise does not repay the bonds.

• Appropriateness of expending upwards of \$120 million dollars by the City of Yonkers to build public parking for a private development project.

In pitching \$120 million dollars of TIF bonding by the City of Yonkers for the parking facilities the Project Sponsors emphasize that the City will own the parking facilities out-right and free of debt after the TIF bonds have been paid off. However, it may be 28 years before the TIF bonds are paid off and without knowing what the value and condition of these parking structures will be in 28 years we cannot know whether this will be an asset or liability to the City at that future date. Indeed it may be true that in 28 years or possibly even before these parking structures may require extensive improvements and rehabilitation or may even be required to be torn down, that is, they may have outlived their useful and economic lives. As \$120 million dollars for public parking is such a major component of the proposed TIF this area should have been thoroughly and fully analyzed and explored in the DEIS and the TIF feasibility study.

• The Project Sponsors propose that there be established a Tax Increment Finance District ("TIF District") to facilitate the issuance of Tax Increment Bonds by the City of Yonkers intended to finance certain aspects of the Proposed Projects. In essence this TIF district encompasses most of downtown Yonkers. Neither the DEIS nor the TIF feasibility study have clearly defined how the other properties

14.1

14.2

14.3

located within the TIF district will be affected (i.e. will the TIF increment be captured from <u>every</u> property within the TIF district or just the tax increment from the Proposed Projects?).

14.4

• The DEIS and the TIF feasibility study dialed to fully analyze the effect of the TIF on other parts of the City of Yonkers. For example:

15.1

o What effect will the TIF have on the tax revenue generated from other parts of the City of Yonkers (sales tax, property tax, income tax revenue, etc...)?

What effect will the TIF have in terms of redeployment of resources from other areas of the City to the TIF district if enough revenue is not generated to adequately provide the services required of the Proposed Projects within the TIF district (police, fire, emergency services, sanitation, public works.etc...)?

15.2

• The Project Sponsors have included County taxes in their projections for the tax increment that will pay off the TIF bond. However, in order to include Westchester County taxes the City of Yonkers is required by law to enter into a joint undertaking passed by the legislative bodies of both the City and the County. To date, the Project Sponsors have not indicated whether such joint undertaking has been established. Neither the DEIS nor the TIF feasibility study contain a full and complete analysis of the TIF projected revenue in the form of a side by side comparison of the TIF including County taxes and the TIF without County taxes.

15.3

• Similarly it is not clear to me how the school taxes will be affected by the TIF. The Scope of the DEIS should thoroughly analyze any and all ways in which school taxes and school tax revenues will be affected by the proposed TIF.

15.4

• Since the use of the TIF has not been settled, and since it is such a major component of the Proposed Project, the DEIS will remain incomplete until a determination is made on the appropriateness of TIF. The Project Sponsors have indicated that the Proposed Project is dependent upon the use of TIF, therefore to finalize the DEIS with the TIF component still in doubt is impracticable and impossible.

To carry out or approve the Proposed Project, the City Council must determine, by making explicit findings that the requirements of SEQRA have been met and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided.

In closing, in reaching your determination I request that the City Council as Lead Agency carefully consider all of my aforementioned comments and find that you cannot certify that all of the adverse impacts identified in the DEIS and in the public comments have been avoided, or for those that cannot be practically avoided, minimized, as required by NYCRR § 617.11(d) (4) and (5). I further request that the DEIS be rejected pursuant to NYCRR § 617.9(a) (2) (i) on the grounds that it is incomplete, deficient, and in some areas erroneous.

Thanking you, I remain

Very truly yours,

Barry B. McGoey



29 Rockland Avenue, Yonkers, NY 10705

C95

May 30, 2008

Yonkers Committee for Smart Development would like the Lead Agency and the city administration to demonstrate in practicable financial terms WHY it is in the best interest of the city to approve this Project. On Page I-32 of the DEIS Executive Summary it is indicated that ".....the City would have a tax surplus of approximately \$6,000,000.00 per year."

This \$6,000,000 figure is calculated by consistently minimizing the amount of expanded city services that will be required and by maximizing the potential tax revenues. The definite risks associated with the unusually high percentage of property taxes to be dedicated to the repayment of the Tax Incremental Financing bond issue (75% as against a national average of 20-30%) are also minimized throughout the DEIS. A project of this magnitude will forever alter the fabric of the Yonkers downtown and waterfront and will create major quality-of-life changes that will have an impact on our air, water, traffic and city scale.

YCSD does not see a compelling argument for a Project that will so dramatically alter the city while providing, under the very best of economic circumstances, a meager .006% of the city's annual revenues.

Furthermore, YCSD would like to strongly encourage the Lead Agency to analyze the Phase 1 components as separate and distinct building projects. Bill Streuver himself, at a 2007 Real Estate Committee meeting, said that the SFC team is primarily interested in building the River Park Center and that the ultimate disposition on the Palisades Point project would have no bearing on their desire to construct the River Park Center.

A Lead Agency decision about precisely how much of this Project to approve must be part of this review. *This need not be an "all or nothing" choice! Accordingly:*

YCSD encourages the Lead Agency to select Alternative B as the appropriate choice for Phase 1 development. According to the DEIS, Alternative B would be the same as the Project in a significant way: "Sales taxes, however, would be approximately the same with Alternative B and the Project, given the similar amounts of retail development."*

*This is the last sentence of Page V-9.

1.1

1.2

On Page III-B-8 (3rd paragraph) SFC makes the specious argument that without this Project there will be no improvements in the downtown. It is evident from recent news coverage, real estate sales records, and public statements by other developers that the downtown and the waterfront are of substantial interest to many builders who would eagerly work within an urban plan framework created by the City Council. *Yonkers and its exceedingly valuable Hudson River waterfront deserve only the very finest treatment*.

YCSD members have read the SFC Phase 1 revised DEIS and frankly, we are shocked that so many of the topics deemed insufficiently addressed in the first-round analysis of the pDEIS remain unaddressed in any substantive fashion.

A brief list of unaddressed topics includes, but is certainly not limited to:

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.

Stringent requirements for sustainable mixed-use and residential buildings should not be an option left to the developers' devices. The city has a responsibility to its citizens to comply with the U.S. Conference of Mayor's Climate Protection Agreement in which Mayor Amicone enrolled the city in 2007.

- 87 Nepperhan Avenue Adaptive Reuse
 No serious adaptive reuse alternative is presented for a building that merits inclusion in the National Register of Historic Places.
- "No Ballpark" Alternative
 Still only addresses either a plain roof or another floor of retail. What about a green roof?
- Photograph Simulations

 All the photographic images in the DEIS *still* do not include any images of the buildings in the sightlines. These were not altered at all from the pDEIS and are vital for a complete

comprehension by the Lead Agency of the visual impacts of

• TIF
{ There is still no analysis of the project feasibility without TIF. What about an SFC analysis } 2.6
{ of a GQ bond or other public funding?

Would a separate financial analysis of the Phase 1 components clarify some of the murkiness surrounding the TIF repayment schedule and funding?

3.1

Has Westchester County committed to the proposed 75% tax participation? What are the financial ramifications for TIF reimbursements if the County does not participate?

Affordable Housing

There is no financial analysis presented to justify the refusal to consider 13.5% or 20% affordable housing.

3.2

• Water Fees

Will COY property owner water rates have to be increased to meet the demand for additional water and to for the NY City Diversion rates?

3.3

1998 Master Plan and 2000 Comprehensive Plan

3.4

In the Executive Summary and elsewhere in the DEIS, SFC uses selective language from these two plans in a fashion that disregards the building heights and architectural cohesiveness required by the adoption of the MP and the CP.

A. ZONING

1. Palisades Point – PUR District Proposal

In Chapter III (A-10, b and c) the developer proposes that Parcels H & I be given a PUR designation. Such a zoning change would mean that the Lead Agency and the ZBA would cede zoning controls over this project to the developer. YCSD would prefer that these controls remain with the Lead Agency.

2. Getty Square Urban Renewal Plan

3.6

Under current zoning, lot coverage may be no more than 77% of the building lot. SFC proposes an amendment to 100% so that there will be complete coverage for the entire River Park Center. YCSD asks the Lead Agency to maintain the 77% now applicable under current zoning law. This simple adherence to the current URP would help to create a buffer zone garound the mall.

- a. Current plans call for an 11-story mall that will, for an example, be literally directly adjacent to Getty Square. At the very least, there should be a deep park boundary that would create a buffer zone for light and air!
 - b. The entire Mall could be surrounded by a buffer zone of parkland OR
- c. The Project developers could use 23% of the property to create a much needed open and green Central Park in the downtown which would also help to mitigate future flooding in the area, particularly after a mall is built.
 - d. Even if Alternative B were used instead of the proposed Project, a park is much needed in the downtown.
 - e. 23% fully landscaped open space left in the Chicken Island, would help mitigate the loss of open space around City Hall and Chicken Island, Waring Park, etc.
 - f. Palisades Office Building this should also NOT be a total build-out but should be installed in a park setting to mitigate the impact upon local streets and residents.

B. TIF AND TAX INCENTIVES

1. Empire Zone and TIF Project Boundaries

The proposed Municipal Redevelopment Project Area Boundary (see Exhibit II-1) and the New York State Empire Zone (see III A-12) overlap almost completely. The entire point of the Empire Zone is to create a tax credit zone to encourage new businesses. Among these incentives is the QEZE Credit for Real Property Taxes.

If Empire Zone standards are applied within a TIF Zone, will the Empire Zone standards supersede the TIF, thus reducing the TIF financial gains from reassessed properties?

2. TIF/PILOTS/TAX INCENTIVES

The developers allude throughout the DEIS to the tax incentives they expect to receive. a.To what extent will they reduce the anticipated tax revenues of the Project? (See I-10, 8): "YIDA financial assistance through mortgage recording tax exemptions and sales tax exemptions."

- b. How many years do these exemptions run?
- c. Do the sales tax exemptions apply to all the lease-holders in the mall?

3. Westchester County TIF Participation

- a. Has Westchester County agreed to participate in the TIF financing arrangement?
- b. Does the TIF analysis provide financials for the repayment of the bond *without* County participation?
 - c. Can COY meet its obligations to bond purchasers *without* County participation?
 - e. Were all the TIF financial calculations made on the assumption that the County will participate?

4. Infrastructure Improvements

Contrary to many public statements made by SFC representatives, the DEIS does NOT indicate that the sewer/storm water lines will be rebuilt throughout the downtown as a grand result of this Project. In point of fact, infrastructure remediation appears limited to the Project areas. (I-20, last paragraph and Exhibit III H-5) Furthermore, it is only recently that the developers have proposed that the Prospect Street Bridge AND the Saw Mill River Parkway lane enhancement will be part of the same \$200,000,000 TIF.

How is it possible that this same proposed amount is now also expected to cover the bridge and the SMP costs?

- a. Can SFC be asked to clarify their earlier statements?
- b. Is it possible to extend the sewer enhancements beyond the Project boundaries with financial participation from the developer?
- c. Saw Mill River Parkway lane enhancement: Has the DOT agreed to this proposal and will there be State funds available for the work? Did the DOT agree to pay for the additional entrance ramp to Ridge Hill and if so, why would it not do the same for this project?

4.1

4.3

- d. Geometric Improvement (I-21) What is this precisely? This northbound ramp could use a complete rebuild. It is already the site of numerous accidents.
- e. How much will the new separated storm sewers cost and where will they be installed. Specifically, what streets will be affected? How much of the downtown will receive the new installations?

5. TIF District

Is the outline of the TIF district physically broad enough to generate the amount of property reassessment needed to support payment of this bond issue? (and see 1. above to which this relates.)

6. Miscellaneous TIF and tax questions

- a. How much property tax revenue (dollar amount) is estimated for the TIF district for each year over the next 20 years, from start of construction?
- b. How much of the anticipated property tax revenue (dollar amounts) is from the SFC development, and how much from other property in the TIF district, broken down on a yearly basis for the next 20 years? Give a breakdown for each Phase I component: River Park Center, Parcels H&I, Cacace Center, Larkin Plaza, etc.
- c. How much of the anticipated property tax revenue (dollar amounts) on a yearly basis will go to pay the TIF bonds, and how much will revert to the city?
- d. How much are the increased municipal services: fire, police, sanitation, etc. necessary for the projects expected to cost (dollar amounts) for each year for the next 20 years? Give a breakdown for each project component of Phase I.

e. As per the Blackstone report, will the City be responsible for paying any shortfall between the property tax revenues and the TIF bond payments?

- f. What happens if the property tax revenue is not enough to cover the TIF bond payments?
- g. Give a specific breakdown of ALL infrastructure costs that would be covered by the TIF bonds: sewer upgrades, roads, parking structures, etc. on a parcel by parcel and street by street basis.
- h. How much will the new separated storm sewers cost and where will they be installed. Specifically, what streets will be affected?
- i. Explain exactly how the proposed number of parking spaces was arrived at: ie number per residential unit, retail and restaurant square foot, etc.
- i. How many new parking spaces does the ball park alone require? If the ballpark was not built, and all other project components remained the same (NO additional retail), how many parking spaces could be cut from the project? What is the resulting cost savings?
- k. Who will pay for utility upgrades (electric and water) to the project sites? What is the anticipated cost of these specific upgrades?
- 1. Will the SFC projects receive tax abatements from the Yonkers IDA? If so, what type of tax abatements (mortgage tax and/or sales tax exemptions, PILOTS, etc.) and what is the yearly dollar amount of the abatements and exemptions expected to be?
- m. Will the SFC projects apply for Empire Zone and Federal Empowerment Zone tax credits and if so, what are the yearly dollar amounts of the credits expected to be? More importantly, how will this effect COY's ability to repay the TIF if these districts overlay one another?

5.3

5.5

n. Will Riverpark Center and the Hudson River esplanade/park be public or private property? Who will dictate the uses of the open space and will there be a charge for using these areas for community events? Who will be responsible for maintaining and policing the daylighted Nepperhan area/Hudson river esplanade and the ballpark? What are the anticipated costs of administering, maintaining, and providing security for these areas?

o. What is the target consumer market, and estimated NEW sales tax revenue from the retail at Chicken Island? Provide an analysis of how this retail will or will not affect sales tax revenues from other commercial areas in Yonkers like Cross County, Central Avenue, and Ridge Hill.

6.2

6.1

C. CITY REVENUES AND ADDITIONAL SERVICES

The projected additional revenue, with all taxes totaled, is \$6,000,000 annually, assuming Westchester County **is** participating in the TIF. If proper attention was paid to creating a unique historic downtown and waterfront, revenues from tourism could provide a substantial portion of that amount. Is it worth sacrificing parcels H & I, the views, the air, light and quality-of-light, for an amount that is barely .005-.006% of the COY annual budget?

Pages I-31 and I-32 present a financial breakdown of these anticipated property tax revenues vs. estimated new city services.

1. The total of new police, fire and school services equals the \$2,775,000 expected to be generated in new property taxes (after 75% is deducted to finance the TIF.) This is a questionable figure as it is difficult to know how many new students there will be, and it is specifically stated that this does not include district-wide costs.

6.3

2. SFC's TIF summary indicates that it could take 3-5 years for complete occupancy of the 1385 apartments in the Project. How will these additional services be paid for in the meantime? Will the developers contribute to the costs.

6.4

3. Will the tax abatements offered to the developers actually lower the anticipated revenues? Is this calculated into these figures?

6.5

4. If sales revenues are lower than expected at River Park Center, will this substantially suppress the amount available for general city budget?

6.6

5. Is this calculation based on Westchester County participation in the TIF or will actually cost the city more to pay out on the bonds?

3.7

6. (III I-70) Indicates that only one of the buildings at River Park Center is a condominium and that the other, one presumes, is a rental. Does this mean that only 475 apartments have been calculated into the property tax/mortgage recording taxes indicated in the anticipated annual revenues?

6.8

D. ALTERNATIVES

1. Alternative B

|7.1

YCSD encourages the Lead Agency to consider Alternative B as the appropriate choice for Phase 1 development.

According to the DEIS, Alternative B would be the same as the Project in a significant way: "Sales taxes, however, would be approximately the same with Alternative B and the Project, given the similar amounts of retail development."*

*This is the last sentence of Page V-9.

Alternative B is the project version which conforms to the guidelines for city development established in the 1998 Master Plan and the 2000 Comprehensive Plans, which required that new development blend architecturally and be in scale with the current downtown.

With the increased City Council and public interest in creating an historic district for several blocks around Main Street, North Broadway and Philipse Manor Hall, Alternative B presents an attractive compromise that can bring in new retail and entertainment to blend with a refurbished downtown.

Furthermore, as the blocks mentioned above are all within the designated TIF property assessment district, the increased property assessments of these refurbished historic properties could replace the non-existent condo property taxes and become a significant asset in the TIF bond payments.

Shown in the DEIS is that water usage, sewage, traffic, parking, air quality, noise: All the quality-of-life issues would be significantly better under Alternative B.

a TIF for Alternative B

Has a TIF financial plan been drawn up for Alternative B? Would the COY be better able to repay a smaller bond issue?

Alternative B would indeed generate fewer property taxes, but conversely, the TIF bond issue could be considerably lower, and the TIF funding could be shifted from a massive outlay for parking spaces to additional sewer infrastructure improvements.

Property assessments, the foundation of the TIF repayment schedule, would still rise in the TIF district.

b. V-9

Sales Taxes

According to the DEIS, Alternative B would be the same as the Project in a significant way: "Sales taxes, however, would be approximately the same with Alternative B and the Project, given the similar amounts of retail development."*

*This is the last sentence of Page V-9.

c.Mortgage Recording Taxes

Is it possible that the mortgage recording taxes will be eliminated through PILOTS and tax incentives for the developers? What effect will this have on the ability to repay the TIF bonds?

a.V-28, J. As with the first pDEIS, this alternative is under-analyzed. What appears here is essentially a negative paragraph that readdresses the Project plan for the site, not an adaptive reuse of 87 Nepperhan Avenue, a National Registry eligible Art Deco building?

b. Will COY have to rent replacement offices in the Cacace Center? What will be the annual cost associated with losing a city-owned building in favor of paying for office space?

8.2

8.1

3. Palisades Point

a. V-21: Study of 2 14-story Towers

Option 4 may generate less revenue, but would lessen shadow lengths, decrease vehicular congestion and parking, and possibly eliminate the need for a vehicular bridge at Prospect Street.

E. BASEBALL STADIUM

An Independent League team is **NOT** a Minor League Team. Constant repetition of the "minor league" misnomer has led the public to believe that Yonkers will have a farm team for the Major Leagues. This is something that should be clarified because the financial gains for the city are considerably lower with an Independent League team.

3.3

8.4

It should also be made perfectly clear to the public that this will NOT be a public amenity that will help to relieve the congestion on local playing fields.

If the ball team does not succeed in Yonkers, we will be left with two things:

a. A Mall with a Baseball Motif on all its exterior walls that is no longer relevant.

Will this ornamentation be removed, and at whose expense?

b. A useless playing field. Will this be turned into a park amenity for city residents, and at whose expense? Who will maintain it?

1.III I-55

Financial Analysis

SFC and AKRF have both called the proposed stadium a Loss Leader. The DEIS shows a profit, albeit based on a very high average game attendance:

The proposed average game attendance of 4700 people could be a wildly inflated figure. Financial analyses based on the Bridgeport and New Jersey teams does not take into account local proximity to the two Major New York ball clubs and the local fan base for these clubs.

8.5

The Lead Agency should ask for a recalculation based on a more realistic level of game attendance as a comparison.

2.III. I-5: Other Uses

SFC has made public statements that the ballpark can be used for public activities, specifically Soccer, Little League, and events such as Fairs. This was always an unlikely promise, as what professional team, reasonably enough, would permit such use on its carefully tended playing field?

The DEIS specifically does NOT include such activities. Baseball games would be played by high school and college teams that can use a regulation sized field. It is clear that the only public activities would be concerts, which would not involve the public walking on the playing field.

- a. Please clarify that a letter of agreement will be signed with the ballfield ownership allowing other uses.
- b. Also clarify if the city must carry insurance or if there are other fees (ie a bond) for this kind of extra use.

3.V-16: No Ballpark Alternatives

a.Natural Resources

Why is there no proposal for a green roof? Would it not make the expensive condos more saleable if they looked out at a garden rather than a hot cement roof?

b. Marketability for condo towers: would these apartments not be more saleable with a park-like setting below them rather than a plain rooftop?

c. Will the condo towers have fewer floors if there is no ballpark BUT there is an extra level of retail, or will the condos simply rise higher into the air? How is this dealt with as a zoning topic in the DEIS?

It is assumed that the Lead Agency would insist that a green roof be installed on the top of such a massive structure.

4 II-21 Entrance and Egress

Can the service vehicle heavy-duty elevators transport **Fire Trucks**? How do emergency vehicles reach the top level of the building (i.e., the playing field) if they must reach the condo towers?

F. PALISADES POINT

1. Brownfields: This site has already been remediated. Was it done under the aegis of SFC and will Brownfield credits accumulate to the developer?

2. Have the NY State Brownfield credit payments been calculated into the H & I building costs and if so, is it still necessary to build 2 25-story towers????

9.2

9.3

impervious pavement this close to the River, and this is a land-grab of public open green space that will be turned into parking in short order! 4. Is this "dropoff" calculated into the open space numbers? The language in I-3 hints that it is not considered public space. 5. PUR Zoning will take control of the H&I Parcels out of the hands of the Lead Agency. 10.2 How is this different from I-9, 2: part of the Rivervew Urban Renewal Plan from 1998? 6. There were townhouses fronting the garages in the first pDEIS. What happened to them? 10.3 Are the total 435 units now *only* in the two towers? 7. Stationary Sources of Air Pollution (I-24) what is the interaction with the Sugar Plant? 10.4 8. Hardscape on roofs (I-32) Why would SFC not make the roofs completely "green?" 10.5 9. Rip-Rap. Why is this necessary? Why can we not have a naturalized shoreline; natural 10.6 materials are better at holding soil! This is the quick and dirty method. It is UGLY. 10. Do the 57 public parking spaces at the Palisades Point provide a meaningful level of 10.7 public access to enjoy the public space that will be available? Is there a quaranteed minimum of 57 spaces specifically for the general public? 11. This is the Atlantic Flyway for millions of migrating birds and they will be endangered 10.8 by these structures. Has an analysis of this potential problem been undertaken as part of the wildlife studies? 12. Impervious Paving/Storm Water Management H&I current absorb a considerable amount of rainwater and prevent damage to the 10.9 Hudson River as a result of that absorption. The building footprint and parking will cover 65% of the space with impervious surface. At the very least, the parking should be pervious AND the public spaces should be grass/lawn/shrubs. G. RIVER PARK CENTER AND PALISADES OFFICE BUILDING 1. Alternative B Why not use an Alternative that conforms to the 1998 Master Plan and would reduce quality-10.10 of-life impacts on the city while at the same time generating the same amount of sales tax revenue as a 11-story mall?

AS STATED IN V-9: "Sales taxes, however, would be approximately the same with

Alternative B and the Project, given the similar amounts of retail development."

2. Public Plaza

3. Why is a "dropoff" paved turnaround still a part of this project? There should not be

10.1

a. This is entirely paved. Are these pervious surfaces? Why not more plantings?

- b. What kind of public easements are needed or anticipated? (See I-4 b)
- c. Does ownership and maintenance of this space reside with COY or SFC?
- d. The New Main Street side of this plaza may well be in shade throughout the day. Have shadow studies been done for this area? This will not be a visitor- friendly spot if completely in shadow.
- e. The public plaza ends abruptly on New Main Street next to the "Residential Amenity Building" which is adjacent to the Martin Department Store. This creates a solid block next to Getty Square. Why not continue the public plaza straight through to Getty Square and move the Amenity Building further back or incorporate it onto one of the condo towers?

3. Foot traffic

- a. What is the "pedestrian friendly streetscape" that will be developed along the River Park Center, Cacace Center and Government Center frontages (page III.E- 15 to 16)?
- b. What is the minimum required curb width, important to accommodate existing and increased foot traffic?
 - c. How will the pedestrian connection described between River Park and the waterfront be created? Will SFC bear the financial responsibility for this?
- d. At new signalized locations, what "design features will be implemented to accommodate pedestrian activity" (III.E-15)? What paving material will be used for crosswalks?

4. Daylighting of the Saw Mill River at River Park Center

As was made clear at the City Council meeting on May 27, 2008, it is necessary for the developer to build the diversionary channel for the Saw Mill River in order for them to install footings for the mall, whether or not the River is eventually daylighted with public funds. Therefore, the developer should be responsible for the expenses associated with this integral part of the construction process and the city should NOT have to pay for this necessary construction step.

4. Miscellaneous Comments

- a. Residential Amenity Building how tall is this? Is it more than the 11-story mall? Was this even mentioned in the previous DEIS?
- b. Green roofs of small freestanding buildings in the plaza (see II-19). Why not have green roofs on the rest of the structures?
- c. Rooftop Appurtenances (II-9) When will a decision on the height be reached and will it conform to any revised zoning height codes?
- d. Building Designs ((II-24) precast concrete is a vision of ugliness. Surely we can do better. And if the ballclub fails, COY will be left with a baseball motif that is no longer relevant.
- e. A full build-out at 100% of the Project space, coupled with an FAR of 6%, seems excessive. Why not at least hold to the 77% footprint and an FAR of 5%?
- f. Open Space (II-31, C) indicates a total of about 3 acres of new open space at the River Park Center. It appears to include the ball park, which was specifically said to NOT

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be the case at the City Council meeting with Nanette Bourne. Which is it? Does the 3 acres include the ball park, or is the Public Plaza a total of 3 acres? This does not seem plausible. g. Shadow Studies: (B-11) It is vital to note that a shadow will be cast all the way from River Park Center to i-Park at certain times of the day. That is a considerable amount of the city to put into shadow. This is a serious quality-of-life issue. Social Justice Issues a. Mall Parking Rates. Shoppers on Nepperhan Avenue and New Main Street will have to rates be? Will park in the enclosed mall parking garages in order to shop. What will the this be a hardship for the lower-income families in the area? b. Guion Street (II-11) will lose its on-street parking. Where will the residents be expected to park? H. CACACE CENTER Waring Park, with its gracious trees and lawn that provide a buffer between New Main Street and the Justice Center on the bluff, will be taken down to Nepperhan Avenue ground level as part of the Cacace Center design. That is how it appears in the DEIS renderings. Therefore, it is odd that on page II-27 it is stated that the park will be enhanced, particularly as it is part of the parkland alienation. Please evaluate! 1. Will COY own this building? If not, how much rent will it cost COY when the city offices 12.4 from 87 Nepperhan move to the Cacace Center? 2. How big is the "park" between the parking garage and the building that is described on II-12.5 27? Will it have any sunlight? Will there be public access or is it for tenants? I. STORMWATER MANAGEMENT 12.6 1. Separating the storm water and sewer lines may be appropriate for capacity levels at the Sewage Treatment Plant, but discharge of storm water into the Hudson River and the Saw Mill River is unacceptable on every known environmental front! This is a matter that should be addressed by the City Council's EP&P Committee. 2. (II-34) Project approvals should not be issued until Westchester County has signed off on stormwater drainage solutions.

a. The DEIS fails to prepare an analysis of traffic associated with "other" potential events

b. The DEIS fails to consider additional building projects and the impact of traffic on all

12.8

J. TRAFFIC, PEDESTRIANS AND PARKING

of the combined projects planned for the downtown and the waterfront.

at the ballpark such as concerts or shows.

1 Traffic

c. Traffic along alternate routes was not adequately evaluated. A formalistic approach was used with conclusory statements re expected levels of traffic (Appendix 2.J). No real statements were made so that citizen of the affected neighborhoods can assess the impact on itself.

13.1

d. What is the impact of the finding that "certain Alternate Route Intersections will operate at or above capacity under Existing, No-Build or Build Conditions"? What accommodation is being made to address this?

13.2

e. Holiday Traffic

13.3

Is the ITE Trip Generation Handbook the appropriate reference to calculate increased holiday traffic, given the reality of the huge increase in traffic at existing Yonkers shopping centers, such as Cross County?

The guidelines suggest an increase in only 160 vehicles entering and 190 vehicles exiting during holiday peak hours, and these are said to be comparable to weekday peaks. Wouldn't actual experience at area malls be better predictors of increased volume during holiday times?

13.4

f. What are the contingencies if the estimates grossly underestimate the amount of traffic produced or parking spaces needed? Will Applicant be required to supplement traffic accommodations and parking spaces?

13.5

g. Who will pay for additional uniformed officers and traffic control personnel that are recommended to be assigned to direct traffic during ball games (Page III.E-17)? Will Applicant pay? If the City, why would that be a fair use of resources – to supplement a money making venture?

13.6

h. Ball Park and Traffic

Page III.E-12 – "The schedule would be coordinated with the availability of parking." Is this a defensible statement? Does it adequately address the issues of traffic and parking if it fails to address or require here the reality of when a ball game or special event will occur?

If putting off until a later time – who will do this coordinating and who will pay for that person's time? Will it be possible to schedule events and games only when parking is available and traffic low?

Will the economic and social benefit of the ball park be reduced if the timing of events has to be scheduled during undesirable times because SFC fails to provide appropriate traffic accommodations and parking to allow for events to occur during desirable times of day?

i. Traffic accommodations

Do the traffic accommodations provide adequate to accommodate the scale of the project? Should more permanent and costlier solutions be put into place now, during this major development project?

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Should minimum capacity be the goal (as it seems the numbers are estimated in the lower range and just accommodate peak requirements) – or should this – the early stages of tremendous city-wide development – be the time to build in extra capacity to accommodate unanticipated need?

Why are the traffic accommodations not being paid for in total or in greater part by Applicant?

2. Pedestrians

14.2

a. What will be used to create a safe, buffered zone between pedestrians on sidewalks and streets with moving cars up to the curb (i.e., where there is no on-street parking)?

b. Will trees, important for reducing water runoff, cooling the air and providing shade, as well as for aesthetics, be planted along the curbline? How many?

- c.What is the paving material for sidewalks and walkways? Will pervious paving be used in order to reduce water runoff? Why is there no requirement for pervious paving?
 - d. Who will pay for upkeep of public sidewalks and existing crosswalks?

e.Will the center median planned for Yonkers Avenue/Nepperhan Avenue be pedestrian friendly? Will full shade trees (not small flowering specimens) be planted and maintained in order to make it pedestrian friendly and environmentally sustainable – reduce water runoff, cool immediate area, create green canopy above roads to reduce heat accumulation?

3. Bicycles

14.3

- a. Where is there accommodation for existing and increased bicycle traffic and parking?
- b. Will bike racks be installed? How many and in what locations? Will they be placed in convenient locations so as to encourage use of bikes to keep traffic congestion down?
 - c. Are bike lanes mandated by the plans?
 - d. Have traffic patterns studies included bike lanes?
- e. How will bike lanes and/or increased bike traffic affect the planned accommodations to vehicular traffic?
 - f. Will there be bike friendly traffic signaling?

4. Bus and Rail Mass Transit/Trolley

The DEIS indicates that there is "available capacity" of buses and "if ridership increases bus service is adjusted accordingly." However, people will be more likely to ride a bus if they see it is making frequent stops along their route and is convenient for them to ride. Waiting for usage to encourage increased frequency/capacity will not be an effective method of changing behaviors, and more people will continue to drive and the traffic/parking issues will be worse than projected in the DEIS. Improving use of mass transit will require practical measures – what provisions are planned to increase use of mass transit?

- a. How will traffic impact be mitigated by reliance on existing bus and rail mass transit {14.4 facilities (p. III.E-20)?
- b. Who will be monitoring, promoting, encouraging usage and who will be coordinating with the County re bus service and Metro North re train service to increase the frequency and capacity of service both when needed and in anticipation of need?
 - c. SFC and the City should be encouraging visitors to use bus and rail service.

d. Bus drop-off lane

Who will design and pay for the "bus drop-off lane" that "will be provided on Nepperhan Avenue westbound between Elm Street and New Main Street" (p. III.E-23)?

Why is there no mention of or plan for a corresponding eastbound lane to accommodate the bus riders who are returning home? Who will design and pay for that improvement?

e. Private buses are anticipated in dropping of visitors to the ball park. Is there an accommodation for parking of those buses? Where will they park? To encourage ride-sharing and bus use, and also to avoid idling, it is important to provide for parking.

Why is the focus of the trolley limited to a route between the train station and River Park Center? Why does the trolley not service adjacent neighborhoods, including those not serviced by direct bus routes? Will COY operate and pay for the trolley? Will there be a transportation charge or is this free to the public?

5. Parking

The DEIS recognized that on-street meter parking spaces turn over frequently (III.E.1)

- a. People use on-street metered parking to make local trips to street shops. Where is the analysis of the impact of elimination of these parking spaces, and what is the accommodation for that impact?
- b. What basis is there to assume that those shoppers will willingly shift to garage parking blocks from their destination store? The DEIS notes that Chicken Island parking is only at 50% capacity (p. III.E.1-1) This supports the notion that the people who use those street shops want to park as close to them as possible, not at a remote locate blocks away and not within view.
- c. Social justice: Was there an analysis of the types of parking currently available time restrictions and prices, and the types that will be offered in the proposed River Park Center and Cacace Center sites? Is there accommodation for short term, inexpensive parking for quick trips to local street shops? Is there street-level parking for those who will be shopping on the street level? If prices will be higher in the garages, then what is the impact on the increased price to park on those shoppers?
- d. Shopping at local street shops is a different experience than mall shopping, where one parks and plans to stay for a long time. The neighborhood that the River Park Center is occupying is such a local street shop neighborhood. Displace local street parking will not be made up for by in-garage parking.

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e. Why are the proposed parking number of spaces "Based on Preliminary plans"? Why is there no definite commitment to numbers of public spaces available, with different scenarios for whether or not zoning variances are provided?

f. Why is there no plan to provide the total number of parking spaces required under existing zoning laws? Why is the notion of having "vacant spaces at various time of the day" rejected as an unacceptable principle (p. III.E.1-4)?

g. Why is there a need to "insure that the parking requirements are not overestimated" (p. III.E.1-4) and not a corresponding need to insure that parking requirements are not underestimated?

h. Why is it appropriate to use a shared parking analysis for mixed use development? Why is additional parking not embraced and even guaranteed for a city that has very few locations to accommodate any increase in parking needs in the future, and that is on the verge of major redevelopment?

i. Are the assumptions made here – to support a lower number of parking spaces – consistent with the assumptions made when estimating annual sales tax revenue, for example? How will the population of shoppers who will provide the projected revenue get to the area? If that demographic will drive, then why would the DEIS not provide for additional parking spaces for those people?

j. What is the justification for the percentage projections for the various mixed uses – e.g., why is there a 100% use capacity for office parking only at 10 and 11 am, which then drops to 90% during lunch? What is the analysis that rationally projects that people who use parking spaces for office parking will actually move their car during the lunchtime and risk not finding a space on their return when retail parking is peaking?

k. Will there be dedicated parking areas for office space? If not, how will businesses be attracted to a location where there is not guaranteed parking for their workers? If parking is dedicated to office parking, then is the sharing capacity reduced to weekends and late nights? What accommodation is there for weekend office workers who need to park (currently assigned at zero)?

l. What accommodation is there for employee parking for the thousands of new jobs created by the River Park Center? The peak hours of their needs will not fit into either office or retail space.

m. What is the justification of using the demand bases of 3 spaces/ksf for office space and for weekday retail space, 4 spaces/ksf for weekend retail space, 1 space per hotel and 0.26 spaces/seat of cinema? Is this consistent with actual usage rates at other locations in the city?

n. Why is the proposed hotel allotment 0.75 space/room in Table III.E.1-13?

o. What is the justification for saying that "no separate or additional parking is proposed to be provided for the ballpark or special events" (III.E.1-13)? Where do the private buses park?

p. Why is it acceptable to just reach capacity for Saturday ball games without providing for potential overflow? What is the impact on surrounding neighborhoods if cars are forced to use side street parking because capacity is full?

q. Why is no analysis given for special event parking? What if the event is larger than a ball-game? What if capacity is reached?

r. Who will pay for police office to direct traffic during ball games?

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s. What is the justification for not analyzing special events occurring at times other than 1pm Saturdays and 7pm weekdays? Will other events actually be planned around parking availability?

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t. Who will do that analysis? Is this analysis consistent with others in the DEIS - e.g., are economic analyses of the special events based on times at which parking will be available?

K. INFRASTRUCTURE

1. Water Resources

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It is the function of a DEIS to analyze water consumption and resources in light of *all* the developments proposed in the downtown. This has not been done.

2. Sustainable Building Practices

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.

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L. CITY PERSONNEL

. What will the city's increased expenses be for additional Buildings Department personnel to . supervise such a massive project?

17.4

- a. Will SFC be asked to underwrite the salaries of additional building inspectors, engineers and supervisory personnel?
- b. What will be the cost of policeman to direct traffic during the construction period? Who will pay for them?
- c. Will an increase in the number of sanitation workers be necessary during the construction period? Who will pay for them?

In conclusion, YCSD again proposes that Alternative B be instituted as the template for the SFC Phase 1 project.

Respectfully Submitted:

Board of Directors Yonkers Committee for Smart Development

From: Chuck Bell mailto:cbell@igc.org]
Sent: Friday, May 30, 2008 11:47 PM

To: Rocky Richard

Subject: Comments re SFC Yonkers DEIS

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A COMMUNITY LAND TRUST IN YONKERS

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May 30, 2008

Ms. Rachelle Richard, Chief of Staff City Council President Chuck Lesnick Yonkers City Council 40 South Broadway, Room 403 Yonkers, NY 10701

Re: Comments on Draft Generic EIS for SFC Yonkers Palisade Point, River Park Center, Cacace Center and Larkin Plaza

Dear Ms. Richard,

I am writing to submit comments regarding the draft generic environmental impact statement regarding the proposed SFC Yonkers projects referenced above in downtown Yonkers and the waterfront area...

REAPS is a community-based nonprofit housing and neighborhood organization that works to develop housing that is affordable to people with low- and moderate-incomes. We have been active in developing nonprofit housing in Southwest Yonkers since 1989. We have testified and commented at hearings regarding waterfront development and asked the City to adopt a substantial set aside of affordable units in any downtown development, comparable to those required by the Yonkers Affordable Housing ordinance for East and North Yonkers.

The proposed redevelopment plan provides very little detail about how the private residential development in the SFC Yonkers development would address current and future community needs for affordable housing. It indicates that 6% of the proposed units may be developed for affordable housing, but it seems likely that the units developed would be priced at 80% of area median income, which is approximately \$70,000 for a three person household. Such units might have a monthly housing payment for rent and utilities of \$1,700. This would not be helpful for our members and many existing Yonkers residents who do not earn incomes high enough to qualify

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for such housing. Further, it is way beyond what is shown for the median rents or end the higher end rents for existing households in the study area.

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In addition, the proposed 6% set aside is lower than would generally be required under the Yonkers Affordable Housing ordinance that applies to North and East Yonkers. We question whether this plan is sufficiently balanced to protect the interests of city residents, 90% of whom will not be able to afford the housing in the proposed development. Most City of Yonkers municipal workers would not be able to

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P.O. Box 309, Yonkers, NY 10705

afford the homes in this or other planned market-rate developments in the waterfront area. Other communities have more stringent requirements to ensure that a reasonable portion of units in market rate developments are set aside to provide workforce housing for municipal workers, health care workers and retail and service workers. We are also concerned that one of the developers in this group has still not met his commitments to provide the required set aside of affordable housing in White Plains, and we wonder why Yonkers should accept his assurances on this issue.

Under SEQRA, local agencies are obligated to "use all practicable means to minimize or avoid long-term and cumulative effects on existing patterns of population concentration, distribution or growth, and

existing community or neighborhood character when reviewing rezonings and site plan and subdivision approvals."[1][1] Environmental impacts are not just limited to an action's effect on air and water, but also its effect on land-use, density of population, and community character. Generally, if a project would introduce or accelerate a trend of changing socioeconomic conditions and if the study area contains populations at risk, then the proposed project may have an indirect residential displacement impact. [2][2]

Based on what we read about the proposed offering prices for "market rate" housing units in the SFC Yonkers projects, and the high offering prices for similar market rate housing in Yonkers and other parts of the county, we are concerned that the overwhelming majority of units in the planned developments for the site will feature housing that will only to be affordable to households with incomes of \$100,000 or much more than that.

Further, several similar developments are planned in the immediate proximity of this development that could simultaneously intensify and accelerate the effects of the proposed action, creating a significant cumulative impact on the housing stock and neighborhood character that should be addressed in the environmental impact statement. SEQRA explicitly makes note of such cumulative impacts and REAPS is bringing them to your attention so they can be adequately addressed prior to any rezoning decision.

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While the study notes that the proposed units would only add 12% to the population of the study area, the DEIS lacks a chart to show the cumulative impact of the SFC developments and other recent and planned market-rate developments. In addition, what is the contribution or non-

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[1][1] "Expanding Traditional Land Use Authority-through Environmental Legislation: The Regulation of Affordable Housing," Hofstra Property Law Journal, Volume 2, Fall 1988, p. 8.

[2][2] City of Yonkers, "Scoping Outline Of Issues To Be Addressed In A Draft Environmental Impact Statement (Deis) For The Projects Known As: Palisades Point, Cacace Center, River Park Center, And Larkin Plaza, January 9, 2006.

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contribution of upscale restaurants, shops, ball parks, offices, boutiques, and parking garages to increased property values and potential residential displacement? How might the DEIS quantify that contribution? It is misleading to suggest there is no tipping point, and that these developments have a marginal impact on housing opportunity, when taken in combination, there could well be a tipping point.

We believe that dedicating these downtown sites to predominantly high-income residential, retail and office development would substantially change the character of the existing neighborhood, and potentially have adverse impacts on current patterns of population concentration, distribution and growth. The proposed changes in land use, and the socio-economic impacts of the proposed development, including potentially sharp increases in land values, could undermine the affordability of housing stock in surrounding neighborhoods and have collateral effects on neighborhoods throughout Southwest Yonkers. Even though Southwest Yonkers has only 17 percent of the land area of the city, it contains 37 percent of the city's housing and 40 percent of the city's population.[3][3]

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The DEIS also states that Yonkers produced 829 units of affordable housing between 1990 and 1999, however it fails to clarify that there were extenuating factors that caused the production of that housing, and it is not clear that that trend will continue. In fact, it seems unlikely that that level of production will continue, because of rising costs, scarcity of land — in part due to rising prices and land speculation — and expiration of the city's existing affordable housing ordinance, with uncertain prospects of renewal.

Recent articles in the Journal News indicated developers are buying up many parcels in the downtown area, assembling blocks of land for additional developments. These trends could put increased pressure on privately-owned multi-family housing and reduce housing opportunities for current city residents. Also, some multi-family buildings have expiring subsidies, and rents are under economic pressure because of rising energy prices and taxes.

As you may know, since the mid-1990s, housing prices in Yonkers and Westchester have spiraled upwards, exacerbating the pressure on low- and moderate-income households. A Westchester County survey has found that only about 2% of county workers earn enough to afford to purchase homes in the county. These housing affordability problems are felt strongly in Southwest Yonkers neighborhoods, where there are many working class families, including the Alexander Street area.

According to the Westchester County Affordable Housing Needs Assessment (2004):

- 21,143 families in Yonkers pay more than 30% of their income for rent (or more than 50% of income for home ownership costs), exceeding federal guidelines for housing affordability.
- 3,300 families in Yonkers live in overcrowded housing

In Southwest Yonkers, the neighborhood our organization serves, the median household income is approximately \$42,800. 47% of renter households, and 37% of owner households, in the Southwest neighborhood are paying too much for housing costs, according to federal guidelines. As many as half of these families are "severely cost burdened," because they pay more that 50% of their income for rent.

