



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
REGION NINE
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JOHN R. WILLIAMS; P.E.
REGIONAL DIRECTOR

JOAN McDONALD
COMMISSIONER

August 8, 2012

Honorable Anthony Cellini, Supervisor
Town of Thompson
4052 NYS Route 52
Monticello, New York 12701

Dear Supervisor Cellini:

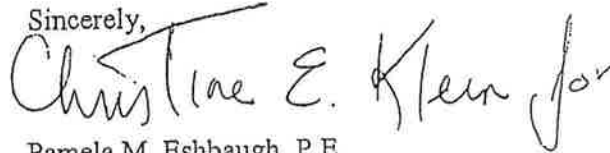
**RE: PRELIMINARY COMMENTS ON DEIS/DGEIS FOR EPT CONCORD
RESORT PROJECT
TOWN OF THOMPSON, SULLIVAN COUNTY
NYSDOT CASE #12-113**

We have reviewed the above-referenced document as it pertains to the traffic operations from the EPT Concord Resort project and the potential impacts to our transportation system. Our preliminary concerns with the current project proposal as discussed in the DGEIS are as follows:

- 1) Bicycles and pedestrians are currently accommodated on 2.4 m shoulders on each side of the County Route 173A bridge. Pedestrians and bicyclists must have adequate accommodations to cross NYS Route 17 in the vicinity of this bridge. Those accommodations can be on the bridge or on a separate structure suitably connected to public roadways. Proposed pedestrian accommodations must meet ADA requirements.
- 2) The widths of proposed traffic lanes on County Route 173A must take into account off-tracking of the design vehicle, such that the design vehicle can traverse the horizontal curve(s) without encroachment into adjacent lanes. Guidance is provided in AASHTO's "A Policy on Geometric Design of Highways and Streets." The centerline of the bridge has a 150m radius.
- 3) We request the electronic Synchro files of the new alternatives that were presented at the meeting on July 26th. The files can be posted to ProjectWise and should be named so they are clearly distinguishable from the original versions. The Department will provide additional comments after reviewing these Synchro files.
- 4) Single lane roundabouts will work for 2013 volumes, but not the full build scenario.
- 5) An option of retaining a two-lane configuration on the bridge (County Route 173A bridge) may be feasible with the roundabouts, but metering signals would likely be necessary as well.
- 6) Grades might be challenging for the eastbound-side roundabout.

If you have any questions, please do not hesitate to call Christine Klein of our Regional Planning & Program Management Office at (607) 721-8259.

Sincerely,



Pamela M. Eshbaugh, P.E.
Regional Planning & Program Manager

PME/CEK/jab

ec: Craig England, Regional Permit Coordinator
Shah Zaman, Sullivan County Resident Engineer
Dean Smith, Sullivan County Assistant Resident Engineer
Heather Jacksy, Sullivan County Planning Department
Anthony Russo, AKRF
Christina Douglas, CHA
c: File -12-113
Blue

LUIZ C. ARAGON
COMMISSIONER

TELEPHONE: (845) 807-0527
FACSIMILE: (845) 807-0546
INTERNET ADDRESS: <http://co.sullivan.ny.us>



SULLIVAN COUNTY
DIVISION OF PLANNING AND ENVIRONMENTAL MANAGEMENT
SULLIVAN COUNTY GOVERNMENT CENTER
100 NORTH STREET
PO BOX 5012
MONTICELLO, NEW YORK 12701

July 3, 2012

Mr. Anthony Cellini, Supervisor
Town of Thompson
4052 Route 42
Monticello, NY 12701

RE: **THO12-12: Local Law 9 -2012—EPT Concord II, LLC Zoning Amendments
GML-239 County Review**

Dear Mr. Cellini:

In accordance with Sections 239-l, -m & -n of the General Municipal Law, the Division of Planning and Environmental Management (DPEM) has reviewed the materials submitted regarding the proposed zoning amendments for the Town of Thompson.


Based on our review of the materials provided, the DPEM feels that the proposed action may have some adverse **intercommunity impacts**. Therefore, we recommend **modification**.

It appears that the intent is to include, "farmers markets, farm stands, community gardens, farms and farming educational centers." However, an inconsistency is created by not removing or modifying §250-27.2.B.(2)(d), which essentially prohibits all types of commercial farming.

Please be advised that the Town Board is required by Section 239-m of the General Municipal Law to provide a report of its final action within thirty days of such action to the Sullivan County Division of Planning and Environmental Management with regard to this application. To facilitate this process, I have enclosed a form to report such action.

If you have any questions or concerns, please do not hesitate to contact me at 845-807-0527.

Sincerely,



Luiz C. Aragon
Commissioner

cc: Ira Steingart, Legislator
Alan Sorensen, Legislator
GML-239 Referral File

Enclosure

Y:\PLANNING\PLANNING\GML-239\THOMPSON\2012\THO12-12.docx

LUIZ C. ARAGON
COMMISSIONER



TELEPHONE: (845) 807-0527
FACSIMILE: (845) 807-0546
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SULLIVAN COUNTY
DIVISION OF PLANNING AND ENVIRONMENTAL MANAGEMENT
SULLIVAN COUNTY GOVERNMENT CENTER
100 NORTH STREET
PO BOX 5012
MONTICELLO, NEW YORK 12701

August 28, 2012

Honorable Anthony P. Cellini, Supervisor
Town of Thompson
4052 Route 42
Monticello, NY 12701

RE: EPT Concord Resort
DGEIS and DEIS Comments

Dear Mr. Cellini:

The Sullivan County Division of Planning and Environmental Management (DPEM) has received the Draft Environmental Impact Statement (DEIS) for the EPT Concord Resort project in the Town of Thompson.

Based on our review of the materials provided, the DPEM would like to offer the following comments:

- The DGEIS should mention that the project site does not contain any prime habitat for the timber rattlesnake, so it is unlikely they would occur there. The timber rattlesnake is found in other parts of Sullivan County, and have a listed status of "threatened" in New York State, with a current effort to upgrade the NYS status to "endangered".
- The plans include both class one and class two bicycle lanes, which could help reduce some of the motor vehicle trips. To further encourage bicycle use by resort visitors, and employees, these lanes should have connections to the site destinations such as the resort core and family resort areas. Provisions for bicycle parking accommodations are also recommended.
- The height and likely materials of the signature building in the resort core could be dangerous to birds if not properly addressed. Birds often fly into buildings with both clear and reflective glass exteriors. There are programs supported by Audubon in many major cities, including New York, which provide information on how to prevent these collisions.

We are including brochures from New York City's and San Francisco's programs.

- In the direct employment calculation, 42 state and local government jobs and 7 US Postal Service jobs are included. We feel that these jobs should not be included. Currently the USPS is proposing to close or reduce hours of operation at existing Post Offices in Sullivan County. Additionally, we do not foresee the local or state government growing

Finally, please be advised that, in accordance with General Municipal Law 239 sections l, m, & n, the project must be referred to our department for review prior to final approval on this matter. We would also be happy to provide any technical assistance as you continue your review.

If you have any questions or concerns, please do not hesitate to contact me at 845-807-0541.

Sincerely,



Luiz C. Aragon
Commissioner

cc: Alan Sorensen, Legislator
GML-239 Referral File

Enclosure

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08/27/12

Town of Thompson
Mr. Anthony Cellini
4052 Route 42
Monticello, NY 12701

Re: EPT Concord Resort Project

Dear Mr. Cellini:

I write this letter in support of the proposed EPT Concord Resort Project which has much to offer for needed economic development in Sullivan County. The project is estimated to create 2,600 full-time jobs and generate \$42.5MM in new property tax income. This project could help revitalize the county with 1,800 new hotel rooms, 900,000 s.f. of commercial space and will likely become a destination for tourists and residents. My hope is that this project becomes a catalyst to spur other development around the county. Please support this important development.

Sincerely,

George Kinne
SVP/Senior Loan Officer
The First National Bank of Jeffersonville



BAEZ ASSOCIATES

August 27, 2012

Hon. Anthony P. Cellini, Supervisor
& Town of Thompson Trustees
Town of Thompson
4052 Route 42
Monticello, NY 12701

Re: EPT/Concord Resort Project

Dear Supervisor Cellini:

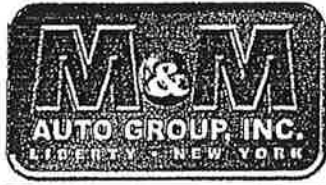
I am writing this letter as a business owner in the Town to express my support for the proposed Entertainment Properties Trust Concord development. I have been involved in Economic Development in varying capacities for over 23 years. The majority of that time spent in Sullivan County as a practitioner, administrator, and now a consultant. I have worked on many projects in many locations throughout the county of differing scale. Yet no project to date has had the potential positive impact that this project will have. It has been well known that a project of significant scale will be needed in order to create a critical mass of activity that can provide broad based opportunities for Sullivan County residents, service providers and businesses alike. The EPT project clearly will create this critical mass.

From the construction costs exceeding \$600 million, the creation of over 600 jobs, the reintroduction of 1,800 desperately needed hotel rooms and annual payroll, to the 900,000 sq ft of commercial space proposed, the EPT project will not only have immediate positive economic impacts, but also will induce positive economic activity from throughout the region. Moreover, the adaptive reuse of formerly developed space and the improvement of neglected infrastructure, coupled with environmental sensitivity in its design is an added benefit from an environmental impact perspective.

Finally, as tourism has always been a strength of the Catskills, EPT's proposed development plan will surely encourage entertainment and recreational use while creating centers of activity that will benefit the Town and County for years to come. As you insure that the firm addresses each environmental component, be assured that small businesses like mine welcome the activity and wholeheartedly support the project. I look forward to its expeditious approval and completion.

Sincerely,

Marc A. Baez, President



LINCOLN

CHRYSLER



RAM

DODGE

Jeep



BUICK



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www.MMAutoGroup.com

August 27, 2012

Supervisor Anthony Cellini
and Town of Thompson Board
4052 Route 42
Monticello, NY 12701

Dear Supervisor Cellini and Town of Thompson Board,

RE: EPT/Concord Resort Project

On behalf of M&M Auto Group, myself and my family, please accept this letter as support for the EPT Concord Resort project. As an involved business owner and resident, there is nothing more that I would like to see for Sullivan County and the world-famous Concord site.

It has been a long time coming and now with the help of the EPT Concord Resort project we can start to re-create the Catskills. Not only will the project create more than 2,600 full-time equivalent jobs, it will also generate \$42.5M in property tax, with more than \$29M of that going to the school district. The project will help revitalize our community by creating 1,800 hotel rooms, more than 900,000 square foot of commercial space for local and national businesses and will provide entertainment and recreational uses for residents and tourists alike.

If Sullivan County is to reach its potential, we must continue to invest in those things that our region needs to become great and I believe the EPT Concord Resort project can help us exceed our potential.

Thank you all for your continued support for this project.

Best regards,

Howard Braunstein
CEO
M&M Auto Group



August 27, 2012

Supervisor Anthony Cellini and Town of Thompson Board
4052 Route 42
Monticello, NY 12701

RE: EPT Concord Resort Project

Dear Supervisor Cellini and Members of the Town Board,

It is with great enthusiasm that I write to convey my strong support for the EPT Concord Resort project. As an actively involved business owner and resident, I am significantly invested in the interest of our County's future.

The project will be a critical and purposeful step toward our county and region's strategic growth objectives. It is one of the most advantageous opportunities we've had over the last few years to initiate strong momentum and growth as we work towards making our area more attractive for capital investors, tourists and residents.

I look forward to the creation of the expected 2,600 full-time equivalent jobs, in addition to the nearly \$2.4 billion of prospective economic activity in the State. This project not only represents a new cornerstone of economic development for our County, but a chance for the renowned Concord site to become a landmark in our region once again.

The opportunity to take a bold step forward to making Sullivan County a world-class destination should not be lost.

Sincerely,

Gregory J. Goldstein
President
The Misner Agency Inc.



GENERAL INSURANCE



Sullivan County Visitors Association
 100 Sullivan Ave., Suite 2
 Box 248
 Ferndale, New York 12734
 845.747.4449
 800.882.CATS
 Fax.845.747.4468
 info@scva.net

August 27, 2012

Honorable Anthony Cellini, Supervisor
 Members of the Town of Thompson Board

Dear Supervisor Cellini and
 Town of Thompson Board Members:

On behalf of the Sullivan County Visitors Association, I am pleased to convey my enthusiastic support for the Entertainment Properties Trust (EPT) Concord Resort project located in the Town of Thompson, Sullivan County.

The Sullivan County Catskills has been and remains a destination for millions of visitors. The economic health of Sullivan County is dependent upon the tourism industry. A project of this magnitude will spark an economic resurgence for the Sullivan County Catskills and additional investment with ancillary businesses developing to fulfill the needs of the resort and the additional employees working and living here.

The creation of a world-class destination resort in Sullivan County is a high priority for SCVA in fulfilling our mission of making the Sullivan County Catskills a premier tourism and travel destination. The primary criteria is to leverage the region's outstanding natural resources in a natural infrastructure strategy that views agriculture, tourism and the environment as quality of life attributes that are critical to attracting and retaining high-quality jobs for key industry sectors. The EPT Concord Resort Development would invest in the creation of a destination hotel to capitalize on and enhance existing attractions and support more overnight stays that would lead to greater and longer tourist visitation from outside the region and greater local expenditure. In addition, the project would restore and build on the heritage, culture and natural resources of the region.

After construction that will be done in phases over 10 years employing the equivalent of 632 full-time employees per year with \$676 million in payroll and an impact of \$2.4 billion in economic activity to the State of New York, the resort itself will employ over 1,200 new jobs in resort operations.

Tourism has always been an environmentally friendly industry and EPT's plans for this site includes leaving 45% or approximately 696 acres of open space. It will contain unique neighborhood areas. It will also incorporate a center of activities and trails for walking and biking. The anchor hotel will serve as a landmark for the region with 1,800 rooms and entertainment venues. The signature golf course, the Monster, will be rehabilitated to once again become a world class golf course. At full operation, this project will generate \$42.5 million in property tax with more than \$29 million going towards the school district. This does not include the million generated in sales tax revenue for the local and state governments.

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(FAX)18452941118

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The Concord project will not only produce a stimulus for the economy in Sullivan County and New York State but will serve as a world class destination for tourists and a quality of life for the residents of Sullivan County.

We are delighted to be collaborating with the County and with the BPT Concord Resort project team to realize this vision. Please feel free to contact me if I can be of further assistance to your efforts in this area.

Sincerely,


Roberta Byron-Lockwood
President/CEO

VERTICON
LTD

August 24, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

Verticon Ltd. has done many construction projects in Sullivan County over the years and has established itself as a company that is a prime contributor to positive economic projects and one that has a vested interest in the county's future. As a co-president of Verticon, I would like to express our support of the Entertainment Properties Trust (EPT) Concord Resort.

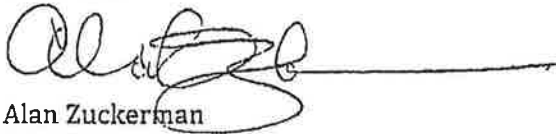
This is a critically important project for Sullivan County, one that will result in desperately needed jobs and bring significant economic growth. It will reignite our tourist industry and bring hundreds of millions of dollars of private capital to Sullivan County and the region.

As a family and entertainment destination, the EPT Concord Resort will attract residents and visitors to the area resulting in transformative economic impact from dollars spent, sales tax revenue and job creation. It will help to combat our nearly 10% unemployment rate in Sullivan County, bringing thousands of sustainable jobs to the region. The project's success will result in increased demand for goods and services, a windfall for local businesses and healthcare providers.

This project holds promise for a brighter future in Sullivan County and represents is an unprecedented opportunity that we must seize.

On behalf of Verticon Ltd., I urge your support the EPT Concord Resort.

Sincerely,



Alan Zuckerman
Principal
Verticon Ltd.

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August 27, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board,

I am writing to express my support for the Entertainment Properties Trust (EPT) Concord Resort as an important project for Sullivan County. The resort will help tourism and foster economic growth, bringing jobs, accommodations and amenities to our region.

The developers' reputation means this resort will be a focal point for guests wanting to visit Sullivan County annually. It is planned to include up to 1,800 hotel rooms in several different hotels, an indoor waterpark and spa, and a renovated Monster Golf Course, among a host of other amenities.

This project will stimulate private investment and growth for the region. With more than 900,000 square feet of commercial space including retail and recreation, the EPT Concord Resort will also benefit local residents and generate tens of millions of dollars in tax revenues for our communities and schools.

This project is so meaningful for this community. I ask for your support to ensure its success.

Sincerely,



Bruce Davidson
CEO
Pestech Pest Solutions

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Knack, Pavloff & Company, LLP

CERTIFIED PUBLIC ACCOUNTANTS

Members American Institute of Certified Public Accountants and
New York State Society of Certified Public Accountants

Donald L. Knack, CPA
Andrew J. Pavloff, CPA
Elizabeth Loarca, CPA

Rita McBride, CPA
Mark A. Fedun, CPA
Richard A. Penchansky
Caleb R. Russell
Joseph A. Lager
Nadia A. Morreale

August 22, 2012

Supervisor Anthony Cellini and
the Town of Thompson Board

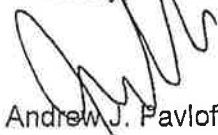
Dear Supervisor Cellini and Members of the Town Board:

As a local business owner, with the EPT Concord Resort, I believe we finally have a project for the former Concord site which can be successful.

It will become a cornerstone of regional tourism, leveraging the region's outstanding natural resources and helping create significant economic growth. It will bring the former site of a famed Catskills resort back to life and encourage private investment and growth in other industries, such as financial and professional services, as well as construction, hospitality, food and beverage, housing and more.

I believe the EPT Concord Resort project will drive economic opportunity and foster job creation throughout the region. It is expected to support more than 2,600 permanent full-time equivalent jobs, providing our community with sustainable long term employment and giving our young professionals career opportunities close to home. To combat Sullivan County's high unemployment and shuttered businesses calls for big ideas and this project is poised to deliver for Sullivan County.

Sincerely,



Andrew J. Pavloff, CPA

Knack, Pavloff & Company, LLP

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(FAX)18452941118

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North America's Premier Automotive Resort and Private Race Track

August 24, 2012

Town of Thompson
4052 Route 42 North
Monticello NY 12701

Dear Town of Thompson Board Members,

I am writing in support of the Entertainment Properties Trust (EPT) Concord Resort as a Priority Project for the Mid-Hudson Region. As President and one of the owners of Monticello Motor Club – currently the largest capital improvement project in Monticello, NY - we believe this project can bring transformative growth to the region. It will create over 1,000 new jobs and leverage our outstanding natural resources to further the development of a thriving tourism economy.

As a family and entertainment destination, the EPT Concord Resort's positive impacts will be felt throughout the region, creating economic opportunity for small businesses, entrepreneurs and ancillary industries including financial and professional services, hospitality, agriculture, food and beverage, construction, housing and healthcare.

The EPT Concord Resort will provide sustainable, long-term employment and career opportunities for our region's young professionals, helping to strengthen our middle class. Hundreds of millions of dollars of private investment and thousands of desperately needed jobs are associated with this project.

A destination resort of this scope can be transformative for the region. When combined with successful projects like our club and Bethel Woods Center for the Arts, Sullivan County will be poised to regain its reputation as one of the premier tourist destinations in the Northeast. Public-private partnerships such as this can help reverse years of rising unemployment and economic hardship and help to transform our regional economy. I urge your support of EPT Concord Resort as a priority project for the Mid-Hudson Region.

Sincerely,

A handwritten signature in black ink, appearing to read "Ari Straus".

Ari Straus
President/Partner, Monticello Motor Club
ari@monticellomotorclub.com



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August 22, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

In 1970, I took over the family wholesale supply business, Schmidt's Wholesale in Monticello and it seems we've been talking about a casino resort coming to Sullivan County ever since. Never has that possibility been closer.

Today, with the EPT Concord Resort project, we have a development team ready to build a world-class destination resort that will revitalize our community and include 1,800 hotel rooms, more than 900,000 square feet of commercial space, a rehabilitated Monster Golf Course, residential units and the relocated Monticello Casino and Raceway, among other entertainment and recreational amenities.

The EPT Concord Resort can help to transform the economic landscape of the region. In addition to direct construction expenditures and over 2,600 full-time equivalent jobs, the project will increase long-term demand for goods and services, creating a more robust local economy and raising the standard of living.

The project's economic impact will include direct expenditures, sales and property tax revenue, small business growth and job creation. Thousands of jobs, good wages, and tourism dollars will pour into our local economy. It will help to revive construction and housing, while increasing demand for many goods and services.