Approximately 56% of households in ZIP Codes 10701 and 10705 make less than \$50,000 a year, and 83% make less than \$100,000. Yet almost all of the housing opportunities created by

^{[3][3]} Environmental Protection Agency, "Yonkers, NY," Brownfields Quarterly Community Report, Vol. 3, no 1, Spring 2001, p. 3, available at: http://www.epa.gov/region2/superfund/brownfields/bqspr01.pdf

market rate developments will go to families with incomes of \$136,000 or higher, according an article in the Journal News (7/10/05).

"...Before you sign on the dotted line, you'd better be sure your income is in the \$136,000 range – preferably more.... Otherwise, you can't afford the costs of these new housing units, most of which rent for more than \$2,000 a month, or sell for \$500,000 and up. That's because virtually all new apartments and houses [being built by developers in Westchester] are 'luxury units' aimed at professionals with big-city salaries and empty nesters with retirement accounts and houses to sell."[4][4]

Residential development that is skewed toward the narrow sliver of area households that have incomes of \$136,000 or more creates a distorted and unbalanced community that fails to provide affordable residential opportunities for a huge segment of the population. We are also concerned about that such an affluent enclave could be socially isolated and see its interests at odds with those of the surrounding neighborhood, and vice versa..

The fact that Yonkers offers affordable housing relative to other neighboring communities has been recognized by organizations such as the Yonkers Chamber of Commerce. On its web site, in an article apparently written several years ago, the Chamber of Commerce states:

Affordable Labor: Yonkers offers the business owner/operator a culturally-diverse, well-prepared and extremely affordable labor pool as compared with other New York suburban areas.

Affordable Housing Costs: For executives and staff alike, Yonkers offers extremely moderate housing costs and property taxes. According to a mid-90s survey, the median price of a one-family house was \$167,825, with property taxes under \$4,000. For a two-bedroom co-op it was \$57,000 and, for a two-bedroom condo \$108,000. Median rent for a two-bedroom apartment was \$800. While actual current figures may have shifted somewhat, the trend of extremely moderate housing costs, as compared with other area communities, has continued.[5][5]

We think it is indisputable that Southwest Yonkers currently is a predominantly working class community that is substantially different in character from the type of high-rise luxury

developments that are planned for the proposed SFC waterfront sites. While initially displacement impacts may be modest, the combined effect of the redevelopment may have a cascading effect when taken in combination with other trends that are adverse to maintenance of adequate workforce housing. We are concerned that without appropriate mitigation and compensatory measures, the proposed rezoning could destabilize the current neighborhood character and create pressures for gentrification and relocation of neighborhood residents. These potential impacts need to be carefully anticipated and mitigated through appropriate actions.

In particular, we would like to know how the SFC Yonkers developments would address affordable housing for families who make less than \$50,000 a year, who make up about 75% of the people in the study area, and 50% of the people that live in neighboring areas, as noted above. We do not think it is sufficient to only address the housing needs of those who make the county median income or even 80% of the county median income, since those numbers are well above the incomes of more than half of neighborhood households.

4.2



^{[4][4] &}quot;Housing Boom: Few Choices for Middle Income Earners," Journal News, 7/10/05.

^{[5][5]} Yonkers Chamber of Commerce Web Site, available at http://www.yonkerschamber.com/, accessed 12/15/06

Other potential adverse impacts of the proposed development could include increased pressure on public facilities, including core infrastructure for parking, recreational facilities, schools, transportation, water and sewers, that could preempt and crowd out future development of housing that is affordable to neighborhoods residents.

We therefore urge that the DEIS be revised to include a much more detailed analysis of impacts on the surrounding neighborhood, including the impacts on the character of the surrounding area, including neighborhoods throughout Southwest Yonkers that could be destabilized by the SFC Yonkers projects in their combined effect with other luxury, commercial and retail developments in the downtown and waterfront areas. No rezoning should be permitted without fully addressing the community's needs for affordable housing, both now and into the future. We are concerned that in the rush to redevelop the waterfront, the Yonkers Community Development Agency, which has a mission of promoting housing opportunity for low- and moderate-income residents, has lost its voice and focus on these issues.

Community Facilities We also are concerned that Yonkers has less recreational land on a per capita basis than many other cities in the Northeast. How would the proposed SFC developments address this problem, since the additional high-income population that would relocate from Manhattan and other areas would in effect represent an increased per capita burden on scarce park and recreational facilities? Won't having 2,000 mostly new people bid up the demand for park land and crowd out existing residents, whose opportunities are already constrained? These issues are not adequately addressed in the DEIS.

<u>5.1</u>

We think the discussion of the Alternative I in Section V is inadequate. The developer says increasing the set aside of affordable units is economically unfeasible, with no supporting evidence. Certainly the developer might earn less profits under this scenario, but using this developer is not the only option for the City. This shows the dangers of contracting out master plan responsibilities, since it becomes impossible to get an impartial analysis of the alternatives. While this or more ambitious proposed affordable housing scenarios might require additional public and private investment than the current scenario, in the long run the public interest could be better served, because existing residents would not be displaced or deprived of their economic livelihoods and physical environment. Further, households whose housing costs were stabilized would have more discretionary income to purchase neighborhood goods and services, and serve as a more stable economic engine for long-term, balanced growth.

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The City of Yonkers has substantial latitude to use the planning process to protect the character of existing neighborhoods and to encourage the development of affordable housing. We hope the City will take its responsibilities seriously. Any new development should contain a substantial portion of housing units that are affordable to people in our community, including families with incomes of less than 50% of city median income. We believe that an exclusive focus on high-end housing for affluent renters and buyers will create many negative impacts on current residents, and would not be in the public interest.

Thank you very much in advance for your consideration of the above. We look forward to the incorporation of these issues in the EIS, and to a revised development plan that fully addresses the community's concerns.

Sincerely,

Charles Bell President

Charles WF Sell

Charlie Hensley

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May 30, 2008

Rocky Richard, Chief of Staff Office of the Council President 40 S. Broadway, Room 403, Yonkers, NY 10701

RE: SFC DEIS

Dear City Councilmembers:

First, I'm grateful to have had the opportunity to address you during the public hearings. So I'll be brief here and simply offer a few bulletpoints for your consideration. Don't wear out! We all need you watching out for us!

- Whether they should or not, many of our fellow citizens don't know about the scale of the plans. One neighbor I recently met talked about how excited she was that all this development was happening along the waterfront, "with nothing over 12 stories."
- The height of the tallest buildings is ridiculously out of scale with the rest of the city. Two 61-story towers downtown and two 25-story towers in a city zoned up to this point for mostly five- and six-story buildings, will look like someone was playing pin-the-tail-on-the-donkey and lost.
- Please don't be fooled by the touted views from the Palisades. No one lives there; { 1.3 | very few folks will see that view. We should be focused on what the people of Yonkers can see buildings and streets in shadow, or a vibrant downtown with historic buildings together with the magnificent Hudson and Palisades.
- ➤ If you really want to know what the most extreme degrees of the proposed development will look like, go down to Battery Park City in Manhattan; or stand on 57th Street in Manhattan, east of Columbus Circle: look west at the "view corridor" through the Time-Warner Center and see if you think it's good. Even easier go to Hawley Terrace in NW Yonkers and see what happened to a beautiful street when a highrise was built directly in front of it.
- None of the renderings of the stadium development show the full height of the buildings. So much of this proposal is gorgeous and exciting. Two 61-story buildings will not be the icing on the cake.

- Beware of declaring the Palisades Point area a Planned Urban Redevelopment that is no longer subject to any zoning ordinances. There will be no turning back.
- Make sure that setbacks are part of any highrise development.

Palisades Point could prove to be the beginning of the end of Yonkers' legendary relationship with the Hudson. Why do they want 61-story buildings downtown? Because they want to be able to sell some condos that can see over the 25-story buildings they're proposing. As time goes on, everything east of Palisades Point (and Alexander Street?) will want to be taller.

- Given how many jobs will be created downtown, and there will be many, how many of the workers will be able to live downtown? Not many, probably, and I'd hate to think that Yonkers will buy into the idea that we can be "bought off" with some nebulous affordable housing plan built miles away from the proposed development. If they are miles away, what will the traffic plan be? The workers will still have to get to their jobs downtown.
- How many times are we spending what's left of the new taxes after the giveaways to encourage the developers? Will we also be giving tax incentives to new businesses to come to Yonkers? I don't object to the concept of these incentives, I just want to make sure we're not double-counting, or setting up a zero-sum game where we never actually have the increased tax base touted by the mayor's office.
- ➤ Do not accept the implied threats to open spaces if we all agree that the proposed building heights need to be reduced. We're certainly meant to be afraid that the design and density will be heinous if we don't allow the height.
- During a time of enormous stress to the housing and credit markets, how will all the other neighborhoods in Yonkers compete with luxury waterfront housing? In a real estate market that will already need years to recover, a huge increase of high-end housing stock may well drive prices further down all over town.
- Under the current plan, the great Yonkers neighborhoods surrounding downtown will lose suburban character, natural beauty, quality of light and the peace that now exists. The proposed density and height of all these downtown projects will separate these neighborhoods from the river and Palisades, throw beautiful homes into shadow, and create so far unimaginable traffic congestion.
- ➤ I want to believe the visionaries behind this plan. But I remember when they said there was a survey of Yonkers residents and 80% of those surveyed "understood and approved of the development." Then they said, "Well, there wasn't an actual survey." Come on.
- ➤ What's the shelf-life of this approval? If the U.S. economy continues on its current slow track, will conditions change so much that the approval loses its basis in reality? Do we think this development is immune to the national market forces presently at work?

2 4

2.5

2.6

None of the current renderings show the cumulative effect of all the proposed development downtown, including the Nepperhan Valley and Alexander Street.

Two of Yonkers' best features are air and light. Both will be severely diminished under the current plan.

3.2

My dream for Yonkers is that we will have highrises and retail businesses downtown and that their presence will lead to the restoration and renovation of the homes and businesses nearby. My nightmare is that these out-of-scale buildings will be approved and Yonkers will no longer be fit for anything except highrises.

Thank you, dear Councilmembers, for your perseverance and dedication to seeing this difficult project through. We want a real downtown. We want some beautiful new buildings and retail and restaurants, and these will all come, don't worry about that.

Just don't get suckered by the idea that we need 10,000 new residents downtown in order to support a single dry cleaners.

Thanks for reading. All best with your difficult decisions.

Sincere regards,

Charlie Hensley

C98

Second Set of Comments for the DEIS May 30th deadline Respectfully submitted by Council Member Mc Dow

Page 1 – Palisade Point- It was mentioned that 436 units are being proposed for that site, I would like to see that number reduce in order to: 1) to alleviate congestion in the area 2) reduce the height on the waterfront.

I had requested the DEIS be written is Spanish as well; once this request was not honored, I'd was told that Summary would be made available. The Summary was made available on Tuesday of this week, can the written comments of the Hispanic community be extended, by two weeks.

What happens to the bridge plans if the Queen Daughter Day Care decides not to sell?
Has an alternate access been considered?

Page 1-4 3rd Paragraph - The Green Task force and Westchester disable, and the office of the Aging should be consulted when planning the landscaping and general construction

1.6

1.7

1.8

1.9

1.10

1.14

Page 1-6 Can the local High School create a film, documenting the construction's history? Perhaps the Riverfront H.S. can participate in recording the history of the construction of the Day lighting of the opening of Larkin Plaza

Page 1-9 1st Paragraph – What is the current height and density for the area.

Page 1-9 How long do we anticipate it would take before the accessed value is increase? Will the City be responsible to access the land once built?

Page 1-12 3rd Paragraph – Who will be responsible for the up keep of the recreational sites and the Day lighting.

Page 1-20 1st Paragraph – Will the County be asked to share in some of the responsibility to repair the road

Page 1-20 2nd Paragraph – Could this expense be a combined cost with the State?

Page 1-20 6th Paragraph – Guion is a very narrow area with poor lighting, what improvements will be made in that area?

Page 1-20 7th Paragraph - Will the new bridge take into consideration the traffic as it relates to the home owners of 23 Water Grant Street: 1. Headlights, 2. Will their home be exposed to those traveling over the bridge? 3. What is the location of the bridge as it relates to 23 Water Grant Street. 4. Also they are concern about the noise

Page 1-20 8th Paragraph – Has a location been designated for the Pick-up Bus lane, if so where?

3. Inclusion of Women Minority Business Owners Construction Company. 4. Assuming that the Housing Ordinance has been passed by the City Council, how will SFC work to fulfill the requirements made by the City Council?		
Page i-20 5th Paragraph – Please provide a list of the infrastructure upgrades within the TIFF proposal Page i-20 6th Paragraph Guion is a very narrow street coupled with poor lighting what improvements are going to be made to this area in terms of traffic flow, for I fear that savvy drivers will use this street to manveur around the area. Page i-20 7th Paragraph – Has an agreement been reached with the daycare? Page i-20 8th Has a pick lane location been designated? If so where? Page i-20 8th Has a pick lane location been designated? If so where? Page i-20 8th Has a pick lane location been designated? If so where? Page i-20 8th Has a pick lane location been designated? If so where? Page i-20 8th Has a pick lane location been designated? If so where? Page i-20 8th Has a pick lane location been designated? If so where? Page i-21 3th Paragraph – My understanding based on SFC earlier presentation, the developer was okay with spending their own money in acquiring property. In fact they stated that they were in contract with almost all the store owners along Nepperhan Avenue and New Main Street. What changed? Page i-21 4th Paragraph – How does this compare to similar areas? Page i-22 2th Paragraph – How does this compare to similar areas? Page i-23 4th Paragraph – How does this compare to similar areas? Page i-23 4th Paragraph – I would like a copy of the New York State Department of Environmental Conservation Policy Cp-29 (Environmental Justice and Permitting) to be given to the members of the City Council. Page i-28 7th Bullet Point – Please outline your affordable housing proposal which should include: 1. Location 2. Number of units and 3. Inclusion of Women Minority Business Owners Construction Company. 4. Assuming that the Housing Ordinance has been passed by the City Council, how will SFC work to fulfill the requirements made by the City Council? Page i-31 2th Paragraph – The propose amendments to the CB and GC was briefly outlined, how will this effect the City as whole? Page i-31 6th Para	the up keep of the Trolley? How many Trolley Cars are being proposed for the downtown	2.1
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7	Page i- 31 2 nd Paragraph – The propose amendments to the CB and GC was briefly	2.12
	,	2.13

Page H -2 – Does this mean that SFC do not have to develop this parcel and that we can call upon another developer to take on this task?	3.1
Page H -8 5 th Paragraph – Does this have to do with height and square footage? Can those numbers be changed?	3.2
Page H -8 6 th Paragraph – last Paragraph – I am not receptive to modifying off-street parking and building heights. What is it now and what are the developers you proposing?	3.3
Page H -10 1st Paragraph – Please explain the floor ratios and building coverage as it relates to the Zoning Ordinance.	3.4
Page H -10 3rd Paragraph — Can you provide this council with an alternative proposal in terms of height since the community is not in favor of the proposed heights.	3.5
Page H -14 4 th Paragraph – What is the total cost of the Day lighting and what funding source do we have in place besides the Grant given by the State? Has any of that money been spent on any other than this project; if so, how much and why?	3.6
Page H -14 4 th Paragraph – Who will be responsible for the upkeep of the Day lighting at each site (Larkin & Getty Square)	3.7
Page H -14 4 th Paragraph Engineering wise, what is the best starting point to begin opening up the Saw Mill for Day Lighting?	3.8
Page H -14 4 th Paragraph I would like to see a walking tour to access the properties located at Palisades and North Broadway (Harry Shoe store area) to determine what effects if any will the day lighting have to these structures and what will be done to sure that we will not have any mishaps. I would like to see a detailed report from the Army Corps of Engineers prior to construction.	3.9
Page H -15 4 th I would like to see decorative Bridges reflecting the multi cultural that currently exist in the downtown area. I would like to see a person of color be consider for the projects.	3.10
Page H -16 last Paragraph I would like to see Women and Minority Business Owners be given the opportunity to have business in the area of the Plaza.	3.11
Page H -17 3rd Paragraph – I would like to see that something is worked out for Kingdom Baptist Church as well.	3.12
Page H -18 4 th Paragraph – I would like the Ballpark to also be a children's Soccer Field as well, can that be done?	3.13

Page H -19 – Would you be willing to change the frontage of the remaining stores so that the over appearance of the Plaza would be consistent?	4.1
Page H -19 4 th Paragraph – The health center is currently next to the Veteran's office, which will be relocated to Nepperhan Avenue. I would like to see the two agencies be placed at the same site, on the fist floor if possible. In order for the Veterans to commute to the 2 facilities, I would like to see that bus stops at or closely located near this new proposed site.	4.2
Page H -21 1st Paragraph – we are hoping to have a SUNY at Yonkers technical School. Please partner with this community in an effort to make this happen	4.3
Page H -21 last Paragraph – In my opinion "Signature Building" translates to the "Elite Building" a term that I am totally against. Development should mean all residents are welcomed. How will SFC work to make this project all inclusive?	4.4
Page H -22 1st Paragraph – I would like to see a lot of green space (Grassy) surrounding the walkways and buildings.	4.5
Page H -22 5th Paragraph – I would like to see the elevators equipped with voice activation as well as our new street signaling device for those who are visually impaired.	4.6
Page H -23 2nd Paragraph Will the proper security be put in place to secure the 911 equipment. Can the Firehouse be constructed first as oppose to relocated the Fire Unit temporarily until a new Fire Station is completed?	4.7
Page H -23 6th Paragraph – will provision be made for those living at 23 Water Grant Street as reflected in their contract (I have a copy if you need it).	4.8
Page H -23 5 th bullet - I would like to see a doggy run and a skateboard park	4.9
Page H -24 3rd Paragraph – I would like to see a real community garden with a Greenhouse, perhaps one of the greenhouses from Boyce Thompson can be relocated here. This greenhouse will also serve a small community center for the community.	4.10
Page H -24 4th Paragraph – What about the Smell, and the noise of the Sugar Factory, how will that effect the residents living at the new proposed site?	4.11
Page H -25 1st Paragraph – What about shadowing in the Getty Square area as well as at H&I sites?	4.12
Page H -25 4th Paragraph – Will funds be allocated and put aside for Festivals at the River Walk (Larkin Plaza & Getty Square).	4.13

Page H -25 Larkin Plaza – what parking consideration will be made for those handicap and seniors who drive to the library or Motor Vehicles? It would be a hardship to walk up that hill to Buena Vista Parking facility.	.1
Page H -26 – Can SFC work with Bezack to develop an environmental and historical marine environmental as outlined in fourth paragraph? 5.	2
Page H -27 – I would like to see Roof top gardens, solar energy included in the plans as part of the project. 5.3	3
Page H -27 2nd Paragraph – I would like to see windows installed that are designed to handle the extremely weather condition along the waterfront, this will ultimately save the residents in heating and cooling cost.	5.4
Page H -30 2nd Paragraph – Where are the residents and church members of Guion Street supposed to park their vehicles? Will their lighting be improved as part of the redevelopment? There is a retail unit there how will they get serviced and deliveries?	5.5
Page H -34 – Remove Dennis M. Robertson and add my name	
Page III A -last Paragraph – I would like to see historic markers indicating the places where the various Indians lived.	5.7
Page III A page 7 1st Paragraph – there are no mentioned of Churches and there must be at lease 50 in the area. I would like for them to be identified.	5.8
Page III A-page 8 - Same applies here with the churches also let's include senior center/homes on the chart.	5.9
Page III A page 9 – Twould like a clear understanding of the Secenic Hudson law case against the City of Yonkers. Please provide the original and the amended version to each council member, and Civic groups such as Green Task Force, HRCA etc.	5.10
Page III A page 10 last paragraph - please provide me with the model or computer generated model so that we as a council can have a clear understanding of ALL of the projects being proposed for the downtown waterfront area, from Ludow to JFK from the pier to Riverfront Plaza (Getty Square).	5.11
Page III A page 11 1 st Paragraph- I would like to see a historic walk as proposed by Barbara Seigel in order to share the history of the downtown.	5.12
Page III A page 11 last paragraph, - Are our plans (Patterns for Westchester) consistent with what is outlined by Westchester County Planning Board, currently)?	5.13

Page III A page 14 3 rd paragraph - Draft LWRP why is this study not completed and when do we anticipate it being completed. Currently is SFC working with the draft and if not why not?	3 6.1
Page III A page 15 6 th paragraph – I would like to see a propose mapping and computer generated model included in the plans.	<u>[6.2]</u>
Page III A Page 16 last paragraph – this is where additional funding would be needed, have that funding source been identified? I would like to see their plans as it relates to other communities where this has been done (Downtown/Waterfront District)	<u>}</u> [6.3]
Page III A page 19 – Table III A-6 – I would like to see a complete assessment and plans for Parking being proposed for the entire Downtown waterfront.	6.4
Page III A page 19 3 rd paragraph - How would the new Parking ratios effect the existing merchants.	6.5
Page III A page 22 2 nd paragraph – will the units be smaller or larger as a result?	[] [6.6]
Page III B page 1 – I would like to see a cap on the height once the height has been determined and agreed upon by the City Council and the developers. I do not know if we can take away air rights at a certain feet, to avoid what happened in White Plains.	6.7
Page III B page How wide is the Esplanade, Where is the narrowest point?	6.8
Page III B page 8 - I would like to see a structure of W.C. Handy placed as part of the Public Art. Perhaps some discussion should be made between the SFC and Vinnie Bagwell.	6.9
Page III B page 10 - Has shadowing been explored at the Sculptured Park site?	6.10
Page III B page 18 – Will the illumination effect the other residents, especially the seniors located at Walsh Road.	6.11
Page III C page 1 4 th Paragraph – Will this area be enhanced as well?	<u>[6.12]</u>
Page III D page 2 – along with the improvements of the infrastructure and the day lighting of the Saw Mill, will improvements be made to limited the smell in the Getty Square area, which can be contributed to the Sewer Treatment plant.	6.13
Page III D page 9 – Many of the local merchants lost their inventory as a result of the Flood last year. What pre-cautions will be put in place to prevent this from re-occurring. Is consideration or a study as it relates to traffic towards the South Broadway area (especially Trucks Traffic?) being done?	6.14

Page III E page 12 – 1 st Bullet – How will eliminating parking along Palisade Avenue effect the business community? 7.1
Page III E page 12 2 nd Bullet – What happens to the Mt. Carmel Church? 7.2
Page III E page 12 3 rd Bullet – I would like the plan include a comfort station for the cabbies and bus drivers.
Page III E page 12 7 th Bullet – I would like to see an alternative route propose in order to compare.
Page III E page 12 – last paragraph- the exit ramp as you turn onto Yonkers Avenue should be smooth out and at the West exit ramp needs a longer feed to exit
Page III E page 15 5 th Bullet point – A Traffic Light should be placed at the corner of Buena Vista and Prospect if the traffic continues down towards the waterfront. 7.6
Page III E page 15 – Who will be responsible for the Over time cost when special events are being held at the Baseball stadium?
Page III E page 19 – Same question, is this according to the agreement. The residents here are victims of the previous developer, as Condo owners, they do not currently pay for their parking. I think it is unfair that their parking is being removed and replaced with a garage in which they will be expected to pay. What can be done to assist these residents? The residents are also requesting a drop off point where they can unload the packages and elderly and handicap passengers.
Page III E page 19 last paragraph – There is St John's Church and 2 Churches on Hudson Street between Riverdale and Hawthorne as well that should be mentioned.
Page III F page 5 – 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. Also, the affects of 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?
Page III F page 10 last Paragraph, I believe these DBA level exceeds the existing Noise Ordinance, please advised. 7.11
What precaution will be put in place to assure that we do not experience similar disaster as what has happen in NYC in regards to Construction Cranes? I would like to see Current, properly Inspected Crane and regulations of what kind of Crane can be used at the sites.

Page III F page 14 2 nd Paragraph – I would like to see an FYI be sent to the residents in the surrounding proposed area to let them know their rights and what they should expect during the construction.	8.1
Page III F page 21 1 st paragraph – What about the Light Flow? How will it affect the surrounding community and the new residents/	
Page III F page 21 5 th paragraph – What about Kingdom and Carmel Baptist Church, please include them as well.	8.3
Page III H page 7 2 nd Paragraph – Who will be responsible for the disconnection and connection of Utilities service to 87 Nepperhan i.e. Phone, electric, Internet etc. Once the move has been complete, will the City continue to operate in a Campus style as they are currently?	8.4
Page III H page 7 – With the additional residential and commercial tenants moving to the area, how would that increase effect our cost to NYC for our water bill? What is the estimated cost above what we are currently paying?	8.5
Page III H page 14 last paragraph – What precaution will be put in place to assure that the existing community will not experience a power lost during the relocating of electric lines?	8.6
Page III H page 21 1 st paragraph – M29, has the developer have any conversation with Con Edison and the M29 project. What bearing will this have on the project?	8.7
I would like a list of the merchants and their inventory be made available to those members associated with the SFC project. It is my hope that the developer will encourage their team to purchase items from these vendors. Also a requested for my Minority Women and Business Owner list can be made available through my office.	8.8
Page III I page 7 – I would like to see the developers incorporate an apprenticeship program, with similar language drafted DC-9 Union	38.9
Page III I page 9 last paragraph - Recently 70 Ashburton Avenue was deemed unsafe, and the tenants were asked to leave the location. These agencies are now scattered throughout the Westside causing a hardship to their clients in which many who are elderly. How does this recent incident affect the number given? What provision can be made for these agencies?	8.10
Page III I page 12 4 th paragraph – What provision will be or were made for these 22 displaced tenants?	8.11
Page III I page 14 last Paragraph – I would like to see a breakdown of the number of tenants who have appeared before Tenant Courts and the number of tenants that lost their home for the last 10 years.	8.12

Page III I page 17 3rd paragraph – Will there be a market for the existing stores. I would like to see the BID or the Chamber Of Commerce host a workshop to demonstrate how businesses can be transform to adapt to the new market. i.e. The local nail salon and Hair Salon can become partners and open a spa. The variety store can change their merchandise to baseball and Yonkers Souvenirs. Page III I page 18-19 last paragraph – Please share the results of this study shared with the Council, Chamber of Commerce and BID. Page III I page 25 2nd Paragraph, what is the minimum/maximum number of parking spaces for a project such as this in other communities? How many spaces would be required for this project if the baseball stadium was not built? Page III I page 26 Noise - Trucks should be monitored. No special Construction time should be issued at ANY time during the construction; construction should adhere to the time scheduled given in the noise ordinance. ALL trucks transporting materials must be covered while traveling through the community. Page III I page 26 6th Paragraph, some kind of sound proofing should done during the construction for the benefit of those who apartment that directly faces the baseball field. Page III I page 27 1th paragraph - 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. Page III I page 28 2nd paragraph – What affects would that have to our over all water bill to New York City. Page III I page 28 2nd paragraph – Can we incorporated the use of Grey water in your plans? Page III I page 47 2nd paragraph – In order to maintain a schedule that will allow this project to break ground on developer's scheduled date, it would seem to me that the County Legislator representing the area should be made part of the earlier discussion which would be on going. Page III I page 73 2nd paragraph – It appears to me that the City of Yonkers will be taking on some of the County's responsibility. During this pha		
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Page III J page 2 1st diagram – How many additional police officers would be need as a result of the project? How many of these officers can our budget support?
Page III J page 3 2nd paragraph – Please provide the City Council with the estimated response time being proposed for the new, temporary and old Fire station.
Page III J page 3 2nd paragraph – Can the developer adopt a school on the Westside and do some of the much needed repairs to the structure? Page III K page 5 6th paragraph – Did the developer explore the possibility of a Marina Museum.
I would like to see an Alternate Main entrance into the stadium proposed. In my opinion having the entrance facing Nepperhan will create traffic as people take that opportunity to drop off passengers.

C99

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May 30, 2008

VIA HAND DELIVERY AND EMAIL (Rocky.richard@yonkersNY.gov)

Ms. Rachelle Richard Chief of Staff 40 South Broadway, Room 403 Yonkers, New York 10701

Re:

Comments of American Sugar Refining, Inc. On Draft Environmental Impact Statement Prepared By Struever Fidelco Cappelli LLC

Dear Ms. Richard:

Please accept the following comments regarding the above-captioned matter.

Introduction

American Sugar Refining, Inc. ("ASR"), through its co-counsel, Sive Paget & Riesel, P.C. and Nobile, Magarian & DiSalvo, LLP, submits the following comments on the Draft Environmental Impact Statement ("DEIS") prepared by Struever Fidelco Cappelli LLC ("SFC" or the "Applicant"). ASR is a long-standing member of the Yonkers community; its "Domino Sugar" refinery has been in operation in Yonkers since the early 1900s. ASR is one of the last industrial uses still operating in Yonkers, and represents an important part of the history and economy of the City.

The project ("Project") proposed by the Applicant will, among other things, place a major residential use – two 25-story residential towers called "Palisades Point" – immediately next to ASR's existing industrial use. ASR is particularly concerned that Palisades Point be studied and designed to account for its proximity to ASR's industrial use; otherwise, it will be difficult for these two different uses to co-exist over the long term. To that end, ASR has retained independent air consultants (ENSR), noise consultants (Cavanaugh

Tocci Associates) and traffic consultants (TRC), whose respective analyses and conclusions are incorporated herein.

Moreover, the Project will have impacts upon the community as a whole, which will affect ASR and its approximately 85 employees who live in Yonkers. Accordingly, ASR's comments reach beyond the immediate impact of the Palisades Point condominium towers being sited directly adjacent to ASR's sugar refinery. For example, these comments include concerns that Project elements will indirectly impact ASR's operations, such as the need for new infrastructure and the incremental tax consequences, and the Project's impact on the quality of life and environment for ASR's employees who reside in the City.

ASR operates its sugar refinery in conformity with all environmental laws and existing zoning. Nevertheless, as set forth below, the Project – by creating densely-populated residential towers immediately next to ASR's sugar refinery – creates access problems, visual problems and environmental problems that do not presently exist, and that are not adequately addressed in the DEIS. These problems could affect ASR employees, residents attracted to the future Project, and residents of other parts of Yonkers. Thus, while ASR does not oppose the Applicant's proposal for redevelopment, ASR expects that the Project will be considered and implemented responsibly, and that any significant adverse impacts will be identified and mitigated by the Applicant.

The State Environmental Quality Review Act ("SEQRA") and its federal counterpart, the National Environmental Policy Act ("NEPA"), mandate the orderly consideration of the Project's impacts and the concomitant obligation to mitigate those impacts. While ASR understands the desire to expedite the process, ASR urges the City Council and the Applicant to resist resort to SEQRA "shortcuts." Such shortcuts may be expeditious in the short-term, but failure to adhere to SEQRA and thoroughly consider this major Project could not only lead to litigation and more delay, but also have negative repercussions on Yonkers for generations to come. For example, the decision to allow the Applicant to append an important infrastructure study to the Final Environmental Impact Statement instead of to the DEIS is contrary to SEQRA's mandate.

As ASR's comments make plain, the DEIS does not allow a full evaluation of the Project's impacts. Therefore, the Applicant must remedy the document's infirmities by preparing a Supplemental DEIS for the public and City Council's review and comment. Although the Applicant will suffer a short delay should a Supplemental DEIS be required, compliance with environmental laws will benefit both the City and the Applicant in the long run.

ASR is committed to resolving the issues identified in these comments in partnership with the City and the Applicant. Indeed, ASR believes that all the parties should share the objective of ensuring that the Project and ASR's sugar refinery can co-exist; if either one fails as a result of the other, the loss will be to Yonkers as a whole. Thus, ASR trusts

that its comments on the DEIS will be viewed for what they are: an effort to assist the City and the Applicant in identifying the Project's potential impacts that need to be analyzed and mitigated for the benefit of all.

ASR hopes that these comments will serve as a basis for cooperation between the involved parties to identify and mitigate the significant adverse impacts posed by the Project. ASR plans to refine sugar in Yonkers for another hundred years. Accordingly, ASR will continue to work with the City and to engage the Applicant in order to promote both the resurgence of Yonkers and the continued operations of ASR's sugar refinery.

ASR's comments on the DEIS are set forth below, by DEIS chapter.

Land Use and Zoning (Chapter III.A)

Failure to Consider Land Use and Zoning Impacts

The DEIS fails to analyze whether Palisades Point will cause any adverse impacts with the surrounding land use and zoning, which is (as acknowledged by the Project's March 27, 2007 Scoping Document (the "Scope")) a principal purpose of the Land Use and Zoning chapter. The chapter's "Anticipated Impacts" section (III.A-20 to A-21) only observes that the Palisades Point towers "will present a different character" than the adjacent use of ASR's sugar refinery. The DEIS fails to analyze the land use impacts inherent in the placement of two 25-story residential towers immediately adjacent to an operating industrial facility, whether those impacts are analyzed from (for example) the perspective of building heights, "occupant livability," visitors to/users of the waterfront, or otherwise. For the DEIS merely to state that Palisades Point offers a "different use" or "different character" (III.A-20), but promise that the site "will become a major attraction for the community as a whole" (III.A-21), is not sufficient "analysis" under SEQRA or NEPA. (See ASR's comments on the Alternatives chapter for additional comments on the DEIS' failure to consider the impacts of adjacent land use.)

Moreover, DEIS Appendix 1, §1B ("Response to NYS Coastal Policies") states, on page 2, that landscaping and parking will be provided to buffer the residential development and the public open space areas from ASR's existing industrial use. However, nowhere does the DEIS support or detail such buffering, or discuss the location and height of the Palisades Point towers relative to various aspects of ASR's refinery including, for example, its smokestacks. (See ASR's comments on Noise, Air and Response to NYS Coastal Policies chapters for additional comments.) It is antithetical to sound land use

3.1

¹ On page III.A-20, the DEIS depicts ASR's existing uses as being at a height of 60 feet. This is incomplete, as it fails to reflect the height of four existing smokestacks, the tallest of which is 150 feet.

planning to site residential uses immediately adjacent to heavy industrial uses, as such uses are not compatible. Typically, good land use planning contemplates a graduation of uses, so that heavy industrial is located adjacent to, for example, light industrial or commercial, and then residential. Simply providing a limited area of open space – rather than intervening uses or structures – is not a substitute for good planning.

3.2

The DEIS similarly fails to consider whether the proposed recreation/canoe/kayak facilities can or should be located as far from the sugar refinery as possible, due to potential safety or other concerns. On the contrary, at Appendix 1, §1B, on page 3, the DEIS states that the canoe and kayak launch will be located at the southern portion of the Palisades Point project. This is the portion of the Palisades Point site closest to the dock by which ASR's refinery regularly receives barges and other vessels that supply raw sugar cane. The DEIS does not address either the possible danger to recreational boaters that is posed by the proximity of ASR's barge traffic (where a single vessel can carry up to 40 million pounds of sugar), or the possible danger to the sugar barges and other vessels docking at ASR should they be forced to make sudden movements when coming upon a kayak or other recreational watercraft originating from the Palisades Point site. The DEIS also fails to consider the risk inherent in introducing casual boaters so close to ASR's shoreline, which includes one building constructed on pilings over the Hudson River, and a raw sugar dock structure; both of these structures would be accessible by small boats and are potentially hazardous areas to explore. This danger would have to be mitigated by, at the very least, the construction of barriers along the pilings of both structures to prevent entry.

4.1

4.2

The DEIS also lacks any discussion of alternatives for the canoe/kayak launch (such as relocating or removing these program features) or of the impact that such placement of the canoe/kayak launch could have on ASR's adjacent industrial use and on the safety of those using crafts that are much smaller and much less visible than the vessels and barges that regularly deliver raw sugar cane to ASR's refinery. (See ASR's comments on the Construction chapter for additional comments concerning potential incompatibility with the proposed canoe/kayak launch.)

In its section pertaining to Modifications to Street Patterns on page III.A-22, the DEIS does not mention any changes as being proposed near the Palisades Point project. That no changes are proposed should be set forth affirmatively.

4.3

Analysis of Palisades Point's Compatibility with Local Plans

The DEIS fails to analyze the compatibility of Palisades Point's 25-story residential towers with design principles set forth in already-approved master plans and urban renewal plans.

o Yonkers Downtown Waterfront Master Plan

With respect to the Yonkers Downtown Waterfront Master Plan ("WMP"), on page III.A-27, the DEIS correctly acknowledges that the WMP suggests a "different" development scenario than that proposed by the Applicant. The DEIS points out the differences, acknowledging that the Project proposes far more units and fewer parking spaces per dwelling unit for Palisades Point. However, the DEIS fails to analyze whether the Applicant's very different proposal is consistent with the planning principles and design guidelines set forth in the WMP, which call for a "small-scale neighborhood atmosphere" and "low-rise, high-coverage development" for the waterfront. (WMP, Design Guidelines, Waterfront Area, page 1-14.) The DEIS simply fails to discuss whether the proposed Palisades Point development, which calls for 436 units – 174 more units than the WMP proposes – is consistent with the overall WMP.

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The DEIS describes the WMP as envisioning three different scenarios, reflecting residential, commercial and retail uses, on six blocks of waterfront including Palisades Point and other sites. However, the DEIS neglects to identify the total number of units and the square footage of commercial and retail uses that currently are located on other sections of the waterfront covered by the WMP. Thus, the DEIS does not analyze whether Palisades Point fits into any of the WMP's three scenarios.

5.2

Moreover, it is important to note that the WMP proposes a non-residential use for the portion of Palisades Point that is closest to the ASR sugar refinery when, in Scenario B, it suggests a 65,000 square foot indoor recreational facility for Lot "I" (WMP, page S-5). The DEIS' description of the WMP as calling for 262 dwelling units and 528 parking spaces in the Palisades Point area (see footnote 2, above) applies only in the WMP's Scenarios A and C. The DEIS does not set forth that the WMP's Scenario B contemplated no residential use at all on Lot "I," the section of Palisades Point that is closest to ASR, and only 90 dwelling units, which would be for senior citizens, on Lot "H," the part of Palisades Point that is furthest from ASR (WMP, page S-5). Thus, the DEIS does not address the significant difference between its intended residential use of Lot "I" and the WMP's Scenario B non-residential use of Lot "I"."

5.3

Rather than assess and analyze its differences from the WMP principles and planning specifics, the DEIS sets forth the Applicant's proposals to amend the WMP. It does so by merely changing the WMP to fit the Applicant's proposal. For example, the DEIS recommends replacing a paragraph describing buildings with one that simply states, "The maximum building height shall be 250 feet." (Appendix 1, §1E, page 1.) In addition, the DEIS contains inconsistencies with respect to the identification of the WMP. Appendix 1 §1E is captioned, "Proposed Amendment to the Yonkers Downtown Waterfront Plan

5 4

² At page III.A-15, the DEIS represents the WMP as setting forth for Palisades Point a total of 262 dwelling units with 528 parking spaces, including the 184 replacement spaces for existing Scrimshaw House parking that would be eliminated by construction.

5.4

September 1997, May 1998." The DEIS, at page III.A-15, states that the plan was adopted on different dates, in December 1998 and April 1999. The City of Yonkers Office of Development & Waterfront Development provided a copy of the Yonkers Downtown WMP that contains a third date: November 1998, with an Acceptance Date of November 23, 1998. Thus, there is inconsistency over versions of the WMP, and, importantly, the changes proposed by the Applicant (in DEIS Appendix 1, §1E) do not correlate to any of the pages or paragraphs of the November 23, 1998 WMP.

On page III.A-30, the DEIS concludes that the heights of the Project's buildings, including the towers at Palisades Points, will not create an adverse impact. The Applicant provides no data or other facts to support this conclusion. The DEIS then states that the Project building heights will be a "positive reflection of the revitalization of the City of Yonkers' downtown and waterfront" — again with no factual support. Although the DEIS goes on to proclaim that the proposed floor area ratios and residential densities of the Project are within the recommended maximums of the Patterns for Westchester, the DEIS fails to state that such conformance is solely with a general plan for the whole county and not with the more specific WMP.

6.1

o Riverview Urban Renewal Plan

.2

On page III.A-25, the DEIS incorrectly states that the Palisades Point development is consistent with the Riverview Urban Renewal Plan ("RURP").³ The RURP, on its page 32B, proposes changing the zoning for Area #10 (which contains the Palisades Point site) to that of a BA (Retail Business-Apartments) district and directs that development shall conform with codes and ordinances as permitted in the City's BA zone district or in a Planned Development\Redevelopment ("PDR") zone district. The DEIS indicates that the Applicant will not comply with any BA district regulations, but instead will seek a permit under a Planned Urban Redevelopment ("PUR") approval process, which can be granted in a PDR zone district. Of course, such a permit would allow development at Palisades Point without regard to existing Yonkers Zoning Code ("Code") use and dimension requirements. The DEIS' failure to analyze the implications of the issuance of a PUR designation is discussed below.

2 2

The DEIS does not address the inconsistency with respect to parking between the Applicant's proposal and the RURP. As shown below, the proposed parking for Palisades Point does not meet Code requirements; however, it is required to, as the RURP states at its page 24: "where applicable and appropriate, off-street parking shall conform to the City's zoning ordinance." In addition, the DEIS fails to set forth another

³ At page III.A-10, the DEIS describes Palisades Point as being in Development Area No. 10 of N.D.P. Area 2 under the Modified Urban Renewal Plan for N.D.P. Area 1 and N.D.P. Area 2, dated December, 1998, and last amended in October, 2004.

governmental approval that is required, this time by the RURP, which mandates that "a redeveloper must demonstrate to the Yonkers Community Development Agency that adequate provision has been made for all use needs including resident, employee, visitor, patrons, service and delivery vehicles." (See "Land Disposition Supplement," §2 General Controls for Redevelopment of Real Property, § g.)

Failure To Adequately Analyze Impact Of PUR Designation

The DEIS, on page III.A-8, notes that the Applicant seeks to have the Palisades Point project approved as a PUR. However, the DEIS fails to specify the implications and constraints of that designation.

The DEIS acknowledges that granting the developer PUR approval for Palisades Point means that the "use, lot and bulk controls of the Zoning Ordinance are superseded." However, the DEIS fails to take into account that, if given a PUR designation, Palisades Point would not be governed by existing requirements concerning "lot area, lot width, front, rear or side yard, side front yard, average lot area per family, building coverage, height in stories or feet, floor area ratio, buffer width or height, or paved or open space area or width."

The DEIS fails to analyze the likely significant adverse impacts that a PUR designation could have resulting from requirements imposed by the Planning Board and the City Council. The absence of predictable, known regulations places a heavy burden on the DEIS comprehensively to analyze whether the proposed development meets all the requirements of good zoning as well as those standards set forth in the Code for evaluating special permit applications such as that for a PUR. (See Code §43-60, which directs that the Planning Board review an application for a special use permit by certain standards, including that such a use "shall not affect adversely the character of the district," and "shall be of such appropriate size," and "shall not conflict with ... such plans as may have been adopted by the City Council or Planning Board.") Given its lack of any such analysis, along with its failure to disclose the impacts associated with the PUR designation, the DEIS fails to satisfy the requirements of SEQRA and NEPA.

It is not sufficient for the Applicant to respond to these comments that it is not at the actual design stage, because (i) the specific nature of its proposal (i.e., two 25-story towers, etc.) indicates that the Applicant already possesses advanced design concepts to identify impacts and, in any event, (ii) the Applicant must, at a minimum, put forth prototype design concepts and disclose and discuss the impacts of these concepts for the DEIS to have any meaning.

⁴ See definition of "Dimensional Requirement or Regulation" at Code §43-8.

8.1

Although the Scope requires that the DEIS identify and discuss necessary governmental approvals (page 9), the DEIS fails to set forth the Code requirement that the PUR be designed according to a Comprehensive Development Plan ("CDP") approved by the Planning Board. (Code §43-72(C)(3).) The DEIS neglects to discuss the specific factors that the Code requires for a CDP such as, among other things, a statement as to capacities of existing water and sewer lines and gas and electric lines and related facilities and that such water, sewer, gas, and electric lines are adequate. (Code §43-72(C)(3)(g) and (h).) Also, the DEIS does not set forth that the Applicant, as part of the PUR approval process and after any approval of the CDP by the Planning Board and the City Council, would have to submit a site plan of the PUR to the Planning Board for its review and approval. (Code §43-72(C)(4).)