The benefits of this project will positively impact everyone who lives or does business in Sullivan County and the surrounding area. Sullivan's time has come; please do all you can to support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Schmidt".

Gary Schmidt
Chairman
Schmidt's Wholesale, Inc.

P.O. Box 5100 • Monticello, NY 12701-5100 • Phone: (845) 794-5900 • Fax: (845) 794-6142
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August 23, 2012

Supervisor Anthony Cellini
Mr. Richard Sush
Mr. Scott Mace
Mr. Peter Briggs
Ms. Sharon Jankiewicz

Dear Supervisor Cellini and Members of the Town Board

As a local business owner and board member for the Hudson Valley Economic Development Corporation and Orange County Partnership for Economic Development, I believe the EPT Concord Resort represents a transformative vision we must embrace.

It will be a catalyst for investment and opportunity in Sullivan County, directly supporting over 2,600 permanent full-time equivalent jobs, while creating thousands of additional employment opportunities in the region. It will result in sustainable long term employment, infinite opportunity and tens of millions in tax revenues.

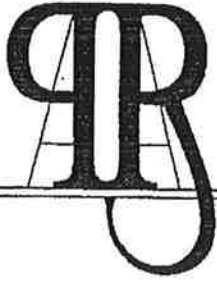
This project meets the challenges we face head on, attracting private investment, tourism and creating jobs. Revitalizing the former site of a famed Catskills resort and refurbishing the Monster Golf Course, the EPT Concord Resort will become a cornerstone of tourism, leveraging our abundant natural resources.

Sullivan County has waited a generation for this opportunity. Let's work together to leverage EPT's investment in the Concord Resort project to build a bright future for Sullivan.

Sincerely,



James P. Smith, Jr.
President
Advance Testing Company, Inc.

*Rouis and Company, LLP*

CERTIFIED PUBLIC ACCOUNTANTS

Paul A. A. Rouis, Jr., CPA
Jonathan F. Rouis, CPA

August 23, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

As a member of the Sullivan County Legislature and Partner of Rouis and Company LLP CPAS's, I am writing to express my strong support for the Entertainment Properties Trust (EPT) Concord Resort. I believe this project is uniquely positioned to drive significant economic growth, tourism and job creation in our community.

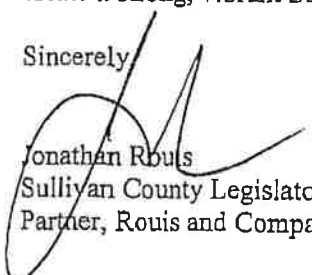
The planned resort will include up to 1,800 hotel rooms in several different hotels; an indoor waterpark and spa, and a renovated Monster Golf Course among a host of other amenities. With over 900,000 square feet of commercial space including retail and recreation, plus approximately 45% of the site devoted to open space, the EPT Concord Resort will also benefit local residents and generate tens of millions of dollars in tax revenues for our communities and schools.

Additionally, it will trigger private investment in Sullivan County, drive private sector growth in local businesses and encourage new business development while leveraging and protecting the County's natural resources.

Sullivan County is eager to reap the economic benefits a project of this scope can provide. I urge you to act in support of this extraordinary opportunity which promises an investment of hundreds of millions of private dollars and the creation of approximately 2,600 FTE jobs.

I commit my support to the EPT Concord Resort project and ask for you to join me. Together we can help create a strong, vibrant Sullivan County.

Sincerely,


Jonathan Rouis
Sullivan County Legislator
Partner, Rouis and Company, LLP CPA's



August 24, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board,

The Ruby Group, which offers many project management, general contracting and consulting services that involve both commercial and residential projects, recognizes the critical importance of Entertainment Properties Trust's Concord Resort project. I am writing to urge the Board's support of this project.

The EPT Concord Resort can help to transform the economic landscape of the region. It will bring thousands of jobs, good wages and revive the lagging Sullivan County tourist economy. It will create demand for goods and services, as well as construction and housing. The project leverages hundreds of millions of dollars of private investment and cross regional partnerships to chart a new path for prosperity.

As a family and entertainment destination, the EPT Concord Resort will attract residents and visitors to the area which will result in transformative economic impact from direct expenditures, sales tax revenue and job creation. It will help reduce Sullivan County's high unemployment rate by creating thousands of sustainable jobs and opportunity for growth in small businesses such as ours, which has done many projects in Sullivan County. In addition to direct construction expenditures, the project will increase long-term demand for goods and services, creating a more robust local economy and raising the standard of living.

The benefits of this project will positively impact everyone who lives or does business in Sullivan County and the surrounding area, that's why I urge your support of the EPT Concord Resort.

Sincerely,



Peter Berman, CEO

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(FAX)18452941118

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845-562-1448

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Responsible Contractors

A. Alan Seidman — Executive Director

August 27, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

I am writing to express my Association's support for the Entertainment Properties Trust (EPT) Concord Resort as a critical project for Sullivan County and our local workforce. The planned destination resort will help to create tourism and economic growth, bringing critically important jobs, accommodations and additional amenities to our region.

I understand that it is planned to include up to 1,800 hotel rooms in several different hotels; an indoor water park and spa and a renovated Monster Golf Course, among a host of other amenities. The development partners' reputation for quality ensures that this resort will continue the tradition of excellence that draws hundreds of thousands of guests to Sullivan County annually.

This project will stimulate private investment and growth, creating transformative economic impacts for the region. With over 900,000 square feet of commercial space including retail and recreation, plus approximately 45% of the site devoted to open space, the EPT Concord Resort will also benefit local residents and generate tens of millions of dollars in tax revenues for our communities and schools.

This project is a win-win for the community and I ask for your support to ensure its success.

Sincerely,

Alan Seidman
Executive Director



Misner Benefits, LLC

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Email: russ@misnerbenefits.com
www.misnerbenefits.com

August 24, 2012

Supervisor Anthony Cellini
Mr. Richard Sush
Mr. Scott Mace
Mr. Peter Briggs
Ms. Sharon Jankiewicz

Dear Supervisor Cellini and Members of the Town Board,

I believe the EPT Concord Resort is an unprecedented economic opportunity for Sullivan County and one that will have quite a ripple effect, with benefits trickling down through the local economy to businesses small and large... businesses such as mine, Misner Benefits.

Hundreds of millions of dollars of private investment and thousands of desperately needed jobs are associated with this project. It will further the development of our tourism industry, create thousands of jobs and offer enormous opportunity for local businesses.

A destination resort of this scope can be transformative for the region. The project is planned to include 1,800 hotel rooms, more than 900,000 sf of commercial space, over 696 acres of open space, a rehabilitated Monster Golf Course, varied entertainment and recreational uses, and nearly 900 new residential units. When combined with successful projects like the Monticello Motor Club, and Bethel Woods Center for the Arts, Sullivan County will be poised to regain its reputation as one of the premier tourist destinations in the northeast.

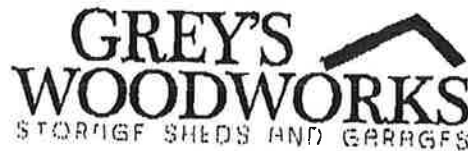
I hope you agree that projects such as the EPT Concord Resort can help reverse years of rising unemployment, property taxes and economic hardship, putting our economy on the path to prosperity.

Sincerely,

Russ Heyman
Managing Member
Misner Benefits, LLC

Correspondence: 019

1 of 1



786a Route 55 | P.O. Box 420 | Grahamsville, New York 12740 | p. 845.985.7006 | f. 845.985.7442

greyswoodworks.com

August 24, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

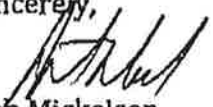
Family-run Grey's Woodworks of Grahamsville was founded in 1979. As a member of the Sullivan County business community, we recognize the critical importance of Entertainment Properties Trust's Concord Resort project. I am writing to urge the Board's support of this project.

The EPT Concord Resort can help to transform the economic landscape of the region. It will bring thousands of jobs, good wages and revive our lagging tourist economy. It will create demand for goods and services, as well as construction and housing. The project leverages hundreds of millions of dollars of private investment and cross regional partnerships to chart a new path for prosperity.

As a family and entertainment destination, the EPT Concord Resort will attract residents and visitors to the area which will result in transformative economic impact from direct expenditures, sales tax revenue and job creation. It will help reduce our county's high unemployment rate by creating thousands of sustainable jobs and opportunity for growth in small businesses such as ours. In addition to direct construction expenditures, the project will increase long-term demand for goods and services, creating a more robust local economy and raising the standard of living.

The benefits of this project will positively impact everyone who lives or does business in Sullivan County and the surrounding area, that's why I urge your support of the EPT Concord Resort.

Sincerely,



Bob Mickelson
President
Grey's Woodworks

Correspondence: 020

1 of 1



Strategy and creative that's on target

August 24, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Sup. Cellini and Members of the Town Board,

FisherMears Associates is a small firm in Liberty handling creative marketing and advertising solutions for local and regional companies including Bethel Woods Center for the Arts, Villa Roma Resort, M&M Auto Group, Chapin Estate, and others.

Small businesses like ours help drive the economic engine of Sullivan County in part because of large companies and developments such as that of the Entertainment Properties Trust/Concord Resort. I respectfully urge your support of this important project.

I have followed this project with a watchful eye and judging from the company's impressive record, I firmly believe this planned destination resort will help to revitalize our community, driving tourism and economic growth, encouraging private investment and business development, creating sustainable jobs and bringing additional amenities to our region. Construction of the project is expected to create more than 2,600 FTE jobs and generate more than \$42.5 million in property tax, with more than \$29 million benefiting local schools.

It will become a destination for tourists and residents alike, with more than 1,800 hotel rooms, 900,000 sf of commercial space, entertainment and recreational uses, a rehabilitated Monster Golf Course and nearly 900 new residential units, including workforce housing.

As a resident, business owner, and board member of the Sullivan County Partnership for Economic Development, this project has my full support, and I ask that you, too support the EPT Concord Resort and its potential to revitalize our community.