Parking Requirements for Palisades Point

The DEIS fails adequately to identify and discuss the parking requirements for Palisades Point. Although receiving a PUR approval may exempt the Applicant from otherwise applicable use and dimensional requirements such as Floor Area Ratio or height limitations, the Applicant nevertheless must satisfy city parking requirements. The Code provides that, "Except as provided for in §43-130, all uses of land, buildings, and structures shall be required to meet the off-street parking and loading spaces regulations and standards as required herein." (Code §43-127.) Additionally, a PUR, as a type of Special Use Permit, is permitted by the Code so long as it meets the requirements of the Special Use Permits Article VII of the Code and "all other requirements of this chapter." (Code §43-50.) Another "requirement of this chapter" is Article X, Off-Street Parking and the need to comply with off-street parking space regulations. (Code §43-127.) Thus, the Code requires parking compliance for all uses, including those contemplated for Palisades Point, and does not provide an exemption for a PUR.

The Supplemental DEIS therefore should contain an analysis of applicable off-street parking requirements, and the analysis should consider that the Palisades Point project requires an approval (zoning variance) by the City of Yonkers Zoning Board of Appeals, because Palisades Point does not meet applicable off-street parking requirements.

The DEIS materially undercounts the parking required for Palisades Point. Applying the requirements that the DEIS sets forth on Table III.A-4,⁶ Palisades Point requires 945

⁵ The exception, §43-130, is not relevant to the Project because that provision merely provided an exemption through October 6, 2006 for parking requirements in two districts other than that in which Palisades Point is located.

⁶ III.A-10, Table III.A-4 recites the requirement for apartments as 1 parking space for each unit plus .33 parking space for each bedroom. This comports with City of Yonkers Zoning Code Table 43-4. However, the DEIS at both the Parking section (III.E.1; Table III.E.1-4, page III.E.1-3) and in the Appendix (Appendix 2, §2.M, Table 2, page 9) incorrectly states that the parking requirement is 1.5 spaces per unit; in those sections the DEIS states that the parking requirement

3.3

spaces, or 275 more than the 670 off-street parking spaces that are proposed. The 945 total is calculated as follows, based on the number of bedrooms anticipated (see Executive Summary, pages I-1 to I-3) and assuming an even mix of retail and office space within the 8,700 square feet that are proposed:

One space for each apartment	436	
.33 space for each bedroom		
109 1 BR units: 109 x .33	36	
218 2 BR units: 218 x 2 x .33	144	*
109 3 BR units: 109 x 3 x .33	<u>108</u>	
Subtotal	724	724
Replacement for 184 spaces currently		
serving Scrimshaw House	<u>184</u>	184
Subtotal	908	
4250 6 4 11 1 6 200 6	22	
4350 sq. ft. retail: 1 for every 200 s.f.	22	2.7
4350 sq. ft. office: 1 for every 300 s.f.	<u>15</u>	<u>37</u>
Total	945	945
1 Otal	743	243
Total off-street spaces proposed	670	
Total off buset spaces proposed		
Shortfall	275	

9.1

Parking deficiencies at Palisades Point could impact ASR's ability to utilize its easement (discussed in more detail below) to route trucks through the Palisades Point site, or ASR's railroad track siding (which runs from ASR's northern border onto the Palisades Point site) in the event the Applicant redesigns the Palisades Point parking layout in order to provide this additional parking. The Supplemental DEIS should consider alternatives that ensure that any such redesign by the Applicant does not interfere with ASR's easement route or railroad track siding. (See ASR's comments on the Construction chapter for additional comments relating to the easement.) Similarly, the parking deficiencies could impact the streets surrounding Palisades Point and thereby affect traffic flow in and out of ASR's sugar refinery, as well as potentially cause a safety issue if more cars are forced into traffic patterns used by refinery-related trucks.

for the apartments, using that incorrect figure, is 654 spaces, rather than the 724 that results from applying the correct standard. In either event, the proposed 670 off-street spaces are inadequate because the 670 that are proposed includes 184 replacement spaces for Scrimshaw House; thus the net increase is 486 spaces, which is not enough to meet either the 654 or the 724 spaces required for the residences alone and even more inadequate once the retail and office uses are factored in.

Additionally, the DEIS describes the publicly accessible open space, esplanade and the canoe/kayak launch as likely to make Palisades Point a "major attraction for the community as a whole." (III.A-21.) But the DEIS fails to address whether the 57 onstreet parking spaces will be sufficient to meet the needs of this "major attraction." There is no Code amendment among those proposed in Appendix 2, §2.M that pertains to parking in a former PDR district or that sets forth what parking space requirements the Applicant would seek when applying for the PUR special permit.

10.1

Finally, the DEIS' discussion of parking at Cacace Center and River Park Center, on pages III.A-23 and A-24, should make clear that such discussion does not pertain to Palisades Point. For example, it should be specified that the total parking spaces set forth on page III.A-24 ["approximately 6000"] is made up of the proposed parking for Cacace Center, Government Center, the ballpark, and the office building at Elm and Palisade Avenue.

10.2

10.3

ASR's Easement Must be Maintained

As mentioned above, the DEIS fails to discuss, at any point, the easement benefiting ASR that runs with the land on which Palisades Point is planned. The Supplemental DEIS must recognize said easement, analyze its effect on Project construction activities, and specify the steps that the Applicant will take to insure that the easement is not blocked during construction or Project operation. (See ASR's comments on the Construction

chapter for additional comments regarding the easement.)

Parkland Alienation

Approximately 85 ASR employees live in Yonkers and they, together with their families, utilize the City's network of parkland. Accordingly, ASR is concerned with the paucity of information contained in the DEIS concerning the contemplated transfer of public parkland to the Applicant for the Project.

10.4

The Scope states that the DEIS will provide "a determination as to the use of state or federal funds in the acquisition and/or development" of parkland to be alienated as part of the project. (Scope at page 9.) The DEIS fails to fulfill this Scope mandate; the Land Use and Zoning discussion of the parkland alienation neglects to state whether state or federal funds were used to acquire and/or develop the parkland. (III.A-27 to A-28.) This

⁷ The Parking Study, at Appendix 2, §2.M, page 25, states that the proposed zoning for Palisades Point would require 436 parking spaces for the 436 units, or one per unit. Aside from that one reference, the DEIS does not propose a parking standard for Palisade Point although one space per unit is the change that SFC suggests for the portions of the project proposed for near City Hall and the ballpark. (See Appendix 2, §2.M, Table 11 at page 26.)

failure to ascertain funding sources is important; indeed, the New York State *Handbook* on the Alienation and Conversion of Municipal Parkland says it "may be the most crucial step in the [alienation] process." (Handbook at 20.) If federal monies were used for the acquisition or development of such parkland, a federal process is triggered, as well as review under the National Environmental Policy Act and, potentially, the Endangered Species Act. Without this information, neither the Applicant nor the City will know what alienation process is required as part of the Project.

10.4

Similarly, the DEIS appears to rely upon a City proposal to use 8.25 acres of City-owned land as mitigation for the parkland to be alienated due to the Project. (III.A-28.) This is insufficient, however, as such mitigation has not been accepted by the State and indeed, as the DEIS acknowledges, the State rejected the City's prior replacement proposal.

11.1

(See ASR's comments on the Community Facilities chapter for additional comments concerning the alienation of parkland/open space.)

Mitigation is Neither Specified Nor Tailored to Impacts

The DEIS' "Proposed Mitigation" section fails to provide adequate design details to mitigate the land use impacts of placing residential/open space uses directly adjacent to industrial uses. (III.A-28.) There is no discussion, for example, as to whether the proposed setback between uses is sufficient, or whether the construction of a "screen" between Palisades Point and ASR's refinery might be appropriate.

11.2

More specifically, at page III.A-30, the DEIS purports to describe mitigation measures to address land use and zoning impacts, including a 10 foot buffer strip and 65± foot setback between Palisades Point and ASR's sugar refinery. However, the DEIS does not provide any foundation for the assertion that the strip and the setback are appropriate or useful given the juxtaposition of two 25-story apartment towers to an operating sugar refinery. In addition, the DEIS states that the height of the Palisades Point buildings is mitigated by their orientation perpendicular to the River and the amount of publicly accessible open space resulting from concentrating development in taller buildings rather than spreading it in lower structures. However, the DEIS does *not* state that the proffered mitigation comparison works only when considering 25-story towers not perpendicular to the River or when considering 436 units in low rise buildings. Indeed, the DEIS does not compare the impact that would result from shorter buildings or fewer apartments in less dense buildings, which development would be more consistent with both the RURP and the WMP.

Visual and Community Character (Chapter III.B)

General flaws

Generally, the Visual and Community Character chapter is deficient for failing to consider whether the Project has visual or community character impacts. In fact, the chapter contains no discussion of any impacts (and certainly does not identify any significant adverse impacts) yet concludes (at page III.B-29): "The landscape design of the open spaces of the Project will provide mitigation for the visual impacts of the Project." Moreover, in the single sentence devoted to discussing whether the Project building heights are out of scale with their surroundings – an obvious concern that has been voiced at the public hearings – the DEIS merely concludes (at page III.B-29): "The height of these buildings [Palisades Point,] and those at Cacace Center and River Park Center is appropriate in a downtown center...." Of course, Palisades Point is not in "a downtown center;" rather, these proposed twin 25-story towers are located along the Hudson River immediately to the north of ASR's sugar refinery. The Supplemental DEIS should focus on these impacts areas and associated mitigation.

12.2

12.1

Similarly, the Visual and Community Character chapter fails to analyze whether any impacts arise from the placement of hundreds of residents in such close proximity to ASR's industrial facility. For example, the DEIS fails to consider whether Palisades Point's proposed bulk, building type, building arrangement, or land use, all of which are substantially different from existing and No Build conditions, would cause any adverse impacts. Had such impacts been considered and identified, the DEIS should have considered mitigation, including but not limited to increasing the distance between the two uses. (See ASR's comments on the Air and Noise chapters for additional mitigation that must be considered, and see ASR's comments on the Alternatives chapter that concern alternate footprints and/or locations for the Palisades Point towers.)

Esplanade Along the Hudson River

The Visual and Community Character chapter indicates that the City Esplanade along the Hudson River (presently, ending on the north side of the Palisades Point site) will be expanded to "run[] the entire length" of the Palisades Point site's riverfront (page III.B-16) and will be wider than the existing Esplanade (Exhibit III.B-4b). There is no analysis in the DEIS whether, and to what extent, such a use would impact ASR's barge and vessel operations, or any identification of potential mitigation measures. (See ASR's comments on the Construction chapter for additional comments concerning the potential incompatibility of the proposed waterfront elements of Palisades Point.)

Natural Features (Chapter III.C)

Palisades Point Floodplain Impacts

As the landowner adjacent to the proposed Palisades Point development, ASR is concerned that the DEIS fails to consider the potential for flooding of the 25-story towers. Such flooding could threaten human life and property, and potentially result in release of contaminants (i.e., from fuel tanks or other storage in lower levels of the towers) that could impact ASR's employees and/or operations.

13.1

The DEIS declares that because all "habitable structures" at Palisades Point will have the "lowest habitable floors at elevations situated one foot above the 100-year flood elevation" construction of the Project will not result in "increased flooding" in this area. (III.C-35.) The DEIS offers no calculation, study or other factual justification for this assertion, because it is factually incorrect.

13.2

As an initial matter, the DEIS starts from the false premise that the 100-year flood elevation is the pertinent benchmark for study. With the established threat of global sea level rise and changing precipitation patterns, the 100-year flood elevation no longer provides a sufficient safety margin for determining the impacts of near-future flood events. The DEIS does not study the potential impacts of climate change on this Project or on the rest of the waterfront as a result of this Project. (See ASR's comments on the Construction Impacts chapter for additional comments relating to greenhouse gases and flooding risk.)

13.3

Furthermore, the presence of Palisades Point has the potential to exacerbate flooding in the surrounding area. While the "lowest habitable" floors of "habitable structures" on Palisades Point may be above the 100-year flood elevation, there will presumably be utilities, fuel storage, and floors for building storage and maintenance operations (and Certainly, piles and building perhaps even other uses) below the flood elevation. foundations will be situated well below the flood elevation. Flood conditions could cause the release of fuel or other stored materials into the environment. Moreover, all of these items displace existing volumes of soil, which soil currently provides stormwater and flood surge storage capacity on the Palisades Point site. When flood waters rise in this area, they would need somewhere else to go – and could contribute to flooding at ASR's sugar refinery. In addition, the Palisades Point structures could increase sheet flow runoff into the Hudson River during storm events. Because the DEIS ignores the impacts of such floodwaters on neighboring property and nearby areas, the Supplemental DEIS should address this issue by, among other things, modeling the potential for increased flooding impacts both for the proposed Project and for each proposed alternative.

"Daylighting" and River Relocation

Much of the mitigation for the creation of significant new impervious surface is "mitigated" through the "daylighting" of the Saw Mill River, especially at Larkin Plaza. The DEIS states in several places, including at page III.C-8, that the "daylighting" of the River here "is expected to reduce impervious surfaces by 35%." However, this assumption is faulty because, as the DEIS also recognizes, the Applicant has no control over the daylighting of the River at Larkin Plaza. The Applicant cannot use speculative mitigation outside of its control in an effort to offset the massive amount of new impervious surfaces being created throughout the Project area.

14.1

Stormwater

This comment letter addresses the DEIS' stormwater section elsewhere. However, as the DEIS also deals with stormwater from a Natural Features perspective, ASR addresses those aspects here as well.

The DEIS states that at River Park Center, the "total impervious area will increase by approximately 1.2-1.5 acres ... due principally to the elimination of the grassy area along Palisades Avenue." (III.C-8.) This statement conflicts with the Applicant's contention in the Stormwater chapter of the DEIS that "with the construction of the ballpark, the amount of impervious area within this portion of the Project will not increase over existing conditions." In fact, both statements are incorrect: impervious surfaces will increase by nearly 4 acres, when one counts the 2.96 acres of baseball field perched above the proposed River Park Center shopping mall, which the DEIS erroneously counts as "pervious." (III.D-11.) Regardless, the Applicant contends there will be no stormwater quality impacts on the River or its species from the River Park Center because the project will incorporate "the latest stormwater treatment" prior to discharge. (III.C-8.) Because the DEIS includes no description of what this "latest treatment" might be, the statement allows no informed consideration of the Project's impacts on stormwater.

14.2

14.3

Importantly, the Larkin Plaza "daylighting" proposal, even if it does go forward, cannot be considered in a vacuum from a stormwater perspective. When a part of a project is part of a "larger common plan of development," and is situated less than ¼ mile from other project components, it cannot be considered as a separate site from a stormwater perspective. (See NYSDEC Stormwater Manual at 17-18.) Thus, regardless of the amount of new pervious area that might be created at Larkin Plaza if that part of the Project did go forward, the Applicant cannot ignore the significant impervious surfaces it created elsewhere on the Project sites. The Larkin Plaza portion of the Project, if it does go forward, therefore cannot achieve "water quality requirements" simply by reducing impervious area (III.C-8); rather it must employ "standard" stormwater quality control measures required by the Stormwater Manual.

Flood Conditions

The DEIS contends that there are no existing known flooding conditions on any part of the Project sites. (III.C-9.) The DEIS bases that assertion on interviews of two City officials, and observations made "of the River at the River Park Center site" after a Nor'easter in April 2007. (III.C-9 to C-10.) However, whatever these two City officials may have experienced, members of the public who commented during the public hearing identified existing flooding conditions as occurring within the Project study area. Moreover, observations made on one part of the vast Project area (from Elm Street to Ann Street only) has no bearing on what is occurring elsewhere on the Project area. For example, where the River is constricted in the Flume beneath Larkin Plaza, there is no discussion of whether streets or properties were flooded during the same 7-inch rainfall; the severe erosion described in the Flume study could make such an occurrence likely. In fact, the DEIS recognizes that the Saw Mill River in other parts of Yonkers (e.g., Nepera Park) did suffer from severe inundation (III.C-9 to C-10).

Exposure to Contaminants

The DEIS acknowledges that recent sampling at the River Park Center site found soil contaminated with volatile organic compounds, semi-volatile organic compounds, metals, pesticides and PCBs all above State regulatory standards for cleanup. Surface water and sediment sampling in the Saw Mill River also revealed "elevated levels of contamination along the entire lower reach of the Saw Mill River." (III.C-17.) The DEIS concludes that the City Park Center site is not a contributor of such contaminants — and its redevelopment would thus not exacerbate the problems — because the sampling showed no discernable "trend" and because the Saw Mill River "receives little direct surface stormwater sheet flow runoff from the River Park Center Site" that could be contributing to this problem. (Id.) This is incorrect.

According to the DEIS at page III.D-3, "stormwater runoff from approximately 4.36 acres of this area ... currently drains directly to the Saw Mill River by overland flow" (emphasis added). This inconsistency undermines the conclusion that redevelopment of the River Park Center site would not mobilize additional contaminants in the Saw Mill River. The DEIS does not explain which contaminants are not of "ecological concern," or why. In any event, the DEIS fails to consider that the vast amount of new stormwater flow that will be redirected from the combined sewer system into the Saw Mill River could increase scouring of the river bottom and mobilization of sediment – sediment that contains such a significant amount of contaminants that NYSDEC has listed it as a § 303(d) impaired water body. However, the DEIS fails to undertake any analysis of this potential impact on ecology.

Consequently, the "ecological exposure pathway" assessment in the DEIS must be reworked in a Supplemental DEIS.

15.1

15.2

Palisades Point and Adjacent Hudson River Impacts

The DEIS recognizes that Palisades Point is different from the rest of the Project area due to its proximity adjacent to the Hudson River – a mapped Tidal Wetland – and devotes a separate section of the DEIS chapter on Natural Features to it. But the DEIS then states that "there are no tidal wetlands on or adjacent to the Palisades Point site." (III.C-24.) Though it later recants this statement (III.C-25), the DEIS never recognizes that not only is the Hudson River a Tidal Wetland, but the land 300 feet adjacent to it is, barring some intervening "cut-off," regulated as tidal wetland "adjacent area" by the New York State Department of Environmental Conservation ("NYSDEC"). (See 6 N.Y.C.R.R. § 661.4(b)(1)(i).) Consequently, the DEIS fails to identify or analyze the ecological compatibility of putting two 25-story buildings, with associated impervious surfaces, within adjacent area to tidal wetlands in one of the Atlantic seaboard's most important fisheries. This fishery in the "vicinity of Palisades Point" is inhabited by federally-endangered species such as the shortnose sturgeon and the Atlantic Sturgeon (a candidate species). (III.C-26.)

The DEIS downplays facts and avoids serious analysis of Essential Fish Habitat ("EFH") issues. For example, the DEIS states the Palisades Point site has been designated as EFH for "several species," when in fact the National Marine Fisheries Service has listed more than a <u>dozen</u> species as EFH species in this area. (III.C-31 to C-32.) The DEIS concludes that certain of these species – such as the winter flounder – will not actually lay eggs in the Palisades Point area because of the river bottom is too muddy. However, there is nothing in the DEIS to suggest that the Applicant performed any type of empirical study of the river bottom around the entire site or to the north where the Saw Mill River enters from Larkin Plaza. Likewise, the DEIS asserts that striped bass will not be affected by Palisades Point because they tend to "concentrate in interpier areas," and there are none on this site. Neither of these conclusions is based on empirical, first-hand observation. Contrast this with the "environmental groups" referenced in the DEIS that observed, first hand, the presence of that numerous species – including striped bass – in the Saw Mill River (notably not an "interpier area") near the Larkin Plaza site. (III.C-13 to C-14.)

The DEIS also concludes that the proposed "supplemental riprap" will mitigate any potential impacts by "provid[ing] new vertical structures that will in turn provide a larger surface area for encrusting organisms, thus providing an enhanced food source for many EFH species." (III.C-39.) Once again, the DEIS does not identify which "EFH" species would purportedly be so benefited. More importantly, the DEIS does not abide by the Scope requirement that in this Chapter the Applicant provide details of "square feet and linear feet of stream modification [and] construction methods used." (Scope at 14.) The DEIS fails to indicate how many square feet or linear feet of riprap would be installed at Palisades Point or what specific construction methods (e.g., barge placement, silt screens, coffer dams, etc.) would be used to install this new revetment. The DEIS similarly fails

16.1

16.2

16.3

to address whether the year-long shadows cast upon the new rip-rap by two 25-story buildings would have any effect on this supposed mitigation "food source."

16.4

Finally, the DEIS states that because the proposed construction at Palisades Point will be "local in scope" it follows that there will be "no direct regional impacts" to fish species. (III.C-37.) However, impacts on "Essential Fish Habitat" of endangered and threatened species can have far-reaching impacts well beyond the immediate area of a particular backhoe, pile driver or front end loader; this is precisely what makes Essential Fish Habitat "essential." Yet the DEIS devotes two sentences to this critical topic. (Id.)

17.1

Stormwater (Chapter III.D)

General

The Stormwater chapter generally contends that there will be no stormwater impacts from the Project as a whole, because a combination of infrastructure improvements and creation of new pervious areas will "divert" stormwater away from the City's combined sewer system ("CSS"). (Executive Summary, DEIS chapter I-20; III.D-10.) However, the DEIS does not identify the volume of stormwater supposedly to be removed from the City's CSS, and the DEIS' calculations of post-development peak flow rates to the CSS do not conform to the Scope and are not verifiable from the data provided. The volume of stormwater that will be added to (or removed from) the CSS is critically important to ASR because of the limited amount of capacity left remaining at the Yonkers Waste Water Treatment Plant. Any new stormwater inputs into the WWTP could limit the potential for future growth at ASR and any new commercial or industrial facilities in Yonkers.

17.2

Any additional stormwater flow into the CSS could result in limits being placed on the CSS. These factors, and the others described below, invalidates the DEIS' conclusion that there will not be any significant stormwater impacts from the Project, and require that a Supplemental DEIS be prepared.

Failure to Comply with Scope and Use of the TR-55 Model

requirement that both methodologies be utilized.

10, 25, and 100-year storm events utilizing Soil Conservation Service (SCS) TR-20 and T-55 methodology." (Scope at 15, § 3.D.) However, a review of the technical appendices (Appendix 3.C) indicates that the Applicant used only the TR-55 Methodology. (See, e.g., DEIS Appendix 3.C. "Palisades Point" at 1 ("The assessment of stormwater runoff has been based upon the Soil Conservation Service Method as described in Technical Release No. 55 (TR-55), 'Urban Hydrology for Small Watersheds'.") TR-55 is a simplified runoff model as compared to TR-20 and does not

Section 3.D of the Scope requires "Jalnalysis of existing project site conditions for the 2,

17.3

provide the same level of accuracy of existing conditions, as acknowledged by the Scope

18.1

The DEIS uses the TR-55 model to justify its contention that there will be no increase in the peak flow discharge rate coming from the Project. However, by manipulating inputs into the TR-55 model — especially the curve numbers — the model will give very different hydrograph outputs. The DEIS and technical appendices do not discuss how the Applicant selected the curve numbers and other inputs for the TR-55 model. Given the DEIS' potential inaccuracies regarding impervious surfaces at City Park Center (discussed below), there is ample reason to suspect the validity of the hydrographs presented in the DEIS. Those analyses should not be accepted by the City until a full explanation and justification of model inputs is given. It is also worth repeating that the Applicant does not appear to have also used the TR-20 model as the Scope directs. (See Scope at 15, § 3.D.) When the Applicant is required to provide the TR-20 analysis in a Supplemental DEIS, the analysis should be accompanied by equally detailed descriptions of what inputs were chosen and why. Without the appropriate "existing conditions" baseline, the DEIS' conclusion that there will be no significant stormwater impacts is unfounded.

Unjustified Conclusions Stormwater Flow Reduction in the CSS

18.2

The DEIS acknowledges that construction of the Cacace Center will increase impervious surfaces by 0.5 acres, but presumably relying on hydrographs generated using the TR-55 model, concludes that the Project would reduce peak stormwater runoff rates from Drainage Area C-2 into the CSS by between 1.5 and 3.3 cubic feet per second. (Table III.D-3.) However, as discussed above, the DEIS reaches this conclusion without using the TR-20 model required by the Scope; without identifying what inputs were used in the TR-55 model to generate these results; and without discussing why the selected inputs were chosen. Without this information, the reductions asserted by Table III.D.3 cannot be justified.

18.3

The stormwater reductions asserted in Table III.D.4 are similarly unjustified. One of the central assertions of that Table – indeed of the entire Stormwater chapter – is that the construction of River Park Center will not result in any significant stormwater impacts because "[w]ith the construction of the ballpark, the amount of impervious area within this portion of the Project will not increase over existing conditions." (III.D-11.) This assertion is incorrect. The "construction of the ballpark," which the DEIS asserts will create 2.96 acres of new "pervious" area, will occur atop a 7-story shopping center. The NYSDEC Stormwater Manual defines such a rooftop – even one that doubles as a baseball field – as "impervious cover." (See NYSDEC Stormwater Manual, Glossary (defining "impervious cover" as, among other things, "building rooftops").)

The DEIS thus underestimates by 2.96 acres the amount of impervious surfaces that will be created by construction in this area. Therefore, construction at River Park Center will *eliminate* 3.87 acres of existing pervious surface. Even if the baseball playing field were considered to be pervious, contrary to the DEIS, there is still a net loss in pervious

surfaces: pre-existing 3.87 acres pervious (Figures III.D-8 and III.D-9) and post-development 2.96 acres pervious (Figure III.D-13). While the DEIS asserts that stormwater from this area would be directed away from the CSS and into the Saw Mill River, this type of mischaracterization thoroughly undermines the conclusions in Table III.D-4 that "Post-Development Peak Stormwater Discharge Rates" would be reduced.

In any event, although Table III.D-4 gives the purported Post-Development stormwater runoff rates from various design points into the CSS, it does not *compare* those rates to the existing rates (as Table III.D-3 purports to do). And neither Table III.D-3 nor Table III.D-4 provide the alleged volumetric changes within the CSS. Accordingly, the DEIS affords no way of evaluating the stormwater volume change on the CSS from the Project, and thus no way of evaluating the magnitude of the impact those changes would have on potential future growth at ASR or elsewhere within Yonkers.

Noise (Chapter III.F)

The proposed Palisades Point development will include residential and retail structures located as close as 75 feet to the north property line of ASR's sugar refinery. In addition, proposed publicly accessible recreational space will abut the ASR property. As the DEIS fails to analyze the potential noise impacts associated with the Project, ASR retained Cavanaugh Tocci Associates ("CTA") to consider whether any such noise impacts will occur and to propose mitigation to reduce any such impacts that are identified.

In summary, and as set forth more fully below, CTA's review concludes that the DEIS fails to assess the acoustic impacts of the ASR refinery on the residential and outdoor recreational spaces proposed for Palisades Point, and does not provide a description of appropriate measures to mitigate refinery-generated noise.

The DEIS Fails to Assess Potential Sound Impacts of ASR Refinery on Palisades Point

In Section 3.F of Scope (at page 20), the Applicant committed to the following evaluation of environmental sound in the Project area:

Provide a general description of the existing noise environment. A description of the existing noise environment and discussion of existing noise generators including existing roadway traffic, Metro-North Railroad, and other uses that currently generate high levels of noise in the study area will be provided.

The DEIS purports to evaluate the impacts of Palisades Point on the nearby residential property across the Metro North railroad tracks. However, the DEIS entirely fails to consider and evaluate how ASR's noise would impact the Palisades Point development's

residential and recreational uses. This omission is material, as the DEIS identified ASR's refinery as a predominant noise source in the area:

The existing ambient sound environment in the area surrounding the proposed Palisades Point Development is comprised of local traffic, pedestrians, noise from the existing sugar refinery and train pass-bys. Traffic has the greatest influence on sound levels in this area followed by the noise influence from the American Sugar Refinery [sic] Company, Inc. Noise from the sugar refinery has the greatest influence on the closest residential area, including St. Mary's Church. The predominant sound associated with the refinery is a mechanical/exhaust sound.⁸

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
- 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.

On May 4 and 5, 2008, CTA, on behalf of ASR, conducted a survey of environmental sound at the north property line of the ASR refinery, and at various locations on the proposed Palisades Point site. Based on the results of these measurements, CTA developed estimates of ASR sound impacts at various residential and recreational locations that are on the south side of the Palisades Point development.

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

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⁸ DEIS Appendix 3.F, page 3-6 to 3-7.

20.3

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.

21.1

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.

The DEIS Fails to Specify Measures to Mitigate Noise Impacts from ASR's Refinery

Section 3.F of the Scope (at page 21) requires the Applicant to determine mitigation measures to control environmental sounds in the Project's interior residential spaces:

Determine the levels of building attenuation necessary to provide acceptable interior noise levels within new residences. New residences will be subject to ambient noise levels due to traffic and in some cases, rail noise, and other sources. At some locations, the noise generated by events in the proposed ballpark (e.g., noise generated by ballgames and concerts) could potentially affect new residences. Analyses will be prepared to describe the level of building attenuation necessary, and the measures that will be incorporated as part of the building design to ensure that acceptable interior noise levels will be achieved at all residences.

Because the DEIS does not adequately assess environmental sound impacts in the Project area (quantitatively or qualitatively), the Applicant cannot possibly formulate measures necessary to mitigate noise produced by the ASR refinery.

Rather than comply with the Scope mandate, the Applicant instead provides a brief description of generic noise controls that may or may not be incorporated in the Project's design: "Building designs and materials of construction have not been finalized at this time," and "[i]t is not clear at this time if the residential tower design will incorporate fixed windows or operable windows." (III.F-24.)

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.

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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.)

22.1

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 $65 \pm$ 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.

22.2

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 non-operable 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.

It must also be recognized that it may not be possible to achieve the noise performance standards of the City of Yonkers Noise Code for a residential use. The Project, by siting a residential/recreational use directly adjacent to a major industrial use, is contrary to usual zoning practice, which would provide for a suitable buffer between these uses. While the PUR designation allows the Planning Board to establish appropriate performance standards, the DEIS provides no analysis of the tradeoffs between mitigation and relaxed standards. As such, the DEIS fails to take the necessary "hard look" at the environmental impacts that is required by SEQRA and NEPA.

In conclusion, the DEIS' Noise chapter fails to address the potential for adverse environmental noise impacts on the residents of Palisades Point associated with sound produced by the ASR refinery. A detailed study of existing site conditions must be undertaken for the Supplemental DEIS. Once the ASR refinery's sound impacts are fully understood by the Applicant, the Supplemental DEIS can evaluate and incorporate effective sound control options into the design of Palisades Point.

Finally, to be meaningful such mitigation measures must be enforceable and made a condition of any building permit. Moreover, such conditions must be recorded against the deed so that they provide notice and are enforceable against all future owners and occupants of the Palisades Point PDR.

Air Quality (Chapter III.G)

DEIS Deficiencies

The DEIS' air quality analysis fails to adequately address the potential effect of the proposed residential development at Palisades Point on air impacts associated with the existing ASR sugar refinery. More specifically, the DEIS' air quality analysis is deficient because its modeling fails to consider the effect of the dimensions and proximity of the proposed Palisades Point towers on ASR's existing plume dispersion at locations other than the footprint of the proposed Palisades Point project. In addition, the modeling does not accurately reflect emissions and other source characteristics of ASR's refinery.

Thus, the DEIS fails to take two critical factors into account. First, the Palisades Point towers' air intakes may be positioned so as to actually draw ASR's refinery exhaust directly into the new apartments. Second, the proximity of the Palisades Point towers to ASR's refinery, and the scale of the proposed development in terms the building height (250 feet) and width compared to the existing ASR stack heights, will result in increased "downwash" of ASR stack plumes. Downwash is a distortion of ASR's present dispersion plume, which will produce higher concentrations in locations other than within the Palisades Point project's footprint that currently occur. The DEIS has not taken these factors into consideration in developing mitigation measures for the Project.

Air Modeling Undertaken by ASR's Consultant

Given the deficiencies in the DEIS' air quality analysis discussed above, ASR retained ENSR to conduct an independent analysis of the potential impacts of ASR's own sugar refinery, both on its own and assuming that the Palisades Point towers are constructed as proposed. As described more fully in ENSR's Dispersion Modeling Report in Support of Comments on SFC Yonkers Draft Environmental Impact Statement, dated May 2008 and attached hereto as Exhibit "C," ENSR evaluated the impacts from the following combustion sources at the refinery: (i) Boiler No. 3; (ii) the cogeneration power plant;

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(iii) the granulated carbon furnace; and (iv) the emergency diesel generator (a source that ASR proposed to add in an application to NYSDEC).

The objectives of the ENSR analysis were to evaluate:

- the impact of ASR's combustion source emissions upon locations on the Palisades Point towers and ground level, using correct ASR source data and proposed Palisades Point tower dimensions;
- the impact of the two proposed 25-story Palisades Point towers on the dispersion of emissions from ASR combustion sources; and
- the location on the Palisades Point towers where the plumes from ASR's cogeneration and Boiler No. 3 stacks are most likely to cause adverse air impacts, and whether locating the air intake vents on top of the towers would minimize the exposure of residents to emissions from the ASR refinery.

Conclusions of ENSR's Analysis

- 1. Construction of the Palisades Point towers will adversely impact the dispersion of emissions from (i.e., cause increased "downwash" of) ASR's cogeneration unit and Boiler No. 3, which will result in increased ground level concentrations of all pollutants emitted by these sources at locations within ASR's sugar refinery and the Palisades Point footprint, and at other locations in the community.
- 2. (The DEIS incorrectly predicted that ASR causes a National Ambient Air Quality Standard ("NAAQS") exceedance of 24-hour concentrations of sulfur dioxide ("SO₂") at one ground-level location (receptor #29, Table 10-2 of Appendix C to Appendix G.3 of the DEIS). In fact, the short-term SO₂ ground-level concentrations and highest annual ground-level concentrations associated with operation of ASR's combustion sources at maximum potential emission rates, coupled with conservative background concentrations, are predicted to be below the NAAQS under present conditions (i.e., without the impact of the Palisades Point towers).
- 3. Construction of the Palisades Point towers will cause violations of the 24-hour SO₂ NAAQS at both ground-level and elevated receptors, if ASR combustion sources operate at maximum permitted emission rates. Limiting ASR's combustion sources to firing fuel oil with the current actual sulfur content (ASR voluntarily uses low-sulfur fuel, but is permitted to use higher-sulfur fuel), or limiting the combustion sources to firing natural gas, would result in total predicted SO₂ concentrations that are below the NAAQS at both elevated and ground-level locations.

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- 4. (Maximum annual nitrogen dioxide ("NO₂") concentrations and 24-hour inhalable particulate matter ("PM₁₀") concentrations associated with operation of ASR combustion sources at maximum potential and maximum actual emission rates, coupled with conservative background concentrations, are predicted to be below the NAAQS at ground level and elevated receptor locations, both without and with consideration of the impact of the Palisades Point towers on dispersion of emissions from these sources.
- 5. Operation of ASR's refinery assuming NYSDEC approval of new combustion sources would result in total SO₂ concentrations (both at maximum and actual emission rates) that are below the NAAQS without considering the impact of Palisades Point towers on dispersion. However, the total predicted 24-hour SO₂ concentrations at both ground-level and elevated receptors are above the NAAQS for the maximum emissions case when the impact of the towers on dispersion is considered.
- 6. If the Palisades Point towers are constructed, air intake vents should likely be located on top of the towers based on the results of the dispersion modeling analysis. However, because dispersion modeling is only a tool, wind tunnel modeling should be conducted by the Applicant to confirm ENSR's dispersion modeling conclusion.

In conclusion, the construction of the Palisades Point towers will result in violation of the 24-hour NAAQS for SO₂. Palisades Point will increase air impacts both with respect to elevated receptors and ground-level receptors as a result of the increased downwash effect on ASR's existing stack plumes.

Need for Mitigation

A Supplemental DEIS must include the impacts identified by ENSR's attached study, particularly the exceedances of the NAAQS that will result from the Palisades Point element of the Project, and examine feasible mitigation including the use of wind tunnel analysis to accurately predict and design around impacts. The Applicant should then locate and/or preclude the placement of Palisades Point air intakes, terraces/balconies, and roof access accordingly. As discussed in the "Summary of Mitigation That Must Be Considered In Supplemental DEIS" section below, the City Council, as SEQRA Lead Agency, should require the Applicant to conduct such analyses prior to applying for a Building Permit for Palisades Point.

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25.2

Utilities (Chapter III.H)

General flaws

The Utilities chapter of the DEIS recognizes that the Project will require significant upgrades to existing municipal services, including water distribution, sanitary sewers and offsets required for new sewer connections. The DEIS, however, fails to indicate (i) cost estimates for the necessary improvements, (ii) who will be responsible for implementing the improvements, or (iii) the mechanism for assuring that no building permits are issued until financial resources are available and dedicated for the improvements. These failings are particularly critical for this Project, which purports that the necessary financing will be provided by Tax Increment Financing as allowed by Article 18C of the General Municipal Law.

Improper Deferral of Water Distribution Study

At page III.H-2, the DEIS observes that, "The initial and limited water modeling determined limitations in the hydraulic capacity of the existing water mains.... The City has indicated that improvements to those water mains will be required to accommodate the proposed Project and to partially improve water flow capacity to the Project sites, but that the proposed improvements preliminarily identified and listed in item 3 under "Mitigation Measures" may not be adequate to satisfy the significant cumulative increase of water demand for the proposed Project and other planned and future developments in the downtown area. The City DPW has therefore required that a comprehensive hydraulic analysis be performed to identify the improvements necessary to serve the Project and any additional and/or different improvements necessary to serve the cumulative demand from the Project and all other projected growth in the downtown. The comprehensive hydraulic analysis will be subject to the approval of the City DPW and will be part of the FEIS. Final determinations on this issue will be made based on the results of the comprehensive hydraulic analysis...." (III.H-2.)

The deferral of this critical water supply study is inappropriate and contrary to SEQRA. ASR is concerned about the availability of water for production and fire safety because its sugar refinery is located immediately adjacent to the proposed Palisades Point development. Even if the promised comprehensive hydraulic analysis is made part of the FEIS, such a disclosure will not afford ASR, the public, or the City adequate time to review this critical fire safety and water supply information. Indeed, the purpose of the FEIS is to show revisions to the DEIS in response to comments, not to introduce major and critical analyses describing the necessary mitigation associated with the Project. Allowing the continued deferral of this comprehensive hydraulic analysis would defeat the intent of SEQRA, and prevent meaningful public involvement in the evaluation of the Project. Accordingly, the Supplemental DEIS must include the comprehensive hydraulic analysis promised by the Applicant.

26.1

Sewage Deficiencies

The Westchester County Yonkers Joint Wastewater Treatment Plant ("WWTP") currently has a permitted capacity of 120 MGD a day. The average flow to the plant in 2005 was 108 MGD. (III.H-5.) In terms of average capacity, the WWTP was operating in 2005 at more than 90% of its rated capacity. Flow to the WWTP is increased during storm events such that combined sewer overflows ("CSOs") are caused, which impact surface water and could cause violations of applicable standards. Although the DEIS identifies the impact of discrete planned projects on increased sewer demand, the DEIS fails to consider projected growth due to population and development. If the sewer demand follows population growth for the area (projected in the DEIS at approximately 2% per year), the WWTP would exceed its permitted capacity by 2010.

27.1

The DEIS recognizes the critical nature of waste water capacity and has identified numerous upgrades to improve sewer capacity and reduce CSOs and stormwater discharge to the WWTP. However, as in the case of water distribution, the DEIS fails to specify cost estimates, schedule of implementation, assurance of financing, or enforcement mechanisms that would link the issuance of building permits and land transfers to a demonstration that appropriate mitigation is in place.

27.2

The DEIS also recognizes the importance of reducing demand on the existing infrastructure: "The Westchester County Department of Environmental Facilities has requested that the additional flow to the sewer system from the Project Sites be off-set by reductions in existing inflow/infiltration ("I&I") at a three-for-one ratio. As such, an I&I reduction to the existing system of approximately 1.4 million gallons per day is being sought by the County." (Appendix III, Chapter 3.H (footnotes omitted).) Although the DEIS identifies numerous improvements which purport to mitigate increased demand for sewage services, there is no link between the Project and the mitigation measures that the DEIS takes credit for. Thus, the DEIS does not provide any assurance that the mitigation will actually be implemented. ASR's sugar refinery is a significant user of sewer services and discharges approximately 200 million gallons of waste water to the WWTP per year; ASR's continued operation and potential expansion thus is dependent on the availability of waste water infrastructure.

27.3

ASR is a major water user and would be directly impacted if the required improvements in the water supply system and the waster water system were not implemented. As a City taxpayer, ASR also is concerned that the commitment of TIF revenues to the Project provide tax revenues to the City sufficient to cover the increased service demands caused by the Project. (See ASR comments on Community Facilities and Appendix I.F for comments related to the ability of TIF proceeds to pay for addition services made necessary by the Project.)

Socioeconomic Impacts (Chapter III.I)

General comments

Socioeconomic impacts of the Project in the form of indirect residential displacement due to rising rents are of concern to ASR because a large number of ASR's working-class employees live locally and could be forced to leave the area if it becomes unaffordable. In addition, many of ASR's workers rely on local businesses and institutions that could be driven out by rising commercial rents or competition generated by the Project. As explained below, the analyses of these issues in the DEIS is deficient.

Demographic and Housing Conditions

Page III.I-6 of the DEIS says that the number of housing units not protected by rent regulation cannot be determined with Census data because the Census reports buildings of five to nine units and buildings of five units or less are not rent-protected. However, it is not uncommon to examine the number of buildings of four units or less as a means of estimating the size of a population vulnerable to displacement. This analysis should not be avoided simply because of the slight complexity of the calculations required.

The same discussion states that "in the applicant's opinion, it is possible that as much as 80% of the existing stock in the Study Area is old enough to be protected and as much as 75% of housing units is in building types that would be protected." No basis is provided for these assumptions, which may greatly overstate the proportion of rent regulated housing in the study area. Given the disproportionate number of low-income residents and the deteriorating building conditions attributed to the Study Area in the chapter, it is likely that market forces, rather than rent regulation, have depressed rental values in the Study Area and allowed many low income residents to remain there thus far.

Although the DEIS refers to an influx of market-rate housing in and adjacent to the Area since 2000, no information is provided concerning recent rental values in the Study Area. This omission makes it impossible to compare recent rents in the Study Area with those provided for Yonkers as a whole, or to assess the effect that the referenced market-rate housing has had on the affordability of housing in the Study Area. Such information is vital to predicting the effects of the Project on the overall rental market in the Study Area, and should be provided in the Supplemental DEIS.

Employment and Business Profile

The definition of the Convenience Goods Trade Area as a radius within a five-minute drive of the Project (Retail Market Study, page 8) is too encompassing to properly assess competitive impacts on local convenience retail within the area immediately surrounding the Project. Many residents of downtown Yonkers cannot be expected to drive for convenience goods and services, as the DEIS itself recognizes.

28.1

28.2

Direct Residential Displacement

The description of relocation assistance for directly displaced residential tenants is extremely vague. (III.I-16.) The Applicant needs to commit to a specific relocation assistance program, or this discussion is meaningless.

29.1

Indirect Residential Displacement

The DEIS notes at page III.I-17 the cost of recently added market rate units in the Study Area, but does not state how many of these units there are or provide any analysis of the effect they have had on rents in the study area in general. Understanding these effects is critical to predicting the market pressures that may be generated by the Project, which will contain a larger number of market-rate units.