Sincerely,

Karen Fisher
President
FisherMears Associates, LLC

1830
route 52

liberty

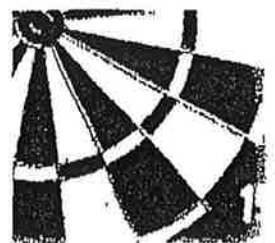
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HOLIDAY MOUNTAIN SKI AND FUN PARK

August 27, 2012

Honorable Anthony Cellini and
Members of the Town of Thompson Board

Dear Supervisor Cellini and Members of the Town Board

I am writing to express my support for the Entertainment Properties Trust (EPT) Concord Resort. The planned destination resort will help to drive tourism and economic growth, bringing critically important jobs, accommodations and additional amenities to our region.

It is planned to include up to 1,800 hotel rooms, a renovated Monster Golf Course, the relocated Monticello Casino and Raceway, plus many other amenities which will result in increased tourism while also providing visitors and locals with more to do when they are here.

This project will stimulate private investment and growth, creating positive economic impacts for local businesses throughout the County. With over 900,000 square feet of commercial space including retail and recreation, plus approximately 45% of the site devoted to open space, the EPT Concord Resort will also generate tens of millions of dollars in tax revenues for our communities and schools.

We've waited and waited for something big to happen here in Sullivan. The time is now, the project is the EPT Concord Resort. I ask for your support to ensure its success.

Sincerely,

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

Craig Passante
Holiday Mountain Ski and Fun Park



August 28, 2012

Supervisor Anthony Cellini
and Town of Thompson Board
4052 Route 42
Monticello, NY 12701

RE: Empire Properties Trust Concord Resort Project

Dear Supervisor Cellini and the Town of Thompson Board,

I am writing on behalf of the Sullivan County Partnership for Economic Development to express our continued support of your efforts to get the EPT/Concord Resort project approved. The EPT Concord project is consistent with our long term support of economic development in Sullivan County.

As you know the EPT Concord Resort project will be the largest construction project in Sullivan County. It is expected to support the equivalent of 632 full-time employees per year for 10 years and result in \$2.4B of economic activity in the State, including \$676M in employee compensation. Approximately 2,600 jobs full-time equivalent jobs will be created with an additional 1,200 jobs created because of the Resort's operation.

The project spans 1,500 acres which will include 1,800 hotel rooms, more than 900,000 square feet of commercial space, entertainment and recreational uses for residents and tourists and a rehabilitated Monster Golf Course. The proposed development of the legendary Concord site is a once in a generation opportunity to positively change the face of Sullivan County and bring revitalization to our community.

I encourage you to continue to support this invaluable project.

Best Regards,

A handwritten signature in black ink that reads "Allan C. Scott".

Allan C. Scott
President
Sullivan County Partnership for Economic Development



Klugman Associates, Inc.

August 28, 2012

Supervisor Anthony Cellini
& Town of Thompson Board
4052 Route 42
Monticello, NY 12701

Dear Supervisor Cellini and Town Board Members,

As a local business owner and board member for the Sullivan County Partnership for Economic Development, I am writing to express my support for the EPT Concord Resort project. I believe this project is a critical step toward achieving our county's strategic growth objectives.

The planned resort will include up to 1,800 hotel rooms, more than 900,000 square feet of commercial space, an indoor water park and spa, and a rehabilitated Monster Golf Course among a host of other amenities and services. Along with the 2,600 full-time jobs the project is expected to create, the construction of the project is estimated to support the equivalent of 632 full-time employees per year for 10 years.

As we continue to make our community more attractive for investors, tourists and residents, the EPT project, if approved, will be an invaluable step forward by becoming a significant landmark for the region.

Sincerely,

Lewis Klugman
President
Klugman Associates

**DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP**

THOMAS R. BEIRNE
BRIAN T. BELOWICH^o
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*MEMBER OF NY & DC BARS
▼MEMBER OF NY, NJ & MA BARS
★MEMBER OF NY, NJ, CT & FL BARS

August 28, 2012

Via Facsimile, Email and First Class Mail

Supervisor Anthony P. Cellini
Members of the Town of Thompson Town Board
4052 Route 42
Monticello, New York 12701

Re: EPT Concord Resort

Dear Supervisor Cellini and Members of the Town Board:

We represent Concord Associates, L.P. ("CALP"), the duly designated Master Developer under the Comprehensive Development Plan for the Concord Resort (the "CDP") adopted by the Town Board on November 21, 2006. The CDP, which is currently in full force and effect, encompasses, and therefore legally controls, the development of the same land now proposed by EPT Concord II, LLC ("EPT") to be made subject to a new and different comprehensive development plan. As a matter of both existing Town law *and* the law as proposed by EPT to be amended, as well as simple logic and common sense, two different and inconsistent comprehensive development plans for the same land cannot both be in effect at the same time. Therefore, regardless of how EPT mischaracterizes it, their proposal necessarily includes the amendment of the existing CDP. This EPT cannot do without CALP's participation and consent. In this regard, we respectfully refer the Town Board to our prior letters to you dated January 20, 2012, February 10, 2012 and April 3, 2012, copies of which are attached, and therefore made part of the record as comments on the EPT Concord Resort Draft Generic Environmental Impact Statement ("DGEIS").

EPT's intentional disregard of the effect its proposal will have on the existing CDP, and for that matter, on CALP's fully approved project, permeates the DGEIS, which utterly fails to compare the proposed new comprehensive development plan with the existing CDP and approved project, both of which were carefully crafted through more than ten years of collaboration between the Town and CALP, at very significant expense to CALP. This comparison should be the principal focus of all of the impact analyses, since the proposed plan is intended to amend and supersede the existing CDP with respect to approximately 90% of the

land area currently subject to the CDP. Merely identifying CALP's approved project as part of the "no-build" condition is also wholly inadequate, because it fails to account for, and analyze, the potential cumulative impacts of that project with full build-out under EPT's proposed plan, including all of the duplicated uses. Without this kind of thorough analysis, the Town cannot know whether the duplicated uses proposed by EPT are, in fact, viable. This deficiency in the DGEIS is not cured by simply ignoring CALP's project except where it serves EPT's interests¹ – EPT is not privileged to assume that its proposal will be developed but CALP's approved project will not – and is so fundamental an error that it cannot be cured in a final environmental impact statement.

The DGEIS needs to compare the existing CDP and CALP's approved project with the proposed uses and amount of development, along with the location of major plan components, road access, etc., so the Town can decide if the proposed new plan is, or is not preferable to the existing CDP in terms of land use planning, aesthetics and all other potential impacts, and whether and how any such any impacts – including those on CALP's approved project – are being mitigated.

The traffic mitigation program required under the existing CDP is far more specific than the program proposed and addressed in the DGEIS, which presents only an inadequate qualitative analysis of traffic impacts and a general approach to mitigation. The Town cannot determine if the traffic impacts of the proposed plan are acceptable, because the DGEIS analysis is not capable of being directly compared to the more exhaustive quantitative study undertaken for the existing CDP. Standard traffic engineering practice requires a quantitative analysis (detailed intersection analyses) of proposed actions to provide hard data on the increase in delays which will be experienced by motorists and whether proposed mitigation measures will actually reduce the projected increases in delay to values comparable to the "no-build" condition. The deficiency of the qualitative analysis performed in the DGEIS is demonstrated by the fact that practically all impacts and possible mitigation measures except with respect to the intersection of Joyland Road and Thompsonville Road are qualified by the words "may" and "could" (page 21-5), including reconstruction of Interchange 106 on Route 17, confirming that the analysis is an insufficient basis for any determinations regarding impacts and required mitigation. The insufficiency of the qualitative analysis is highlighted by the assertion in the DGEIS that certain intersections may "deteriorate to unacceptable LOS E or LOS F conditions" but that certain of the measures which could be needed to mitigate these impacts "may not be feasible." Without the same kind of quantitative analyses which were performed for the existing CDP, it is simply not possible to determine if the admittedly infeasible measures are, in fact, needed. And the suggested substitution of less effective measures ("signal timings and signal equipment") for infeasible mitigation measures ("providing additional lanes") will not be sufficient, as road widening is

¹CALP's approved project is ignored or dismissed for essentially all purposes except EPT's flawed qualitative analysis of traffic impacts, which is based in part on the implementation of the traffic mitigation measures required in connection with CALP's project. For example, the DGEIS: (i) erroneously states that the CDP was amended to include a casino even though that use was approved by the Town Planning Board in April, 2004, and was part of the originally approved CDP; (ii) the master plan presented in the DGEIS does not show CALP's approved project facilities; (iii) Figure 1-9 inaccurately depicts the approved project; (iv) graphics showing the EPT Concord Resort site do not identify leased land under CALP's control; and (v) the approved realignment of Concord Road – which was the basis for the transfer of the road by the County to the Town - is not shown or assumed.

typically only proposed when the signal improvements do not provide the additional capacity needed.

The socio-economic and fiscal analyses in the DGEIS are also fundamentally flawed, because although participation by, and a real property tax exemption from, the Sullivan County Industrial Development Agency (and potentially other agencies capable of conferring a real property tax exemption) is expressly assumed, the DGEIS does not disclose the amount of the abatement that will be requested or analyze the potential impacts of the reduced revenues on the Town and other taxing jurisdictions. Without knowing the scale of the abatement that will be requested and, if required as mitigation, what minimum levels of payments-in-lieu-of-taxes EPT would commit to make, the purported fiscal benefits of the proposed plan cannot be demonstrated with any reasonable degree of certainty.

With respect to sewer capacity, the DGEIS states that the wastewater treatment plant has capacity to treat an additional 500,000 to 700,000 gallons per day. The DGEIS fails to acknowledge that under a court ordered stipulation, 1,000,000 gallons per day of sewer treatment capacity is allocable by CALP in its discretion, and CALP has not allocated any portion of that capacity to EPT. The DGEIS assumes that the noted excess capacity accounts for the CALP controlled flow and that the Town's current usage fluctuates between 300,000 and 500,000 gallons per day. Appropriate engineering design protocol would be to base the available capacity to treat additional sewage on the upper limit of existing use, not a range. In addition, the New York State Department of Environmental Conservation ("NYSDEC") sets the maximum percentage of a wastewater treatment plant's total design capacity that can be allocated without approval by NYSDEC of a special flow plan. Given these factors, a detailed plan for sewerage that does not rely on CALP's unallocated capacity must be formulated and studied.

The DGEIS discussion of water supply is fragmented and inadequate. Multiple sources are identified but the viability of these sources is not addressed. As part of the approved CDP and its associated environmental impact statement, CALP was required to develop and study a plan for adequate supply to serve the entire development program. EPT should be required to do the same in the DGEIS.