29.2

Page III.I-18 concludes that the number of new, higher income residents introduced by the Project would not be significant, although it would be nearly 8% of the total population of the Study Area. This is not an insignificant portion, particularly considering the great disparity in the projected incomes of the Project residents as compared to the median Study Area income.

29.3

See the comment above concerning assumptions about the amount of rent-protected housing in the Study Area. The DEIS provides no analysis whatsoever to estimate the size of a population vulnerable to indirect displacement.

Moreover, while minimizing the significance of the number of new, high-income

29.4

residents the Project will introduce, the DEIS fails to consider the redevelopment and upward market pressures that could be induced by the commercial components of the Project. There is no question that the Applicant's intention is that the Project will make this area of Yonkers a more attractive place for higher-income people to live, as acknowledged at page III.I-20. This will likely induce additional residential development or gentrification of existing housing stock, a possibility that the DEIS glosses over. These impacts could occur even without the substantial influx of higher income residents that the Project itself will generate.

29.5

Page III.I-19 concludes that Project-induced development would not result in displacement because the Study Area contains numerous sites that are either vacant or This conclusion seems to rely on the unlikely proposition that "underutilized." gentrification induced by this large and prominent Project would occur solely as infill. The far more likely scenario is that existing housing stock on smaller lots (which itself may be characterized as "underutilized" for the sole reason that it does not maximize development potential under zoning) will be demolished for larger, multi-lot projects such as the one under review. The Applicant says it will contribute to the refurbishment of existing housing but does not identify any specific parcels that will be the subject of such contributions or the amount it will contribute, or even represent that refurbished buildings would remain affordable through some rent-protection mechanism. It seems more reasonable to assume that as the area becomes more attractive for higher-income residents, refurbished buildings will attract those populations, at higher rents than are affordable to the majority of the existing population. Moreover, the "commitment" to refurbishing housing seems to be an acknowledgment of unaddressed significant adverse impacts; however it is not possible to assess the adequacy of mitigation for impacts that are not disclosed.

29.5

The Applicant cannot rely on already planned affordable housing initiatives, which are not identified as being in the Study Area, as mitigation of the impacts of the Project. Such initiatives have either been introduced by governmental agencies to mitigate an existing shortage in affordable units, or have been proposed by other developers to mitigate the impacts of their own projects. Reliance on already existing affordable housing units is even more unreasonable, as they are part of the baseline against which Project impacts should be assessed.

30.1

Since the DEIS does not provide any estimate of the size of the Study Area population vulnerable to displacement, it is impossible to draw an informed conclusion as to whether the 80 affordable units the Applicant intends to construct, or provide funding equivalent to, will be sufficient to mitigate such displacement. Again, the DEIS implicitly acknowledges an impact for which mitigation is required, but the adequacy of the mitigation cannot be assessed as the impact is not disclosed. Moreover, the Applicant has not identified where such units would be constructed, which may not even be within the area where the Project will induce displacement. If that is the case, these units would certainly not mitigate for a displacement impact in the Study Area.

30.2

Direct Business Displacement

Page III.I-16 describes only vaguely the relocation assistance to be provided to businesses directly displaced by the Project. No commitment is given to providing any financial assistance for relocation, including for moving costs, or rent or mortgage increases. Also, it appears that the Applicant only intends to provide relocation assistance to businesses that own the properties where they are located, as the text states that they will receive relocation assistance as part of the terms of purchase contracts. This leaves out tenant businesses that may form the vast majority of those displaced. Page III.I-22 states that much of the displaced commercial space is owner-occupied, but that is at odds with the previous sentence that says that many of the businesses are month-to-month tenants.

Indirect Business Displacement

The DEIS concludes at page III.I-24 that the retail in the Project will not compete with local convenience-type retail; however, the Project includes a 74,000 square foot grocery store. The EIS needs to analyze, at a minimum, potential competition of this grocery store on local groceries, and potential impacts on neighborhood character should local markets fail as a result of Project-induced competition. The appropriate inquiry, altogether lacking in the DEIS, is whether the Project would result in the displacement of key anchors to small commercial centers or strips, or other stores that serve to anchor an area and thus are integral to community character. Grocery stores often serve as such anchors. Notably, the retail trade analysis, while looking at a convenience goods trade area much larger than the Study Area, concluded that there was limited untapped demand for food stores in the trade area.

31.1

The DEIS ignores the potential for this large Project to make the area more attractive for more upscale businesses, thus increasing rents in existing buildings, or, more likely, inducing redevelopment with new, higher rent buildings unaffordable to local businesses.

31.2

Despite the omission of this analysis, page III.I-25 concludes that some businesses could suffer displacement as the result of increased rents. However, as in other DEIS chapters, the DEIS does not make an assessment as to whether such displacement would have a significant adverse impact on the community or if mitigation is required.

31.3

Almost 40% of employment in the Study Area, in 175 firms, is within the Health Care and Social Assistance sector. There is no analysis provided in the DEIS as to the space needs of such entities, their vulnerability to displacement, or their importance to the Study Area community or to Yonkers as a whole. Given the concentration of such entities, the fact that many of them may be very sensitive to rising rents and/or may require specific types of spaces, and the fact that they provide vital services to the community and perhaps the City, the Supplemental DEIS should provide a detailed analysis. These are often the types of entities most vulnerable to displacement from gentrification, as they may be considered undesirable to the new population while needed by the existing population.

Community Facilities (Chapter III.J)

Firefighting

Water pressure is discussed at page III.J-3, which indicates that existing fire flow conditions at the Palisades Point site are approximately 2,000 gpm at a residual pressure of 20 psi. Page III.J-22 states that improvements will be made to the water system to yield a flow in excess of 5,000 gpm at Palisades Point. But the DEIS (both in Chapter III.J and in Chapter III.H, "Utilities") fails to state whether such an improvement is satisfactory to the Yonkers Fire Department ("YFD"), or consistent with the applicable standards for the scale of the proposed development.

32.1

Page III.J-21 notes the YFD's stated concern about increased response times due to Project-generated traffic. However, the DEIS then discards this concern with a conclusory sentence that "the proposed Project includes intersection and other traffic improvements that will ease congestion in the Project area." The Supplemental DEIS must describe the specific mitigation measures proposed for whatever routes the YFD is concerned about, describe how, if at all, such measures will be implemented, and analyze how such measures will affect any increases in YFD response time.

32.2

The DEIS does not fulfill Scope's mandate to assess the future capability of the YFD to adequately protect newly-created high rise buildings. While there is a discussion at page III.J-22 of the YFD adding an additional engine company and an additional ladder company to serve the Project and other planned downtown development, the DEIS fails to specify that the planned additions will be sufficient to protect the 25-story towers planned for Palisades Point, let alone the 50-story towers at River Park Center.

32.3

At page III.J-22, the DEIS fails to explain or justify the allegedly "conservative assumption" that the Project is only responsible for 20% of the necessary costs to upgrade the YFD. The Supplemental DEIS must explain how this 20% figure was derived and why it is "conservative." Moreover, to the extent this Project – which will be the first to introduce high-rise towers to downtown Yonkers to this scale – forces the YFD to upgrade its equipment and/or personnel, the Supplemental DEIS must clarify the basis upon which the Applicant can avoid 80% of such costs by relying upon other development which may or may not be pursued or approved, and discuss whether residents of the Project's numerous high-rise towers would be put at risk because the YFD lacks adequate fire-fighting equipment.

32.4

Recreation / Open Space

Approximately 85 ASR employees live in Yonkers and, together with their families, utilize Yonkers' network of parkland, some of which is proposed to be alienated as part of the Project. We offer the following comments on the DEIS' deficiencies in describing the alienation and analyzing the mitigation therefore.

The DEIS acknowledges at page III.J-25 that parkland cannot be alienated without suitable replacement parkland being dedicated. The DEIS appears then to take credit for the City's identification of "approximately 8.5 acres of City owned land that will be dedicated as replacement park land," by stating that, with the additional Project-created 8.4 acres of open space, "together, these areas will more than compensate for the proposed loss of the parkland." This conclusory language is rife with unresolved issues. First, the DEIS neglects to identify, for each parcel of parkland to be alienated, what type of open space it is (i.e., active, passive) and what population (i.e., children, elderly) uses it; until this basic information is disclosed, the sufficiency of proposed mitigation cannot be evaluated because there is no "baseline" showing what is being lost by the alienation. Second, the DEIS fails to identify whether the 8.5 acres of "new" City-owned parkland will serve the same geographic areas and user populations of the parkland to be alienated. Third, the DEIS fails to cite the standard governing how much open space the Project must provide in order to offset either its parkland alienation or its destruction of non-park open space. Fourth, if the "new" 8.5 acres of parkland was to be dedicated independently of the Project, the Applicant cannot take credit for it. Fifth, the DEIS fails to state whether any of the 8.4 acres of open space included in the Project – such as the Sculpture Meadow already in existence at the Palisades Point site just north of ASR's refinery – was open space before the Project; the Project may only take credit for net increases in open space that it creates. Sixth, the DEIS fails to specify which proposed open spaces will be designated as City parkland, or be privately owned but publicly accessible. Seventh, for any open space to be privately owned but publicly accessible, the DEIS does not specify the terms by which such spaces will be accessible to the public; the Supplemental DEIS should indicate the hours and number of days per year that the public will have access to the open space, under what circumstances the owner can close the space to the public (for private events, etc.), how such open space will be maintained and made secure and who will be responsible for such expenses, and how the above terms will be made enforceable against the owner of such open space. Finally, because privately owned but publicly accessible open space is not a suitable replacement for alienating parkland, the Supplemental DEIS must detail which open space it is relying upon to replace the parkland to be alienated so that the Project may move forward as proposed.

(Please see ASR's comments on the Land Use and Zoning chapter for additional comments relating to parkland alienation.)

Verifying Applicant Assurances that Project Revenues will Offset Project Costs

The DEIS acknowledges at least some of the costs attributable to Project development, and suggests that nearly all of those costs be borne by the City of Yonkers through Tax Increment Financing ("TIF") and/or other Project-generated tax revenues. Even setting aside sewer and other utility improvements (which are not itemized), the Applicant proposes in the DEIS that the City pay at least \$8,021,683 in annual Project-induced costs, and \$1,960,000 in one-time Project-induced costs. Such costs include: \$1,000,000

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annually for ten additional police officers (III.J-21); \$4,761,413 annually for additional fire personnel, which amount includes 37% fringe benefits (III.J-22) (without providing any rationale or justification, the DEIS attributes only 20% of this cost to the Project); \$1,935,000 annually for school improvements (III.J-24) (of which \$672,000 is supposedly to be funded from real property tax revenue, with the rest coming from "state aid"); \$91,000 annually to increase the City Parks Department's budget by 1% (III.J-24); and \$234,270 annually for additional garbage truck personnel, which amount includes 35% fringe benefits (III.J-25). In addition, the DEIS identifies at least the following one-time Project-induced capital expenditures: \$1,800,000 for new fire department equipment (III.J-22); and \$160,000 for a new garbage truck (III.J-25).

The Project's reliance upon TIF revenues to pay for these and other Project-necessitated improvements renders the feasibility of the TIF mechanism particularly important. (See ASR comments on Utilities and Appendix I.F for additional concerns regarding TIF financing.) ASR has been operating in Yonkers since the early 1900s, and is concerned about tax rates in Yonkers increasing should the DEIS' economic forecasts concerning TIF not meet expectations. The City should require the Applicant to commit to fund any Project-induced infrastructure or other improvements to the extent that TIF financing is unable to pay for such improvements in full, and the Supplemental DEIS should make this requirement clear.

Hazardous Materials (Chapter III.L)

Prior Remediation at Palisades Point Site

The DEIS' Hazardous Materials chapter describes the remedial work undertaken at the proposed Palisades Point site following issuance of a Record of Decision in October 1999. (III.L-11 to L-12.) The DEIS states that the remedial work was completed and that all identified hazardous materials have been removed from the site. The text goes on to note, however, that "the final approval document (i.e., a Certificate of Completion ("COC")) has not been issued ... because fill soils from an adjacent Bond Act site were placed on [the] surface of the ground of the [Palisades Point] site for temporary storage." Apparently pursuant to an agreement between the Applicant and/or the City and the NYSDEC, the DEIS assures that "[t]he Certificate of Completion for Palisades Point will be issued following the relocation of the fill soils to [the ATI site]." (III.L-12.)

Because ASR's sugar refinery is located immediately adjacent the Palisades Point site, ASR is concerned about the potential exposure of its employees to the release of any residual contaminants on the Palisades Point site. The DEIS does not document its conclusion regarding why NYSDEC has not issued a COC. Accordingly, the Supplemental DEIS should state the basis for the DEIS' conclusions that: (i) all remedial work at the Palisades Point site was in fact completed to the satisfaction of NYSDEC; (ii) the placement of the fill soils on the Palisades Point site area is the only reason no COC has been issued by NYSDEC; (iii) the fill material stored on the Palisades Point site does

not contain contaminants and/or will not pose a safety or environmental threat when transported to the ATI site; and (iv) a COC for Palisades Point will be issued following the Applicant's relocation of the fill soils to the ATI site.

34.2

Construction Impacts (Chapter III.M)

General flaws in methodology

Neither the "Short Term Impacts" nor the "Mitigation" sections of the Construction Impacts chapter of the DEIS analyze the four Phase I project elements separately; instead, these sections merely discuss impacts and mitigation generally. For example, in pages III.M-7 through M-20, the DEIS acknowledges that Project construction may cause air quality, noise and traffic impacts "on the adjacent community," but fails to specify where and for how long such impacts will occur (and whether those impacts will be experienced by sensitive receptors), what equipment or operations will cause those impacts, and what mitigation will be employed by the Applicant to reduce them. In short, the DEIS fails to provide the public with adequate information regarding where construction impacts will be experienced, by whom, and for how long. This methodology is inadequate in that, by way of example, ASR cannot ascertain from the DEIS whether and to what extent the sugar refinery and its employees will be impacted by construction traffic, or fugitive dust or particulate emissions from construction equipment, generated by the construction of Palisades Point.

35.1

Condition/Replacement of Riprap Revetment

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.

35.2

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. But the DEIS fails to describe the work being proposed for the

southern portion of the revetment, or even identify whether any permits (from the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers) will be required for such work. Because of this DEIS failure, ASR has been deprived of the ability to comment on this aspect of the Project. At a minimum, the Supplemental DEIS must describe in detail the work, and identify the necessary permits, relating to any improvements in the Hudson River, including the riprap replacement.

(See ASR's comments on the Natural Features chapter for additional comments concerning the riprap.)

Unanalyzed Waterfront Improvements at Palisades Point Site

The DEIS also states, at page III.M7, 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 I.B, 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. (See ASR's comments on the Response to NYS Coastal Policies for additional deficiencies of Appendix I.B.)

Thus, the Supplemental DEIS must make clear what waterfront improvements will be undertaken as part of the Project (and identify all required permits for such work), describe the construction methods to be used, analyze whether such construction at the waterfront will impede the up-to-40-million-pound-capacity vessels making deliveries to ASR and/or pose unsafe conditions for the contemplated recreational boaters/kayakers, and analyze the impact of the waterfront improvements on other extant water-dependant uses.

Appendix 1, §1B of the DEIS also states, at page 5, that "Best management practices will be utilized during construction to minimize disturbance to coastal waters and coastline." However, the DEIS fails to set forth any description of those management practices; they should be included in the Supplemental DEIS.

36.2

36.1

(See ASR's comments on the Natural Features chapter for additional comments concerning waterfront development.)

Construction Parking

Page III.M-9 and Tables III.M-2 and III.M-3 describe numerous temporary parking lots (totaling almost 2,000 parking spaces) where construction workers will be able to park. However, as discussed above with respect to the "temporary impacts" and "mitigation" sections, the DEIS does not identify the specific temporary lot(s) to be used by workers for each respective Project element. ASR therefore is unable to ascertain from the DEIS where the Palisades Point workers will park, how they will reach such temporary lot(s) and, if such lot(s) are remote from the construction site, how they will be transported between the lot(s) and the construction site. Thus, the DEIS does not demonstrate either how, if at all, ASR will be impacted by construction-related traffic, or what specific mitigation will be put into place to relieve such impacts.

37.1

This failure of the DEIS is rendered all the more confusing by page III.M-12, which states that "a temporary worker parking lot is being arranged for the workers to park at and be shuttled to jobsites... The Applicant anticipates that 90% of all workers will utilize this remote parking. The remaining 10% will park on each site." The "Detailed Construction Sequencing" section of the chapter states that 90% of Palisades Point workers will park at the "ATI site," which consists of 260 spaces and is located about 3,000 feet north of Palisades Point, which itself has 375 spaces. (Pages III.M-29 to M-30.) If in fact a single lot is used, why are the Palisades Point workers not using the 375 spaces at Palisades Point? If they are to use the ATI site, what will the Palisades Point parking spaces be used for? Either way, these references to the use of a single remote lot appears to contradict the discussion of five remote parking lots as discussed above (and set forth on Table III.M-3).

37.2

Construction Traffic / Accessibility of Road

The DEIS estimates the number of truck trips made throughout the 24-month construction period for Palisades Point and, for months 7 through 24, indicates that "Site Access (90%) from Prospect Street Bridge." (Page III.M-30 through M.31.) The chapter acknowledges that the Prospect Street Bridge will not be completed until around month 7, so for months 1 through 6, indicates that "all site access initially from Water Grant Street." (III.M-29.) The Supplemental DEIS should indicate why the construction of the Palisades Point development cannot be deferred until after the Prospect Street Bridge is completed, so that construction traffic can use the new bridge for months 1 through 6.

37.3

Exhibit III.M-14 shows construction access not only along the road from Water Grant Street, but also, apparently, through the northern gate of ASR's sugar refinery. (Exhibits III.M-15 through III.M-17 also show such access.) There will be no access to Palisades Point construction activities through the ASR refinery; these references are erroneous and must be deleted.

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.

(See ASR's comments on the Traffic chapter for additional comments concerning the Easement.)

Construction Traffic

A review of Section III.M and the referenced sections regarding the construction impacts led to the understanding that many main streets in Yonkers will be temporarily and negatively impacted by construction of the Project. It is necessary that the Applicant quantitatively illustrate these impacts with more detail as these impacts apply to each study intersection, particularly since there will be numerous construction phases extending over a long time period. The projected traffic conditions and Levels of Service (LOS) during the expected lengthy construction period should be analyzed during both the Peak AM and PM Hours analyzed in the DEIS. In addition, existing conditions should be analyzed among the study intersections during the anticipated construction traffic peak hours. A LOS comparison should be made between the existing conditions and conditions during construction for all peak hours defined. Specific attention should be paid to the existing truck routes and how the trucks servicing other businesses in Yonkers (such as ASR's sugar refinery) may be impacted during construction.

Street closings and roadway alterations are discussed on page III.M-2. During construction associated with the diversion of the Saw Mill River, partial closings of Palisades Avenue will be required. "At the initiation of the construction, the Applicant proposes that the City make Elm Street into a two-way street instead of the current one-

38.1

way." The ASR truck route is along Nepperhan Avenue; Nepperhan Avenue is likely to be impacted by these alterations. The Supplemental DEIS should quantify the impact of these proposed roadway alterations upon major arterials such as Nepperhan Avenue, and illustrate the anticipated changes in LOS at study intersections and the effects on trucks and other heavy vehicles servicing the surrounding area.

Also on page III.M-2, reference is made to altering city bus services. "The Applicant will coordinate with Westchester County DOT regarding temporary bus routes and service during construction as it relates to one-way designations and temporary lane closures during construction." The construction truck traffic matrix referred to on pages III.M-3 and III.M-9 notes that a shuttle bus service will be available to construction workers parking in remote lots. Shuttle buses (80 per day for the duration of the construction of the Project) will run to bring approximately 90% of the construction workers from the remote parking areas to the sites. The Scope requires that the EIS quantitatively analyze potential temporary impacts to the area's transportation systems during the construction period; however, the DEIS does not provide any quantitative analysis of the impact of construction-related traffic on the study intersections. In order to analyze how these additional transportation services will impact LOS for traffic in the surrounding areas, the Supplemental DEIS should estimate the distribution of this additional construction traffic among the key intersections.

39.2

39.1

Again on pages III.M-3 and III.M-9, the DEIS mentions the volume of trucks to be servicing the construction sites; during the 30-month construction period, approximately 200-450 trucks are expected per day. Regionally, trucks are expected to come from I-87 using Yonkers Avenue, Nepperhan Avenue, Prospect Street, New Main Street, Palisades Avenue, Elm Street, South Broadway and others. This appears to be the only mention of the truck routes to be used by construction vehicles. The Scope requires that the DEIS provide a discussion of truck routes and truck traffic volume. While there is mention of a few streets that would be utilized by the Project's 200-450 construction trucks, the DEIS has not distributed these trucks along the study area streets. Determination of this distribution is necessary to understand the traffic impacts the construction would have on ASR's sugar refinery and the larger community. The Supplemental DEIS must analyze and disclose how the truck volumes are distributed among the streets, how the presence of these additional trucks impacts the LOS on the study intersections, how these trucks impact the existing truck routes utilized by ASR and other nearby businesses.

It is stated on page III.M-3, "The truck traffic matrix ... quantifies the volumes of construction vehicles that are anticipated for all three sites. It is important to note that a portion of this traffic will arrive before 7:00 AM and depart at approximately 3:30 PM. Therefore, in the Applicant's opinion, construction traffic will not impact the evening rush hour and will only minimally impact the morning rush hour after 7:00 AM." However, the addition of 200-450 daily trucks (maximum activity) to a maximum of 1,500 construction workers and 80 shuttle buses per day, along with the predicted increase in public transportation services, could have a significant negative impact on

roadway conditions both before and after the peak hours, even if some of these workers arrive a half hour before the AM Peak Hour and depart one hour before the PM Peak Hour. ASR's traffic consultant, TRC, conducted field observations in the study area on a typical weekday afternoon. TRC observed that traffic on downtown Yonkers streets during what is considered "off-peak" times is relatively high, with high volumes of school bus traffic and vehicular and pedestrian traffic between 3:00 PM and 4:00 PM. Put another way, the DEIS only evaluated peak hours, when in fact it appears that the Project's largest impact will be during non-peak hours given the infusion of Project construction-related traffic. There is no analysis provided on the impact this increase in construction related traffic during the "off-peak" times would have. A LOS comparison should be prepared by the Applicant regarding traffic during peak construction travel times.

40.1

Construction work hours are referred to on pages III.M-8 and III.M-9: "Work hours will typically be 7:00 AM to 3:30 PM." This is inconsistent with page III.M-20, where the DEIS notes that standard hours of construction will be from 7:00 AM to 6:00 PM (in accordance with Yonkers Code). If construction may continue from 3:30 PM to 6:00 PM, some construction related traffic will impact the surrounding areas during these time periods. How will this affect the traffic volumes at the study intersections during the Peak PM Hour? A percentage of the departing construction traffic that will be leaving during the Peak PM Hour must be defined and included in the requested traffic analysis of the construction period.

40.2

The DEIS estimates that, due to construction, "approximately 150 off-street merchant related parking spaces will be temporarily displaced from Project construction activity. This does not include parking along New Main Street, Palisades Avenue, and Elm Street." (III.M-12.) Relocating these parking spaces to two separate temporary parking areas will create new traffic patterns. The temporary parking areas identified by the Applicant are on Nepperhan Avenue & New Main Street and on the westerly side of Palisades Avenue just before its intersection with Elm Street. The intersection of Nepperhan Avenue & New Main Street is along the ASR truck route, and the intersection of Palisades Avenue & Elm Street is in close proximity thereto. Directing approximately 150 merchant-related parking spaces to this area will impact traffic conditions at these intersections and along Nepperhan Avenue (and thus, along ASR's truck route). The traffic impacts related to these pattern changes were not illustrated; their effects need to be studied and illustrated in the Supplemental DEIS.

40.3

Construction Traffic – Impact of Utility Work

On page III.M-13, the DEIS discusses the improvements needed to upgrade existing utilities that will service the Project. Improvements to the water, sewer and power lines in the affected area will impact traffic flow as roadway conditions will temporarily change. "New water and sanitary sewer lines will be provided in the streets about the Project Area, including New Main Street, Nepperhan Avenue, Palisades Avenue, Elm

Street, Waverly Street and Maple Street. New storm drains will also be provided in these streets and others, including Yonkers Avenue. Refer to DEIS Appendix TIF Feasibility Study and Preliminary Plan for Municipal Redevelopment, Appendix E. The construction activity with each affected roadway will involve street closings, excavation of trenches, delivery of new pipes, and removal of old pipes, backfilling trenches, use of metal plates where needed, repaving streets and traffic control. The DEIS ignores the details of these temporary impacts. The above-mentioned Appendix E does not discuss how and for how long these roadways will be affected by Project improvements, or how transportation and congestion brought about by the utility work will impact LOS and ASR truck routes, particularly at the study intersections.

41.1

Construction Traffic – Road and Intersection Improvements

"The closing of a relatively small portion of Guion Street near its intersection with New Main Street will have an anticipated impact on the existing properties along that roadway. See Section III.A of this DEIS for details. The impacts include the construction impacts associated with the creation of a turnaround, the proposed two-way circulation and removal of off-street parking." (III.M-14.) Other road and intersection improvements were listed as follows:

- 1. Construction of a new bridge to Palisades Point (Prospect Street Bridge);
- 2. Installation of a landscape median along Nepperhan Avenue in the vicinity of both the Cacace Center and River Park Center sites;
- 3. Provision of additional turning lanes at certain intersections, such as Nepperhan Avenue and Elm Street and Nepperhan Avenue with Broadway;
- 4. Realignment of the intersection of Waverly Avenue and Nepperhan Avenue as part of the major access to River Park Center; and
- 5. Improvements to the Saw Mill River Parkway ramps.

According to the DEIS, "[m]itigation will include efforts to maintain safety and ensure traffic flow with one lane open whenever possible, use of metal plates with flagmen and/or police provided to help ensure traffic flow."

Some improvements and alterations to the area's roadways and intersections will have long term impacts on traffic patterns and temporary negative impacts on LOS. During construction, LOS of the affected intersections will worsen. In particular, the construction of Prospect Street Bridge will affect ASR's secondary access point which is currently located along Water Grant Street. The installation of a landscape median along Nepperhan Avenue in the vicinity of the Cacace Center and River Park Center sites, the addition of turning lanes at Nepperhan Avenue & Elm Street and Nepperhan Avenue and

Broadway, and the realignment of the intersection of Waverly Avenue and Nepperhan Avenue will have a direct impact on the ASR truck route (located along Nepperhan Avenue at these locations) during construction. The Applicant maintains that these activities will have a temporary negative impact on traffic and that there will be an attempt to mitigate these impacts. While suggestion of negative impacts and mitigation measures were made, specific details were not disclosed to the public regarding exactly how much the LOS would decline and for how long. If not properly phased and managed, the extensive off-site utility and roadway work could bring downtown Yonkers to a complete standstill during the peak hours and for extended off-peak hours as well. Much more information should be provided by the Applicant regarding this very large and complicated Project so that these impacts can be better defined and mitigation measures recommended.

41.2

Blasting

Pages III.M-16 through M-18 of the DEIS describe the Applicant's blasting protocol. Although the DEIS is silent on this point, four power generators at ASR's sugar refinery — which equipment is located immediately adjacent to the Palisades Point site — incorporate vibration monitors that automatically shut down the generators if certain vibration thresholds are exceeded. The Supplemental DEIS should describe appropriate mitigation in the event blasting is necessary at the Palisades Point site and the Applicant is unable to ensure that ASR's applicable vibration thresholds will not be exceeded. Such mitigation should include, for example, the Applicant's commitment to schedule such blasting only during those weekends when no operations are scheduled at ASR's refinery.

42.1

Consideration of Climate Change and Associated Flood Risk

The consideration of climate change and greenhouse gases ("GHG") should be included in the Supplemental DEIS. That analysis is required in terms of the cumulative impacts of a proposed action and the impacts of climate change on that proposal.

It is axiomatic that impacts of the environment on a proposed action must be considered in an EIS, under both NEPA⁹ and SEQRA. With regard to the effect of the Project on GHG, such impacts fall within the rubric of cumulative impacts. For example, the Court of Appeals for the Ninth Circuit, in Center for Biological Diversity v. National Highway Traffic Safety Administration, 508 F.3d 508 (9th Cir. 2007), invalidated CAFÉ standards for light trucks because the agency's analysis of the cumulative impacts of GHG emissions was inadequate. The Court stated that "[t]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impact analysis that NEPA requires." Id. at 550. See also Mid States Coalition for Progress v. Surface Transp. Bd., 345 F.3d 520 (8th Cir. 2003) (rail line expansion project should have

⁹ The Applicant acknowledges at page 6 of the Scope that its EIS must comply with NEPA.

Comments of American Sugar Refining, Inc. on SFC Draft Environmental Impact Statement

considered the effects on air quality of the reasonably foreseeable increase in coal consumption associated with the project).

SEQRA also requires that the impacts of a proposed action on GHG be considered. See 6 NYCRR § 617.9(b)(5)(iii)(a) (EIS should include "reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts"). See also 6 NYCRR § 617.9(b)(5)(iii)(c) (EIS should include "any irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented...").

Despite these requirements, the DEIS contains no discussion whatever on this subject – it discusses neither the effect of climate change on the Project's construction and operation, nor the Project's effect on GHG emissions. Rather, the DEIS contains a few paragraphs of vague assertions of the Applicant's "interest" in efficiency and sustainability, with no analysis of, let alone commitments to, GHG issues. (DEIS pages VII-1 to VII-2.) (See ASR's comments on the Other SEQRA Chapters chapter for additional comments regarding GHG impacts.) These failings must be remedied in the Supplemental DEIS.

It is now accepted science that global warming will cause a rise in sea levels and increased elevations and frequencies of storm surges. The Project Applicant should not need any citations to recognize this fact. NEPA requires federal agencies, in preparing EISs, to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences...." 42 U.S.C. § 4332(2)(A). This includes the requirement to take account of the current state of the sciences. See Aberdeen & Rockfish R.R. Co. v. Students Challenging Regulatory Agency, 422 U.S. 289, 295 n.2 (1975); City of New Haven v. Chandler, 446 F. Supp. 925, 928 n.2 (D. Conn. 1978).

There is relevant information pertaining to the implications of climate change in the area of the proposed Project. For example, the July 2007 Northeast Climate Impacts Assessment, Confronting Climate Change in the U.S. Northeast, discusses the anticipated effects of climate change on the New York region. There is also data regarding storms and related flooding in the New York area, including the Metro New York Hurricane Transportation Study by the Federal Emergency Management Administration, the U.S. Army Corps of Engineers, the National Weather Services and the NY/NJ/CT State Offices of Emergency Management (1995) and the study entitled Climate Change and a Global City: An Assessment of the Metropolitan East Coast Region (2000).

But the DEIS discusses none of these (or any other) studies relevant to the ramifications of climate change in the metropolitan New York area. The Palisades Point development, which is located along the Hudson River, could be significantly impacted by flooding attributable to sea rise and increased frequencies and elevations of storm surges attributable to global warming. The Supplemental DEIS must study this issue, and its impact on the design, construction, and operations of Palisades Point.

In addition to failing to consider the impacts of climate change on the Project, the DEIS fails to address the Project's impacts – in both the construction and operational stages – on GHG emissions.

The Supplemental DEIS should include a quantified assessment where feasible (and otherwise a qualitative assessment) of predicted GHG emissions and energy consumption, both direct and indirect, from both construction and operation. For example, for the construction process the EIS should include GHG emissions from the manufacture and transport of construction materials. This assessment would include, at a minimum (i) a qualitative analysis of the extent to which building products would be environmentally preferable, and (ii) a quantitative analysis of GHG emissions from construction activities and the transportation of building supplies to Project work sites.

For the operational stage, illustratively, there should be a quantitative projection of direct and indirect GHG sources, including direct emissions from combustion processes (e.g., HVAC systems) and indirect emissions from the power source(s) associated with each element of the Project.

The EIS should also include a description and evaluation of a range of reasonable emission reduction measures that would reduce GHG emissions, including measures with regard to technology, scale, design or use, and the ramifications of such measures with regard to GHG emissions. Mitigation measures discussed should include specific building efficiency design measures, which should be assessed using U.S. EPA's Energy Star program, and/or other energy efficient design standards. ¹⁰

There can be little doubt that climate change/GHG emissions is a relevant subject that should be considered in the EIS prepared under either NEPA or SEQRA. This is demonstrated by the Final Scope for a Supplemental EIS recently issued by NYSDEC as lead agency for the proposed Belleayre Mountain Ski Center and Modified Belleayre Resort at Catskill Park, which addresses this issue in detail. (A copy of relevant pages of the Belleayre scope (for the proposed Ski Center) is attached hereto as **Exhibit "D."**)

In sum, the DEIS is inadequate for its complete failure to address the relevant and important subject of climate change and GHG emissions.

Environmental Remediation

The "Environmental Remediation" section of the DEIS' Construction Impacts chapter (pages III.M-12 to M-13) fails to analyze, let alone recognize, any environmental remediation that might be necessary at the Palisades Point site. See ASR's comments on the Hazardous Materials chapter.

¹⁰ For example, PlaNYC set the goal to reduce greenhouse gas emissions by 30 percent below 2005 levels by 2030, codified as New York City Local Law 55.

Significant Adverse Impacts That Cannot Be Avoided (Chapter IV)

General flaw in DEIS methodology

This two-page chapter, which supposedly identifies unavoidable adverse impacts caused by the Project, reveals one of the major flaws of the entire DEIS: taken as a whole, the DEIS document entirely fails to identify, analyze, or mitigate adverse impacts.

Despite the fact that the chapter is titled, "Significant Adverse Impacts That Cannot Be Avoided," the text nonetheless states: "Although there are no significant adverse impacts that have not been avoided or mitigated, this Project certainly will affect the environment, revitalizing large segments of downtown Yonkers." (IV-1.) This is not only confusing, but contradictory. Accordingly, a Supplemental DEIS must be prepared to discuss and/or identify, at a minimum: (i) each significant adverse impact to be caused by the Project; (ii) whether each such impact can be avoided by, for example, an alternative design or construction approach; (iii) how each remaining impact is proposed to be mitigated; and (iv) if no mitigation is possible, why not.

By way of example, the chapter addresses "shadow impacts," which purportedly were "outlined" in the Visual and Community Character chapter. (In fact, no such impacts are analyzed or otherwise described there.) The text then calls out "the greatest potential impact" at Palisades Point as being the shadows on the Hudson River in the morning of every day of the year. (IV-2.) Notwithstanding the fact that these impacts were never discussed in the Visual and Community Character chapter, this chapter on "Significant Impacts That Cannot Be Avoided" does not describe how or why those shadows would create an impact. Of course, although the DEIS makes no mention of this in any chapter, the shadows could adversely impact the tidal wetlands along the Hudson River shoreline, as well as aquatic organisms living therein.

As reflected in ASR's comments above, a Supplemental DEIS is necessary so that the Applicant can analyze – on a chapter-by-chapter basis – the impacts that its Project might cause, and then propose appropriate mitigation. Only then will the Applicant fulfill its obligations under SEQRA and NEPA, and offer the public and City decision makers the ability to evaluate the Project.

Traffic

Page V-1 of the DEIS generally notes construction-related impacts on the areas surrounding the Project. Construction vehicle trips are mentioned as a direct impact from construction; these increases in traffic are stated to include "delivery and export of construction related materials and debris and construction worker vehicles would be generated throughout the Project. The number and types of vehicles would vary depending on the construction phase." Because traffic impacts associated with construction are determined to be unavoidable, temporary significant impacts, the

Supplemental DEIS must provide an expanded discussion of effective mitigation measures that will be implemented to minimize these impacts.

Alternatives (Chapter V)

Chapter V of the DEIS, "Alternatives," is critically flawed. The omissions, inaccuracies and inappropriate methodology essentially convert this critical chapter into an argument that the City must accept the "Project" as proposed by the Applicant. The critical flaw is most readily apparent with respect to the grossly insufficient alternative study for Palisades Point. Courts generally find that this approach vitiates an EIS, as the alternative analysis is the "linch-pin" of a properly-prepared EIS.

46.1

SEQRA requires each EIS to contain "a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor." (6 N.Y.C.R.R. § 617.9(b)(s)(v).) Thus, the "No-Build" analysis (V-1) "assumes that the sites under study will remain in their current state." However, this is flawed because the alternative analysis does not look at the inevitable growth in the city as indicated in the DEIS' identification of planned projects or projects actually under development. This is readily evident in the analysis for Palisades Point, which consists of land in the public domain and could be used for the continued residential development or for public amenities ("each of the design options for Palisades Point represents a continuation of the emerging pattern of multi-family housing and publicly accessible open space...." (V-22; see also III.A-17.)

The Palisades Point alternative study is particularly flawed because of its primary assumption that the Applicant must have 436 residential units. (V-6, V-21.) This assumption can be readily seen in the fact that three of the alternatives utilize 436 units. No explanation, analyses or other basis exists for this assumption. The 436-unit assumption therefore improperly skews the alternative analysis to demonstrating the desirability of the proposed high density configuration. This apparent absence of rational choice is also illustrated by the charts of comparative "selected impact factors," which show no difference between the Palisades Point development and proposed alternatives. (Tables V-7 and V-8, at page V-31 to V-32.)

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While SEQRA alternatives must reasonably be consistent with the Applicant's general objective, that objective cannot be defined as a specific and inflexible number of units that presumably only has something to do with the Applicant's desired economic return. The Applicant, however, has provided no basis for requiring a specific number of units at Palisades Point. If the Applicant in fact has an economic justification for this conclusion, the Supplemental DEIS must disclose that underlying economic basis. In doing so, the Applicant must account for the entire Project, not just the Palisades Point element, as the DEIS acknowledges that the overall action is related. Even if building 436 units will (presumably) optimize the Applicant's desired economic return, practicable alternatives must be identified and considered in the Supplemental DEIS.

Of the four alternative options to the proposed two 25-story towers with 436 units, the first two 30-story tower alternative is discarded as the "straw man" it is apparently intended to be. The Applicant next proposed two alternatives that have lower buildings but retain 436 residential units. The fourth alternative has fewer units but lower buildings to expand the floor plate, thus consuming open space. However, the DEIS provides no comparison among the alternatives, except the amount of open space which in turn is keyed into a particularly "bulky" alternative scenario. This alternative review does not comply with the mandate that "[t]he description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternative discussed." (6 N.Y.C.R.R. § 6.7(b)(5)(v).)

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By positing 436 units, the Applicant is able to manipulate floor plates that decrease the potential for open space as the height of the building is reduced to conform with objections to tall towers on the waterfront. Alternatively, the tower structures could be reduced in height, and open space preserved if the residential density of the towers were reduced. Development of residential structures of lesser density are not compared to existing plans for the development of the Yonkers waterfront. (See ASR's comment in Land Use and Zoning chapter concerning the WMP's "Scenario B," which proposes non-residential (recreational) use and limited residential use for the Palisades Point site.) The Yonkers waterfront Master Plan calls for six- to nine-story buildings and extensive open space. (III.A-15.) Similarly, the Draft Local Waterfront Revitalization Plan recommends buildings up to 10 stories and extensive open space. (III.A-15 to A-16.) Accordingly, the 436-unit proposal is not only improperly compared to itself, but it ignores recent relevant planning documents. Both SEQRA and NEPA require the preparation of a more vigorous alternative analysis.

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It follows that the Alternatives chapter must be republished in a Supplemental DEIS with reduced residential density in tower configurations. The revised alternatives analysis must set forth any economic premise relied upon by the Applicant to reject any alternative as unfeasible or inconsistent with the Applicant's objective, including those alternatives consisting anything other than exactly 436 units. (See above comment on this point.) Indeed, the DEIS contains no discussion of the Applicant's economic considerations while formulating the Project. Thus, the Applicant's acquisition price for these publicly owned parcels, if established, is not readily apparent, and the rudimentary TIF financing discussion offered as a DEIS appendix is not related to the Alternatives study.

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Totally absent from the Alternatives analysis is an examination of the physical relation of the Palisades Point structures to ASR's existing industrial facility immediately adjacent to the southern border of Palisades Point. Indeed, the future Palisades Point residents no doubt will want to be buffered from ASR's sugar refinery. However, the Alternatives chapter gives no consideration to configurations or site lay out that would maximize such buffering, which should include mitigation and/or avoidance of air, noise, traffic and

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visual impacts. For example, there is no discussion in the Alternatives chapter of the reasonable alternative of massing the Palisades Point towers at the northern end of that site, as opposed to placing the towers in an almost adjacent proximity with the sugar refinery's structures. The illustrations of Alternative "F" (Exhibits V-11 and 12) reflect the massing of residential units on the southern border of the Palisades Point site.

Nor is there a discussion of alternate configurations that would include plantings and/or parking structures that would act as a buffer between the proposed high-end residential dwelling units and ASR's refinery.

The foregoing demonstrates that the Alternatives analysis must examine lower residential densities, and configuring buildings so that open space need not be traded off against height and/or bulk. In addition, the revised Alternatives analysis must explicitly consider ASR's existing sugar refinery so as to mitigate or avoid air, noise, and traffic impacts created by siting high-end residential towers next to an existing industrial facility.

Other SEQRA Chapters (Chapter VII)

The DEIS devotes less than one-and-one-half pages to a "study" of the "effects on the use and conservation of Energy Resources." (VII-1 and VII-2.) These few paragraphs contain no analysis of the effect of climate change on the Project's construction and operation, or on the Project's effect on greenhouse gas emissions. Rather, this text merely states such vagaries as the Applicant's use of low-water plants for landscaping, and the Applicant's "interest" in "pursuing" efficient HVAC systems. As discussed in ASR's comments on the Construction chapter, the DEIS is insufficient under both SEQRA and NEPA. The Applicant must prepare a Supplemental DEIS to remedy these blatant deficiencies.

Response To New York State Coastal Policies (Appendix I.B)

General

The Scope obligates the Applicant to analyze "New York State coastal consistency, including consistency with the City of Yonkers draft Local Waterfront Revitalization Plan (LWRP) and New York State Coastal Policies." (Scope at 9.) The Applicant has failed to abide by this requirement.

Palisades Point lies within New York's Coastal Zone, as established by the Coastal Zone Management Act of 1972 ("CZMA") § 1455(d)(2)(A), and implemented by 19 N.Y.C.R.R. Part 602. The DEIS states that while the City of Yonkers has a draft LWRP, it "does not have an approved [LWRP] for the Hudson River." (I-11; III.A-15 to A-16.) Therefore, the DEIS correctly acknowledges, "any State or federal permits which may be required for the construction of Palisades Point or the waterfront esplanade and related

improvements will require Coastal Management consistency review and determination by the New York State Department of State." (I-11.)

While the Applicant purports to provide a "Response to NYS Coastal Policies" in Appendix I.B of the DEIS, even a cursory review demonstrates that this is much too superficial to constitute an adequate response. The State of New York has 44 distinct "Coastal Policies," each with numerous sub-parts, ranging from "Development Policies" to "Fish and Wildlife Policies" to "Flooding and Erosion," "Water and Air Resources," and "Wetlands," to name only a few major topics. The purported "Response" addresses a grand total of 12 – less than one-third of those adopted by the State.

The few policies the "Response" does claim to analyze are not the "NYS Coastal Policies" at all – they are policies from the *draft* Yonkers LWRP. Even these responses are cursory and, in many cases, irrelevant to the Policy allegedly being addressed. As one notable example, the Response to Policy 1.2(b), which is apparently intended to analyze how the Project "ensures that development or use make beneficial use of their coastal location" in terms of "water-enhanced uses," states: "to the south of Palisades Point is the American Sugar Refinery [sic] plant, an existing industrial use. Landscaping and proposed parking are provided to buffer the residential development and public open spaces." (Appendix I.B. at 2.) This response, even if assumed to be true, fails even to mention consistency with "water dependent uses." (See ASR's comments on the Construction chapter for additional comments concerning the potential incompatibility of the proposed kayak launch at Palisades Point.)

In sum, the "Responses" fall far short of the Scope's mandate that the DEIS address "New York State coastal consistency, including ... New York State Coastal Policies." (Scope at 9.) The Applicant must provide a complete response to all of New York's Coastal Policies in a Supplemental DEIS.

Tax Increment Financing (Appendix 1.F)

The Project relies upon TIF, as discussed in the Executive Summary of the DEIS and Technical Appendix 1.F, to finance the public investment as well as the upgrades to the infrastructure to mitigate the Project. This reliance renders the feasibility of TIF particularly important. However, Appendix 1.F, the TIF Feasibility Study, does not include "Attachment E," which purportedly is intended to be a detailed schedule of the application of the financing; without this schedule, the feasibility of TIF cannot be ascertained. Although the detailed schedule is supposed to be provided as part of the FEIS, that is too late in the process to permit meaningful review and public participation.

Similarly, Table III.I-60 ("Summary of Annual Fiscal Impacts, Proposed Development") appears to be in error. When total projected tax revenues are adjusted for the taxes to be allocated to pay the TIF bonds, the figures listed under Balance of Revenues projected to

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be available to the City, do not add up. There also is no explanation of the calculation of tax amounts allocated for TIF bonds. (III.I-83.)

Moreover, the Supplemental DEIS must clarify who – the Applicant or the City – is responsible for paying for Project-related construction and mitigation costs if the TIF revenues are insufficient. (See ASR's comments on the Socioeconomic chapter for similar comments relating to Project financing.) The payment of the TIF bonds is dependent on payments to be made by the developer, (Technical Appendix 1.F, Appendix D, Schedule XIII: Projected Payment of Debt Service) but there is no discussion of the financial capability of the developer or the nature of the contractual commitments.

There are additional omissions that need to be addressed for the City Council to have a basis to evaluate the use of TIF bonds for this Project. These include the following:

• A statement from the City's Corporation Counsel or Bond Counsel that the proposed application of TIF is consistent with New York State law or with the covenants and restrictions relating to currently-outstanding debt;

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- An opinion from the City's financial advisor or underwriter that TIF bonds can be sold under current market conditions, and the coupon that would be required to finance the required debt. This opinion should also address whether any credit enhancement, such as municipal bond insurance, would be required to sell such debt and, if relevant, whether insurance would be available; and
- An opinion from the City's financial advisor or underwriter regarding whether the issuance of TIF bonds would have any adverse impact on the City's general credit rating and/or the cost of future borrowing by the City.

(See ASR comments on Utilities and Community Facilities for additional comments related to the sufficiency of TIF financing.)

Traffic and Transportation Study (Appendix 2)

Project Description and Location

In this Traffic and Transportation Study, an insufficient description of the Palisades Point development is presented. The description should include the provisions for vehicular access through the site with particular attention paid to the preservation of the Easement and access for the adjacent ASR property. This access Easement must be maintained both during and after construction of Palisades Point; the Supplemental DEIS should describe how this will be accomplished. Furthermore, it is not clear how the proposed Prospect Street Bridge will impact the Easement and access to the ASR property, or if access to Prospect Street from the Easement will be available.

Study Area

The Scope requires the DEIS to describe the existing roadway volumes and road system, including road and right-of-way widths, on-street and off-street parking, one way designations and traffic controls. While the existing lane geometry and type of traffic control for each of the intersections are illustrated, the descriptions of the roadways found in the text fail to indicate the one-way streets. A description of existing on/off street parking could only be located in the parking study (Appendix 2.M; Section A). The road and right-of-way widths are only provided for eleven "primary roadways." ASR requests that Table 1: Road and Right-Of-Way Widths illustrate all (40+/-) roadways included in the analyses and that designated truck routes be identified as well. This description should include the route used by ASR trucks through the study area between the ASR facility and the New York State Thruway (I-87). A map showing the ASR truck route is attached hereto as **Exhibit "E."**

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The Scope requires a capacity analysis for all project site driveways. driveways were analyzed, but no analysis was found regarding access to the Palisades Point site. Capacity analysis should be provided for the Palisades Point site driveway (Build Condition). The Scope also required that the Applicant "conduct one week of Automatic Traffic Recorder ("ATR") counts at three locations in the study area." The machine count data provided for three intersections did not satisfy this requirement. The John Collins Engineers counts conducted on Nepperhan Avenue between Elm Street and Waverly Street were conducted for just under a week (Friday, June 16, 2006 at 12:00 PM to Tuesday, June 20, 2006 at 2:00 AM). The two other ATR counts included in Appendix G were obtained from NYSDOT and only provided count data for three and four day intervals. The ATR count conducted on Riverdale Avenue between NYC Line and Warburton Avenue was conducted from Tuesday, May 25, 2004 at 8:00 AM to Friday, May 28, 2004 at 12:00 PM. The ATR count conducted on Warburton Avenue between Ashburton Avenue and Dock Street was conducted from Monday, September 20, 2004 at 1:00 PM to Wednesday, September 22, 2004 at 1:00 PM. In order to satisfy the Scope, three full weeks of ATR counts must be performed as specified. This information should be provided in the Supplemental DEIS, and can be used to examine other hourly volumes on key streets along the ASR truck route in order to establish conditions impacted by the Project, but not typically considered "peak hours." This is particularly true in the afternoon from approximately 2:00 P.M. to 4:00 P.M., when a very busy downtown Yonkers street system must accommodate a surge of school bus traffic, transit bus traffic, truck traffic, base traffic volumes and new traffic generated by the proposed development.

School Related Traffic

The DEIS notes that as population changes, bus routes and bus pick up / drop off locations also change. In the Executive Summary of the DEIS (page I-31), an approximation of 196 school age children are expected to be generated by the 1,386

dwelling units constructed. "Similar school bus operation will continue under Future No-Build and Build Conditions." (Page 18 of the Traffic Study) The DEIS fails to recognize that an increase of 196 students will generate an increase in school bus ridership and vehicular traffic during the peak school traffic hours. Public School 10 and St. Mary's School are located in the immediate vicinity of the development sites. (See Exhibit III.J-

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1) In particular, the intersection of Prospect Street and Riverdale Avenue could be greatly impacted during peak school traffic hours; this location is along the ASR truck route. The Supplemental DEIS must: (i) analyze how the increase in traffic due to the increase in students will affect traffic along ASR's truck route during the peak school hours; (ii) quantitatively distribute these future students to the local public and private schools and the traffic impacts of the addition of these buses and vehicles during the Peak AM and PM Hours; and (iii) address the impact of the Project-generated traffic on pedestrians traveling to and from school.

Emergency Services

Ensuring that the City can continue to provide adequate emergency services to any injured or ill ASR employees is of critical importance to ASR. The DEIS partially addresses the Project's traffic impact on emergency services. This section discusses current and future operation of the firehouse and the installation of a pre-emption device at the intersection of Nepperhan Avenue and New Main Street. While the installation of this device will increase safety conditions at this intersection, the DEIS fails to fully analyze the firehouse relocation's impact on traffic conditions. The additional police and emergency services that will be required by the Project will generate additional traffic that therefore must be quantified, distributed to the roadway network and analyzed. Moreover, the Scope requires that the DEIS include an assessment of the Project's traffic impact on emergency services (e.g., fire station ingress and egress). Any increase in delay times caused by such additional traffic will increase the response time for emergency personnel, and this difference must be quantified and analyzed.

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Year 2012 No-Build Traffic Volumes

The Scope states that the background growth rate should be calculated in consultation with the Westchester County Department of Planning. The DEIS indicates a flat 1% growth rate per year was applied to all intersections, but ASR is unable to ascertain how the 1% background growth rate was determined, or whether any consultation with the Westchester County Department of Planning took place.

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The Scope further requires that the Applicant "provide a detailed list and backup material for all No-Build projects (including proposed No-Build roadway improvements and project, e.g., Con Ed M29 Project) included in the traffic analysis." A complete list of adjacent developments obtained by the Applicant from the City of Yonkers was provided in the study (Appendix C). The DEIS then states, "Based on a review of this list and discussions with the City, due to the size and /or distance from the study area certain

developments were included as part of the total background growth of 6%." (Page 20 of the Traffic Study) ASR requests that the Supplemental DEIS include documentation of the discussion with the City which led to the conclusion that 5% is a justified growth factor for these adjacent developments, as well as a detailed trip generation or a distribution of the trips generated for each of the adjacent developments.

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Moreover, the Supplemental DEIS should identify access points to these adjacent developments, and analyze them. Trip generation for each adjacent development of substantial size should be calculated and distributed to the roadway system. This type of detailed analysis will more clearly illustrate the future traffic conditions. In order to conduct a thorough review of the impact associated with the identified adjacent developments, the Supplemental DEIS needs to provide the location of access points, trip generation calculations/methodology and trip distribution information for each of the noted developments.

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Project Generated Traffic Volumes

Because the DEIS does not make information regarding project traffic volume easily accessible, ASR cannot determine the accuracy of this information. ASR requests that a model/technique be provided illustrating the development of the Project traffic volumes and how it impacts the study locations.

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The DEIS indicates that the amount of trips to be generated by the Project was estimated using trip generation rates obtained from the Institute of Transportation Engineers ("ITE") *Trip Generation Handbook*, 7th Edition. The DEIS also noted a 30% reduction in trips taken to account for mass transit usage, trips internal to the site, and pass-by trips. (Page 22 of the Traffic Study.)

The Supplemental DEIS should justify the usage of a flat 30% credit across all of the development sites. A mass transit credit appears justifiable; the Metro-North railroad and Westchester Bee Line bus system provide mass transit service to the area. Is the 20% mass transit credit – which is the bulk portion of the 30% total credit – appropriate for the Cacace Center, a hotel and office development? A credit for internal trips can be given to the River Park Center; this type of development can be considered a multi-use development according to ITE's Trip Generation Handbook, 2nd Edition (at chapter 7). On the other hand, the Cacace Center (hotel and office) and Palisades Point (primarily residential) would not qualify for this type of credit. Please provide justification for the internal capture rates used for "interplay" for each development site. percentage that is given as credit for internal trips should be provided, and should represent the size and type of development within the site where such internal trips would Pass-by trips are defined in the ITE Trip Generation Handbook, "...as intermediate stops on the way from an origin to a primary trip destination." (Page 29 of the Traffic Study) While it may be argued that a pass-by trip credit is justifiable for the retail destinations at the River Park Center (i.e., someone passing by the area might stop

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at a store on the way to another location), pass-by credit is not appropriate for trips to the residential, movie theatre, office space or hotel destinations at River Park Center, Cacace Center, or Palisades Point. Please provide a breakdown of the pass-by credit allocated to the development sites. ASR is concerned that an overly-optimistic or inappropriate reduction in trip generation will result in an underestimation of potential project impacts at key intersections along ASR's truck route and at the adjacent Palisades Point site.

Year 2012 Build Traffic Volumes

The Applicant classified the area type of a majority of the intersections in the HCS Analysis as Central Business District ("CBD") under both Existing and No-Build Conditions and then removed this classification in the Build Analysis. According to the Highway Capacity Manual 2000 ("HCM"), an area type can be classified as either a "CBD or similar" or "Other;" with a default of Other. CBD or similar should be coded if the area exhibits many central business district characteristics, such as narrow streets or sidewalks, frequent parking maneuvers or vehicle blockages, abundant taxi/bus activity, small radius turns, limited use of exclusive turn lanes, high pedestrian activity, dense population, mid-block curb cuts, etc. Although this classification may be justified for a few intersections at Getty Square, it does not seem appropriate to assign to the majority of the intersections as the Applicant has done. Pedestrian counts were performed at select areas which may qualify as similar to a CBD due to the high pedestrian activity. In these cases, the HCS analyses should have selected "other" as the area type, then input specific parameters such as the information obtained from the pedestrian counts, truck percentages and on-street parking characteristics; this would provide more accurate results in the analysis. The information regarding pedestrian volumes and heavy vehicle percentages at these intersections was available to produce a more accurate analysis. At certain intersections, a CBD classification is not applicable based on the definition of a CBD according to the HCM. Classifying intersections as CBD allows the HCS to make adjustments to parameters which may affect Levels of Service results. Removing this classification in the Build scenario enables improvements to Levels of Service without actually providing any mitigation measures. Please provide a justification of the change of area type from "CBD or similar" in the Existing and No-Build conditions to "other" in the Build condition. ASR is concerned that an inappropriate use of an analysis parameter - such as the CBD area type - will result in an underestimation of potential project impacts at key intersections along the ASR truck route.

Pedestrian Activity

The Scope required pedestrian counts and analysis at key Getty Square locations, the train station, post office, recreation per and other locations where a significant increase in pedestrians may occur. In Appendix D, the Pedestrian Count Data was provided for some intersections at these key locations. Due to the potential pedestrian traffic impact from the proposed development TRC advises that additional intersections be included in the pedestrian analysis. Pedestrian counts should also be performed at South Broadway

and Hudson Street, Main Street and Palisade Avenue, and Palisade Avenue and Locust Hill Avenue. The Applicant referred to Exhibit 18-3, Pedestrian Level-of-Service, which was obtained from the Highway Capacity Manual. This exhibit displayed levels of service associated with pedestrian flow rates. This information was provided in metric units and appeared to be converted to customary units by the Applicant. When these conversions were compared to the Highway Capacity Manual (HCM) version using U.S. Customary Units, the conversions did not match. For example, the LOS A provided by the Applicant corresponds with a pedestrian flow rate of less than or equal to 24 pedestrians per minute per foot; the HCM (U.S. Customary Units) LOS A corresponds to a pedestrian flow rate of less than or equal to 5 pedestrians per minute per foot. The pedestrian flow rate of 24 pedestrians per minute per foot corresponds to a LOS F in the HCM. Please provide clarification of the conversion method used. ASR is concerned that an inappropriate use of an analysis parameter – such as pedestrian activity – will result in an underestimation of potential project impacts at key intersections along the ASR truck route.

Summary of Mitigation That Must Be Considered In Supplemental DEIS

The distinguishing aspect of SEQRA is its requirement to impose mitigation measures on significant adverse environmental impacts. However, experience indicates that a lead agency's imposition of critical mitigation measures may not be realized due to events subsequent to the lead agency's publication of SEQRA findings requiring the imposition of such measures.

For example, mitigation measures relating to design and construction can be lost during the time lapse between publication of the findings and actual construction; this may be due to inadvertence, lack of adequate public staffing to review building plans, or the substitution of alternative plans to meet some exigency, real or feigned, that has developed since the findings were published. Similarly, mitigation measures that are dependent on the action of other public bodies may never be realized due to the independence of those agencies, thus frustrating the obligation of the lead agency. Another variation on this problem is the potential differences that arise between an applicant and the actual builder and/or owner of a project over the formulation of conceptual development plans and actual construction. Perhaps the most basic problem is a municipality's limited administrative resources to monitor and enforce conditions imposed by the municipality's legislature.

The immense Project now before the City of Yonkers presents even greater difficulties in insuring effective mitigation measures due to the almost premature nature of the DEIS before the City Council. Thus, the DEIS informs that Palisades Point details, as the type of windows or the location of the air intakes, are not possible to provide because the Applicant has not begun the Palisades Point design phase. ASR further understands that the Applicant was allowed to wait to undertake certain infrastructure studies until after the submission of the DEIS, and that even at this late date that study has not been

completed. (Please see ASR's comments on the Utilities chapter concerning the impropriety of deferring critical infrastructure studies until the FEIS.)

By deferring the fundamental impact analyses and subsequent consideration of mitigation options, the DEIS fails to satisfy SEQRA or NEPA requirements; as discussed above, this failure (among others) should be cured in a Supplemental DEIS. But no matter what SEQRA process ultimately is required, unless the City Council imposes upon the Applicant mechanisms to ensure not only the consideration but the implementation of mitigation measures that are tailored to the Project's impacts, there is a very real possibility that ASR's sugar refinery and the proposed Palisades Point development will not be able to co-exist for long.

Accordingly, the City Council, as Lead Agency, should include as part of its SEQRA findings mitigation measures that contain built-in enforcement mechanisms. example, mitigation measures relating to the construction of Palisades Point should be enforced by requiring the Applicant to demonstrate to the City Council that the development plans conform to the imposed mitigation measures before submission of an application for a building permit. This requirement is illustrated by the ASR comment indicating that air intakes on the Palisades Point towers - which would draw ASR's exhaust plumes directly into the towers' residential space if improperly placed – cannot be located until such time as the building design is subject to a wind tunnel study. The Applicant should also be required to satisfy ASR's other comments on Palisades Point's impact on the sugar refinery's air and noise emissions prior to filing for a building permit for the Palisades Point development. For example, non-operable windows must be considered at points on the towers that will be impacted by dispersion plumes, and balconies/terraces must be proscribed if they would contravene applicable air quality standards. Similarly, acoustic glazing and balcony location for the towers must take into account noise impacts from the railroad and industrial uses. (See ASR's comments on the Air and Noise chapters.)

Similarly, the Applicant should be required to build out the supporting infrastructure prior to offering residential units for sale, and this and related requirements should be imposed through a deed declaration. The form of such a deed declaration should be attached to the City Council's SEQRA Findings, coupled with the requirement that the deed declaration be filed as part of any land transfer to the Applicant or against any property presently owned by the Applicant and intended for utilization in this Project. Deed declarations have long been used to enforce mitigation measures imposed by municipalities, and it is particularly appropriate in the instant application due to the transfer of public property to a private, for-profit enterprise.

Finally, a deed declaration would be particularly appropriate to protect the City's interest in maintaining ASR's sugar refinery in its present location. Implicit in the DEIS is the fact that placing "high-end" condominiums and/or below-market housing in juxtaposition with an existing industrial facility sows the seeds for future conflict that could be visited

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upon both the City and ASR. As previously indicated, ASR does not oppose such changes in the waterfront provided that new development like Palisades Point does not jeopardize ASR's ability to remain a vibrant Yonkers employer and refiner of sugar.

Appropriate deed declarations should be filed against the Palisades Point parcels reflecting that all purchasers of property interests therein (i.e., condominium units) are aware that: (i) the adjacent property is dedicated to industrial use for the indefinite future; (ii) such industrial use may be expanded or modified in the future; (iii) such uses involves the generation of noise, air emissions, maritime operations, truck and other vehicle traffic, as well as an industrial configuration that may be deemed inconsistent with residential dwelling; and (iv) purchasers of condominium units take their interest subject to ASR's existing or expanded industrial uses.

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More specifically, the Final Environmental Impact Statement and City Council's SEQRA Findings must incorporate full mitigation measures to protect ASR's ability to continue to operate its sugar refinery on the Yonkers waterfront. ASR's sugar refinery has been on the Yonkers waterfront since the early 1900s, and likely will be a presence there long after the time that the Applicant exits the area. Therefore, the mitigation efforts that become part of the FEIS should be enforceable by ASR. Accordingly, the FEIS and the SEQRA Findings by the City Council should require that:

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- 1) the Community Development Agency impose in any deed, lease, easement or other instrument conveying an interest in title in and to the parcel and improvements related thereto, mitigation restrictions and covenants requiring the mitigation measures discussed below, said restrictions and covenants to run with the land and bind those who own or acquire by any means an interest in title in and to the parcel; and
- 2) as a condition precedent to any issuance by the City of Yonkers of any site plan approval or building permit for the Palisades Point portion of the Project, that the Applicant enter into an agreement with ASR and the City of Yonkers that will impose mitigation covenants and restrictions on that property, said mitigation covenants and restrictions to run with the land and bind those who own or acquire by any means an interest in title in and to the parcel.

The mitigation covenants and deed declarations should cover, at the very least:

- Construction materials and designs to mitigate noise concerns, air intake issues, and air quality issues, particularly wall composition, windows, balconies, and air intake and air handling unit locations, with respect to the Palisades Point open spaces, the Palisades Point buildings in general, and the Palisades Point residential units in particular;
- Restrictions to ensure that the ASR easement through the Palisades Point site is not affected by construction or by post-construction operations;

- Restrictions on the location of recreational access to the Hudson River; and
- Inclusion in the appropriate legal, sales and marketing documents of the following information in order to provide that prospective Palisades Point purchasers and/or tenants understand the disclosure and agree to take subject to the terms and conditions, and agree not to commence any complaints or litigation with respect to them, as disclosed therein (such documents might include the contract of sale, a deed, shares of stock, proprietary lease, offering documents, and assignments of proprietary leases):
 - That an operating sugar refinery exists on the adjacent property;
 - That air emissions emanate from the sugar refinery, including detail on the pollutants;
 - That noise emanates from the sugar refinery;
 - That odors emanate from the sugar refinery;
 - That dust emanates from the sugar refinery;
 - That the sugar refinery operates around the clock, with occasional times off:
 - That there will be activity on the Hudson River associated with the sugar refinery, including the unloading of raw sugar;
 - That there will be truck traffic on neighboring streets that is associated with the sugar refinery;
 - That the sugar refinery has ingress and egress rights to and from its refinery over the Palisades Point site; and
 - That the sugar refinery may expand its activities and increase its operations within the site, thereby increasing the above-referenced or other impacts.

For avoidance of doubt and subsequent slippage, it is both useful and customary for the Lead Agency to include in its mitigation findings that these enforceable mitigation measures be reiterated in the subsequent Development Agreement.

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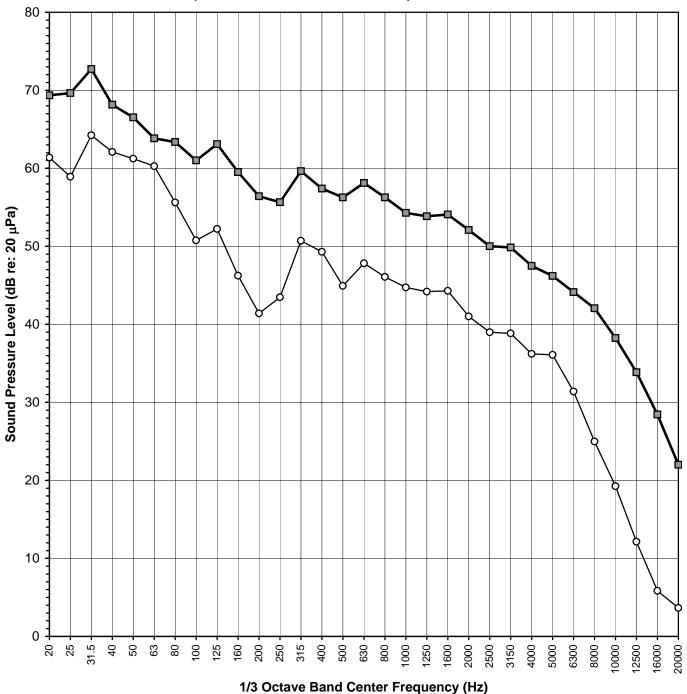
ASR has no further comments on the DEIS, and looks forward to reviewing a Supplemental DEIS to be prepared by the Applicant.

Respectfully submitted,

Daniel Riesel

ASR Sound Levels at Residential Locations

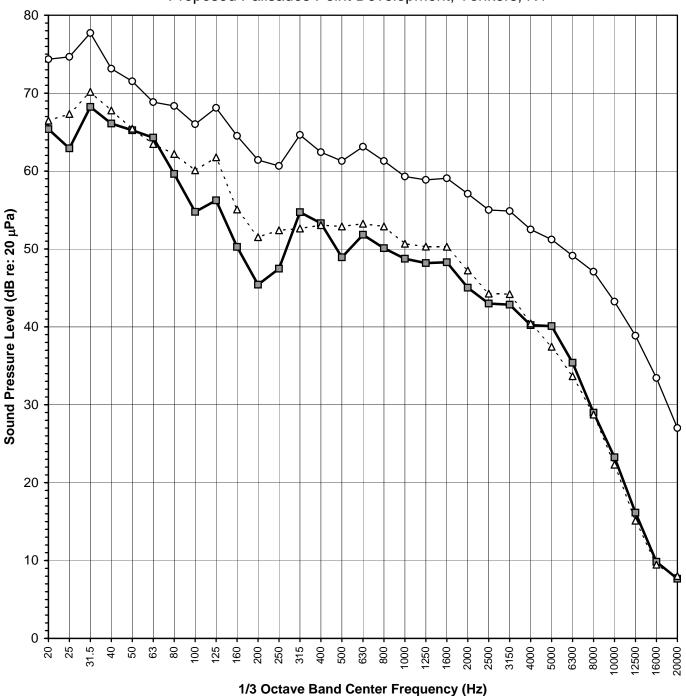
Proposed Palisades Point Development, Yonkers, NY



- ---South Facing Windows of 5 story Residential/Retail 65 dBA
- -O-South Facing Windows of 25 Story South Tower 55 dBA

ASR Sound Levels at Outdoor Recreational Locations

Proposed Palisades Point Development, Yonkers, NY



- Roof Garden Above 3 Story Parking Garage 60 dBA

 —O—Public Open Space SW Corner Site 70 dBA
- - - - - Kayak and Canoe Launch 62 dBA

Prepared for: American Sugar Refining, Inc. Yonkers, NY



Dispersion Modeling Report in Support of Comments on SFC Yonkers Draft Environmental Impact Statement

ENSR Corporation May 2008

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1.0 Introduction

The Draft Environmental Impact Statement (DEIS) that was prepared in support of the SFC Yonkers Project contained a report (Appendix C to Appendix 3.G of the DEIS) summarizing the results of a dispersion modeling analysis that included an evaluation of the impact of emissions from American Sugar Refining's (ASR's) plant in Yonkers at the proposed Palisades Point project site. Figure 1-1 shows the location of the ASR plant; the proposed Palisades Point towers are located just to the north of the plant. An evaluation of that report identified a number of errors and incorrect assumptions regarding ASR plant source data. In addition, the DEIS analysis did not evaluate the impact of the proposed 250-foot towers on dispersion of emissions from ASR plant sources. These errors and omissions raise uncertainties regarding the conclusions of the DEIS study as well as the recommended mitigation measures.

ASR has retained ENSR Corp. to conduct a dispersion modeling analysis in support of comments to the DEIS. The objectives of this independent analysis are to evaluate:

- the impact of ASR's combustion source emissions upon locations on the Palisades Point towers and ground level using correct ASR source data and proposed Palisades Point tower dimensions;
- the impact of the addition of the two proposed 250-foot Palisades Point towers on the dispersion of emissions from ASR combustion sources; and
- the location on the Palisades Point towers where the plumes from ASR's cogeneration and Boiler No.
 3 stacks are most likely to cause adverse air impacts and whether locating the air intake vents on top of the towers would minimize the exposure of residents to emissions from the ASR refinery.

The analyses undertaken for ASR by ENSR were conducted in accordance with NYSDEC's DAR-10 dispersion modeling guideline and USEPA Guideline on Air Quality Models (GAQM; as incorporated in Appendix W of 40 CFR Part 51). The most recent version of DAR-10 and GAQM adopt AERMOD as a preferred general purpose (flat and complex terrain) dispersion model. This is the same dispersion model that was used in the DEIS modeling analysis.

American Sugar Domino Sugar Refinery's Plant Boundary Refining Location of American Sugar Refining's Domino Sugar Refinery in Yonkers, NY **ENSR AECOM** Hudsgr Queena Richmond Queer Scale Kilometers 0.05 0.3 0.1 0.2 0.4

Figure 1-1 Location of the ASR Plant Relative to the Proposed Palisades Point Towers

2.0 Model Selection and Application

The suitability of an air quality dispersion model for a particular application is dependent upon several factors. For this study, the following selection criteria have been evaluated in selecting the appropriate dispersion model:

- stack height relative to nearby structures,
- ability to model concentrations at elevated receptors,
- dispersion environment,
- local terrain, and
- availability of on-site or representative meteorological data.

The following subsections discuss each of these criteria.

2.1 Good Engineering Practice Stack Height

Good engineering practice (GEP) stack height is defined as the stack height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes or eddy effects created by the source, nearby structures or terrain features. In a setting where the close-in terrain is considered simple, the GEP stack height is calculated as the height of nearby structures plus 1.5 times the lesser dimension of the height or projected width of the nearby structures. The GEP height was determined using the USEPA Building Profile Input Program (BPIP-PRIME) that performs the GEP calculation for a multi-building complex on a stack by stack basis.

The ASR plant is comprised of a complex mixture of buildings, silos, and other structures that impact the dispersion of emissions from the combustion sources and, to a greater extent, from the process particulate matter sources. GEP stack height calculations for the existing modeling scenario were conducted for the ASR combustion sources based on building dimensions developed from plant drawings as augmented by a site visit. (In contrast, the building dimensions used in the DEIS study were approximated using Pictometry software and available oblique imagery. As a result, the DEIS analysis is less accurate than ENSR's analysis as described below.) Building dimensions for the proposed 250-foot towers were added to this database to evaluate the impact these tall structures would have on dispersion of emissions from the ASR sources. The BPIP-PRIME input and output files are provided in Appendix A. The maximum calculated GEP stack height for each ASR combustion source is provided in Table 1-1 for both the existing (without Palisades Point towers) and future (existing plus Palisades Point tower) modeling scenarios.

2.2 Dispersion Environment

The land use within a 3-km area surrounding the ASR plant was determined to be urban for the DEIS modeling study based on the Auer procedure (Auer, 1978). This procedure is not consistent with current NYSDEC or USEPA guidance; however, in this instance, both procedures resulted in a determination of an urban environment.

2.3 Terrain

The USEPA modeling guidelines require that the differences in terrain elevations between the stack base and model receptor locations be considered in the modeling analyses. For dispersion modeling purposes, there are three types of terrain:

 simple terrain – locations where the terrain elevation is at or below the exhaust height of the stacks to be modeled;

- intermediate terrain locations where the terrain is between the top of the stack and the modeled exhaust "plume" centerline (this varies as a function of plume rise, which in turn, varies as a function of meteorological condition);
- complex terrain locations where the terrain is above the plume centerline.

Based on a review of U.S. Geological Survey (USGS) topographical maps, the terrain within the study area (3 km) is a combination of the three terrain types for the ASR combustion stacks. However, the DEIS only modeled impacts at receptors located within the footprint of the Palisades Point project where the terrain is of the first category (i.e., simple) and ignored impacts at other locations in other areas where the terrain is of the second and third categories (i.e., intermediate and complex).

2.4 Representative Meteorological Data

If at least one year of hourly on-site meteorological data is not available, the application of a refined dispersion model requires five years of hourly meteorological data that are representative of the project site. In addition to being representative, the data must meet quality and completeness requirements per USEPA guidelines. The DEIS modeling study used a five-year (2002 – 2006) pre-processed meteorological data set provided by the NYSDEC consisting of hourly meteorological observations from LaGuardia International Airport and concurrent upper air observations from Brookhaven, NY. The DEIS conducted an evaluation to determine if the LaGuardia Airport surface data were representative of the Palisades Point site. While the approach used to determine the representativeness of the data is not consistent with current USEPA/NYSDEC guidance, ENSR concurs that the LaGuardia Airport data are the best available for this modeling analysis. As such, ENSR's modeling analysis used the same meteorological data that was used for the DEIS modeling study.

2.5 Dispersion Model Selection

The USEPA GAQM and the NYSDEC DAR-10 prescribe a set of approved models for regulatory applications for a wide range of source types and dispersion environments. Based on a review of the factors discussed above, the latest version of AERMOD (07026), the AERMET (06341) meteorological preprocessor, and the AERMAP (06341) terrain preprocessor were used to assess air quality impacts for the ASR plant.

2.6 Application of AERMOD

AERMOD was applied with the five years of meteorological data from LaGuardia Airport to assess air quality impacts for all receptors in the modeling domain to assess air quality impacts for the ASR plant. In addition, it was assumed that 75 percent of the emitted NOx converts to ambient NO₂ per USEPA's GAQM. The development of the receptor grid with AERMAP and the manner in which AERMOD was used to generate the "design" concentrations for the different pollutants are discussed below.

2.6.1 Terrain and Receptor Data Processing with AERMAP

Ground Level Receptors

A comprehensive Cartesian receptor grid extending to approximately one kilometer (1 km) beyond the ASR plant boundary was used in the AERMOD modeling to assess maximum ground-level pollutant concentrations. These ground level receptors were spaced 70 meters apart to ensure the maximum distance separating each receptor (including diagonals) was no more than 100 meters per USEPA and NYSDEC guidance. In addition, discrete receptors were placed approximately every 50 meters along the ASR plant fence-line. The 2,310 meter by 2,730 meter receptor grid was more than sufficient to resolve the maximum ground level impacts for ASR sources. Figure 2-1 shows the location of the elevated receptors.

Terrain elevations from Digital Elevation Model (DEM) data acquired from U.S. Geological Survey (USGS) were processed with AERMAP to develop the receptor terrain elevations and corresponding hill height scale required by AERMOD. All of the DEM files are from UTM Zone 18 and are referenced to Datum NAD83.

Elevated Receptors

The DEIS modeling analysis included elevated (or "flagpole") receptors placed on the rooftops of the proposed Palisades Point buildings, and at appropriate heights (in 50-ft increments) at the southwest corner of each of the proposed 25-story residential towers, and at locations representative of building air intakes, open windows and/or balconies. Compliance with the NAAQS must be evaluated at viable ambient air locations. NYSDEC and USEPA policies do not consider open windows, building air intakes, or rooftops to be ambient air locations because such locations are not accessible to the general public (see Appendix B). However, balconies (where occupants can stand outside of the building) and roof-top garden or exercise areas are considered to be ambient air. As such, receptor locations 21-23 and 32-34 (the 250-ft level of the two Palisades Point towers) listed in Table 5-1 of Appendix C to Appendix III.G of the DEIS are not ambient air for NAAQS compliance purposes unless these areas become common roof areas accessible for use by residents.

ENSR included the DEIS elevated receptors in the ASR modeling analysis. The spacing on the face of the towers was decreased to 25 feet to facilitate an evaluation of plume impaction on the towers from ASR combustion sources. In addition, even though the receptors at the top of the two towers are not considered ambient air, they were included as part of the evaluation of the impact of ASR combustion source emissions on the proposed location of the air intake vents.

2.6.2 Averaging Periods

Dispersion modeling was conducted for short-term and annual averaging periods consistent with those of the applicable NAAQS. The following "design values" were used for comparison with the applicable NAAQS.

Sulfur Dioxide (SO₂)

- 3-hour and 24-hour averages: The short-term NAAQS are not to be exceeded more than once per year at any given location. At each receptor and for each year of the five-year modeling period, the highest 3-hour and 24-hour concentrations were obtained from the AERMOD output. The highest of these second-highest (HSH) concentrations was then used for the NAAQS compliance demonstration, consistent with USEPA guidance. (The modeling study for the DEIS used a single five-year meteorological dataset instead of five individual years. Their design value was second-highest concentration at each receptor over the five year period. This means that the modeling could be showing violations where none exists.)
- Annual average The annual NAAQS is not to be exceeded more than once per year at any given location. The highest annual concentration for each modeled year was obtained from the AERMOD output, and the highest of these annual maximum concentrations was selected as the design value for comparison to the NAAQS, consistent with USEPA guidance. (The modeling study for the DEIS used the maximum 5-year average concentration. This value is lower than what is obtained using USEPA guidance.)

Nitrogen Dioxide (NO₂)

 Annual average – The approach used to determine the maximum annual SO₂ concentration was used to determine the maximum annual NO₂ concentration, consistent with USEPA guidance. (The modeling study for the DEIS used the maximum 5-year average concentration, which is a lower value than obtained using USEPA guidance.)

Inhalable Particulate Matter (PM₁₀)

24-hour average - The 24-hour NAAQS for PM₁₀ is in the form of an expected exceedance value, which cannot be exceeded more than once per year on average over a three year period for purposes of attainment demonstrations. Per USEPA guidance, Modeling demonstrations of compliance with the PM₁₀ NAAQS are based on the High-N+1-High value over N years, or in the case of five years of

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NWS meteorological data, the High-6th-High (H6H) over five years. (The modeling study for the DEIS also used this approach.)

Table 2-1 Summary of GEP Stack Heights for ASR Combustion Sources

		Maximum G	EP Height (ft)
ASR Source	Actual Stack Height (ft)	Existing Case (without Palisades Point Towers)	Future Case (with Palisades Point Towers)
Boiler No. 3	150	390	625
Cogeneration Unit	70	335	620
Granulated Carbon Furnace	100	370	616
Emergency Diesel Generator (proposed)	15	377	377

Legend American Sugar Refining Receptors Receptors Used in Modeling for American Sugar Refining's Domino Sugar Refinery in Yonkers, NY Plant Boundary **ENSR AECOM** Kilometers 0.2 0.4 8.0 1.2

Figure 2-1 Location of Ground Level Receptors Used in the ASR Dispersion Modeling Analysis

3.0 Source Data

Modeling was conducted for existing combustion sources at the ASR plant. Additional modeling was conducted to evaluate the short-term impact of SO₂ emissions associated with the existing sources plus the proposed addition of three boilers and an emergency generator at the plant. (An annual impact analysis was not conducted for this future case since the maximum annual concentrations for the existing sources were well below the NAAQS.) The basis for the source data used in the ASR modeling analysis is discussed below and in Appendix C.

3.1 Existing Plant Operations

There are three existing combustion sources at the ASR plant that were included in the ASR dispersion modeling analysis:

- Boiler No. 3 (165 MMBtu/hr),
- Cogeneration unit (combustion turbine [58 MMBtu/hr] and a supplementary-fired duct burner [109 MMBtu/hr]), and
- Natural gas-fired granular carbon furnace (5.78 MMBtu/hr).

The DEIS modeling analysis included Boiler No. 3 and the cogeneration unit, as well as an emergency diesel generator (EDG) located at Building #6. The EDG should not have been included in the modeling analysis because it has been removed from the site. The natural gas-fired granular carbon furnace is not a significant source of emissions. As such, including it in the DEIS modeling analysis would not have significantly altered the modeling results. However, it was included in the ASR modeling analysis for completeness.

Boiler No. 3 and the cogeneration unit fire both natural gas and No. 2 fuel oil. NYSDEC regulations limit the sulfur content of the fuel oil to 0.37% by weight; however, the actual sulfur content of the No. 2 oil used at the Plant is 0.2%.

Source data were developed based on Title V permit limits, stack test data, and engineering judgment. Two emission scenarios were evaluated for the short-term averaging periods: maximum potential and maximum actual. Short-term averaging periods are those lasting 24-hours and less. Similarly, two emission scenarios were evaluated for the annual averaging period: maximum actual (or maximum potential if there is an annual emission cap) and average actual. Note that the DEIS did not conduct modeling for maximum actual short-term emissions or average actual annual emissions. Tables 3-1 and 3-2 provide the source data used in the ASR modeling analysis for the short-term and annual averaging periods, respectively. The derivation of the source data for these two scenarios is discussed in Appendix C. Appendix C also provides a comparison of the two data sets.

3.2 Future Plant Operations

On April 5, 2006, ASR submitted an application to modify its Title V permit to include three new boilers and an emergency diesel generator (EDG) as follows:

- Boiler #1 Riley boiler rated at 80 MMBtu/hr,
- Boilers #6 and #7 Cleaver Brooks boilers each rated at 28.6 MMBtu/hr, and
- Caterpillar 3516 DITA engine rated at 1600 kW and 2288 brake-horsepower (bhp).

Boiler # 1 is currently onsite and decommissioned; it would be rehabilitated for operational use. The EDG would be operated only for routine maintenance and testing and for emergency purposes for a total of no more than 500 hours/year. The exhaust from the proposed Boilers #1, #6, and #7 would be manifolded to the

existing Boiler No. 3 stack. Boiler No. 3 would remain onsite and operational. There would be no changes to the cogeneration unit.

The new boilers would be capable of firing natural gas, No. 2 oil and No. 6 oil, while the EDG would fire only No. 2 oil. NOx emissions from the new boilers and the EDG would be limited to 22.5 tons/yr. In addition, the total NOx emissions from Boilers #1, #3, #6, and #7, the cogeneration unit, and the EDG would be limited to 274.5 tons/yr (same as the current cap for Boiler No. 3 and the cogeneration unit).

The results of the dispersion modeling analysis for the existing operating scenario presented in Section 5 show that the short-term SO_2 average concentrations associated with ASR source emissions were the highest relative to the NAAQS. In addition, modeling for PM_{10} shows that the maximum concentrations associated with ASR emissions are a relatively small fraction of the total predicted concentrations for these pollutants. Furthermore, the ASR plant would still be subject to the same annual NOx cap for the future operating scenario. The dispersion modeling analysis for the existing operating scenario showed maximum annual NO_2 concentrations that were well below the NAAQS for all receptor scenarios. For these reasons, dispersion modeling for the future case scenario was limited to the short-term SO_2 averaging periods.

Source data for the future case for Boiler No. 3 stack and the EDG were developed based on a combination of data provided as part of the Title V permit application, specifications obtained on Caterpillar's website for the EDG, and engineering judgment. Table 3-3 provides the source data for the Boiler No. 3 stack and the EDG stack for both the maximum potential and maximum actual emissions scenarios. The derivation of the source data is provided in Appendix C.

Table 3-1 ASR Source Data Used in the Short-term Dispersion Modeling Analysis for Existing Sources

		Boiler	· No. 3	Cogenera	ation Unit	J	r Carbon nace
Parameter	Units	Maximum Potential	Maximum Actual	Maximum Potential	Maximum Actual	Maximum Potential	Maximum Actual
Stack height	feet	1	50	7	0	10	00
Diameter	feet	1	0	3.8	333	1.3	333
UTM-X	meters	592258.540		592221.360		59218	34.230
UTM-Y	meters	45316	00.020	4531626.060		45315	41.290
Base elevation	ft msl	8	.5	4.1		3	.3
Exit velocity	ft/sec	14	.05	80	.04	13.49	
Exit temp.	°F	27	70	28	38	100	
SO ₂	lb/hr	62.82	33.96	63.17	34.15	0.0034	0.0034
PM ₁₀	lb/hr	2.75	2.75	2.51	2.51	0.84	0.04

Data are for No. 2 oil firing for Boiler No. 3 and the Cogeneration unit and natural gas firing for the Granular Carbon Furnace. See text for derivation of emission rates and flue gas exit velocity/temperature

Table 3-2 ASR Source Data Used in the Annual Dispersion Modeling Analysis for Existing Sources

		Boiler	· No. 3	Cogenera	ation Unit	0 0 0	r Carbon nace
Parameter	Units	Maximum Potential	Maximum Actual	Maximum Potential	Maximum Actual	Maximum Potential	Maximum Actual
Stack height	feet	15	50	7	0	10	00
Diameter	feet	1	0	3.8	333	1.3	333
UTM-X	meters	592258.540		592221.360		59218	34.230
UTM-Y	meters	45316	4531600.020		26.060	45315	41.290
Base elevation	ft msl	8	.5	4	.1	3	.3
Exit velocity	ft/sec	13.09	9.84	80.04	66.43	13	.49
Exit temp.	°F	245	245	285	285	1(00
NOx	lb/hr	38.88	5.43	23.79	9.78	0.45	0.16
SO ₂	lb/hr	2.28	0.84	2.65	1.24	0.0027	0.0010
See text for deriva	ation of em	ission rates ar	nd flue gas exit	velocity/tempe	erature	•	•

See text for derivation of emission rates and flue gas exit velocity/temperature

Table 3-3 ASR Source Data Used in the Short-term SO₂ Dispersion Modeling Analysis for the **Proposed Boilers and Emergency Diesel Generator**

Parameter	Units	Boilers #1, #3, #6, #7 ⁽¹⁾	Emergency Diesel Generator ⁽¹⁾
Stack height	feet	150	15
Diameter	feet	10	0.667
UTM-X	meters	592258.540	592208.130
UTM-Y	meters	4531600.020	4531396.880
Base elevation	ft msl	8.5	6.6
Exit velocity	ft/sec	28.44	15.35
Exit temp.	°F	295	955
SO ₂ – Maximum ⁽²⁾	lb/hr	115.93	6.85
SO ₂ – Actual ⁽³⁾	lb/hr	62.66	3.70

⁽¹⁾ Maximum operating capacity and maximum potential emission rates based on No. 2 oil firing for Boiler No. 3, No. 6 oil firing for Boilers #1, #6, and #7, and No. 2 oil firing for the EDG

⁽²⁾ (3) Based on a maximum allowable fuel oil sulfur content of 0.37%

Based on an actual fuel oil sulfur content of 0.2%

4.0 Background Air Quality Data

Representative background concentrations were added to the modeled results to obtain an estimate of total concentrations for comparison to the NAAQS. The background concentrations, which account for the impact of emissions from other non-modeled sources, were derived from ambient monitoring data collected by NYSDEC's monitoring network. There are no NYSDEC monitors located in Yonkers. The NY Botanical Gardens monitoring station in the Bronx (200th Street & Southern Blvd) is located approximately 4.6 miles to the south-southeast of the ASR plant. This site monitors SO₂ and NO₂ and is the closest monitoring site relative to the ASR plant. NYSDEC has shut down most of the PM₁₀ monitoring sites in the state. In fact, the last year for which PM₁₀ monitoring was conducted in the New York City metropolitan area was 2005. The IS52 monitoring station in the Bronx (East 156th St. Bet Dawson & Kelly) was the closest PM₁₀ monitoring site (approximately 7.9 miles to the south) relative to the ASR plant. Monitoring data for these sites for the three most recent years of available data (2005 – 2007 for SO₂ and NO₂, and 2003 – 2005 for PM₁₀) are summarized in Table 4-1. Monitoring data from these sites are considered representative of conditions in the ASR plant vicinity because of the relative proximity to the ASR plant site and the similarity in land use and demographics. Background concentrations were developed from these data as follows:

- SO₂ highest of the second-highest 3-hour and 24-hour concentrations and highest annual concentration over the three-year period;
- NO₂ highest of the annual concentrations over the three-year period; and
- PM₁₀ highest of the second-highest 24-hour concentrations over the three-year period.