Perhaps most importantly, in our attached April 30, 2012 letter, we noted that EPT's allegation in its Petition to the Town alleging that CALP's vested development rights "as they relate to the Concord Parcel and with respect to the land [CALP] owned (sic.) or have a right to lease, will not be affected by the requested amendments to the text of the PRD Zoning Law nor will they be affected by Petitioner's development plans" was specious and unsupported, and must be thoroughly and rigorously tested in the DGEIS, particularly with respect to potential adverse impacts from traffic and on sewer and water utilities, and that the DGEIS should also thoroughly analyze the potential effect of the amendments on CALP's approved and vested development rights to ensure that the fully approved project would not be rendered non-conforming under any provision of the Town Code. The DGEIS fails to do so. Instead, the DGEIS merely reiterates the broad and unsubstantiated assertion that EPT's proposed development will not affect CALP's approved project, without any meaningful analysis to support the conclusion, and without addressing potential inconsistencies and incompatibilities between the approved CDP and

CALP's approved site plan and EPT's proposed development plan, including with respect to road, sewer, water and storm water drainage/management infrastructure.

Finally, we note that CALP intends to submit additional traffic and other comments on the DGEIS. Given the importance of this matter, we respectfully request that the Town Board permit written comments on the DGEIS to be submitted for a period of at least thirty (30) days after the close of the public hearing, so that CALP, and all other interested parties, can fully participate in the process.

Thank you for your consideration.

Very truly yours,



PETER J. WISE

Enc.

cc: Louis R. Cappelli
Alfred E. Donnellan, Esq.
Kevin McManus, P.E.
Henry Zabatta

**DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP**

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†MEMBER OF NY, NJ & MA BARS
*MEMBER OF NY, NJ, CT & FL BARS

January 20, 2012

By Facsimile and First Class Mail

Supervisor Anthony P. Cellini
Members of the Town of Thompson Town Board
Town of Thompson Town Hall
4052 Route 42
Monticello, New York 12701

Re: The Concord Resort

Dear Supervisor Cellini and Members of the Town Board:

We represent Concord Associates, L.P. ("Associates"), the duly designated "Master Developer" of the "Planned Resort Development" known as the Concord Resort. We have recently been made aware that representatives of EPT Concord II ("EPT") have met with Town staff and professional consultants, presumably to discuss some kind of application proposed to be made to the Town regarding some portion of the Concord Resort site. In anticipation of the submission of that application, we take this opportunity to respectfully remind the Town Board that:

1. Associates is the original and sole sponsor of the Concord Resort project, having first applied to the Town for approvals to redevelop the former Concord Hotel site almost twelve (12) years ago. Over the course of these years, Associates has, at very significant expense, applied for and received numerous approvals for the development of the Concord Resort from the Town Board, Planning Board and Zoning Board of Appeals. Associates was the sole petitioner for the amendments to the Town Zoning Law that established "Planned Resort Development" as a permitted use, the author of the Comprehensive Development Plan of the Concord Resort called for by those amendments, and the preparer of the extensive Environmental Impact Statement for these actions and the related approvals for the development of the Concord Resort. In the many years since the former Concord Hotel ceased operating, Associates is the only party to have received any approvals of any kind for redevelopment of any portion of the Concord Resort site, and Associate's approvals are currently valid and in full force and effect.

Supervisor Anthony P. Cellini
Members of the Town Board

January 20, 2012
Page 2

2. No approvals for the development of any portion of the Concord Resort can be granted to anyone other than Associates without Associates' participation or consent. This is not an unforeseen or unintended consequence of the Town Zoning Law, but rather exactly what is intended and required by the amendments to the Town Zoning Law that establish the "Planned Resort Development" use. Those amendments and the corresponding Comprehensive Development Plan for the Concord Resort (the "CDP") were both adopted on November 21, 2006. The amendments are codified as Section 250-27.2 of the Zoning Law (the "PRD Regulations"). Section 250-27.2.C(4) of the Zoning Law recognizes that a "PRD will be developed in phases over time, and that different phases, portions and/or development sites of the PRD will be developed and owned by different persons and entities." To prevent the Town from being involuntarily placed in the middle of the very same kind of conflict that is now potentially arising between Associates and EPT, the law requires that a Master Association be formed "to act as the master developer of the PRD" and expressly and specifically: (i) permits only the "applicant for the original approval of a PRD Comprehensive Development Plan" to form the Master Association; and (ii) requires that the "[t]he organizational documents of the Master Association shall provide that only the Master Association shall be entitled to apply to the Town Board for an amendment to the PRD Comprehensive Development Plan."

With respect to the amendments to the CDP which would undeniably be required for any proposed development by EPT of any portion of the Concord Resort site that differs from the development permitted by the current approved CDP, the PRD Regulations also provide as follows:

"The PRD Comprehensive Development Plan may from time to time be amended in accordance with the procedure set forth [in subsections (a) through (e)] above; provided, however, that application for amendment of a PRD Comprehensive Development Plan may only be made by the Master Association... of the PRD." (Section 250-27.2.C(1)(f) of the Zoning Law).

The PRD Regulations further provide that subsequent to approval of any required amendment to a PRD Comprehensive Development Plan, an application for site development plan approval for the development permitted by the PRD Comprehensive Development Plan:

"shall be made by the Master Association, or if the phase, portion and/or development site of the PRD for which site development plan approval is sought is owned by a different person or entity, then jointly by the Master Association and that person or entity." (Section 250-27.2.C(2)(a) of the Zoning Law).

Therefore: (i) because it was the sole "applicant for the original approval" of the CDP for the Concord Resort, only Associates can form the Master Association; (ii) only the Master Association can apply for an amendment to the CDP for the Concord Resort; and (iii) an application for site development plan approval of any portion of the Concord Resort can be made only by the Master Association, or jointly with the Master Association.

3. The approved CDP for the Concord Resort provides that the members of the Master Association shall include:

Supervisor Anthony P. Cellini
Members of the Town Board

January 20, 2012
Page 3

“One representative (President) of each HOA, Condominium Association, commercial owner and rental residential owner and a representative of Concord Associates, L.P., or its successor in interest (“Master Developer”). **Master Developer maintains majority vote on all Master Association matters including... approval of applications by members to the Town Planning Board for site plan and/or subdivision approvals and as well as applications to the Town Board to amend the CDP.**” (Emphasis added. See table captioned “Concord Resort Community” on page II-17 of the CDP).

Because as a matter of law only Associates can form the Master Association, and because Associates is the “Master Developer” entitled to the majority vote on all Master Association matters, Associates controls the Master Association for all purposes of the PRD Regulations. Therefore, without Associates’ consent, no other owner of any portion of the Concord Resort site – including but not limited to EPT – is legally entitled to apply to the Town for any amendment to the CDP, or for site plan approval of any proposed development.

We understand that EPT has alleged that Associates’ “Master Developer” rights were somehow transferred by Associates to EPT. This is simply not true. In August, 2008, Concord Resorts, LLC acquired a portion of the Concord Resort site from Associates, but did not acquire any of Associates’ Master Association or “Master Developer” rights. In June 2010, Concord Resorts, LLC - not Concord Associates, L.P. - transferred title to EPT. Simply stated, Concord Resorts, LLC could not transfer to EPT rights it did not have.

We also understand that the Town has asked EPT to explain their position with respect to alleged “Master Developer” rights, but they have not done so. It should be noted that EPT has made conclusory allegations regarding alleged rights as “Master Developer” in a counterclaim pending in the Supreme Court, Sullivan County, and that this issue is therefore now the subject of litigation between Associates and EPT. Associates has moved to dismiss that counterclaim, but has not yet received a response from EPT.

Finally, we advise you that as of this date, Associates has not consented to any development plan for the portion of the Concord Resort site owned by EPT. If and when EPT provides a proposed development plan to Associates, Associates will review it, consistent with its legal rights and obligations.

Thank you for your consideration.

Very truly yours,



PETER J. WISE

cc: Michael Mednick, Esq., Town Attorney
Paula Kay, Esq., Deputy Town Attorney
Louis R. Cappelli
Bryan Cappelli
Alfred E. Donnellan, Esq.
Ann F. Carlson, Esq.
Mark P. Weingarten, Esq.

**DELBELLO DONNELLAN WEINGARTEN
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February 10, 2012

Via Facsimile and First Class Mail

Supervisor Anthony P. Cellini
Members of the Town of Thompson Town Board
4052 Route 42
Monticello, New York 12701

Re: *The Concord Resort*

Dear Supervisor Cellini and Members of the Town Board:

We write in response to the letter dated February 6, 2012, from Entertainment Properties Trust ("EPT"). In its letter EPT claims it is "entitled to put forward a plan to develop [its] property" (the "EPT Property"), and indicates it intends to file an application for development of the property in the upcoming week notwithstanding the fact that the proposal has not been submitted to, reviewed, or considered by the Master Association which has been formed for the Concord Resort as required by, and in accordance with, applicable provisions of the Town Zoning Law. In addition, EPT makes the claim that it received an "absolute conveyance" of the property without reservation of entitlements, which EPT would have this Board believe resulted in the transfer of Concord Associates, L.P.'s status as "Master Developer" with respect to the EPT Property. EPT's assertion is factually and legally incorrect.

In our January 20, 2012 letter to the Town Board, we advised you that the issue of Master Developer status is currently being litigated in the Supreme Court of the State of New York.¹ As we stated in that letter and make clear in that litigation, the EPT Property was transferred to EPT's affiliate (EPT Concord II) by Concord Resort, LLC ("Resort"), and not by Concord Associates, L.P. ("CALP"). CALP was not a party to the deed conveying the EPT Property. Furthermore, and critically, Resort was not at that time, and has never been, the Master Developer of the Concord Resort. It is absolutely fundamental that Resort could not transfer legal rights it did not have. The simple fact is that EPT never bargained or paid for a transfer of

¹ In particular, EPT seeks a declaration by the Court that, among other things, it is entitled to be named the "Master Developer" for the EPT Property. CALP has asked the Court to dismiss the claim.

CALP's Master Developer rights, and CALP never expressly or impliedly agreed to a transfer. That CALP remains the Master Developer of the Concord Resort – and continues to have the controlling interest in the Master Association - is exactly what the Town intends and Section 250-27.2.C(4) of the Zoning Law requires.

Furthermore, as a matter of law, EPT is not entitled to proceed with development of the EPT Property without the participation of the Master Association. Under Section 250-27.2.C(1)(f) of the Zoning Law, only the Master Association can apply for the amendments to the Concord Resort Comprehensive Development Plan ("CDP") that are required to accommodate EPT's proposal. And the Town Zoning Law is unambiguous: subsequent to approval of any required amendment to the CDP, an application for site development plan approval can only be:

"made by the Master Association, or if the phase, portion and/or development site of the PRD for which site development plan approval is sought is owned by a different person or entity, then jointly by the Master Association and that person or entity." (Section 250-27.2.C(2)(a) of the Zoning Law).

In the case of the Concord Resort, the approved CDP provides that as parcels within the resort "are sold to others or developed by [CALP] or others ... each owner ... will become a member of the Master Association." The CDP further requires that CALP, as the Master Developer, have the majority vote on all Master Association matters, including, without limitation, determinations of consistency with the development standards and requirements set forth in Section 3 of the CDP, and approval of applications by members to amendments to the CDP and for site plan and subdivision approval. It is therefore indisputable that EPT is required to become a member of the Master Association and to submit its proposed development plan to the Master Association for consideration and approval before any application is submitted to the Town. EPT has repeatedly been reminded of its obligations, but apparently chooses to ignore the Town's legal requirements.

For more than a decade CALP has been committed to bringing the Concord Resort project to fruition. CALP has invested many millions of dollars into the project and has worked cooperatively with the Town and County to overcome obstacles and achieve key development milestones. CALP is ready and willing to proceed with the project, but its diligent and good faith efforts have repeatedly been frustrated by EPT, Empire Resorts, Inc., and their foreign partners. EPT and its cohorts have gone to great lengths to sabotage development of CALP's approved project, including baseless litigation (such as Empire's proceeding challenging the renewal of CALP's building permits, which the Town and CALP is now defending), and EPT's steadfast refusal to meet its contractual obligations to CALP,² which forced CALP to commence its own litigation against EPT.

² Such as its refusal to provide a ground lease to CALP, which EPT now acknowledges it is required to provide, at a critical juncture in CALP's bond financing last fall.

EPT's development proposal is premature under both the Town Zoning Law and the approved CDP for the Concord Resort. We respectfully remind the Town Board that neither CALP nor the Master Association has yet consented to any development plan for any portion of the EPT Property. EPT's proposal should therefore not be considered by the Town at this time.

Very truly yours,



ALFRED E. DONNELLAN

AEDra

cc: Michael Mednick, Esq., Town Attorney
Paula Kay, Esq., Deputy Town Attorney

**DELBELLO DONNELLAN WEINGARTEN
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April 3, 2012

Via Facsimile and First Class Mail

Supervisor Anthony P. Cellini
Members of the Town of Thompson Town Board
4052 Route 42
Monticello, New York 12701

Re: Petition of EPT Concord II, LLC for Amendments to the Town Code

Dear Supervisor Cellini and Members of the Town Board:

On November 21, 2006, more than six years of intensive effort and collaboration between the Town and Concord Associates, L.P. ("CALP") culminated in the Town's adoption of Section 250-27.2 of the Town Code (the "PRD Regulations"), which established a new class of permitted use¹ known as "Planned Resort Development" ("PRD") and provides the regulatory framework for master planned, coordinated development of all the land that comprises a PRD. It is indisputable that the law was enacted to comprehensively address the proposed redevelopment of not just the land on which the former Concord Hotel buildings were located, but the entire 1735 acre "Concord Resort" site, and to ensure that this critically important part of the Town could not be developed piecemeal over time, resulting in potentially incompatible land uses, and conflicting and inadequate roads, sewer and water utilities, and other public and private infrastructure.

In our prior letters to you dated January 20, 2012 and February 10, 2012, both of which are incorporated here by reference, we pointed out that the PRD Regulations achieve these objectives by (i) recognizing that a "PRD will be developed in phases over time, and that different phases, portions and/or development sites of the PRD will be developed and owned by different persons and entities," and (ii) requiring that all development applications be made on behalf of the owners by a "Master Association" which shall "act as the master developer of the PRD" and in which all owners must be members. Under the PRD Regulations, only the

¹ A PRD is a type of permitted use within certain zoning districts, and is not itself a district or "zone," as mistakenly recited throughout the petition discussed below.

Supervisor Anthony P. Cellini
Members of the Town Board

April 3, 2012
Page 2

“applicant for the original approval of a PRD Comprehensive Development Plan” – in this case, CALP - can form the Master Association and “[t]he organizational documents of the Master Association shall provide that only the Master Association shall be entitled to apply to the Town Board for an amendment to the PRD Comprehensive Development Plan” for the Concord Resort. Under the Comprehensive Development Plan for the Concord Resort (the “CDP”), which was also adopted by the Town Board on November 21, 2006, CALP is the Master Developer of the PRD, and is required to have the “majority vote on all Master Association matters including... approval of applications by members to the Town Planning Board for site plan and/or subdivision approvals and as well as applications to the Town Board to amend the CDP.” (See table captioned “Concord Resort Community” on page II-17 of the CDP).

Conferring control of the Concord Resort Master Association on CALP, the original sponsor of the Concord Resort, makes good sense, not only because whatever development rights and privileges any subsequent owner of any portion of the Concord Resort may seek to exercise exist in the first instance only as a direct result of the significant efforts of, and expense incurred by, CALP, but also because the master planning for the entire Concord Resort embodied in the approved CDP is CALP’s vision for the future of the Concord Resort, and fundamental fairness demands that CALP be permitted to rely on this vision to protect the significant financial investment that as the original applicant is has already made. This is also fundamentally fair to subsequent owners – including EPT Concord II, LLC (“EPT”) – because they all necessarily take title knowing that Section 250-27.2 of the Town Code and the approved CDP require CALP (and only CALP) to control the Master Association in which they must be a member, and that changes to the CDP can only be accomplished with the participation and consent of the Master Association.

EPT has nevertheless concluded that laws carefully crafted by the Town and expressly intended to regulate their conduct as an owner of a portion of the Concord Resort should not apply to them, and has submitted to the Town Board a petition for proposed amendments to the PRD Regulations that would eviscerate the control that CALP has over future development of the Concord Resort and permit them to be the sponsor of their own, separate PRD and Comprehensive Development Plan². In one stroke, EPT proposes to thoroughly make a mockery of the Town’s clearly stated objective to always require truly comprehensive, coordinated planning of the *entire* Concord Resort.

The Town has the legal discretion not to entertain the petition. EPT has not presented its proposed plan to the Master Association, or sought its consent. We reiterate what we said in our January 20, 2012 letter: if and when EPT honors its obligation and presents a proposed development plan to CALP, CALP will review it, consistent with its legal rights and obligations as Master Developer under the PRD Regulations and Concord Resort CDP. Because EPT has not yet done so, we respectfully request that the Town reject the petition and EPT’s attempted “end run” around the PRD Regulations, the CDP and the rights of CALP and the Master Association.

² The proposed amendments conflate some terms (i.e., by using the term “PRD Comprehensive Plan” to refer to a geographical area, or specific project, as well the plan for development of the area and/or project) and are otherwise somewhat unclear, but the overall intent is unmistakable.

Supervisor Anthony P. Cellini
Members of the Town Board

April 3, 2012
Page 3

However, should the Town Board decide to go forward, then we request that this letter (and our January 20, 2012 and February 10, 2012 letters) be made part of the record of the proceeding, and also submit the following additional comments on the scope of the draft environmental impact statement ("DEIS") that we presume the Town Board, as lead agency under the State Environmental Quality Review Act ("SEQRA"), will require EPT to prepare:

1. The allegation in paragraph 6 of the petition that EPT "satisfies the requirements for bringing a Petition to the Town Board for PRD CDP approval pursuant to Town Code Section 250-27.2(B)(3)(a)" is incorrect and misleading, and a wholly inadequate basis for jurisdiction. Section 250-27.2 (B)(3)(a) merely sets the minimum lot area for a PRD. As discussed above, the fundamental legal prerequisite for bringing a proposed amended CDP for the Concord Resort³ to the Town Board is that the proponent either be the Master Association or have the Master Association's consent, and neither is the case here.
2. Likewise, the allegation in paragraph 22 of the petition that "the requested text amendments to the zoning code will enable the [EPT] Project to proceed in a manner that is completely consistent with the purposes and objectives of the PRD Zoning Law as set forth in § 250-27.2(A) and the Town of Thompson Zoning Code" is simply not true. As discussed above, the indisputable purpose and intent of the PRD Regulations is to ensure comprehensive, coordinated master planning of an entire PRD. The proposed amendments would permit approval of separate and distinct plans for different portions of the land that comprises a PRD, thereby resulting in exactly the opposite.
3. Paragraph 7 of the petition alleges that CALP's vested development rights "as they relate to the Concord Parcel and with respect to the land [CALP] owned (sic.) or have a right to lease, will not be affected by the requested amendments to the text of the PRD Zoning Law nor will they be affected by Petitioner's development plans." This specious and wholly unsupported conclusion must be thoroughly and rigorously tested in the DEIS, particularly with respect to potential adverse impacts from traffic and on sewer and water utilities, as set forth below. The DEIS should also thoroughly analyze the potential effect of the amendments on CALP's approved and vested development rights to ensure that the fully approved development would not be rendered non-conforming under any provision of the Town Code.
4. The proposed Comprehensive Development Plan for the EPT Concord Resort (dated March, 2012) lacks depth and specificity, and should be required to address all of same issues as the approved CDP for the Concord Resort, at the same level of detail.
5. The EPT Plan and the existing CDP differ significantly with respect to traffic patterns. By making Joyland Road and Exit 106 of Route 17 the main access to their property, the EPT plan changes the anticipated traffic distribution that was extensively studied in the environmental review of the CDP. The prior environmental review was based upon a

³ It does not matter how EPT characterizes the proposed plan, because the presentation by them of a different plan for land already subject to the existing, approved CDP for the Concord Resort is necessarily a proposed amendment to the existing CDP.

Supervisor Anthony P. Cellini
Members of the Town Board

April 3, 2012
Page 4

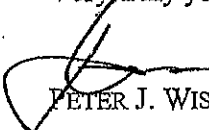
mix of uses and attractions that balanced traffic flows from three Route 17 exits to the Concord Resort. Clearly, the proposed redesign will require a new comprehensive traffic study and the EPT plan will need to identify all new traffic improvements and the appropriate modifications to the already approved improvements that are required to accommodate all components of the Concord Resort, including full build-out of CALP's vested development.