These background concentrations are listed in Table 4-1.

The DEIS modeling study also developed background concentrations from available NYSDEC monitoring data. However, the monitoring stations with the highest monitored concentrations were selected as the basis for the background concentrations. For example, the SO_2 and NO_2 background concentrations were developed from monitoring data from the IS52 monitoring site. This site is farther from the ASR plant and is closer to the major point sources of SO_2 emissions and point and mobile sources of NO_2 emissions in New York City. Therefore, use of the data from IS52 is an overly conservative approach compared to use of data from the Botanical Gardens site. The DEIS modeling study used 2004 and 2005 PM_{10} monitoring data from IS52 as the basis for the 24-hour average background. However, data presented in Table 9-1 of Appendix C to Appendix III.G of the DEIS is not consistent with the data obtained from NYSDEC's on-line database. The background concentration used in the DEIS study is slightly lower than the value developed by ENSR for the ASR modeling study.

Table 4-1 Summary of Ambient Monitoring Data and Background Concentrations Used in the Dispersion Modeling Analysis

	Averaging			Concentra	ation (µg/m³)	
Pollutant	Period	Rank	2005	2006	2007	Background ⁽²⁾
	3-hour	SH	99.6	152.0	152.0	152.0
SO ₂	24-hour	SH	65.5	102.0	81.2	102.0
	Annual	Н	18.3	23.6	34.1	34.1
NO ₂	Annual	Н	50.8	24.0	50.8	50.8
PM ₁₀ ⁽¹⁾	24-hour	SH	46	49	29	49

⁽¹⁾ Data are for 2003, 2004, and 2005 (monitoring station shut down after 2005).

⁽²⁾ Background values are the highest values listed for the three years shown.

5.0 Results of the Modeling Analysis

5.1 Ground Level Receptors – Existing Source Data

The results of the dispersion modeling analysis at ground level receptors based on existing ASR source operations are summarized in Table 5-1 for the maximum potential emissions case and Table 5-2 for the maximum actual emissions case. Within each table are the modeling results without and with the impact of the proposed Palisades Point towers (PPT) on dispersion of ASR source emissions. In general, constructing the 250-foot tall towers is predicted to result in increased ground level concentrations associated with emissions from ASR combustion sources. In one case, a modeled violation of the NAAQS is predicted to occur as a result of construction of these towers. A discussion of the modeling results by pollutant is provided below.

Sulfur Dioxide (SO₂)

The data in Tables 5-1 and 5-2 show that SO₂ concentrations without considering the impact of Palisades Point Towers (PPT) on dispersion of ASR combustion source emissions are below the NAAQS for both the maximum potential and maximum actual emission scenarios for all averaging periods. However, as shown in Table 5-2, the total 24-hour SO₂ concentration based on maximum potential emission rate that includes the impact of PPT is 33% above the NAAQS. For this case, the 24-hour SO₂ concentration is predicted to occur within the PPT complex. The SO₂ concentrations for the other averaging periods/emission cases, although higher than those without the impact of PPT, are below the NAAQS.

Nitrogen Dioxide (NO₂)

The data in Tables 5-1 and 5-2 show that maximum annual NO₂ concentrations both without and with PPT impact on dispersion of ASR combustion source emissions are below the NAAQS for both the maximum potential and maximum actual emission scenarios.

Inhalable Particulate Matter (PM₁₀)

The data in Tables 5-1 and 5-2 show that maximum 24-hour PM₁₀ concentrations both without and with PPT impact on dispersion of ASR combustion source emissions are below the NAAQS for both the maximum potential and maximum actual emission scenarios.

5.2 Elevated Receptors – Existing Source Data

The results of the dispersion modeling analysis at elevated receptors (Palisades Point buildings) based on existing ASR source operations are summarized in Table 5-3 for the maximum potential emissions case and Table 5-4 for the maximum actual emissions case. A discussion of the modeling results by pollutant is provided below.

Sulfur Dioxide (SO₂)

The data in Tables 5-3 and 5-4 show that SO_2 concentrations are above the NAAQS for the highest of the second-highest (HSH) 24-hour averaging period for the maximum emissions case; all other SO_2 concentrations are below the NAAQS. The overall HSH 24-hour SO_2 concentration is predicted to occur at a height of 25 feet on the South Tower. Total 24-hour average concentrations are predicted to be above the NAAQS up to a height of 100 feet for the South Tower only.

Nitrogen Dioxide (NO₂)

The data in Tables 5-3 and 5-4 show that maximum annual NO₂ concentrations are below the NAAQS for both the maximum potential and maximum actual emission scenarios. The maximum annual NO₂ concentration is predicted to occur on the South Tower at a height of 25 feet.

Inhalable Particulate Matter (PM₁₀)

The data in Tables 5-3 and 5-4 show that highest of the sixth-highest (H6H) 24-hour PM₁₀ concentrations are below the NAAQS for both the maximum potential and maximum actual emission scenarios. The overall H6H 24-hour PM₁₀ concentration is predicted to occur on the South Tower at a height of 25 feet.

5.3 Proposed Future ASR Plant Operations

The results of the short-term SO_2 modeling analysis associated with ASR's proposed operations are summarized in Table 5-5. As shown in Table 5-5, SO_2 concentrations at ground level and elevated receptors are below the NAAQS for the maximum potential emission rate scenario without considering the impact of PPT on dispersion of emissions from ASR sources. However, the HSH 24 hour SO_2 concentrations at both elevated and ground level receptors using maximum emission rates and considering the impact of PT on dispersion are above the NAAQS. All SO_2 concentrations based on use of the actual fuel oil sulfur content are below the NAAQS both without and with considering the impact of PPT on dispersion. As with the existing ASR operating case, the HSH 24-hour SO_2 concentrations based on maximum potential emission rates are predicted to occur within the Palisades Point complex.

5.4 Evaluation of Plume Impaction on Palisades Towers

Dispersion modeling was also conducted to determine where on the North and South Towers the plumes from the ASR cogeneration stack and Boiler No. 3 stack are most likely to impact and whether locating the air intake vents on top of the towers would minimize the exposure of residents to emissions from the ASR plant. Maximum potential SO_2 emissions from the cogeneration unit and Boiler No. 3 were modeled with AERMOD at an array of receptors placed every 25 feet in the vertical on the south faces of the North and South Towers (the same elevated receptors used in the NAAQS compliance analysis). The AERMOD output files for each year were then searched for those 1-hour concentrations that were greater than or equal to $500 \,\mu\text{g/m}^3$. This threshold is approximately equal to the California 1-hour SO_2 ambient air quality standard (there is neither a federal nor New York State 1-hour standard). The number of hours for which the 1-hour concentration fell into $500 \,\mu\text{g/m}^3$ ranges were tabulated. The maximum number of hours per year for each range over the five-year modeling period were then plotted. One-hour concentrations at the North Tower, which is further away from the ASR refinery, do not exceed the threshold concentration.

The results of this analysis are presented in Figure 5-1 for the cogeneration unit. Figure 5-1 shows the 1-hour SO_2 concentrations above the threshold are predicted to occur most frequently at the 38.1 meter (125-foot) height, or half-way up the face of the South Tower. The maximum 1-hour SO_2 concentration was predicted to occur at the 45.72 meter (150-foot) height. One-hour concentrations above $500 \, \mu \text{g/m}^3$ are predicted to occur infrequently (total of six hours over the five-year period) at the top of the South Tower (i.e., at the proposed location of the building air intake vents).

Figure 5-2 presents the results of this analysis for Boiler No. 3. As shown in Figure 5-2, the plume from Boiler No. 3 is predicted to infrequently impact the South Tower at concentrations at or above $500 \,\mu\text{g/m}^3$ (a maximum of 8 hours per year over the five-year modeling period). In addition, the maximum 1-hour SO_2 concentration is less than $1000 \,\mu\text{g/m}^3$. This result, coupled with the fact that the SO_2 emissions from Boiler No. 3 are greater than for the cogeneration unit, suggests that the Boiler No. 3 plume centerline height is higher than the South Tower when the plume SO_2 concentration is $500 \,\mu\text{g/m}^3$ or greater.

5.5 Conclusions

The following can be concluded based on the results of the dispersion modeling analysis:

- Construction of the Palisades Point towers is predicted to adversely impact the dispersion of
 emissions from, i.e., cause increased "downwash" of, ASR's cogeneration unit and Boiler No. 3, which
 will result in increased ground level concentrations of all pollutants emitted by these sources at
 locations within ASR's refinery, within the footprint of the proposed Palisades Point project, and at
 other locations in the community.
- 2. The DEIS incorrectly predicted that ASR causes a National Ambient Air Quality Standard ("NAAQS") exceedance of 24-hour concentrations of sulfur dioxide ("SO₂") at one ground-level location (receptor #29, Table 10-2 of Appendix C to Appendix G.3 of the DEIS). In fact, the short-term SO₂ ground level concentrations and highest annual ground level concentrations associated with operation of ASR's combustion sources at maximum potential emission rates, coupled with conservative background concentrations, are predicted to be below the NAAQS under present conditions (i.e., without the impact of the Palisades Point towers). This is contrary to the conclusions reached by the DEIS modeling study that showed total predicted 24-hour concentrations at one ground level location above the NAAQS (receptor #29, Table 10-2 of Appendix C to Appendix G.3 of the DEIS)..
- 3. Construction of the Palisades Point towers is predicted to cause modeled violations of the 24-hour SO₂ NAAQS at both ground level and elevated receptors, if ASR combustion sources operate at maximum permitted emission rates. Limiting ASR's combustion sources to firing fuel oil with the current actual sulfur content (ASR voluntarily uses low sulfur [0.2%] fuel, but is permitted to use higher sulfur [0.37%] fuel) or limiting the combustion sources to firing natural gas would result in total predicted SO₂ concentrations that are below the NAAQS at both elevated and ground level locations.
- 4. Maximum annual nitrogen dioxide ("NO₂") concentrations and 24-hour inhalable particulate matter ("PM₁₀") concentrations associated with operation of ASR combustion sources at maximum potential and maximum actual emission rates, coupled with conservative background concentrations, are predicted to be below the NAAQS at ground level and elevated receptor locations, both without and with consideration of the impact of Palisades Point towers on dispersion of ASR's refinery emissions.
- 5. Operation of ASR's combustion sources under the proposed future refinery configuration is predicted to result in total SO₂ concentrations (both at maximum and actual emission rates) that are below the NAAQS without considering the impact of Palisades Point towers on dispersion. However, the total predicted 24-hour SO₂ concentrations at both ground level and elevated receptors are above the NAAQS for the maximum emissions case when the impact of the towers on dispersion is considered.
- 6. If the Palisades Point towers are constructed, the air intake vents should likely be located on top of the towers based on the results of the dispersion modeling analysis. However, because dispersion modeling is only a tool, wind tunnel modeling should be conducted by the Applicant to confirm ENSR's dispersion modeling conclusion.

Table 5-1 Results of the Dispersion Modeling Analysis at Ground Level Receptors for Existing ASR Combustion Sources—Maximum Emission Rates

	Averaging	Modeling		Concentrat	ion (μg/m³)	
Pollutant	Period	Scenario ⁽¹⁾	ASR	Background	Total	NAAQS
	3-hour	w/o PPT	458.6	152.0	610.6	1300
	3-nour	w/ PPT	533.0	152.0	685.0	1300
SO ₂	04	w/o PPT	254.2	102.0	356.2	005
	24-hour	w/ PPT	384.5	102.0	486.5	365
	A	w/o PPT	8.3	34.1	42.4	00
	Annual	w/ PPT	10.4	34.1	43.7	80
NO	A	w/o PPT	13.7	50.8	64.5	100
NO ₂	Annual	w/ PPT	26.3	50.8	77.1	100
DM	04 5	w/o PPT	10.0	49.0	59.0	150
PM_{10}	24-hour	w/ PPT	15.9	49.0	64.9	150

⁽¹⁾ w/o PPT = without considering the impact of Palisades Point towers on the dispersion of emissions from ASR sources (existing case); w/ PPT = with considering the impact of Palisades Point towers (future case)

Table 5-2 Results of the Dispersion Modeling Analysis at Ground Level Receptors for Existing ASR Combustion Sources – Actual Emission Rates

	Averaging	Modeling		Concentrati	ion (μg/m³)	
Pollutant	Period	Scenario ⁽¹⁾	ASR	Background	Total	NAAQS
	2 hour	w/o PPT	247.8	152.0	399.8	1000
	3-hour	w/ PPT	287.4	152.0	439.4	1300
SO ₂	04	w/o PPT	137.3	102.0	239.3	005
	24-hour	w/ PPT	207.7	102.0	309.7	365
	A	w/o PPT	4.3	34.1	38.4	00
	Annual	w/ PPT	4.9	34.1	39.0	80
NO	A	w/o PPT	6.1	50.8	56.9	100
NO ₂	Annual	w/ PPT	8.1	50.8	58.9	100
DM	044	w/o PPT	10.0	49.0	59.0	450
PM_{10}	24-hour	w/ PPT	15.9	49.0	64.9	150

⁽¹⁾ w/o PPT = without considering the impact of Palisades Point towers on the dispersion of emissions from ASR sources (existing case); w/ PPT = with considering the impact of Palisades Point towers (future case)

Table 5-3 Results of the Dispersion Modeling Analysis at Elevated Receptors (Palisades Point Towers) for Existing ASR Combustion Sources – Maximum Emission Rates

	Averaging	Modeling		Concentrat	ion (μg/m³)	
Pollutant	Period	Scenario ⁽¹⁾	ASR	Background	Total	NAAQS
	3-hour	w/ PPT	930.9	152.0	1082.9	1300
SO ₂	24-hour	w/ PPT	355.1	102.0	457.1	365
	Annual	w/ PPT	9.8	34.1	43.9	80
NO ₂	Annual	w/ PPT	24.7	50.8	75.5	100
PM ₁₀	24-hour	w/ PPT	14.9	49.0	63.9	150

⁽¹⁾ w/ PPT = with considering the impact of Palisades Point towers on the dispersion of emissions from ASR sources (future case)

Table 5-4 Results of the Dispersion Modeling Analysis at Elevated Receptors (Palisades Point Towers) for Existing ASR Combustion Sources – Actual Emission Rates

	Averaging	Modeling		Concentrat	ion (μg/m³)	
Pollutant	Period	Scenario ⁽¹⁾	ASR	Background	Total	NAAQS
	3-hour	w/ PPT	502.8	152.0	654.8	1300
SO ₂	24-hour	w/ PPT	199.3	102.0	301.3	365
	Annual	w/ PPT	4.6	34.1	38.7	80
NO ₂	Annual	w/ PPT	7.7	50.8	58.5	100
PM ₁₀	24-hour	w/ PPT	14.9	49.0	63.9	150

⁽¹⁾ w/ PPT = with considering the impact of Palisades Point towers on the dispersion of emissions from ASR sources (future case)

Table 5-5 Results of the SO₂ Dispersion Modeling Analysis at Ground Level and Elevated Receptors (Palisades Point Towers) for Proposed Future Case ASR Combustion Sources

	Averaging	Modeling		Concentrat	ion (μg/m³)	
Pollutant	Period	Scenario ⁽¹⁾	ASR	Background	Total	NAAQS
	Gro	und Level Rece	eptors – Maxim	um Emission Ra	ates	
	3-hour	w/o PPT	518.0	152.0	670.0	1300
80	3-11001	w/ PPT	682.0	152.0	834.0	1300
SO ₂	0.4.1	w/o PPT	255.0	102.0	357.0	365
	24-hour	w/ PPT	445.0	102.0	547.0	300
	G	round Level Re	ceptors – Actua	al Emission Rat	es	
		w/o PPT	280.0	152.0	432.0	1200
20	3-hour	w/ PPT	368.6	152.0	520.6	1300
SO ₂	04 hour	w/o PPT	137.8	102	239.8	265
	24-hour	w/ PPT	240.5	102	342.5	365
	Elevated Rece	eptors (Palisade	es Point Towers	s) – Maximum E	mission Rates	
00	3-hour	w/ PPT	955.2	152.0	1107.2	1300
SO ₂	24-hour	w/ PPT	414.7	102.0	516.7	365
	Elevated Re	ceptors (Palisad	des Point Towe	rs) – Actual Em	ission Rates	
	3-hour	w/ PPT	516.2	152.0	668.2	1300
SO ₂	24-hour	w/ PPT	224.2	102.0	326.2	365

⁽¹⁾ w/o PPT = without considering the impact of Palisades Point towers on the dispersion of emissions from ASR sources (existing case); w/ PPT = with considering the impact of Palisades Point towers (future case)

Figure 5-1 Frequency of Occurrence of 1-hour Maximum Cogen SO₂ Concentrations ≥ 500 μg/m³ on the Proposed Palisades South Tower

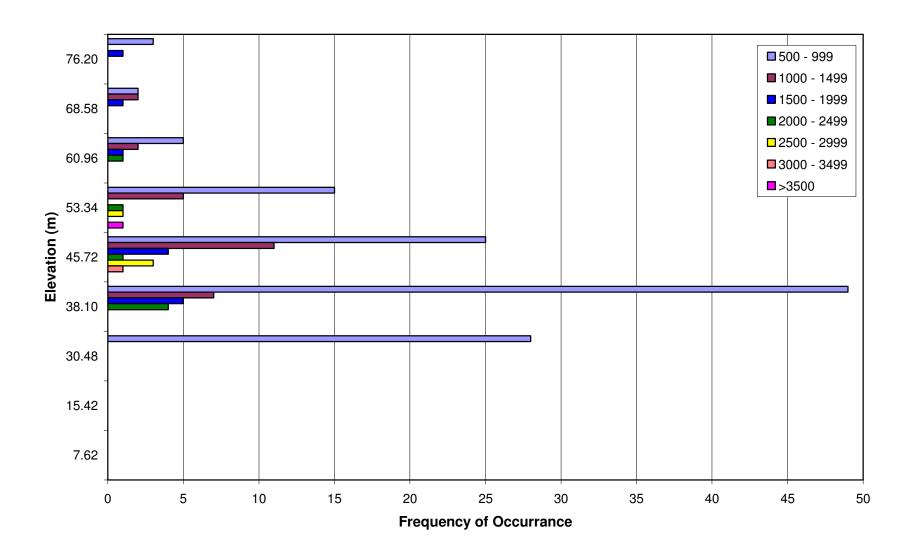
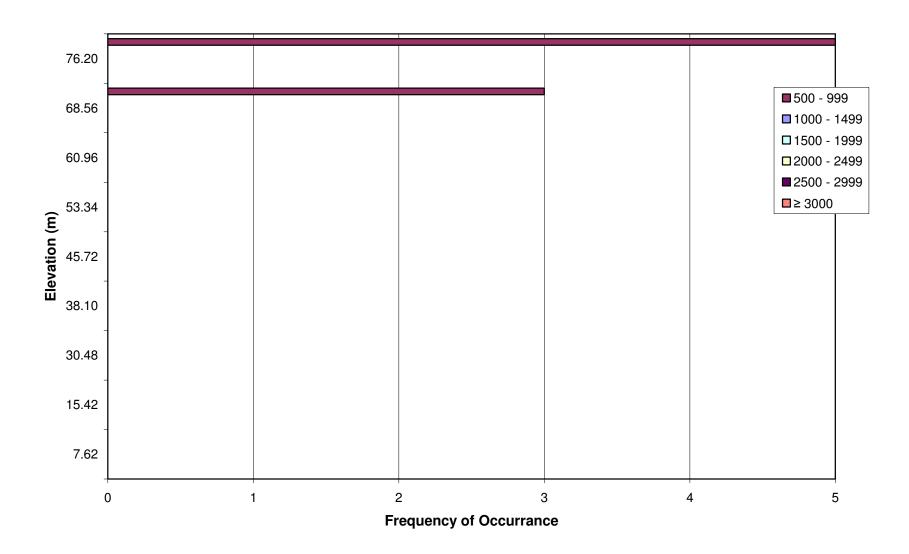


Figure 5-2 Frequency of Occurrence of 1-hour Maximum Boiler No. 3 SO₂ Concentrations ≥ 500 μg/m³ on the Proposed Palisades South Tower



Appendix A

BPIP-PRIME Input and Output Data

A.1 BPIP-PRIME Input and Output for ASR Sources without Palisades Point Project

```
'P'
          1.00000000
'METERS'
'UTMY'
        0.0000
25
'BLD 2'
                      0.000 '5a-gas turbine'
    5
                7.925
           592220.354
                           4531632.435
           592219.724
                           4531622.714
           592254.630
                           4531620.240
           592255.030
                           4531625.881
           592251.299
                           4531630.278
    4
                10.973
           592219.708
                           4531622.688
           592220.389
                           4531632.417
           592226.166
                           4531632.013
           592225.485
                           4531622.284
'BLD 4'
                      0.000 '5-water softening station'
                14.935
    4
           592240.855
                           4531621.153
           592262.139
                           4531619.665
           592260.885
                           4531601.726
           592239.601
                           4531603.214
'BLD_5'
                      0.000 '4-power house'
    4
                14.935
                           4531604.839
           592216.405
           592253.445
                           4531602.249
           592252.102
                           4531583.046
           592215.062
                           4531585.636
'BLD 6'
                      0.000 '3-granular carbon facility'
    6
                17.678
                           4531573.244
           592183.473
           592180.334
                           4531541.031
           592187.568
                           4531540.348
           592187.295
                           4531538.028
           592194.393
                           4531537.755
           592197.396
                           4531572.288
    4
                21.336
           592180.466
                           4531541.030
           592181.449
                           4531552.265
           592195.417
                           4531551.043
           592194.434
                           4531539.808
'BLD_7'
                      0.000 '7and8-sugar warehouse and carbon treatment'
    4
                16.459
           592209.783
                           4531564.508
           592226.179
                           4531563.074
           592219.830
                           4531490.504
           592203.434
                           4531491.938
'BLD 9'
                      0.000 '9and10-process buildings'
                35.052
    4
           592225.344
                           4531550.585
           592241.133
                           4531549.204
           592235.342
                           4531483.011
           592219.552
                           4531484.392
    4
                47.549
           592219.619
                           4531484.441
           592220.522
                           4531494.765
```

```
592236.311
                           4531493.384
           592235.408
                           4531483.060
    4
               47.549
           592223.997
                           4531535.902
           592225.272
                           4531550.477
           592241.061
                           4531549.095
           592239.786
                           4531534.521
                      0.000 '11b-granulated silo'
'BLD 8'
    8
               38.405
           592260.960
                           4531556.256
           592256.327
                           4531554.336
           592254.407
                           4531549.703
           592256.327
                           4531545.069
           592260.960
                           4531543.149
           592265.594
                           4531545.069
           592267.514
                           4531549.703
           592265.594
                           4531554.336
'BLD 10'
                       0.000 'DC-24-bulk storage bin'
    8
               19.507
           592250.765
                           4531506.106
           592248.717
                           4531505.258
           592247.869
                           4531503.210
           592248.717
                           4531501.163
           592250.765
                           4531500.315
           592252.812
                           4531501.163
           592253.660
                           4531503.210
           592252.812
                           4531505.258
'BLD 12'
                       0.000
                             'bldq x'
    8
               39.624
           592237.146
                           4531408.331
           592235.690
                           4531384.801
           592242.818
                           4531384.647
           592243.431
                           4531402.429
           592246.650
                           4531402.429
           592246.880
                           4531407.762
                           4531407.931
           592245.337
           592243.508
                           4531408.025
'BLD 13'
                       0.000
                              '11c-silo1'
    8
               56.388
           592255.903
                           4531520.101
           592253.317
                           4531519.030
           592252.246
                           4531516.444
           592253.317
                           4531513.857
           592255.903
                           4531512.786
           592258.490
                           4531513.857
           592259.561
                           4531516.444
           592258.490
                           4531519.030
'BLD 15'
                       0.000 '11c-silo2'
    8
               56.388
           592256.106
                           4531527.532
           592253.519
                           4531526.461
           592252.448
                           4531523.875
           592253.519
                           4531521.288
           592256.106
                           4531520.217
           592258.692
                           4531521.288
           592259.763
                           4531523.875
           592258.692
                           4531526.461
'BLD 16'
                       0.000
                              '11c'
```

```
4
               64.618
           592252.792
                           4531536.326
           592260.407
                           4531536.060
           592260.109
                           4531527.531
           592252.494
                           4531527.796
'BLD 17'
          1
                       0.000
                              '16-admin and offices'
    4
               41.605
                           4531481.124
           592204.468
           592201.472
                           4531440.760
           592225.443
                           4531439.527
           592228.616
                           4531479.009
'BLD_19'
                       0.000
                             '14-warehouse'
          1
   16
                 7.620
           592225.882
                           4531393.821
           592205.796
                           4531394.958
           592203.460
                           4531362.167
           592207.875
                           4531355.663
           592232.876
                           4531350.163
           592235.932
                           4531373.851
           592256.570
                           4531370.949
           592258.095
                           4531381.719
           592264.293
                           4531381.558
           592266.024
                           4531406.047
           592246.832
                           4531407.772
           592246.643
                           4531402.338
           592243.437
                           4531402.338
           592242.945
                           4531384.615
           592235.781
                           4531384.796
           592236.210
                           4531393.421
'BLD_20'
                       0.000
                              '12A-E-loading platforms and bulk silo'
                  7.620
    22
           592255.979
                           4531479.882
           592252.847
                           4531436.585
           592257.550
                           4531436.307
           592257.367
                           4531432.990
                           4531432.898
           592261.050
           592260.034
                           4531411.890
           592237.360
                           4531413.919
           592237.125
                           4531408.346
           592246.963
                           4531407.837
           592266.036
                           4531406.085
                           4531497.299
           592269.530
           592277.642
                           4531497.197
           592277.825
                           4531502.557
           592270.067
                           4531503.110
           592270.439
                           4531522.360
           592262.154
                           4531522.913
           592261.786
                           4531514.719
           592261.685
                           4531505.876
           592256.795
                           4531506.146
           592256.059
                           4531498.267
           592258.555
                           4531498.263
           592257.307
                           4531479.937
    8
               18.288
           592259.620
                           4531503.924
           592258.111
                           4531503.299
           592257.486
                           4531501.790
           592258.111
                           4531500.281
```

```
592259.620
                           4531499.656
           592261.129
                           4531500.281
           592261.754
                           4531501.790
           592261.129
                           4531503.299
'BLD 22'
                       0.000 'silos 13-30 and 13-31'
          1
    4
               14.326
           592216.192
                           4531416.427
           592227.138
                           4531415.661
           592225.607
                           4531393.769
           592214.661
                           4531394.534
'BLD_23'
                       0.000 'silo 13-2'
          1
   8
                9.754
           592231.987
                           4531430.755
           592227.676
                           4531428.970
           592225.891
                           4531424.659
           592227.676
                           4531420.349
           592231.987
                           4531418.563
           592236.297
                           4531420.349
           592238.083
                           4531424.659
           592236.297
                           4531428.970
'BLD 24'
                       0.000 'silo 13-3'
               12.192
   8
           592238.573
                           4531436.306
           592235.771
                           4531435.145
           592234.611
                           4531432.343
           592235.771
                           4531429.541
           592238.573
                           4531428.381
                           4531429.541
           592241.375
           592242.535
                           4531432.343
           592241.375
                           4531435.145
'BLD_25'
                       0.000 'silo 13-4'
   8
                7.620
           592245.434
                           4531452.435
           592241.123
                           4531450.649
           592239.338
                           4531446.339
                           4531442.028
           592241.123
           592245.434
                           4531440.243
           592249.744
                           4531442.028
                           4531446.339
           592251.530
           592249.744
                           4531450.649
'BLD 21'
                       0.000 'silos 13-22 and 13-23'
   4
               10.668
           592243.238
                           4531432.892
           592250.543
                           4531432.509
           592249.778
                           4531417.899
           592242.473
                           4531418.282
'BLD 27'
                       0.000 'silos 13-24 to 13-29'
          1
   9
               12.192
           592250.785
                           4531434.127
           592249.419
                           4531414.385
           592249.962
                           4531414.368
           592254.352
                           4531413.957
           592254.764
                           4531419.171
           592259.018
                           4531418.622
           592259.704
                           4531428.638
           592255.450
                           4531429.187
           592255.450
                           4531433.578
'BLD 28'
                       0.000 'silos 13-5 to 13-14'
```

```
4
               12.802
           592245.159
                           4531481.465
           592254.876
                           4531480.615
           592252.377
                           4531452.052
           592242.660
                           4531452.902
'BLD 29'
                       0.000 'silos 13-15 to 13-18'
    4
               12.802
           592248.315
                           4531498.068
           592256.844
                           4531497.770
           592256.546
                           4531489.241
                           4531489.539
           592248.017
'BLD_30'
                       0.000 '14a-pulerizing station'
    4
               16.459
           592258.647
                           4531376.431
                           4531381.571
           592258.647
           592263.396
                           4531381.571
           592263.396
                           4531376.431
'BLD_26'
                       0.000 'Emergency Diesel Generator'
    4
                3.048
           592211.855
                           4531414.660
           592215.544
                           4531413.318
           592208.963
                           4531395.237
                           4531396.580
           592205.274
20
                   0.000
'BLDG5A'
                                   21.336
                                                592221.360
                                                               4531626.060
                                                                             'gas
turbine stack'
'BOIL3'
                  0.000
                                  45.720
                                               592258.540
                                                               4531600.020
'boiler 3 stack'
'BLDG3'
                  0.000
                                  30.480
                                               592184.230
                                                               4531541.290
'granular carbon facility stack'
'DIESLGEN'
                      0.000
                                      4.572
                                                  592208.130
                                                                  4531396.880
'Emergency Diesel Generator'
```

BPIP (Dated: 04274)

DATE : 5/16/2008 TIME : 16:33:38

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BPIP PROCESSING INFORMATION:

The P flag has been set for preparing downwash related data for a model run utilizing the PRIME algorithm.

Inputs entered in METERS will be converted to meters using a conversion factor of 1.0000. Output will be in meters.

The UTMP variable is set to UTMY. The input is assumed to be in UTM coordinates. BPIP will move the UTM origin to the first pair of UTM coordinates read. The UTM coordinates of the new origin will be subtracted from all the other UTM coordinates entered to form this new local coordinate system.

Plant north is set to 0.00 degrees with respect to True North.

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PRELIMINARY* GEP STACK HEIGHT RESULTS TABLE (Output Units: meters)

Stack Name	Stack Height	Stack-Building Base Elevation Differences	GEP** EQN1	Preliminary* GEP Stack Height Value
BLDG5A	21.34	0.00	102.15	102.15
BOIL3	45.72	0.00	118.87	118.87
BLDG3	30.48	0.00	112.69	112.69
DIESLGEN	4.57	0.00	115.01	115.01

- * Results are based on Determinants 1 & 2 on pages 1 & 2 of the GEP Technical Support Document. Determinant 3 may be investigated for additional stack height credit. Final values result after Determinant 3 has been taken into consideration.
- ** Results were derived from Equation 1 on page 6 of GEP Technical Support Document. Values have been adjusted for any stack-building base elevation differences.

Note: Criteria for determining stack heights for modeling emission limitations for a source can be found in Table 3.1 of the GEP Technical Support Document.

BPIP (Dated: 04274)

DATE : 5/16/2008 TIME : 16:33:38

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BPIP output is in meters

SO	BUILDHGT	BLDG5A	41.60	21.34	21.34	17.68	10.97	10.97
SO	BUILDHGT	BLDG5A	10.97	10.97	14.94	14.94	14.94	14.94
SO	BUILDHGT	BLDG5A	14.94	38.40	38.40	38.40	38.40	38.40
SO	BUILDHGT	BLDG5A	41.60	14.94	14.94	10.97	10.97	10.97
SO	BUILDHGT	BLDG5A	10.97	10.97	14.94	14.94	14.94	14.94
SO	BUILDHGT	BLDG5A	14.94	38.40	38.40	47.55	41.60	41.60
SO	BUILDWID	BLDG5A	40.36	16.46	17.47	31.18	11.04	11.32
SO	BUILDWID	BLDG5A	40.36 11.26 27.09	10.86	19.43	20.11	23.17	25.52
SO	BUILDWID	BLDG5A	27.09	43.71	45.24	45.61	45.25	43.52
SO	BUILDWID	BLDG5A	40.36	41.00	41.81	10.42	11.04	11.32
			11.26					25.52
SO	BUILDWID	BLDG5A	27.09	43.71	45.24	34.27	40.36	40.36
SO	BUILDLEN	BLDG5A	33.18	14.52	16.15	34.91	10.94	10.26
SO	BUILDLEN	BLDG5A	9.26	7.98	22.54	23.10	25.47	27.06
SO	BUILDLEN	BLDG5A	27.83 33.18 9.26 27.83	49.40	48.32	38.98	35.15	
SO	BUILDLEN	BLDG5A	33.18	28.74	33.58	11.29	10.94	10.26
SO	BUILDLEN	BLDG5A	9.26	7.98	22.54	23.10	25.47	27.06
SO	BUILDLEN	BLDG5A	27.83	49.40	48.32	38.98	55.25	37.69
SO	XBADJ	BLDG5A	-105.55	-93.89	-94.09	-91.51	-3.43	
SO			-2.71					
SO			18.09					
SO	XBADJ	BLDG5A	72.37	11.40	4.58	-7.65	-7.51	-7.14
SO	XBADJ	BLDG5A	-6.55	-5.77	-40.78	-43.15	-45.46	-46.40
SO	XBADJ	BLDG5A	-45.92	-109.82	-115.74	-111.34	-184.41	-113.27
	YBADJ	BLDG5A	-36.82 0.67 7.77	4.03	-11.07	-20.51	-0.03	0.33
	YBADJ	BLDG5A	0.67	1.00	-14.62	-9.27	-3.65	2.09
	YBADJ	BLDG5A	7.77	-34.08	-20.17	-5.55	9.57	24.40
CO								21.10
	YBADJ	BLDG5A	36.82	23.10	27.22	0.38	0.03	-0.33
SO	YBADJ	BLDG5A	-0.67	23.10 -1.00	27.22 14.62	0.38 9.27	0.03 3.65	-0.33 -2.09
SO	YBADJ	BLDG5A	36.82 -0.67 -7.77	23.10 -1.00	27.22 14.62	0.38 9.27	0.03 3.65	-0.33 -2.09
SO	YBADJ	BLDG5A	-0.67	23.10 -1.00	27.22 14.62	0.38 9.27	0.03 3.65	-0.33 -2.09
SO SO	YBADJ YBADJ	BLDG5A BLDG5A	-0.67 -7.77	23.10 -1.00 34.08	27.22 14.62 20.17	0.38 9.27 11.22	0.03 3.65 30.04	-0.33 -2.09 -20.84
SO SO	YBADJ YBADJ	BLDG5A BLDG5A	-0.67 -7.77	23.10 -1.00 34.08	27.22 14.62 20.17	0.38 9.27 11.22	0.03 3.65 30.04	-0.33 -2.09 -20.84
SO SO	YBADJ YBADJ	BLDG5A BLDG5A	-0.67 -7.77	23.10 -1.00 34.08	27.22 14.62 20.17	0.38 9.27 11.22	0.03 3.65 30.04	-0.33 -2.09 -20.84 21.34
SO SO	YBADJ YBADJ	BLDG5A BLDG5A	-0.67 -7.77	23.10 -1.00 34.08	27.22 14.62 20.17	0.38 9.27 11.22	0.03 3.65 30.04 47.55 14.94 47.55	-0.33 -2.09 -20.84 21.34 14.94 47.55
\$0 \$0 \$0 \$0 \$0 \$0	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT	BUDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55	23.10 -1.00 34.08 47.55 14.94 14.94 47.55	27.22 14.62 20.17 47.55 14.94 38.40 47.55	0.38 9.27 11.22 47.55 14.94 38.40 47.55	0.03 3.65 30.04 47.55 14.94 47.55 47.55	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46
\$0 \$0 \$0 \$0 \$0 \$0 \$0	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT	BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 14.94	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT	BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 14.94 43.86	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID	BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08	23.10 -1.00 34.08 47.55 14.94 14.94 14.94 43.86 22.61	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11	0.03 3.65 30.04 47.55 14.94 47.55 14.94 47.55 49.40 23.17	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID BUILDWID BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 14.94 43.86 22.61 27.84	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61	0.03 3.65 30.04 47.55 14.94 47.55 47.55 49.40 23.17 35.88	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID BUILDWID BUILDWID BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 14.94 43.86 22.61 27.84 43.86	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 139.68 37.08 27.09 39.68 25.11	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 43.86 22.61 27.84 43.86 22.61	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99 20.11	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68 25.11 27.09	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 13.86 22.61 27.84 43.86 22.61 27.84	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 45.61	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17 35.88	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52 36.41
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68 25.11 27.09 33.18	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 13.86 22.61 27.84 43.86 22.61 27.84 29.04	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43 45.24 24.39	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99 20.11 45.61 23.52	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17 35.88	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52 36.41 17.95
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68 25.11 27.09 33.18 26.72	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 43.86 22.61 27.84 43.86 22.61 27.84 29.04 25.05	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43 45.24 24.39 22.54	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99 20.11 45.61 23.52 23.10	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17 35.88 27.99 25.47	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52 36.41 17.95 27.06
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68 25.11 27.09 33.18 26.72 27.83	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 43.86 22.61 27.84 43.86 22.61 27.84 29.04 25.05 27.76	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43 45.24 24.39 22.54 48.32	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99 20.11 45.61 23.52 23.10 38.98	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17 35.88 27.99 25.47 35.15	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52 36.41 17.95 27.06 30.26
\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	YBADJ YBADJ BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDHGT BUILDWID	BLDG5A BLDG5A BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3 BOIL3	-0.67 -7.77 47.55 17.68 14.94 47.55 14.94 14.94 39.68 37.08 27.09 39.68 25.11 27.09 33.18 26.72	23.10 -1.00 34.08 47.55 14.94 14.94 47.55 14.94 43.86 22.61 27.84 43.86 22.61 27.84 29.04 25.05	27.22 14.62 20.17 47.55 14.94 38.40 47.55 14.94 38.40 47.08 19.43 45.24 47.08 19.43 45.24 24.39 22.54	0.38 9.27 11.22 47.55 14.94 38.40 47.55 14.94 38.40 48.99 20.11 45.61 48.99 20.11 45.61 23.52 23.10	0.03 3.65 30.04 47.55 14.94 47.55 47.55 14.94 47.55 49.40 23.17 35.88 49.40 23.17 35.88 27.99 25.47	-0.33 -2.09 -20.84 21.34 14.94 47.55 16.46 14.94 47.55 17.28 25.52 36.41 69.11 25.52 36.41 17.95 27.06

SO	BUILDLEN	BOTL3	27.83	27.76	48.32	38.98	35.15	30.26
	XBADJ	BOIL3	-86.37	-82.88	-77.23	-71.32	-67.68	-97.11
	XBADJ	BOIL3	-93 . 67	-18.10	-18.94	-21.09	-23.85	-25.88
	XBADJ	BOIL3	-27.13		26.27		43.01	49.54
	XBADJ		53.19		52.84		39.68	16.73
	XBADJ							-1.18
		BOIL3	-10.10		-3.60	-2.01	-1.62	
	XBADJ	BOIL3	-0.70	-0.20	-74.59	-74.16	-78.17	-79.80
	YBADJ	BOIL3	4.32	-7.61	-19.50	-30.85	-41.27	-11.45
	YBADJ		-18.03	12.58	11.42	9.91		6.05
	YBADJ	BOIL3	3.82	1.46	-39.35	-31.58	-27.21	-16.34
SO	YBADJ	BOIL3	-4.32	7.61	19.50	30.85	41.27	40.93
SO	YBADJ	BOIL3	-13.35	-12.58	-11.42	-9.91	-8.11	-6.05
SO	YBADJ	BOIL3	-3.82	-1.46	39.35	31.58	27.21	16.34
SO	BUILDHGT	BLDG3	21.34	21.34	21.34	21.34	47.55	47.55
SO	BUILDHGT	BLDG3	47.55	47.55	47.55	47.55	38.40	41.60
	BUILDHGT		41.60	41.60	41.60	41.60	41.60	41.60
	BUILDHGT		21.34	21.34	21.34	21.34	47.55	47.55
	BUILDHGT		47.55	47.55	47.55	47.55	38.40	41.60
	BUILDHGT		41.60	41.60	41.60	41.60	41.60	41.60
	BUILDWID		14.95	16.46	17.47	17.95	43.43	43.43
	BUILDWID		43.43	42.44	37.69	33.18	42.58	62.99
	BUILDWID		46.75	45.38	42.63	50.74	43.45	34.84
	BUILDWID		14.95	16.46	17.47	17.95	43.43	43.43
	BUILDWID		43.43	42.44	37.69	33.18	42.58	62.99
SO	BUILDWID	BLDG3	46.75	45.38	42.63	50.74	43.45	34.84
SO	BUILDLEN	BLDG3	12.46	14.52	16.15	17.28	27.99	31.61
SO	BUILDLEN	BLDG3	34.27	35.88	36.41	39.68	43.86	38.96
SO	BUILDLEN	BLDG3	42.81	45.35	46.51	53.59	55.25	55.24
	BUILDLEN		12.46	14.52		17.28	27.99	31.61
	BUILDLEN		34.27	35.88		39.68	43.86	38.96
	BUILDLEN		42.81	45.35		53.59	55.25	55.24
	XBADJ	BLDG3	-0.91	-1.53	-2.11	-2.62	27.00	31.75
			35.53			38.82		47.61
	XBADJ	BLDG3		38.23	39.77		35.42	
	XBADJ	BLDG3	54.18	59.10		56.13	52.12	46.52
	XBADJ		-11.55	-12.99		-14.66		
	XBADJ		-69.79	-74.11		-78.50		-86.57
					-108.74			
	YBADJ	BLDG3						
SO	YBADJ	BLDG3	-28.35	-19.30				
SO	YBADJ	BLDG3	-42.55	-28.72	-14.02	7.19	21.25	34.66
SO	YBADJ	BLDG3	2.83	1.86	0.84	-0.21	44.05	36.73
SO		BLDG3	28.35	19.30	9.66	-0.97	-19.02	46.94
	YBADJ	BLDG3	42.55	28.72	9.66 14.02	-7.19	-21.25	-34.66
		DIESLGEN						
SO	BUILDHGT	DIESLGEN	39.62	39.62	39.62	39.62	39.62	39.62
SO	BUILDHGT	DIESLGEN	39.62	39.62	41.60	41.60	41.60	47.55
SO	BUILDHGT	DIESLGEN	47.55	47.55	47.55	41.60	39.62	39.62
		DIESLGEN		39.62		39.62		39.62
		DIESLGEN		39.62		41.60	41.60	41.60
C O	DIITI DWTD	DIECICEN	50 10	60 N 3	30 06	//2 Q1	98.56	102.73
SO	BUILDMID	DIESLGEN	103.78	101.67	96.48	91.55		78.05
20	BIIII.DWID	DIESLGEN	67 69	55 1/	42 63	50 7/	43.45	36 /11
20	עבואַט ובווט חדאחדרסי	DIESLGEN	39 69	73 86	17.00	12 Q1	40.40	102.73
SO	ROTTDMID	DIESLGEN	103./8	TOT.6/	96.48	91.55	86.11	78.05

ENSR

SO BUILDWID	DIESLGEN	67.62	55.14	42.63	50.74	43.45	34.84
SO BUILDLEN	DIESLGEN	124.07	86.11	46.70	46.75	55.14	42.63
SO BUILDLEN	DIESLGEN	38.59	38.99	45.41	55.21	69.03	81.45
SO BUILDLEN	DIESLGEN	91.39	98.56	46.51	53.59	55.25	30.26
SO BUILDLEN	DIESLGEN	33.18	29.04	24.39	46.75	55.14	42.63
SO BUILDLEN	DIESLGEN	38.59	38.99	45.41	55.21	69.03	81.45
SO BUILDLEN	DIESLGEN	91.39	98.56	46.51	53.59	55.25	55.24
SO XBADJ	DIESLGEN	42.06	-1.92	34.67	29.33	13.35	16.17
SO XBADJ	DIESLGEN	8.75	1.06	-6.66	-18.24	-32.25	-45.29
SO XBADJ	DIESLGEN	-56.96	-66.89	-74.79	-87.74	-94.25	-153.60
SO XBADJ	DIESLGEN	-155.62	-154.30	-148.29	-76.08	-68.48	-58.81
SO XBADJ	DIESLGEN	-47.34	-40.05	-38.75	-36.97	-36.78	-36.16
SO XBADJ	DIESLGEN	-34.44	-31.67	28.28	34.15	38.99	42.65
SO YBADJ	DIESLGEN	-6.85	-2.26	25.81	35.55	17.61	23.43
SO YBADJ	DIESLGEN	28.53	32.76	36.01	38.66	41.13	42.34
SO YBADJ	DIESLGEN	42.27	40.92	37.49	34.12	22.79	34.07
SO YBADJ	DIESLGEN	10.05	-14.49	-38.41	-35.55	-17.61	-23.43
SO YBADJ	DIESLGEN	-28.53	-32.76	-36.01	-38.66	-41.13	-42.34
SO YBADJ	DIESLGEN	-42.27	-40.92	-37.49	-34.12	-22.79	-10.76

A.2 BPIP-PRIME Input and Output for ASR Sources with Palisades Point Project

```
'P'
          1.00000000
'METERS'
'UTMY'
        0.0000
28
'BLD 2'
                      0.000 '5a-gas turbine'
    5
                7.925
           592220.354
                           4531632.435
           592219.724
                           4531622.714
           592254.630
                           4531620.240
           592255.030
                           4531625.881
           592251.299
                           4531630.278
    4
                10.973
           592219.708
                           4531622.688
           592220.389
                           4531632.417
           592226.166
                           4531632.013
           592225.485
                           4531622.284
'BLD 4'
                      0.000 '5-water softening station'
               14.935
    4
           592240.855
                           4531621.153
           592262.139
                           4531619.665
           592260.885
                           4531601.726
           592239.601
                           4531603.214
'BLD_5'
                      0.000 '4-power house'
    4
                14.935
           592216.405
                           4531604.839
           592253.445
                           4531602.249
           592252.102
                           4531583.046
           592215.062
                           4531585.636
'BLD 6'
                      0.000 '3-granular carbon facility'
    6
                17.678
                           4531573.244
           592183.473
           592180.334
                           4531541.031
           592187.568
                           4531540.348
           592187.295
                           4531538.028
           592194.393
                           4531537.755
           592197.396
                           4531572.288
    4
                21.336
           592180.466
                           4531541.030
           592181.449
                           4531552.265
           592195.417
                           4531551.043
           592194.434
                           4531539.808
'BLD_7'
                      0.000 '7and8-sugar warehouse and carbon treatment'
    4
                16.459
           592209.783
                           4531564.508
           592226.179
                           4531563.074
           592219.830
                           4531490.504
           592203.434
                           4531491.938
'BLD 9'
                      0.000 '9and10-process buildings'
                35.052
    4
           592225.344
                           4531550.585
           592241.133
                           4531549.204
                           4531483.011
           592235.342
           592219.552
                           4531484.392
    4
                47.549
           592219.619
                           4531484.441
           592220.522
                           4531494.765
```

```
592236.311
                           4531493.384
           592235.408
                           4531483.060
    4
               47.549
           592223.997
                           4531535.902
           592225.272
                           4531550.477
           592241.061
                           4531549.095
           592239.786
                           4531534.521
                      0.000 '11b-granulated silo'
'BLD 8'
    8
               38.405
           592260.960
                           4531556.256
           592256.327
                           4531554.336
           592254.407
                           4531549.703
           592256.327
                           4531545.069
           592260.960
                           4531543.149
           592265.594
                           4531545.069
           592267.514
                           4531549.703
           592265.594
                           4531554.336
'BLD 10'
                       0.000 'DC-24-bulk storage bin'
    8
               19.507
           592250.765
                           4531506.106
           592248.717
                           4531505.258
           592247.869
                           4531503.210
           592248.717
                           4531501.163
           592250.765
                           4531500.315
           592252.812
                           4531501.163
           592253.660
                           4531503.210
           592252.812
                           4531505.258
'BLD 12'
                       0.000
                              'bldq x'
    8
               39.624
           592237.146
                           4531408.331
           592235.690
                           4531384.801
           592242.818
                           4531384.647
           592243.431
                           4531402.429
           592246.650
                           4531402.429
           592246.880
                           4531407.762
                           4531407.931
           592245.337
           592243.508
                           4531408.025
'BLD 13'
                       0.000
                              '11c-silo1'
    8
               56.388
           592255.903
                           4531520.101
           592253.317
                           4531519.030
           592252.246
                           4531516.444
           592253.317
                           4531513.857
           592255.903
                           4531512.786
           592258.490
                           4531513.857
           592259.561
                           4531516.444
           592258.490
                           4531519.030
'BLD 15'
                       0.000 '11c-silo2'
    8
               56.388
           592256.106
                           4531527.532
           592253.519
                           4531526.461
           592252.448
                           4531523.875
           592253.519
                           4531521.288
           592256.106
                           4531520.217
           592258.692
                           4531521.288
           592259.763
                           4531523.875
           592258.692
                           4531526.461
'BLD 16'
                       0.000
                              '11c'
```

```
4
               64.618
           592252.792
                           4531536.326
           592260.407
                           4531536.060
           592260.109
                           4531527.531
           592252.494
                           4531527.796
'BLD 17'
          1
                       0.000
                              '16-admin and offices'
    4
               41.605
                           4531481.124
           592204.468
           592201.472
                           4531440.760
           592225.443
                           4531439.527
           592228.616
                           4531479.009
'BLD_19'
                       0.000
                             '14-warehouse'
          1
   16
                 7.620
           592225.882
                           4531393.821
           592205.796
                           4531394.958
           592203.460
                           4531362.167
           592207.875
                           4531355.663
           592232.876
                           4531350.163
           592235.932
                           4531373.851
           592256.570
                           4531370.949
           592258.095
                           4531381.719
           592264.293
                           4531381.558
           592266.024
                           4531406.047
           592246.832
                           4531407.772
           592246.643
                           4531402.338
           592243.437
                           4531402.338
           592242.945
                           4531384.615
           592235.781
                           4531384.796
           592236.210
                           4531393.421
'BLD_20'
                       0.000
                              '12A-E-loading platforms and bulk silo'
                  7.620
    22
           592255.979
                           4531479.882
           592252.847
                           4531436.585
           592257.550
                           4531436.307
           592257.367
                           4531432.990
                           4531432.898
           592261.050
           592260.034
                           4531411.890
           592237.360
                           4531413.919
           592237.125
                           4531408.346
           592246.963
                           4531407.837
           592266.036
                           4531406.085
           592269.530
                           4531497.299
           592277.642
                           4531497.197
           592277.825
                           4531502.557
           592270.067
                           4531503.110
           592270.439
                           4531522.360
           592262.154
                           4531522.913
           592261.786
                           4531514.719
           592261.685
                           4531505.876
           592256.795
                           4531506.146
           592256.059
                           4531498.267
           592258.555
                           4531498.263
           592257.307
                           4531479.937
    8
               18.288
           592259.620
                           4531503.924
           592258.111
                           4531503.299
           592257.486
                           4531501.790
           592258.111
                           4531500.281
```

```
592259.620
                           4531499.656
           592261.129
                           4531500.281
           592261.754
                           4531501.790
           592261.129
                           4531503.299
'BLD 22'
                       0.000 'silos 13-30 and 13-31'
          1
    4
               14.326
           592216.192
                           4531416.427
           592227.138
                           4531415.661
           592225.607
                           4531393.769
           592214.661
                           4531394.534
'BLD_23'
                       0.000 'silo 13-2'
          1
   8
                9.754
           592231.987
                           4531430.755
           592227.676
                           4531428.970
           592225.891
                           4531424.659
           592227.676
                           4531420.349
           592231.987
                           4531418.563
           592236.297
                           4531420.349
           592238.083
                           4531424.659
           592236.297
                           4531428.970
'BLD 24'
                       0.000 'silo 13-3'
               12.192
   8
           592238.573
                           4531436.306
           592235.771
                           4531435.145
           592234.611
                           4531432.343
           592235.771
                           4531429.541
           592238.573
                           4531428.381
                           4531429.541
           592241.375
           592242.535
                           4531432.343
           592241.375
                           4531435.145
'BLD_25'
                       0.000 'silo 13-4'
   8
                7.620
           592245.434
                           4531452.435
           592241.123
                           4531450.649
           592239.338
                           4531446.339
                           4531442.028
           592241.123
           592245.434
                           4531440.243
           592249.744
                           4531442.028
           592251.530
                           4531446.339
           592249.744
                           4531450.649
'BLD 21'
                       0.000 'silos 13-22 and 13-23'
   4
               10.668
           592243.238
                           4531432.892
           592250.543
                           4531432.509
           592249.778
                           4531417.899
           592242.473
                           4531418.282
'BLD 27'
                       0.000 'silos 13-24 to 13-29'
          1
   9
               12.192
           592250.785
                           4531434.127
           592249.419
                           4531414.385
           592249.962
                           4531414.368
           592254.352
                           4531413.957
           592254.764
                           4531419.171
           592259.018
                           4531418.622
           592259.704
                           4531428.638
           592255.450
                           4531429.187
           592255.450
                           4531433.578
'BLD 28'
                       0.000 'silos 13-5 to 13-14'
```

```
4
               12.802
           592245.159
                           4531481.465
           592254.876
                           4531480.615
           592252.377
                           4531452.052
           592242.660
                           4531452.902
'BLD 29'
          1
                       0.000 'silos 13-15 to 13-18'
   4
               12.802
                           4531498.068
           592248.315
           592256.844
                           4531497.770
           592256.546
                           4531489.241
           592248.017
                           4531489.539
'BLD_30'
                       0.000 '14a-pulerizing station'
   4
               16.459
           592258.647
                           4531376.431
           592258.647
                           4531381.571
           592263.396
                           4531381.571
           592263.396
                           4531376.431
'BLD 26'
                       0.000 'Emergency Diesel Generator'
    4
                3.048
           592211.855
                           4531414.660
           592215.544
                           4531413.318
           592208.963
                           4531395.237
           592205.274
                           4531396.580
'BLD 31'
                       0.000
                             'Palisades Point South Tower'
                76.200
   11
           592209.543
                           4531699.873
           592226.184
                           4531699.531
                           4531702.183
           592226.184
                           4531702.183
           592242.867
           592242.867
                           4531704.964
           592259.377
                           4531704.964
                           4531724.941
           592259.719
           592236.364
                           4531724.941
           592224.686
                           4531723.829
           592215.232
                           4531718.268
                           4531709.927
           592209.671
'BLD 32'
                       0.000 'Palisades Point North Tower'
   13
                76.200
           592213.822
                           4531784.168
           592213.822
                           4531772.171
           592218.557
                           4531765.540
           592224.241
                           4531761.436
           592231.818
                           4531759.541
           592239.711
                           4531758.278
           592246.973
                           4531757.647
           592261.497
                           4531757.647
           592262.444
                           4531776.906
           592246.973
                           4531776.906
           592246.973
                           4531780.380
           592230.871
                           4531780.695
           592231.187
                           4531783.853
'BLD_34'
                             'Palisades Point South 5 Story Residential-Retail'
                       0.000
   19
                15.240
           592209.541
                           4531709.371
           592196.052
                           4531709.371
           592191.984
                           4531689.031
           592188.773
                           4531675.542
           592189.201
                           4531669.976
```

```
592190.700
                           4531663.552
           592194.126
                           4531659.699
           592199.478
                           4531655.416
           592208.042
                           4531655.416
           592208.042
                           4531666.550
           592203.760
                           4531666.550
           592201.405
                           4531669.119
           592199.906
                           4531671.260
           592200.335
                           4531680.681
           592201.619
                           4531687.960
           592202.413
                           4531693.866
           592203.546
                           4531695.882
           592204.831
                           4531699.094
           592209.755
                           4531699.736
'BLD_35'
                      0.000 'Palisades Point South 3-Story Roof Garden-Parking
Garage'
    17
                 9.144
           592208.256
                           4531655.416
           592262.210
                           4531655.416
           592262.425
                           4531708.514
           592259.213
                           4531708.514
           592259.213
                           4531705.089
           592242.727
                           4531705.089
           592242.727
                           4531702.519
           592226.027
                           4531702.519
           592226.027
                          4531699.736
           592209.541
                           4531700.164
           592204.831
                           4531698.665
           592202.476
                           4531693.955
           592201.405
                           4531686.462
           592200.120
                           4531681.109
           592199.906
                           4531671.688
           592203.760
                           4531666.550
           592208.042
                           4531666.550
4
'BLDG5A'
           0.000 21.336 592221.360 4531626.060 'gas turbine stack'
'BOIL3'
           0.000 45.720 592258.540 4531600.020 'boiler 3 stack'
'BLDG3'
           0.000 30.480 592184.230 4531541.290 'granular carbon facility stack'
'DIESLGEN' 0.000 4.572 592208.130 4531396.880 'Emergency Diesel Generator'
```

BPIP (Dated: 04274)

DATE : 5/8/2008 TIME : 14:57:26

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BPIP PROCESSING INFORMATION:

The P flag has been set for preparing downwash related data for a model run utilizing the PRIME algorithm.

Inputs entered in METERS will be converted to meters using a conversion factor of 1.0000. Output will be in meters.

The UTMP variable is set to UTMY. The input is assumed to be in UTM coordinates. BPIP will move the UTM origin to the first pair of UTM coordinates read. The UTM coordinates of the new origin will be subtracted from all the other UTM coordinates entered to form this new local coordinate system.

Plant north is set to 0.00 degrees with respect to True North.

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PRELIMINARY* GEP STACK HEIGHT RESULTS TABLE (Output Units: meters)

Stack Name	Stack Height	Stack-Building Base Elevation Differences	GEP** EQN1	Preliminary* GEP Stack Height Value
BLDG5A	21.34	0.00	189.02	189.02
BOIL3	45.72	0.00	190.50	190.50
BLDG3	30.48	0.00	187.65	187.65
DIESLGEN	4.57	0.00	115.01	115.01

- * Results are based on Determinants 1 & 2 on pages 1 & 2 of the GEP Technical Support Document. Determinant 3 may be investigated for additional stack height credit. Final values result after Determinant 3 has been taken into consideration.
- ** Results were derived from Equation 1 on page 6 of GEP Technical Support Document. Values have been adjusted for any stack-building base elevation differences.

Note: Criteria for determining stack heights for modeling emission limitations for a source can be found in Table 3.1 of the GEP Technical Support Document.

BPIP (Dated: 04274)

DATE : 5/8/2008 TIME : 14:57:26

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BPIP output is in meters

S	BUILDHGT	BLDG5A	76.20	76.20	76.20	76.20	76.20	10.97
S	BUILDHGT	BLDG5A	10.97	10.97	14.94	14.94		14.94
S) BUILDHGT	BLDG5A	14.94	38.40	76.20	76.20		
	D BUILDHGT			76.20		76.20		
	D BUILDHGT					14.94		
	BUILDHGT					76.20		
	BUILDWID					75.22		
						20.11		
) BUILDWID		27.00	10.00				
	BUILDWID			43.71		75.22		
) BUILDWID			10.00	10.42			
50	BUILDWID BUILDWID	BLDG5A	11.26	10.86	19.43	20.11		
S) BOILDWID	BLDG5A	27.09	43./1	75.22	75.22		
) BUILDLEN					93.01		
	BUILDLEN						25.47	
	BUILDLEN						85.91	
	BUILDLEN						90.04	
S) BUILDLEN	BLDG5A	9.26	7.98	22.54	23.10	25.47	27.06
S) BUILDLEN	BLDG5A	27.83	49.40	91.37	90.01	85.91	84.64
S) XBADJ	BLDG5A	70.64	65.32	58.02	48.95	38.39	-3.12
S	D BUILDLEN D XBADJ D XBADJ	BLDG5A	-2.71	-2.21	18.24	20.05	20.00	19.34
) XBADJ	BLDG5A	18.09	60.41	-140.69	-151.15	-157.01	-158.11
S) XBADJ	BLDG5A	-157.10	-155.80	-151.18	-141.96	-128.43	-7.14
S) XBADJ	BLDG5A	-6.55	-5.77	-40.78	-43.15	-45.46	-46.40
S) XBADJ	BLDG5A	-45.92	-109.82	49.32	61.14	71.10	73.47
S) YBADJ	BLDG5A	5.57	26.21	46.06	64.50	80.99	0.33
S) YBADJ		0.67				-3.65	
S) YBADJ	BLDG5A	7.77	-34.08	68.84	52.17		14.63
S) YBADJ	BLDG5A	-5.57	-26.21	-46.06	-64.50	-80.99	-0.33
) YBADJ	BLDG5A	-5.57 -0.67	-1.00	14.62	9.27	3.65	-2.09
) YBADJ	BLDG5A	-7.77	34.08	-68.84	-52.17	-33.92	-14.63
S	BUILDHGT	BOIL3	76.20	47.55	47.55	47.55	47.55	21.34
	BUILDHGT		17.68					
	BUILDHGT		15.24			76.20		
) BUILDHGT		76.20	47.55			47.55	16.46
) BUILDHGT		14 94	14 94	14 94	14.94		
	D BUILDHGT		14.94	76.20	76.20	76.20	76.20	
	D BUILDWID				47.08		49 40	17.28
	D BUILDWID		37.08					25.52
	BUILDWID							52.90
	BUILDWID		58.62			48.99		
) BUILDWID		25.11	22.61				25.52
) BUILDWID		27.09	90.04		76.06	65.47	52.90
) BUILDLEN			29.04		23.52	27.99	17.95
			86.46					
) BUILDLEN		26.72	25.05	22.54	23.10	25.47	27.06
) BUILDLEN		43.87	89.96 29.04		90.01	85.91	84.64
) BUILDLEN							
S) BUILDLEN	ROTF2	26.81	25.05	22.54	23.10	25.47	27.06

SO	BUILDLEN	BOIL3	27.83	89.96	91.37	90.01	85.91	84.64
SO	XBADJ		89.83					
	XBADJ		-93.67				-23.85	
	XBADJ		-118.16					
	XBADJ	BOIL3		53.83		47.80		
		DOIL 3	10.10					
	XBADJ	BOIL3	-10.10	-6.96	-3.60	-2.01	-1.62	-1.18
	XBADJ	BOIL3	-0.70	79.85		98.33		
	YBADJ	BOIL3	46.71	-7.61	-19.50	-30.85	-41.27	-11.45
SO	YBADJ	BOIL3	-18.03	12.58	11.42	9.91	8.11	6.05
SO	YBADJ	BOIL3	28.29	71.67	49.66	26.14	1.82	-22.55
SO	YBADJ	BOIL3	-46.71	7.61	19.50	30.85	41.27	40.93
SO	YBADJ	BOIL3	-13.35	-12.58	-11.42	-9.91	-8.11	-6.05
		BOIL3						
90	BUILDHGT	DI DC3	21.34	21 37	76.20	21.34	47.55	47.55
	BUILDHGT							
			47.55	47.55		47.55		41.60
	BUILDHGT		41.60	41.60				76.20
	BUILDHGT		76.20	76.20	76.20		47.55	47.55
	BUILDHGT		47.55	47.55	47.55		38.40	41.60
SO	BUILDHGT	BLDG3	41.60	41.60	41.60		41.60	41.60
SO	BUILDWID	BLDG3	14.95	16.46	74.30	17.95	49.40	48.32
SO	BUILDWID	BLDG3	45.89	42.44	37.69	33.18	42.58	62.99
SO	BUILDWID	BLDG3	46.75	45.38	42.63	50.74	43.45	52.90
	BUILDWID		58.62	69.90		17.95	49.40	48.32
	BUILDWID		45.89	42.44				
	BUILDWID		46.75		42.63			
	BUILDLEN		12.46		93.16			
	BUILDLEN		34.27					
	BUILDLEN		42.81					84.64
	BUILDLEN		86.46	90.48	93.16	17.28	27.99	
	BUILDLEN		34.27	35.88	36.41		43.86	38.96
	BUILDLEN	BLDG3	42.81		46.51	53.59	55.25	55.24
SO	XBADJ	BLDG3	-0.91	-1.53	149.99	-2.62	27.00	31.75
SO	XBADJ	BLDG3	35.53	38.23	39.77		35.42	47.61
SO	XBADJ	BLDG3	54.18	59.10	62.22	56.13	52.12	-242.88
SO	XBADJ	BLDG3	-247.03	-248.16			-54.99	-63.36
			-69.79					
	XBADJ		-96.98					
	YBADJ	BLDG3	-2.83	-1.86	56.28		-44.05	
	YBADJ	BLDG3		-19.30			19.02	
	YBADJ	BLDG3	-42.55	-28.72			21.25	51.76
				-20.72				
	YBADJ	BLDG3	16.28					36.73
	YBADJ	BLDG3	28.35	19.30			-19.02	
SO	YBADJ	BLDG3	42.55	28.72	14.02	-7.19	-21.25	-34.66
SO	BUILDHGT	DIESLGEN		39.62	41.60	41.60	39.62	39.62
SO	BUILDHGT	DIESLGEN	39.62	39.62	39.62	39.62	39.62	39.62
SO	BUILDHGT	DIESLGEN	39.62	39.62	41.60	41.60	41.60	47.55
	BUILDHGT			47.55	47.55	41.60	39.62	
	BUILDHGT		39.62	39.62	39.62	39.62	39.62	39.62
	BUILDHGT		39.62	39.62	41.60	41.60	41.60	41.60
	BUILDWID		50.18	69.03	38.96	42.81	98.56	
		DIESLGEN		101.67			86.11	
	BUILDWID			55.14				36.41
	BUILDWID			43.86				
SO	BUILDWID	DIESLGEN	103.78	101.67	96.48	91.55	86.11	78.05

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SO BUILDWID	DIESLGEN	67.62	55.14	42.63	50.74	43.45	34.84
SO BUILDLEN	DIESLGEN	124.07	86.11	46.70	46.75	55.14	42.63
SO BUILDLEN	DIESLGEN	38.59	38.99	45.41	55.21	69.03	81.45
SO BUILDLEN	DIESLGEN	91.39	98.56	46.51	53.59	55.25	30.26
SO BUILDLEN	DIESLGEN	33.18	29.04	24.39	46.75	55.14	42.63
SO BUILDLEN	DIESLGEN	38.59	38.99	45.41	55.21	69.03	81.45
SO BUILDLEN	DIESLGEN	91.39	98.56	46.51	53.59	55.25	55.24
SO XBADJ	DIESLGEN	42.06	-1.92	34.67	29.33	13.35	16.17
SO XBADJ	DIESLGEN	8.75	1.06	-6.66	-18.24	-32.25	-45.29
SO XBADJ	DIESLGEN	-56.96	-66.89	-74.79	-87.74	-94.25	-153.60
SO XBADJ	DIESLGEN	-155.62	-154.30	-148.29	-76.08	-68.48	-58.81
SO XBADJ	DIESLGEN	-47.34	-40.05	-38.75	-36.97	-36.78	-36.16
SO XBADJ	DIESLGEN	-34.44	-31.67	28.28	34.15	38.99	42.65
SO YBADJ	DIESLGEN	-6.85	-2.26	25.81	35.55	17.61	23.43
SO YBADJ	DIESLGEN	28.53	32.76	36.01	38.66	41.13	42.34
SO YBADJ	DIESLGEN	42.27	40.92	37.49	34.12	22.79	34.07
SO YBADJ	DIESLGEN	10.05	-14.49	-38.41	-35.55	-17.61	-23.43
SO YBADJ	DIESLGEN	-28.53	-32.76	-36.01	-38.66	-41.13	-42.34
SO YBADJ	DIESLGEN	-42.27	-40.92	-37.49	-34.12	-22.79	-10.76

Appendix B

NYSDEC and USEPA Policy on Ambient Air Status of Elevated Receptors

Criteria for Receptors at Elevated Buildings

Ambient air is defined in 40 CFR 51.5(e) as "that portion of the atmosphere, external to buildings, to which the general public has access". A 1980 clarification by the U.S. EPA stated that an "exemption from ambient air is available only for the atmosphere over land owned or controlled by the source and to which public access is precluded by a fence or other physical barriers."

This brief clarification has not resolved the confusion over what constitutes general public access, and the U.S. EPA has issued interpretations of the definition. In particular, there is no clear definition of ambient air as it pertains to elevated, building receptors (flagpole receptors), and although the U.S. EPA definition states "external to buildings", the NYSDEC has until recently required the modeling of impacts at operable windows and air intakes of mechanically-ventilated buildings. In addition, Section 312.2 of the NYCDEP's City Environmental Quality Review (CEQR) Technical Manual (October 2001) includes buildings with operable windows and air intake vent locations in its list of reasonable receptor sites. This CEQR manual list also includes "balconies on buildings and other accessible areas at elevated locations on buildings, such as rooftop decks, etc."

Building occupants may be exposed to air contaminants at several locations, including:

- 1. Rooftop recreational areas (decks, gardens, pools, restaurants, viewing platforms, exercise areas),
- 2. Balconies associated with residential space,
- 3. Rooftop non-recreational areas (access generally limited to maintenance personnel),
- 4. Inside rooms with operable windows, and
- 5. Inside rooms with mechanical ventilation (air contaminants introduced through air intakes).

The U.S. EPA determined in June 1984 that compliance with PSD increments should only be demonstrated for ground-level receptors and that compliance with NAAQS should be demonstrated at ground-level and elevated receptors. The U.S. EPA's June 1984 memo referenced a March 18, 1983 memo to the State of New York which determined that the NAAQS are "designed to protect the public health and welfare and apply to all ambient air which does include the rooftops and balconies of buildings accessible by the public." Therefore, the definition of ambient air clearly applies to items 1 and 2 above.

An April 13, 1992 U.S. EPA memo to Mr. Daniel Gutman noted the following points.

- "...the definition of ambient air is "based on two tests: whether the location is external to buildings and whether it is accessible to the general public."
- "...except in very unusual situations, we would not consider air at open or operable windows, or at the
 intakes of mechanically-ventilated buildings, as ambient air..."
- "States are free to interpret their own State ambient air quality standards in a more restrictive manner."

A February 14, 2002 letter (incorrectly dated 2001) from Mr. Leon Sedefian of the NYSDEC to the U.S. EPA Region II confirmed EPA guidance (via electronic mail to Mr. Sedefian) that the definition of ambient air does not apply to air intakes on buildings and operable windows for the determination of compliance with NAAQS. It noted that the definition of ambient air "does not apply to air which is no longer external to buildings". Therefore, the definition of ambient air clearly does not apply to items 4 and 5 above.

Item 3, non-recreational rooftop areas, includes permanent facilities with stairwell or ladder access that are generally accessed only for repair and maintenance purposes, and long-time occupation is unlikely. U.S. EPA guidance has not specifically addressed ambient air impacts at such a location. Although the U.S. EPA's June 1984 memo stated that ambient air does include "rooftops and balconies of buildings accessible by the public", it further stated that "apartment balconies, rooftop restaurants, and the like present a potential for human exposure that the primary ambient air quality standards should be interpreted to address." Once can therefore conclude that the author interpreted "accessible by the public" to mean areas of casual public

access, such as restaurants, rather than non-recreational rooftops. This interpretation is also supported by the NYCDEP definition that specifically mentions rooftop decks.

A non-recreational rooftop is external to a building and therefore meets the first test of ambient air. Because such a location is not accessible to the general public but only to staff employed or contracted by the building management (therefore subject to OSHA requirements related to the building), the non-recreational rooftop areas do not merit an "ambient air" designation.

Several notable distinctions can be drawn between rooftop recreation areas and rooftop non-recreational areas.

- Access to rooftops for maintenance is typically limited to maintenance and individual workers and not the general public.
- Non-recreational rooftops typically are off-limits to the general public and have barriers limiting rooftop access.
- A number of rooftops have stacks or exhaust vents that are affecting those workers more than the
 emissions from other emission sources. Therefore, one could argue that OSHA worker standards,
 which apply to employees, are more applicable than ambient air quality standards, which are intended
 to protect more sensitive members of the population, including children and individuals with respiratory
 ailments.
- Individual rooftops are not a location of routine employment. Although an analogy to worker exposure
 on rooftops could be drawn from U.S. EPA guidance concerning worker exposure at one facility
 (Facility A) that is attributable to emissions from another, unrelated facility (Facility B), this analogy
 breaks down when the duration of exposure is considered. In this analogy, workers at Facility A are
 likely to have long-term exposure to emissions from Facility B (e.g., 40 hours per week, 50 weeks per
 year), whereas maintenance activities on a roof would likely be short-term and sporadic.

References

June 11, 1984 memo from Joseph A. Cannon, Assistant Administrator for Air and Radiation, to Charles R. Jeter, Regional Administrator, Region IV. Available at http://www.epa.gov/scram001/guidance/mch/ama1.txt

April 30, 1987 memo from G. T. Helms, Chief, Control Programs Operations Branch, to Steve Rothblatt, Chief, Air Branch, Region V, and attached memos. Available at http://www.epa.gov/scram001/guidance/mch/ama2.txt

July 27, 1987 memo from G. T. Helms, Chief, Control Programs Operations Branch, to William S. Baker, Chief, Air Branch, Region II, and attached memos. Available at http://www.epa.gov/ttn/nsr/psd1/pdf/p7 7.pdf

September 21, 1987 memo from G. T. Helms, Chief, Control Programs Ops. Branch, to Bruce P. Miller, Chief, Air Programs Branch, Region IV, and attached memos. Available at http://www.epa.gov/ttn/nsr/psd2/pdf/p6 33.pdf

January 21, 1986 memo from Joseph A. Tikvart, Chief, Source Receptor Analysis Branch, to Regional Modeling Contacts, Regions I-X, and attached memos. Available at http://www.epa.gov/scram001/guidance/mch/ama4.txt

October 17, 1989 memo from Robert D. Bauman, Chief, SO2/PM Programs Branch, to Gerald Fontenot, Chief, Air Programs Branch, Region VI. Available at http://www.epa.gov/scram001/guidance/mch/ama5.txt

April 13, 1992 letter from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Daniel Gutman. Available at http://www.epa.gov/ttn/nsr/gen/memo-x.html

February 14, 2002 letter from Leon Sedefian, NYSDEC Division of Air Resources, to Annamaria Colecchia, Air Compliance Branch, Region II

APR 13 1992

Mr. Daniel Gutman 407 West 44th Street New York, New York 10036

Dear Mr. Gutman:

This is in response to your March 12, 1992 letter requesting further clarification regarding the Environmental Protection Agency's (EPA's) definition of "ambient air." My February 19, 1992 letter to you indicated that the definition of ambient air is based on two tests: whether the location is external to buildings and whether it is accessible to the general public.

You suggest in your letter that EPA adopt a policy which would state that, except in special cases, air at the intakes of mechanically ventilated buildings would not be considered ambient air, while air at open (or operable) windows generally would be considered ambient air (subject to case-by-case exceptions). However, in determining compliance with annual national ambient air quality standards, it is highly unlikely that the air at all or most operable window openings (which would not remain open all year round) would represent a reasonable or plausible exposure scenario. Outdoor-to indoor attenuation studies, even in open-windows situations, have shown reductions in the concentrations people actually breathe indoors. The indoor-to outdoor (I/O) ratio varies depending on the averaging time, the outdoor air exchange rate (expressed as the number of air changes per hour), reactivity of the pollutant, building orientation to the wind, etc. Enclosed for your information is an analysis from a study we are working on involving exposure to ozone. The data show that the I/O ration for ozone generally ranges from $0.5\ \mathrm{to}$ 0.8, with buildings with high air exchange rates (likely due to open windows or doors) at the upper end of the range and closed buildings with air conditioning at or below 0.5. While pollutants like sulfur dioxide and carbon monoxide are less reactive than ozone and thus would likely exhibit higher I/O ratios, this merely confirms the case-by-case nature of these situations. Once indoors, air is no longer "external to buildings" and is thus not considered ambient air.

2.

Thus, except in very unusual situations, we would not consider air at open or operable windows, or at the intakes of mechanically-ventilated buildings, as ambient air for purposes of determining attainment of the national ambient air quality standards. States are free to interpret their own State ambient air quality standards in a more restrictive manner. I appreciate this opportunity to be of service and trust this information will be helpful to you.

Sincerely,

John S. Seitz
Director
Office of Air Quality Planning
and Standards

Enclosure

bcc: (w/o) enclosure)
Bill Baker, Region II
T. Helms, AQMD (MD-15)
E. Lillis, AQMD (MD-15)
J. Paisie, AQMD (MD-15)
Mike Prosper, OGC (LE-132A)

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OAQPS:AQMD:KBERRY/nmiller:NCM:MD-15:X5505:3-27-92 F:\NMILLER\BERRY\GUTMAN.2 Rerun 3-31, 4-3, 4-8-92 Control No. AQPS-92-0016 Due to AQPS 4-06-92 This has been coordinated with Mike Prosper (OGC) and Bill Baker (Region II).

Appendix C

Derivation of Source Data Used in ASR Modeling Analysis

C.1 Existing ASR Source Configuration

C.1.1 Short-term Averaging Periods

C.1.1.1 Boiler No. 3

Boiler No. 3 is fired with both natural gas and No. 2 fuel oil. Short-term modeling was conducted for this unit assuming oil firing because use of this fuel results in higher emission rates than for natural gas firing.

Sulfur Dioxide (SO₂) - Maximum potential emission rates for Boiler No. 3 were calculated using USEPA's AP-42 emission factor for No. 2 oil-fired boilers with a heat input greater than 100 MMBtu/hr (Section 1.3, Table 1.3-1), the oil firing rate associated with the maximum heat input rate (1.196 x 10³ gal/hr), and the maximum allowable fuel oil sulfur content (0.37%). This results in a maximum hourly SO₂ emission rate of 62.8 lb/hr (compared to 62.11 lb/hr used in the DEIS modeling analysis). The maximum actual SO₂ emission rate was calculated using the same approach, but with the actual sulfur content of 0.2%.

Inhalable Particulate Matter (PM_{10}) – There is no limit on PM_{10} emissions applicable to Boiler No. 3 in the Title V permit or in NYSDEC regulations. Therefore, maximum potential PM_{10} emission rate was calculated by multiplying the maximum oil firing rate by the AP-42 emission factor for filterable particulate matter in Table 1.3-1 of AP-42 for No. 2 oil fired boilers ($2 lb/10^3$ gal) multiplied by the fraction of filterable particulate matter that is sized 10 microns and less (0.5 per Table 1.3-6 of AP-42) plus the condensable particulate matter emission factor for No. 2 oil firing ($1.3 lb/10^3$ gal) provided in Table 1.3-2 of AP-42. It was assumed that all condensable particulate matter is sized 10 microns or less. Using this approach results in a maximum potential PM_{10} emission rate of 2.75 lb/hr (compared to 2.72 lb/hr used in the DEIS modeling analysis). The maximum actual PM_{10} emission rate was assumed to be the same as the maximum potential emission rate.

Flue Gas Velocity and Temperature – The flue gas velocity and temperature were derived from the results of the November 28, 2006 stack test conducted on Boiler No. 3. The average flow rate from the stack test was adjusted to account for the fact that the boiler was operating at less than full load (129.5 MMBtu/hr compared to 165 MMBtu/hr). The resultant flue gas flow rate and temperature used in the ASR modeling analysis for both maximum potential and maximum actual scenarios were 66,217 actual cubic feet per minute (acfm) and 270°F (compared to 39,300 acfm and 350°F used in the DEIS modeling analysis).

C.1.1.2 Cogeneration Unit

The cogeneration unit is comprised of two sources whose emissions are discharged from the same stack (combustion turbine and a supplementary-fired duct burner). Emission rates were calculated for each component and then summed. The combustion turbine and boiler are fired with both natural gas and No. 2 fuel oil. Short-term modeling was conducted for this unit assuming oil firing because use of this fuel results in higher emission rates than for natural gas firing.

Sulfur Dioxide (SO_2) – The maximum potential emission rate for the combustion turbine was calculated using the AP-42 emission factor from Section 3.1, Table 3.1-2a, the maximum heat input rate (58 MMBtu/hr), and the maximum allowable sulfur content (0.37%). The maximum potential emission rate for the boiler was calculated using the same AP-42 emission factor that was used for Boiler No. 3, the maximum fuel oil firing rate associated with the maximum heat input rate (0.790 x 10^3 gal/hr), and the maximum allowable sulfur content. This resulted in a maximum potential SO_2 emission rate for the cogeneration unit of 63.17 lb/hr (compared to 62.58 lb/hr used in the DEIS modeling analysis). The maximum actual SO_2 emission rate was calculated using the same approach, but with the actual sulfur content of 0.2%.

Inhalable Particulate Matter (PM_{10}) – There is no limit on PM_{10} emissions applicable to either the combustion turbine or the boiler in the Title V permit or in NYSDEC regulations. Therefore, maximum potential PM_{10} emission rate for the combustion turbine was calculated multiplying the maximum heat input rate (58 MMBtu/hr) by the AP-42 emission factor for total (filterable plus condensable) particulate matter contained in Table 3.1-2a of AP-42 (0.012 lb/MMBtu). The maximum potential PM_{10} emission rate for the boiler was calculated by multiplying the maximum oil firing rate by the AP-42 emission factor for filterable particulate

matter in Table 1.3-1 of AP-42 for No. 2 oil fired boilers (2 lb/ 10^3 gal) multiplied by the fraction of filterable particulate matter that is sized 10 microns and less (0.5 per Table 1.3-6 of AP-42) plus the condensable particulate matter emission factor for No. 2 oil firing (1.3 lb/ 10^3 gal) provided in Table 1.3-2 of AP-42. It was assumed that all condensable particulate matter is sized 10 microns or less. Using this approach results in a maximum potential PM₁₀ emission rate for the cogeneration unit of 2.51 lb/hr (compared to 5.33 lb/hr used in the DEIS modeling analysis). The maximum actual PM₁₀ emission rate was assumed to be the same as the maximum potential emission rate.

Flue Gas Velocity and Temperature – The flue gas velocity and temperature were derived from the results of the November 28, 2006 stack test conducted on the cogeneration unit. The average flow rate from the stack test was adjusted to account for the fact that the cogeneration unit was operating at less than full load (138.6 MMBtu/hr compared to 167 MMBtu/hr). The resultant flue gas flow rate and temperature used in the ASR modeling analysis for both maximum potential and maximum actual scenarios were 55,424 acfm and 288°F (compared to 57,493 acfm and 300°F used in the DEIS modeling analysis).

C.1.1.3 Granular Carbon Furnace

The granular carbon furnace is fired with natural gas only. This source was not included in the DEIS modeling analysis.

Sulfur Dioxide (SO_2) – The maximum potential emission rate for SO_2 was calculated based on the maximum natural gas firing rate for this unit (0.00561 million cubic feet per hour [5.78 MMBtu/hr]) and AP-42 emission factor from Section 1.4, Table 1.4-2. Using this approach results in a maximum potential SO_2 emission rate of 0.0034 lb/hr. it was assumed that the maximum actual emission rate was the same as the maximum potential emission rate.

Inhalable Particulate Matter (PM_{10}) – There is no limit on PM_{10} emissions applicable to this unit. The maximum potential PM_{10} emission rate (0.84 lb/hr) was obtained from ASR. The maximum actual PM_{10} emission rate was calculated by multiplying the maximum natural gas firing rate by the total particulate matter emission factor (filterable and condensable) listed in Table 1.4-2 of AP-42.

Flue Gas Velocity and Temperature – The flue gas flow rate (1,130 acfm) and temperature (100°F) were estimated based on the maximum heat input and the fact that the flue gases are sent through a wet scrubber.

C.1.2 Annual Averaging Periods

In accordance with USEPA and NYSDEC guidance, maximum potential emission rates used in modeling annual average concentrations were determined in accordance with the following:

- 1. Use annual permit limit (or cap), if applicable (for NOx only);
- If Step 1 is not applicable, then multiply the maximum fuel-dependent hourly emission rate by the fueldependent hours/year limits (or hourly equivalent of fuel limit), if applicable (not applicable to any of the ASR combustion sources); or.
- 3. If Steps 1 and 2 are not applicable, multiply the maximum hourly fuel-dependent emission rate by the actual hours of operation for the respective fuels.

The actual annual fuel consumption rates and hours of operation averaged over 2006 and 2007 for the ASR combustion sources are provided in Table B-1. Included in Table B-1 are the hours of operation that were used in the DEIS modeling analysis. Note that since there is no longer an annual NAAQS for PM₁₀, annual modeling was not conducted for this pollutant.

C.1.2.1 Boiler No. 3

Nitrogen Oxides (NOx) – Boiler No. 3 is subject to a NOx Reasonably Available Control Technology (RACT) limit of 0.30 lb/MMBtu for both natural gas and No. 2 fuel oil (49.5 lb/hr at the maximum heat input rate). In addition, the total NOx emission rate for Emission Unit 00002 is 274.5 tons/year (currently, this emission unit is comprised of Boiler No. 3 and the cogeneration unit). Based on the maximum allowable short-term emission rates for Boiler No. 3 and the cogeneration unit and the actual hours of operation of these two emission units, the maximum potential NOx emission rate for Boiler No. 3 was set at 170.3 tons/yr (the balance of the annual NOx cap was assigned to the cogeneration unit). This annual emission rate equates to an hourly average emission rate of 38.88 lb/hr (compared to 28.51 lb/hr used in the DEIS modeling analysis). The average annual emission rate was calculated by multiplying the annual heat input rate for No. 2 oil and natural gas (from Table 3-3 and the listed fuel heating values) by stack-tested emission concentrations (0.102 lb/MMBtu for No. 2 Oil and 0.073 lb/MMBtu for natural gas). The resultant actual annual NOx emission rate is 23.8 tons/yr. This is equivalent to an hourly average emission rate of 5.43 lb/hr.