6. The EPT Plan is too vague with respect to sewer and water supply. With respect to sewer capacity, the plan is also inaccurate: under a court ordered stipulation, the 1,000,000 gallons per day of sewer treatment capacity referred to by EPT as being "allotted" and available to its project is allocable by CALP in its discretion, and CALP has not allocated any portion of that capacity. Given this, a detailed plan for sewerage that does not rely on the unallocated capacity must be formulated and studied.
7. The density of development under the proposed EPT plan is significantly increased on Joyland, Chalet and Thompsonville Roads without any mitigation or balancing of this increase by reduction of density elsewhere on the property. The overall high density of development and elimination of one of the existing golf courses will likely have a significant impact on storm water management for the Concord Resort.

Most egregiously, not only does the EPT plan fail to discuss the relationship – and potential inconsistency – of EPT's proposed development program and CALP's approved development program, it fails to even acknowledge the existence of CALP's development. The EPT plan is therefore "un-comprehensive," which is precisely what the Town's PRD Regulations are intended to prohibit. EPT's cavalier and dismissive approach to planning for this vitally important part of the Town should be rejected.

Thank you for your consideration.

Very truly yours,



PETER J. WISE

cc: Michael Mednick, Esq., Town Attorney
Paula Kay, Esq., Deputy Town Attorney
Louis R. Cappelli
Bryan Cappelli
Alfred E. Donnellan, Esq.
Mark. P. Weingarten, Esq.



August 28, 2012

Anthony P. Cellini, Supervisor
Town of Thompson
Town Hall
4052 Route 42
Monticello, NY 12701-3221

Re: Peer Review of the Traffic Impact Study for the Proposed EPT Concord Resort in the Town of Thompson, New York; CHA File #24235

Dear Supervisor Cellini:

We have conducted an initial technical review of the Traffic and Transportation chapter of the DGEIS/DEIS for the EPT Concord Resort (dated 07/24/12). We previously issued a completeness review letter (dated July 10, 2012; attached); responses and document revisions related to those comments are anticipated to be included with the FEIS or submitted for an interim review.

Based on this review, we have the following comments:

1. *Existing Traffic Conditions* – A comparison of the traffic count data included in Appendix J and the 2011 Existing Traffic Volume figures shows that the intersections below do not match between the two sources. The document mentions that the counts at the Exit 106 interchange were adjusted to reflect the peak summer conditions since those intersections were counted in December. However, it does not mention that any other intersections were adjusted and the discrepancies do not appear to be consistently high, low or related to balancing.
 - Old Liberty Road/Fraser Road (Fri & Sun)
 - Liberty Street/Broadway (Fri & Sun)
 - NYS Route 42/Broadway (Fri)
 - NYS Route 42/Anawana Lake Road (Fri)
 - NYS Route 42/Depot Drive (Fri)
 - NYS Route 42/Concord Road/Lanahans Road (Fri)
 - NYS Route 42/Kiamesha Lake Road/Fraser Road (Fri)
 - Concord Road/Rock Ridge Drive (Fri)
 - Thompsonville Road/Rock Ridge Drive (Fri)
 - Concord Road/Kiamesha Lake Road (Fri)
 - Chalet Road/Kiamesha Lake Road (Fri)
 - Thompsonville Road/Joyland Road/Chalet Road (Fri)
 - Heiden Road/Thompsonville Road (Fri)
 - Kiamesha Lake Road/Heiden Road (Fri)

Any errors in the peak hour traffic volumes should be corrected, or adjustments that were made should be described in the document.

2. *No-Build Traffic Conditions* – The No-Build traffic volumes include peak hour generated trips from other projects within the vicinity of the project. The backup data showing the trip generation and trip assignment for these other projects should be included in the Appendix J to support the No-Build traffic volume calculations. Without the backup information, the calculation of No-Build volumes cannot be verified.
3. *Signalized Intersection Capacity Analysis Methodology* – The document states that through consultation with CHA (“the Town’s traffic consultant”), the signalized intersections were analyzed using the Percentile Delay methodology using Synchro 7. We agree that the capacity analysis methodology was discussed, and that it was agreed that HCM 2000 and Synchro 7 were to be used, but not that the Percentile Delay method was to be used. The analysis should use the HCM reports from Synchro 7 to evaluate the impacts at signalized intersections; this is also NYSDOT’s policy. The tabulated level of service results used in the traffic impact evaluation and the reports included in the Appendix J should be based on the HCM reports. Since the traffic impact evaluation was not based on the correct reporting method, the impacts related to the project could not be reviewed.
4. *Synchro Analysis*
 - a. NYSDOT issued some preliminary comments on the Synchro analysis on 07/18/12 that should be resolved with NYSDOT and revisions made as necessary. The comments included timing adjustments to the signals on Route 42, which may affect the impact evaluation and mitigation recommended in the study.
 - b. The No-Build and Build Synchro models contain some fatal errors related to incorrect lane geometry surrounding the Chalet Road realignment. While these errors do not impact the tabulated traffic evaluation, they should be fixed in the models to reflect the correct roadway geometry.
5. *Trip Generation: Buses* – The document states that Phase 1 will result in a small increase in public transportation demand, without significant impact. While the project may not impact the local bus services, the document should discuss that it is expected that the site will generate bus traffic, as the concept plan includes a bus drop-off area and bus parking. An approximation of the anticipated site generated buses, their anticipated routes and whether the bus traffic was included in the site generated traffic estimates should be identified in the documentation.
6. *Impact Evaluation – Phase 1*
 - a. As stated previously in our completeness review letter and in NYSDOT’s preliminary comments, the project impacts for Phase 1 should be evaluated without the Concord Associates project traffic and mitigation measures. This exercise will be especially valuable in evaluating the traffic impacts on Route 42.
 - b. Traffic impacts and mitigation should be identified for intersection approaches that operate at LOS F in the No-Build condition and degrade to higher levels of delay and congestion in the Build condition.
 - c. Since the DGEIS/DEIS was accepted on 07/25/12, discussions with the Applicant’s consultant and NYSDOT have been ongoing in regards to improvement concepts (including intersection roundabout control) at the intersections surround the Route 17 Exit 106 interchange. NYSDOT has issued preliminary comments regarding their requirements for

continued accommodation of pedestrians and heavy vehicles on the CR 173A bridge (Cimarron Road) over Route 17. In addition, the NYSDOT Intersection Design Squad has provided guidance on the design elements and analysis methods for testing the roundabout scenarios.

Once the additional analyses for the interchange intersections and for the site access intersections are conducted, we will review and provide comment.

7. *Trip Generation – Full Build*

- a. For the Entertainment Village, a generic 20 trips was applied for each peak hour for various uses, such as Billiards, Gallery and others. But the document does not identify an ITE land use code or other method for estimating those trips.
- b. A 25% internal capture rate was used for the trip generation estimates for the full buildout of the site. The document should identify how this internal capture rate was determined to be applicable for this site.

8. *Mitigation* – Our completeness review letter provides comments regarding the approach to mitigation recommendations. A more in depth review of the mitigation measures will be conducted once the additional analyses related to the roundabout testing and revised analyses related to the comments in this letter are addressed.

Due to some missing supporting information, incorrect reporting methods and outstanding analyses, the information presented in the DGEIS/DEIS is not sufficient to fully determine the project's impacts and mitigation measures. Once revisions and the completed analyses are submitted, the Town and NYSDOT can review the recommended mitigation measures and determine if they are appropriate and applicable.

Please feel free to call me (518-453-4586) if you have any questions.

Sincerely,



Christina L. Douglas, P.E., PTOE
Traffic Engineer

CLD/mjp

c: R. McGoey; McGoey, Hauser & Edsall
R. Geneslaw; Robert Geneslaw Co.
C. Klein; NYSDOT Region 9
A. Russo; AKRF

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July 10, 2012

Anthony P. Cellini, Supervisor
Town of Thompson
Town Hall
4052 Route 42
Monticello, NY 12701-3221

Re: Peer Review of the Traffic Impact Study for the Proposed EPT Concord Resort in the Town of Thompson, New York; CHA File #24235

Dear Supervisor Cellini:

We have conducted a completeness review of the Traffic and Transportation chapter of the DGEIS/DEIS for the EPT Concord Resort (dated 06/25/12). Our completeness review includes determining if the document content is consistent with the Final Scoping Outline (dated 04/17/2012) and that the methodologies used to assess traffic impacts of the proposed resort development are consistent with standard publications and practices. A technical review of the study content and analyses will be conducted after the Town Board has accepted the document as complete.

Based on this review, we have the following comments:

1. *Consistency with Scoping Document* – The following items that are identified in the scoping document are not apparent in the Chapter 11 – Traffic and Transportation:
 - a. Description of existing conditions (pavement markings and traffic control) at the study area intersections. The section should refer to Appendix J-1 for the intersection diagrams.
 - b. “Usage and capacity...of the exit and entrance off of NYS Route 17 in the scope implies that the NYS Route 17 entrance and exit ramps are to be analyzed. There is no analysis of the NYS Route 17 ramp junctions (merge/diverge) included in the documentation and we feel that it should be evaluated at Exit 106 since that is being used as the primary access point for the Phase 1 development.
 - c. Accident records from NYSDOT and the Town of Thompson were to be obtained, but only NYSDOT data was included. The document should state that the data was requested from the Town and either the data received was redundant to the State reports or provide correspondence from the Town or NYSDOT stating that the NYSDOT summary reports are all-inclusive of the accidents within the Town and they have no additional reports.
2. *Driveway Evaluation* – The site driveway intersections on Joyland Road and Thompsonville Road should be evaluated in the FEIS.
3. *Site Trip Generation* - We agree with the methodology used in the study that uses sample trip rates for three other Sullivan County casino studies to estimate the site traffic for the Casino Resort. However, it was discussed previously (scoping meeting on 03/29/12 at Town Hall and

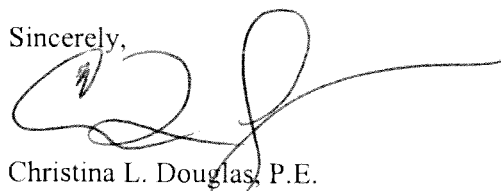
conference call on 03/30/12) that the DGEIS should evaluate the site with and without table gaming, since it is dependent on State legislation. The study should provide a comparison of trip rates for casinos with and without table gaming to justify the use of the same trip rate for both conditions (such as being based on whichever is higher) or evaluate them as two separate alternatives with different trip rates. All backup material used to develop the trip rates should be provided in the technical appendix, including descriptions of the internal uses and sizes of the sample sites used.