Sulfur Dioxide (SO_2) – The maximum actual annual SO_2 emission rate for Boiler No. 3 was determined by multiplying the maximum potential hourly emission rates for No. 2 oil (from Table 3-1) and natural gas (see below) by the average operating hours for these fuels (Table 3-3). The maximum hourly SO_2 emission rate for natural gas firing was determined by multiplying the maximum hourly natural gas firing rate for this unit (0.160 million cubic feet per year [mmcf/yr)]) by the AP-42 emission factor for natural gas-fired boilers (0.6 lb/mmcf, Table 1.4-2 of Section 1.4). The resultant maximum actual SO_2 emission rate is 10.0 tons/yr. This annual emission rate equates to an hourly average emission rate of 2.28 lb/hr (compared to 10.15 lb/hr used in the DEIS modeling analysis). The average annual emission rate was calculated by multiplying the fuel firing rates for No. 2 oil and natural gas (from Table 3-3) by AP-42 emission factors for No. 2 oil (28.40 lb/10³ gal for 0.2% sulfur) and natural gas (0.6 lb/mmcf). The resultant actual annual SO_2 emission rate is 3.7 tons/yr. This is equivalent to an hourly average emission rate of 0.84 lb/hr.

Flue Gas Velocity and Temperature – The flue gas flow rate and temperature for the maximum actual/potential annual modeling analysis were the same values used for the short-term modeling analysis (the DEIS modeling study used the same approach). The flue gas flow rate and temperature for the average modeling analysis were derived from the results of the November 28, 2006 stack test conducted on Boiler No. 3. Specifically, the lesser of the actual tested flue gas flow rate (46,374acfm) and flue gas temperature (245°F) for natural gas and oil firing were used for the average actual annual modeling analysis.

C.1.2.2 Cogeneration Unit

Nitrogen Oxides (NOx) – The maximum potential annual emission rate for the cogeneration unit was determined by subtracting the calculated maximum annual potential emission rate for Boiler No. 3 (170.3 tons/yr as discussed above) from the annual emission cap (274.5 tons/yr). The resultant maximum potential annual NOx emission rate for the cogeneration unit used in the annual modeling analysis was therefore 104.2 tons/yr. This is equivalent to an hourly average emission rate of 23.79 lb/hr (compared to 27.71 lb/hr used in the DEIS modeling analysis). The average actual annual emission rate was calculated by multiplying the total annual heat input rate for No. 2 oil and natural gas for the cogeneration unit (from Table 3-3 and the listed fuel heating values) by stack-tested emission concentrations (0.150 lb/MMBtu for No. 2 oil and 0.095 lb/MMBtu for natural gas). The resultant average actual annual NOx emission rate is 42.83 tons/yr. This is equivalent to an hourly average emission rate of 9.78 lb/hr.

Sulfur Dioxide (SO_2) – The maximum actual annual SO_2 emission rate for the cogeneration unit was calculated based on a combination of AP-42 emission factors for the two fuels and for the two combustion sources $(0.37 \, \text{lb/MMBtu})$ and $52.54 \, \text{lb/103}$ gal for No. 2 oil firing at 0.37% sulfur and $0.0034 \, \text{lb/MMBtu}$ and $0.6 \, \text{lb/mmcf}$ for natural gas firing for the combustion turbine and duct burner, respectively); the maximum heat input rate for the combustion turbine $(58 \, \text{MMBtu/hr})$ and the maximum fuel firing rates for the duct burner $(0.790 \, \text{x} \, 10^3 \, \text{gal/hr})$ and $0.106 \, \text{mmscf/hr}$; and the hours of operation for the two fuels for each combustion source from Table 3-3. The resultant maximum actual annual $SO_2 \, \text{emission}$ rate is $11.6 \, \text{tons/yr}$. This is equivalent to an hourly average emission rate of $2.65 \, \text{lb/hr}$ (compared to $7.21 \, \text{lb/hr}$ used in the DEIS modeling analysis). The average actual annual $SO_2 \, \text{emission}$ rate was calculated using the same approach, but with the annual average heat

input and fuel firing rates and actual No. 2 oil sulfur content (0.2%). The resultant average actual annual SO₂ emission rate is 5.23 tons/yr. This is equivalent to an hourly average emission rate of 1.24 lb/hr.

Flue Gas Velocity and Temperature – The flue gas flow rate and temperature for the maximum actual/potential annual modeling analysis were the same values used for the short-term modeling analysis (the DEIS modeling study used the same approach). The flue gas flow rate and temperature for the average modeling analysis were derived from the results of the November 28, 2006 stack test conducted on the cogeneration unit. Specifically, the lesser of the actual tested flue gas flow rate (46,000acfm) and flue gas temperature (285°F) for natural gas and oil firing were used for the average actual annual modeling analysis.

C.1.2.3 Granular Carbon Furnace

Nitrogen Oxides (NOx) – The maximum actual annual emission rate for the granular carbon furnace was determined as the product of the AP-42 emission factor for small (less than 100 MMBtu/hr) natural gas fired boilers (100 lb/mmcf, Table 1.4-1 if Section 1.4), the maximum heat input rate (5.78 MMBtu/hr), and the average operating hours from Table B-1 (6996 hours/yr). The resultant maximum actual annual emission rate is 1.96 tons/yr, which is equivalent to an hourly average emission rate of 0.45 lb/hr. The average actual annual NOx emission rate was calculated as the product of the annual average heat input (derived from the annual fuel firing rate listed in Table B-1) and the AP-42 NOx emission factor. The resultant average actual annual NOx emission rate is 0.72 tons/yr. This is equivalent to an hourly average emission rate of 0.16 lb/hr.

Sulfur Dioxide (SO_2) – The maximum actual and average annual SO_2 emission rates were calculated using the same approach that was discussed for NOx. The AP-42 SO_2 emission factor for natural gas-fired boilers (all sizes) is 0.6 lb/mmcf. The resultant maximum actual and average actual SO_2 emission rates for the granular carbon furnace are 0.012 and 0.004 tons/yr, respectively. These are equivalent to hourly average emission rates of 0.0027 lb/hr and 0.0010 lb/hr, respectively.

Flue Gas Velocity and Temperature – The flue gas flow rate and temperature for the maximum actual and average actual annual modeling analyses were the same values used for the short-term modeling analysis.

C.2 Proposed ASR Source Configuration

Source data were developed to evaluate the impact of short-term SO2 emissions from ASR combustion sources associated with the proposed ASR source configuration contemplated in the April 5, 2006 Title V Permit renewal application. The only emission points affected by this proposal are the Boiler No. 3 stack and the new emergency diesel generator (EDG) stack.

Boiler No. 3 Stack: New boilers #1, #6, and #7 would vent through Boiler No. 3 stack, in addition to Boiler No. 3. It was assumed that the new boilers would fire No. 6 fuel oil with a maximum sulfur content of 0.37% and a maximum actual sulfur content of 0.2% (No. 2 fuel oil). SO_2 emissions for the new boilers were calculated based on the AP-42 emission factor for small boilers (142 S lb/10³ gal, where S is the sulfur content in percent). Based on a No. 6 oil heating value of 150,000 Btu/gal (from the Title V permit application) and maximum heat input rates of 80 MMBtu/hr (Boiler #1) and 28.57 MMBtu/hr (Boilers #6 and #7, each), the maximum potential SO_2 emission rate exiting the Boiler No. 3 stack is 115.9 lb/hr, while the maximum actual SO_2 emission rate is 62.2 lb/hr. The flue gas flow rate (134,000 acfm) and temperature (295°F) were taken from the Title V permit application.

Emergency Diesel Generator – The SO_2 emission rates (maximum and actual) were calculated from the AP-42 emission factor (0.00809S lb/hp-hr, where S is the sulfur content in percent; Section 3.4, Table 3.4-1) and the design engine size (1600 brake horsepower). The maximum potential and maximum actual SO_2 emission rates for the EDG are 6.85 lb/hr and 3.70 lb/hr, respectively. The flue gas flow rate 15,118 acfm) and temperature (955°F) were obtained from the specification sheet for the diesel engine (CAT 3516 TA) that was available on Caterpillar's website.

Table C-1 Annual Average Fuel Firing Rates and Hours of Operation for ASR Combustion Sources

	Hours	/year ⁽¹⁾	Fuel Consumption/year ⁽¹⁾		
Source	No. 2 Oil	Natural Gas	No. 2 Oil (10 ³ gal) ⁽²⁾	Natural Gas (mmscf) ⁽³⁾	
Boiler No. 3 ASR Data DEIS Assumption	309.0 1425	6445.5 4500	246.88 No data	590.66 No Data	
Combustion Turbine ASR Data DEIS Assumption	382.0 1000	8047.5 7760	89.80 No data	269.22 No data	
Duct Burner ASR Data DEIS Assumption	299.0 Included w/ CT	7025.0 Included w/ CT	235.68 No data	537.33 No data	
Granulated Carbon Furnace ⁽⁴⁾	N/A	6996.0	N/A	14.43	

Average for 2006 and 2007

⁽²⁾ (3) No. 2 Oil heating value assumed to be 138,000 Btu/gal

Natural gas heating value assumed to be 1030 Btu/cf

The Granulated Carbon Furnace was not included in the DEIS modeling analysis

FINAL SCOPING DOCUMENT BELLEAYRE MOUNTAIN SKI CENTER UNIT MANAGEMENT PLAN - DEIS

AND MODIFIED BELLEAYRE RESORT AT CATSKILL PARK SUPPLEMENTAL DEIS Dated: February 28, 2008

BACKGROUND

This final scoping document relates to two proposed projects which, for the purpose of the environmental review, are being considered in a single process. The first project is the proposed expansion of the Belleayre Mountain Ski Center (Ski Center) pursuant to the issuance of an amendment to the Unit Management Plan (UMP) for the Ski Center. The Department of Environmental Conservation (Department) will be preparing a Draft Environmental Impact Statement (UMP-DEIS) relating to the Unit Management Plan. The scoping for the Draft Environmental Impact Statement with respect to the Unit Management Plan is set forth in Part A of this Document (See footer: "Scope for Part A: Ski Center UMP-DEIS").

The second project being reviewed is the proposed modified Belleayre Resort at Catskill Park (Belleayre Resort), which is as an alternative to the originally proposed project set forth in the Draft Environmental Impact Statement which was accepted as complete in December 2003 (Crossroads' DEIS). Crossroads Ventures LLC (Crossroads), the sponsor of the Belleayre Resort proposal, will be preparing a Supplemental Draft Environmental Impact Statement (Supplemental DEIS) relating to the Belleayre Resort proposal. The scoping for the Belleayre Resort Supplemental DEIS with respect to the Belleayre Resort proposal is set forth in Part B of this document. (See footer: "Scope for Part B: Belleayre Resort at Catskill Park Supplemental DEIS").

A cumulative impacts discussion, which draws upon elements of both the Ski Center's Unit Management Plan and the Belleayre Resort proposal, is contained in Part C of this document (See Footer "Scope for Part C: Cumulative Impact Analysis of Ski Center's UMP-DEIS and Belleayre Resort SDEIS").

This final scope is an integral part of the State Environmental Quality Review (SEQR) process and is intended to identify the relevant environmental effects of both projects and the combined effects of the Ski Center UMP-DEIS and the Belleayre Resort Supplemental DEIS. The purpose of scoping is to narrow issues and to ensure that respective Draft Environmental Impact Statements will be concise, accurate and complete and adequate for public review. The main objectives of scoping include an identification of the relevant environmental issues; an elimination of irrelevant issues and a deemphasis of non-significant issues; identification of the extent and quality of information

needed; identification of the range of reasonable alternatives; and identification of potential areas of mitigation.

Public comment was an integral part of the scoping for these proposed projects. The next step in this process is the preparation of the documents addressing the issues set forth in this Scope. Once accepted by the Lead Agency as complete, these draft documents will be available for public review. For general information on the SEQR process, please refer to the SEQR web pages on the Department's web site, located at: http://www.dec.ny.gov/public/357.html.

The two proposed projects were described in the "Agreement in Principle" dated September 5, 2007 (the Agreement). The Agreement set forth a conceptual plan consisting of several generally concurrent components, which are all subject to the outcome of this SEQR process, including:

- •Crossroads Ventures LLC's proposed development of a resort complex consisting of 2 facilities. One is a resort and spa complex generally west of and adjoining the Ski Center and the other is a resort and golf course complex west of the Ski Center; and
- New York State Department of Environmental Conservation's (the Department) proposed expansion by the Ski Center, including improvements to the core area and the creation of "ski-in ski-out" access to the Belleayre Resort; and;
- •The Department's proposed acquisition by the State of New York (the State) of a 1,200 acre +/- parcel referred to as the Big Indian Plateau and a Conservation Easement on the Brisbane Mansion parcel, which is a 30 acre +/- parcel within the Big Indian Plateau parcel; and
- The Department's proposed acquisition by the State of a 78 acre +/- parcel referred to as the Former Highmount Ski Center and related 21 +/- acre Highmount Spa Easement.

The Big Indian Resort and golf course and related Belleayre Highlands lodging complex previously proposed by Crossroads for lands to the east of the Ski Center are no longer being considered for development by Crossroads. The expansion of the Ski Center has been modified from the proposed expansion set forth in Exhibit M of the Agreement. The proposed Belleayre East trails and lift are not being advanced for development by the Department at this time, and so are not being addressed in this document. Should consideration of any new Belleayre East lift or trails be considered in the future, it would be the subject of an amended Unit Management Plan with supplemental draft environmental impact statement, which would include specific reference to this SEQR process, including extension of any analysis of cumulative impacts within the Final

Environmental Impact Statement and compatibility of any East lift or trails with findings adopted based on the current UMP-DIES review.

By way of background, Crossroads had submitted applications in 1999 for a proposed resort development to be known as "The Belleayre Resort at Catskill Park" which had been proposed to be located on a total of 1,960 acres in the Towns of Shandaken and Middletown, New York, adjacent to the Ski Center. Those applications and an accompanying Draft Environmental Impact Statement (Crossroads' DEIS) were the subject of a Department legislative public hearing and issues conference. On September 7, 2005, the Department Administrative Law Judge (ALJ) issued Rulings regarding party status and issues to be adjudicated pursuant to Department regulation, 6 NYCRR Part 624. These Rulings were the subject of appeals to the Department Commissioner, and an Interim Decision was issued on December 29, 2006. That Interim Decision identified which issues were to be adjudicated, and directed that the Crossroads' DEIS record be supplemented with additional information, including consideration of an alternative development scenario.

On September 5, 2007, Crossroads and certain parties to the adjudicatory proceeding entered into the above referenced Agreement describing the proposal for the modified Resort project. This modified alternative project requires the preparation of a Supplemental DEIS and the filing of new or modified Department permit applications, all of which are subject to full public review. Crossroads moved to suspend the adjudicatory hearing in order to pursue the alternative project. The adjudicatory hearing was "held in abeyance... pending supplementation of the administrative record" as stated by the ALJ, in his Ruling dated October 19, 2007.

The Department, as the designated lead agency for the Belleayre Resort proposal and the sponsor of the Ski Center UMP, is obligated to review the proposed projects pursuant to SEQR. The Agreement does not change the Department's legal obligations to create an environmental record in support of its own and other agencies' permitting decisions, as well as its own facility development or land acquisition decisions. In providing for the preparation of a Supplemental DEIS, it was clearly anticipated that the Department staff would be reviewing the impacts associated with the Belleayre Resort project just as it would any other such action. Within the SEQR process, the Agreement represents the project proposal and the project sponsor's preferred alternative. The Department staff is under no obligation to accept that alternative, in whole or in part, but must evaluate potential impacts of that alternative as part of the Department's environmental review under SEQR.

PROJECTS PROPOSED UNDER THIS SEQR REVIEW

The expansion of the Ski Center will be developed as part of an amended Unit Management Plan, as required by The Catskill Park State Land Master Plan. The Department is proposing to expand the Ski Center, consistent with state constitutional limitations on the total miles of ski trail that can be developed at the Ski Center. In the core area, trail, lift and lodge improvements are being proposed. On the west, the

Department proposes to acquire portions of the former Highmount Ski Center (78 acres+/-), plus a permanent easement over other lands on the Highmount Spa facility (approximately 21 acres +/-) in close proximity to Crossroads' proposed resort facilities, and to develop new ski lifts and ski trails, with snowmaking capacity on the acquired parcels, configured to provide ski-in ski-out public access to the resorts.

The modified Belleayre Resort project consists of two resort complexes, both located west of the Ski Center along Ulster County Route 49A and south of NYS Route 28. The first resort, Wildacres, will include a 250-room hotel plus 139 lodging units in townhouse-style units surrounding an 18-hole golf course. The second resort, the Highmount Spa, consists of a 120 room hotel, spa facility, 60 lodging units in two multiunit buildings and 60 detached lodging units in up to 52 buildings. Both resorts are being designed as ski-in, ski-out resorts connecting with the Ski Center.

This final scope establishes a structure for the Ski Center UMP-DEIS and the Belleayre Resort Supplemental DEIS which will describe the shared geographical location and general setting for the development proposals; provide additional descriptions and analysis of likely site-specific impacts of the individual project components; and address potential cumulative impacts of the development proposals. Site-specific analysis of the proposed expansion of the Ski Center, including both fee and easement acquisitions on the former Highmount property, as well as facility developments on existing and newly-acquired Ski Center properties, will be included as Part A. Likely site-specific impacts of the proposed private development of the Belleayre Resorts, namely the Wildacres Resort and The Highmount Spa Resort, will be addressed in Part B. Elements of both Part A and Part B will also contribute to the cumulative impacts discussion included in Part C. Anticipated cumulative impacts of the modified private development plan in relation to the expansion of the Ski Center include, but are not limited to: water quality, water supply, aesthetics, noise, transportation, and community character.

COVER SHEET

The cover sheet shall state that the document is a combined action for the Draft Environmental Impact Statement for the Belleayre Mountain Ski Center Unit Management Plan and the Supplemental Draft Environmental Impact Statement for the modified project for the Belleayre Resort at Catskill Park, and shall also include the title of the action, the project location, the name and address of the Lead Agency, the names of the authors, a list of the Involved Agencies, and the date of completion and date by which comments must be submitted.

EXECUTIVE SUMMARY

In addition to the separate executive summaries provided for in the respective Part A of this Scope, the Draft Environmental Impact Statement for the Belleayre Mountain Ski Center Unit Management Plan, and the Part B of this Scope, the Supplemental Draft Environmental Impact Statement for the modified project for the Belleayre Resort at

Catskill Park, an executive summary shall be provided for the combined projects. The executive summary shall include summaries of the environmental setting, proposed actions, cumulative impacts of and proposed mitigation measures for the combined projects, and alternatives to the proposed actions. A description of all likely permits and approvals required for completion of the combined proposed projects shall also be included.

PART A

BELLEAYRE SKI CENTER

UNIT MANAGEMENT PLAN-DEIS

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E. Conduct a particulate matter analysis based on the procedures included in NYSDOT's Environmental Procedures Manual.

4.9 GLOBAL CLIMATE CHANGE AND CARBON FOOTPRINT

4.9.1 Global Climate Change

The July 2007 Northeast Climate Impacts Assessment (NECIA), Confronting Climate Change in the U.S. Northeast, discusses how climate change may impact the New York region. This climate modeling analysis represents the best science to date on climate change impacts for New York State. Based on this science, and other updated materials as necessary, the UMP DEIS should provide a qualitative discussion of how potential climate change will affect both the construction and operational component of the Belleayre Mountain Ski Center with reference to:

- The potential increase in winter surface air temperatures in relation to:
 - o increase in melt rate for snow cover
 - o decrease in the length of the snowmaking season
 - o earlier periods of peak runoff and stream flow due to earlier snow melt
 - o changes in total amounts, timing or patterns of precipitation falling as snow
 - o overall decrease in the number of snow-covered days available for winter recreation
- The potential increase in summer surface air temperatures in relation to:
 - o change in composition of native plant and animal species
 - o increase in the prevalence of invasive species and pests
- The potential decrease in summer and fall soil moisture in relation to:
 - Increased water requirements for maintaining turf grass and other landscaped areas
 - o increased stress on native vegetation
 - o increased surface water runoff from areas with stressed vegetation
- To the extent surface waters and its related watershed are effected, the potential increase of water temperatures of surface water, including ponds and stream systems, in relation to:
 - o physiological stress and resultant population impacts to heat sensitive aquatic biota, especially coldwater fisheries
 - o decrease in dissolved oxygen levels and in the assimilative capacity of the aquatic system.

All analysis should assume a lifespan of at least 50 years.

The UMP DEIS should include a discussion of existing Ski Centers located in the Southeastern United States as a comparison to demonstrate viability of BMSC in light of future potential climate change.

4.9.2 Carbon Footprint: Assessing GHG Emissions

- A. The UMP DEIS should include both a quantitative (where practicable) and qualitative discussion of the GHG emissions resulting from construction activities, including the manufacture or transport of the construction materials, specifically including the following:
 - 1. A qualitative analysis of how the building products will be environmentally-preferable. An evaluation of the building materials shall use readily available software tools, such as BEES 4.0 developed by the National Institute of Standards and Technology (see http://www.bfrl.nist.gov/oae/software/bees).
 - 2. A quantitative analysis of GHG emissions resulting from construction activities and the transport of building supplies from the supplier to the work site.
- B. A quantitative estimate of both direct and indirect GHG sources during the post-construction operation of the project should be included:
 - 1. Direct GHG emissions will include emissions from combustion processes or industrial processes conducted on-site, including but not limited to the heating and cooling systems and boilers, snow making guns and from fleet vehicles owned (or leased) and operated by the project proponent and associated with the project.
 - 2. Indirect GHG emissions will include emissions generated by energy generating plants (off-site) supplying energy to the proposed project during its operation, and from vehicle trips generated by the project where vehicles are not owned or operated by the project proponents (i.e. freight deliveries, employee commuting, customer visits). A potential source of indirect emissions is the generation, transportation, and treatment or disposal of wastes. Waste generation should also be expressed as GHG emissions and included in the quantification of total annual emissions.

4.9.3 Changes in Carbon Sinks

Site build-out will result in loss of forested area and therefore some loss of CO2 sequestration capacity. The UMP DEIS must include a quantitative and qualitative assessment of that loss. Refer to the USDA publication

"Methods for Calculating Forest Ecosystem and Harvested Carbon with Standard Estimates for Forest Types of the United States" (http://www.fs.fed.us/ecosystemservices/pdf/estimates-forest-types.pdf)

4.9.4 Alternatives

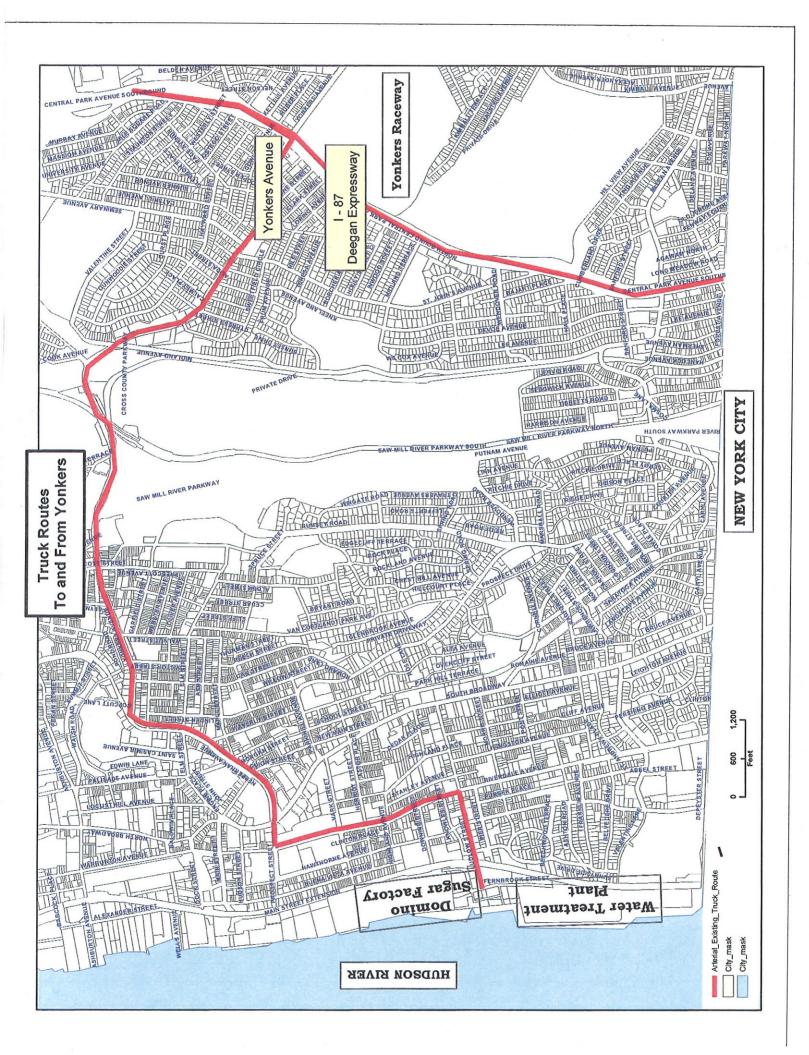
Quantitative analysis, or where impracticable, a qualitative analysis, of the relative increase or decrease of GHG emissions resulting from each of the alternatives identified in Section 6.0 below.

4.9.5 Potential Mitigation Measures

- A. The Supplemental DEIS must include a description and evaluation of the range of reasonable and relevant potential mitigation measures which would reduce GHG emissions with respect to technology, scale, design, or use and their implications on GHG emissions. For reference, Attachment A-4 contains an illustrative list of potential mitigation measures for consideration only.
- 1. Identify a list of reasonable and relevant mitigation measures.
- 2. Where practicable, provide a quantitative analysis of the identified potential mitigation measures. Where a mitigation measure is deemed as impracticable for quantitative analysis purposes, the SDEIS shall include a qualitative analysis.
- B. Building energy efficiency design measures should be assessed, using EPA's Energy Star program and/or other energy efficient design standards as a basis for comparison.
- C. For transportation emissions, transportation demand management (TDM) measures should be identified and assessed. There are also models useful in estimating the potential emissions reductions for TDM measures, such as the US Environmental Protection Agency COMMUTER model and the Work Trip Reduction Model. Consideration shall include, though not be limited to, an anticipated improvement to public transportation services along the Route 28 Corridor.

4.10 NOISE

A. Analysis of noise impacts shall conform with "Department Policy DEP-001: Assessing and Mitigating Noise Impacts". The Unit Management Plan-DEIS will address mechanisms by which noise will be generated during construction (short-term) and operation (long-term), as well as the factors that can increase or decrease perceived noise levels. The most likely sources of sounds from the Ski Center are sounds produced during construction of the expanded ski center from heavy-duty vehicles and construction equipment and sounds produced



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May 30, 2008

Rocky Richard Via email & first class mail
Chief of Staff
Yonkers City Council
City Hall
Yonkers, New York 10701

Re: Draft Environmental Impact Study for Projects Known As Palisades Point, Cacace Center, River Park Center & Larkin Plaza

Dear Ms. Richard:

I am submitting the following written comments on behalf of C.H. Martin of Yonkers in response to the Draft Environmental Impact Study ("DEIS") of Struever Fidelco Cappelli LLC ("the applicant") for the above-referenced projects. It is respectfully requested that the applicant clarify the discrepancies, omissions and errors detailed below:

I. Executive Summary

(1) I., p.7-8 Proposed amendments to the zoning ordinance include proposed modifications to the use and dimensional regulations of the Central Business and Government Center Districts. "The Zoning Ordinance is proposed to be amended to provide that in the CB and GC Districts, a tract having 10 or more acres of area in the aggregate and comprised of one or more parcels and/or lots may be designated by the City Council as a single 'Development Site'.

Clarify what is meant by "aggregate"? Must the properties in the 10 acre "tract" be abutting each other to qualify as a single Development Site"?

Clarify whether the zoning amendments afforded the applicant's proposed Development Site(s) (e.g. FAR, building height and coverage) can be extended by the City Council to include existing abutting parcels or lots not presently incorporated in this application to allow for and encourage present or future owners to undertake redevelopment compatible with this Project (e.g. the C.H. Martin property).

1.1

1.2

00,000

(2) I., p. 29 The DEIS states the Project would generate approximately \$200,000 funding for the BID each year.

Clarify how the \$200,000 has been calculated.

Clarify how, if at all, Tax Increment Financing or QEZE Real Property Tax Credits impact the Project's BID contribution

(3) The DEIS states that many of the construction jobs and permanent jobs created by the Project will be filled with Yonkers residents and references an employment initiative that will be patterned after a similar program developed by Cappelli Enterprises in New Rochelle.

Clarify how many construction and permanent jobs were created for New Rochelle residents as a result of this program and provide comparative estimates of how many construction and permanent jobs will be provided specifically for Yonkers residents by this Project.

II. Description of Proposed Action

(4) II., p. 2 The DEIS states "As of January 1, 2008, the Applicant owns and/or controls a majority of the privately owned parcels of property which constitute the Project sites".

Clarify the Applicant's "control" of the privately owned parcels of property constituting the River Park Center site, specifically the Applicant's present and future ownership interests in said parcels in light of the stated intent of New Main Street Development Corporation to acquire and hold property at the River Park Center site.

Clarify whether the Applicant would include in its definition of "privately owned" property parcels those that are owned by New Main Street Development Corporation.

Clarify whether the Applicant intends to acquire property from New Main Street Development Corporation, including property NMSDC may acquire for "daylighting" purposes at the River Park Center site.

(5) II., p. 9 The DEIS states that amendments are necessary to permit River Park Center to be developedincluding, "most importantly, residences, which are not currently permitted in the CB district and to permit buildings up to 525 feet high on sites in the CB District having at least 10 acres..."

Clarify whether said amendments will be limited to the Applicant's development site(s) and only in accordance with the approved site plan for

2.2

2.3

2.4

said development site(s) or will apply to the Central Business District as a whole.

(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.

3.1

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

3.2

(7) II., p. 31 The DEIS states, "Proposed development on this site includes a minor league baseball park and a "riverwalk" that is comprised of the daylighted Saw Mill River bordered by landscaped retail, dining and office space. The total amount of new open space will be approximately 3.0 acres.

Clarify whether the ballpark and "landscaped retail, dining and office space" are being classified by the Applicant as 3.0 acres of new open space and explain the rationale for said designation.

(8) II., p. 34-35 The DEIS states, "Installation of telephone, electric and cable services will be coordinated with the respective utility company and with other infrastructure work so as to minimize the construction impacts to the surrounding street systems and businesses. This may require the installation of temporary services."

3 3

Clarify the anticipated construction impacts to the surrounding street system and businesses of infrastructure and utility work at the River Park Center site and how they will be mitigated. Describe potential "worse case scenarios" for disruption of service to businesses continuing to operate during construction and how the negative impact on these businesses will be mitigated.

- (9) II., p. 36 The DEIS states "Before work can begin on any part of the site [River Park Center], temporary parking to replace the parking displaced from Chicken Island and from surrounding streets will be provided in selected locations."
- (10) II., p. 37 The DEIS states "Short term construction related impacts to abutting businesses and surround land uses will be minimized to the extent practicable with efforts to maintain vehicular and pedestrian traffic flow and access with at least one lane and sidewalk open whenever possible."

|3.4

Clarify the projected economic impact during construction (e.g. loss of sales and tax revenues) on the City of Yonkers and downtown businesses whose customers presently utilize the Chicken Island and Government

3.4

Center parking lots and the existing public transportations bus stops in the vicinity of the River Park Center project site.

Clarify mitigation measures to maximize accessibility and minimize economic losses and short term construction related impacts to abutting businesses.

Clarify mitigation measures to allow C.H. Martin's delivery activities to continue unhindered during and after construction.

(11) II, p. 42 Table II-4 of the DEIS detailing Review and Approvals Required states that the Community Development Agency will be vested with the authority to approve Land Disposition Agreements and Potential Condemnations.

4.1

Clarify the Land Disposition Agreements the CDA will be responsible for approving and what Land Disposition Agreements, if any, the City Council will be responsible for approving.

Clarify what potential condemnations the CDA will be have the authority to review and approve and what, if any, potential condemnations the City Council will have the authority to review and approve.

(12) Exhibit II-20 NYSDOT Land Acquisition

4.2

Clarify what the broken purple line along New Main St. and Palisade Avenue, that appears to encroach on the C.H. Martin property, illustrates.

(13) Exhibit II-14 Comparison of Existing and Proposed Channel of Saw Mill River illustrates a re-alignment of the Saw Mill River parallel to New Main Street.

4.3

Clarify the results of any studies that have been done to determine the realignment will not negatively impact the structural integrity of the C.H. Martin property, and other adjacent property, during and after construction of the realigned Saw Mill River.

III.A Land Use & Zoning

(14) III.A, p. 11 The DEIS states "Acquisition of privately owned buildings and land within the Project sites is being pursued by the Applicant without the use of the City's power of eminent domain. This includes properties in the River Park Center site on New Main Street, Palisade Avenue, Elm Street and Nepperhan Avenue."

4.4

Clarify whether it is contemplated that any public entity other than the City of Yonkers may use its power of eminent domain to acquire private

property within any of the Project sites, e.g. Yonkers CDA, Empire State Development Corporation.

4.4

Clarify whether the Applicant will cease pursuing acquisition of privately owned buildings and land within the River Park Center site if New Main Street Redevelopment Corporation seeks to acquire them.

5.1

If so, clarify whether New Main Street Redevelopment Corporation will acquire the Applicant's option to purchase any of said properties.

Clarify whether it is contemplated that the New Main Street Redevelopment Corporation might seek the City, CDA or any other entity's power of eminent domain to acquire privately owned buildings and land in furtherance of the Applicant's Project.

5.2

(15) III.A, p. 11-12 The DEIS states the location of the proposed project within the NYS Empire Zone will enable the Project to obtain EZ program benefits, including a QEZE Credit for Real Property Taxes.

Clarify the economic impact and/or relationship, if any, of the QEZE Credit for Real Property Taxes and Tax Increment Financing.

(16) III.A-24 The DEIS states "The proposed amendments to the bulk and dimensional regulations of the City's CB and GC Districts would have limited applicability because they would apply only to downtown parcels having a 10 acre and 4 acre minimum land area, respectively. Opportunities for assemblage of development parcels in the downtown are limited given existing development and ownership patterns."

5.3

Clarify whether the 10 acre minimum applied to the proposed amendments to the bulk and dimensional regulations of the City's CB is intended and/or anticipated to have this Applicant's proposed Projects be the sole beneficiary of said bulk and dimensional amendments within the CB.

(17) III.A, p. 29 The DEIS states "A bus drop-off lane will be provided on Nepperhan Avenue westbound between Elm Street and New Main Street for the discharge and boarding of passengers visiting River Park Center. (Note: III.E, Traffic, Transportation & Parking, p. 24 states only "Additional bus stops will be added based on need and will be discussed between the City and the Westchester County Department of Transportation").

5.4

Clarify the impact of the proposed Project on bus drop-off points presently located in downtown Yonkers in the vicinity of Getty Square including but not limited to Nepperhan Avenue/New Main Street, New Main Street/So. Broadway and North Broadway.

Clarify the location of the nearest bus drop-offs to Getty Square during construction and after construction of River Park Center.

6.1

III.B Visual and Community Character

(18) III.B, p.2 The DEIS states "The C.H. Martin Store, located on the southeast corner of Palisade Avenue and New Main Street is faced with what appears to be local stone, while other structures in the area are faced with synthetic stucco."

6.2

Clarify that the face of the C.H. Martin building is a stone veneer of Weymouth Granite obtained from quarries in Weymouth, Massachusetts.

III.C Natural Features

(19) III.C, p. 6 The DEIS states "The construction of a new channel for the Saw Mill River presents a unique construction challenge for the River Park Center project."

6.3

Clarify whether the "new channel" will incorporate a channel depicted on Sanborn maps as existing or having existed at the same approximate location.

Clarify whether construction of the new channel and diversion of the Saw Mill is required for the construction of River Park Center regardless of whether daylighting improvements are undertaken during Phase I.

(20) III.C, p.10 The DEIS states, "The following mammals have the potential to be found within all of the Project areas at certain times of the year.....Norway rat (Rattus norvegicus).

6 4

Clarify the studies undertaken to determine the extent of a rat population at the Project sites (in particular the River Park Center site).

Clarify how the construction of River Park Center will disrupt the rat population, including the construction of the new channel for the Saw Mill River and the daylighting improvements.

Clarify whether a rat removal program will be required.

Clarify mitigation measures should a rat removal program be required and the environmental impacts of said mitigation measures.

7.1

(21) III.C, p. 12 The DEIS states, "This open area is fenced off from public access due to unsafe ground conditions that are likely the result of past building demolition and site filling/re-grading activities."

Clarify the nature of the unsafe ground conditions that presently exist and how the Project will be impacted by and/or mitigate them.

III.D Stormwater Management

3

7.2

(22) III.D. p. 7 The DEIS states, "No property owner is entitled to rely on the Flume Study and each property owner is encouraged to perform their own inspection of the portion of the flume within their property to determine what repairs or maintenance if any is warranted by current conditions.

Clarify the environmental impact on the daylighted river at River Park Center and Larkin Plaza if repairs or maintenance of the flume is not undertaken by individual property owners.

Clarify what if any impact the proposed diversion of the Saw Mill River and/or daylighting improvements at River Park Center may have on portions of the flume between River Park Center and Larkin Plaza. Specify the basis for a conclusion that there would be no impact.

III. F Noise

7.3

(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.

III.G Air Quality

(24) III.G Tables III.G-4 and Table III.G-5

7.4

Clarify why the intersection of Palisade Avenue and New Main Street is not included.

(25) III.G-25 The DEIS states "The potential emissions during construction activities will be localized and of temporary nature."

Clarify the types of emissions, including toxic and non toxic airborne particulates, at the River Park Center site during construction. Identify the anticipated type, levels and duration of the emission of airborne particulates, the health risks associated with each and the proposed health control and mitigations that will be utilized to minimize public and worker health risks. Clarify the authority responsible for monitoring air quality and enforcing control and mitigation measures during construction on behalf of a) workers and b) the public.

8.1

III.H Utilities

(26) III.H, p.9 The DEIS states, "Existing Verizon and Cablevision distribution systems may be impacted by the proposed Project and will require relocation when conflicts cannot be avoided. The Applicant and City of Yonkers will work with the respective utility companies impacted by the proposed Project to coordinate the relocation of facilities if so required."

8.2

Clarify the type of impacts that may be expected by utility customers by the Proposed project. Specify the breadth of customers potentially impacted and the types of disruptions. Include all utility services (e.g. phone, water, electric, gas) that may be reasonably anticipated to be disrupted and the mitigation measures for avoiding, minimizing or compensating for them.

8.3

III.I Socio-Economic Conditions

(27) III.I-44 Table III.I-20 Development Cost Assumptions states the anticipated cost of the ballpark is \$45,000,000 and Daylighting – River Park Center – Riverwalk is \$15,000,000.

Clarify the cost breakdown for each and how each will be financed.

(28) III.I, p. 53 The DEIS states "Westchester Baseball LLC estimates that operating expenses (excluding yet to be determined lease payments) will be about \$6 million, annually.

8.4

Clarify who will be the owner of the ballpark facility, to whom lease payments will be made, the status and future role (if any) of Yonkers Baseball Development Inc. (or any related entity), and responsibility for the ballpark structure should the league or team fail to be financially viable in the future.

8.4

Clarify how the outstanding liabilities and debts of Yonkers Baseball will be resolved, including the \$670,000 loan from the Yonkers Industrial Development Agency to Yonkers Baseball.

(29) III.I, p.88 The DEIS states, "The applicant is seeking outside grants and tax credits from a number of potential federal, state and county sources to help offset some for the Project costs, including....the ballpark."

Clarify the grant and tax credits being sought, obtained and/or applied to the ballpark.

9.1

Clarify the grant and tax credits being sought, obtained and/or applied to the daylighting of the Saw Mill River and the construction of the River Park Center "Riverwalk".

III.K Historical and Archaeological Resources

9.2

(30) III. K, p.4 Table III.K-2 Properties Listed or Eligible on State and National Registers states, "11940.001086 Getty Square: New Main St. and Palisades Avenue

Clarify the properties referenced at this location.

III.L Hazardous Materials

9.3

(31) III.L, p.5-10 The DEIS discusses the existing hazardous materials conditions at River Park Center and references the BCP.

Clarify how potentially impacted members of the public will be identified and informed of potential risks.

Clarify specifically measures to be taken to prevent or mitigate dust infiltration of the C.H. Martin building and other surrounding businesses and offices.

(32) III.L, p. 14 The DEIS states that remediation activities at River Park Center that will be undertaken will include those that "prevent off-site migration of on-site contamination".

9.4

Clarify the remediation activities that will prevent off-site migration of onsite contamination to buildings adjacent to the River Park Center site, including the C.H. Martin building.

III. M Construction Impacts

(33) III.M, p.4 The DEIS states, "The diesel emissions at [River Park Center] will have minimal impact on adjacent properties due to the size of the site and distance to adjacent properties."

10.1

Clarify why the C.H. Martin building will only be minimally impacted by diesel emissions given its proximity to the site.

10.2

(34) III.M, p.4 The DEIS states, "It is anticipated that the loudest noise generated at this site will be related to rock blasting, mechanical removal of rock and the hoe ramming existing foundations. These activities will have a short duration at the beginning of the construction."

Clarify the estimated duration of these noise generating activities.

(35) III.M, p.12 The DEIS states, "Fixed air monitoring stations will be established at locations along the perimeter to monitor for particulates (i.e. dust) and volatile organics using direct reading and recordable instruments. The air monitoring stations will be operational during remedial activities."

10.3

Clarify who will be responsible for monitoring the data and determining if additional mitigation measures are required.

Clarify to whom members of the public should communicate concerns re dust levels in their buildings.

(36) III.M, p.15 The DEIS states, "Rodent control will be a necessary by-product of construction. In particular River Park Center will likely disturb existing habitat..."

10.4

Clarify what studies have been done to determine the extent of the rodent population at the River Park Center site.

Clarify the impact on the surrounding community that is anticipated by the disruption of this population, e.g. the number of rodents, the communities that will be impacted, the health and safety issues created and how they will be mitigated.

Clarify the population control methods that may be implemented and their environmental impacts.

(37) III.M, p.16-17 The DEIS discusses rock removal protocols when blasting is required.

Clarify how, if at all, the surrounding residents and businesses will be notified in advance that blasting will be occurring.

11.c

V. Alternatives

(38) V. p.10 The DEIS states, "Having fewer people and no 24 hour presence in the downtown area could actually require additional police protection for shoppers and workers in the area.

11.a

Clarify the data supporting this assumption.

(39) V., p.15 The DEIS states, "The 2003 Findings Statement indicates there are no historic structures that would be affected by this alternative".

11.b

Clarify that the Applicant's historic and archaeological resource assessments contradicts the 2003 Findings Statement.

11.d

(40) V., p.16 The DEIS states, "The ballfield is a significant green roof that would be eliminated in both options."

Clarify why the ballpark could not be replaced with another use that incorporates a green roof.

Clarify how the ballpark qualifies as a "green roof".

Clarify what if any chemicals/pesticides will be used to maintain the ballfield and the ballpark facility, their environmental impacts and how they will be mitigated.

The efforts of the City Council and the Applicant are appreciated in undertaking and reviewing this study and for considering these comments.

Very truly yours,

/s/

Debra S. Cohen

cc: Martin Goldman - C.H. Martin