4. *Trip Distribution* – We agree with the trip distribution used to assign the Phase 1 site trips. From the qualitative assessment of the full buildout, it is apparent that future development access will require evaluating additional interchanges and/or a reconfiguration of Exit 106.
5. *Mitigation*
 - a. Local roadways – In the existing condition inventory, a number of roadways are identified as having poor to fair pavement condition and/or narrow lanes and shoulders. The mitigation measures should also consider the sufficiency of these roadways to accommodate the increased traffic volumes and identify roads to be rehabilitated or reconstructed if necessary.
 - b. As requested by NYSDOT, intersections that are proposed to have signalized control as mitigation should also be tested for the feasibility and operation of a roundabout control.
 - c. The No-Build evaluations include site traffic and transportation improvements for vicinity developments, including the Concord Associates project. With the status of the Concord Associates project uncertain, even though they have approvals, it would be prudent to make an assessment of the EPT Concord project impacts if the Concord Associates project and improvements were not constructed.
 - d. With the amount of site generated trips estimated in the qualitative assessment of full buildout (5708 during Friday PM peak, 4749 during Sunday PM peak), it is to be expected that the mitigation measures will be numerous and extensive. The study notes for many intersections that additional lane geometry “may not be feasible given right-of-way constraints.” This is unacceptable and the Applicant should be prepared to acquire property in order to construct a transportation network that supports the project’s traffic.

We understand, through conversations with the project team, that the documentation is being completed against an aggressive schedule and it is expected that all revised/additional analyses required will be completed for the FEIS. We feel that if our comments 1a and 1c are addressed, the DGEIS/DEIS can be accepted as complete and a technical review will commence.

Please feel free to call me (518-453-4586) if you have any questions.

Sincerely,



Christina L. Douglas, P.E.
Traffic Engineer

CLD/dcc

c: R. McGoey, McGoey, Hauser & Edsall
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New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

August 29, 2012

Anthony P. Cellini, Supervisor
Town Board, Town of Thompson
4052 Route 42
Monticello, NY 12701

Re: **SEQRA**
EPT Concord Resort
T/Thompson, Sullivan County
12PR02447

Dear Supervisor Cellini:

The Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP) has received information that was forwarded for the SEQRA process. We have had an opportunity to review the submitted Draft Generic Environmental Impact Statement. These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Our office has no further concerns regarding archeology and the project: the report identifies past work and what may be required for future project activity. Above grade historic resources have been identified in the area over a period of several years: the most recent identification was the Breezy Corners Bungalow Colony which was recently determined to be eligible for listing in the National Register of Historic Places. Under SEQRA our office can only issue unrestricted negative comments on National Register listed properties (none of the historic properties near the project site are National Register listed). With this understanding in mind, our office notes the project will not have substantial negative results upon historic resources under SEQRA. However, under either state Section 14.09 or federal Section 106 any demolition of an eligible property (e.g., the Breezy Corners building to allow road widening) will result in an adverse impact/effect upon the resource and involve an analysis of alternatives to the undertaking and an agreement for final project resolution. This will likely become an issue when the project gets closer to implementation.

If you have any questions regarding this letter or the project, please feel free to contact me. Ext. 3273.

Sincerely,

Kenneth Markunas
Historic Sites Restoration Coordinator

Cc: Claudia Cooney, AKRF

Robert Geneslaw Co.

PLANNING AND DEVELOPMENT CONSULTANTS

Robert Geneslaw, AICP368 New Hempstead Rd. #320
New City, NY 10956
OFFICE (845) 368-1785
FAX (845)368-1787**MEMORANDUM**

TO: SUPERVISOR ANTHONY P. CELLINI AND
MEMBERS OF THE TOWN BOARD
TOWN OF THOMPSON

FROM: ROBERT GENESLAW, AICP

SUBJECT: EPT CONCORD DGEIS/DEIS SUBSTANTIVE REVIEW

DATE: SEPTEMBER 5, 2012

C: MICHAEL MEDNICK, ESQ., TOWN ATTORNEY
PAULA E. KAY, ESQ., PLANNING BOARD ATTORNEY
RICHARD MCGOEY, P.E., TOWN ENGINEER
CHRISTINA DOUGLAS, P.E., PTOE, TOWN CONSULTING TRAFFIC
ENGINEER
STEVEN VEGLIANTE, ESQ. (FOR PROJECT SPONSOR)
NANETTE BOURNE, AICP, (FOR PROJECT SPONSOR)
CHRIS ROBBINS, (FOR PROJECT SPONSOR)

A Draft Generic Environmental Impact Statement and Draft Environmental Impact Statement (DGEIS/DEIS) has been received by the Town Board acting as Lead Agency for the proposed EPT Concord Resort project. The DGEIS/DEIS has been prepared in accordance with the provisions of the NYS Environmental Quality Review Act (SEQRA). The DGEIS portion evaluates the impacts and mitigations of the entire proposal for the 1,538 +/- acre EPT owned property for a mix of uses with an anticipated 10 year build out (depending on market conditions), while the DEIS portion is directed towards the Phase 1 portion of the property and provides more specific impacts and mitigation. The Phase 1 site development is targeted to begin once approvals and permits have been received, potentially within the next 3-6 months.

As planning and environmental consultants to the Town Board the purpose of this memorandum is to report the findings of our review of the DGEIS/DEIS with respect to meeting the procedural and substantive requirements of SEQRA, meeting the elements of the adopted scoping outline, identifying potential adverse environmental impacts, and providing mitigation to those impacts. In addition to our review, other technical

consultants and legal advisors to the Town Board are participating and providing memoranda and advice to the Town Board.

In our opinion the DGEIS/DEIS is comprehensive and meets the procedural requirements of SEQR. While the substantive elements of the document are comprehensively treated, there are several areas that are discussed below. In the course of reviewing a preliminary DGEIS/DEIS at the staff level, a number of items requesting additional information were identified by this office and other advisors to the Town Board. Some of these items are addressed in the reviewed document and other items by agreement with project sponsor representatives and staff were deferred to the Final Environmental Impact Statement (FEIS) or the Findings Statement because of the time needed to collect and evaluate additional information and alternatives. A list of these open items is in preparation, should be part of the environmental record, and should be considered in the FEIS and/or Findings Statement.

In our opinion, the DGEIS/DEIS is substantially consistent with the scoping outline. One exception would be items already requested by the traffic consultant to the Town (CHA).

The DGEIS/DEIS is, appropriately, separated into a series of subject areas and within each subsection refer to the DGEIS/DEIS elements. In reviewing the document it is important to remember that the DGEIS addresses a more general, or generic, plan, including a range of proposed uses and densities and concept graphics plans to evaluate impacts and identify potential mitigation. Due to the 10 year build out and the potential for plan changes due to marketing experience, the analysis is at a generic level, and potential impacts and mitigation are identified/evaluated at a generic level, by phase. As each phase is detailed, additional and more specific potential environmental impacts and identification will be made as necessary as part of the environmental review for the site plan or other approvals necessary for each phase. These impacts and mitigation will take into account impacts from other projects, particularly with respect to traffic.

The DEIS portions are directed toward Phase 1, the resort core, and a more detailed environmental analysis and identification of impacts and mitigation, and serve as the environmental basis for the review of the Phase 1 site plan. The identified mitigation elements will be part of any site plan approval conditions, whether by plan notes, resolution conditions, Town Board actions, (special district extensions, for example), or other requirements/commitments.

An important aspect of mitigation is that each mitigation element be achievable by the project sponsor. For onsite impacts, there must be an acceptable engineering solution for each infrastructure and construction element with costs to be borne by the project sponsor. For off-site elements necessitated as mitigation from project impacts, the mitigation must be achievable and deliverable by the project sponsor. This means, for example, that if a permit is needed from an involved agency, there must have been sufficient contact between the Town as Lead Agency, project sponsor, and permitting

agency to establish that permit requirements can be met in a manner acceptable to the Town, agency, and project sponsor, even if issuance of a permit does not typically occur until after site plan or other local approvals. The same concept could also apply to other elements , such as site control.

A required element of SEQR is that a project proposal evaluate alternatives, which could include alternative sites, technologies, provision of alternative solutions for infrastructure elements such as water, sewer, access, circulation patterns, uses and their intensity, etc., so that the Lead Agency and project sponsor may be able to select alternatives that minimize impacts and provide sufficient mitigation. For the DGEIS the mitigations are identified, but since project plans are at a conceptual stage potential mitigation elements are identified but not sufficiently identified or designed that permits or other specific approvals can be sought. For the DEIS, the mitigation elements must be achievable and deliverable by the project sponsor before completion of the SEQR process. More than one solution for a particular element may be discussed in a Findings Statement, so long as each is achievable and deliverable by the project sponsor. These are identified and discussed in the DEIS and include such on site and offsite infrastructure elements as water, sanitary sewers, road alignment, and intersection improvements.

The following elements require resolution prior to completion of SEQR:

Water supply – the ongoing evaluation of identified alternatives have been shown to be the Village of Monticello, Kiamesha Artesian Spring Water Co., and/or a series of individual wells for each phase, or some combination of these alternatives should be continued, so that a more definitive course of action may be made in the Final Environmental Impact Statement (FEIS) and/or Findings Statement.

Sanitary Sewer – the same approach as noted above should be further evaluated, for the same reasons as outlined above.

Road Alignment - the alternative to Joyland Road for primary access, Option A as discussed in the DGEIS/DEIS and referenced at the public hearing should be further evaluated with respect to: wetland impacts and jurisdictional agency permit requirements, property acquisition, reduced impact on existing Joyland Road properties, potential for impacting cultural resources, and concept plan road alignment at both ends.

Workforce housing – this element is proposed for a future development phase. The following elements should be discussed in the FEIS:

1. How much employee housing is estimated to be needed?
2. Are existing housing resources available in the interim?
3. When will workforce housing be available?
4. How will units be set aside for on-site employees?
5. At the time that the development phase with workforce housing is proposed, an administrative and eligibility program will have to be established.

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Marilee (Town of Thompson)

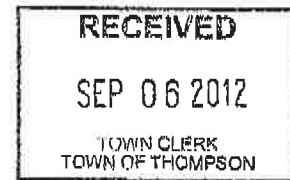
From: "Bernie Adler" <bernie.adler@adler-consulting.com>
To: <marilee@townofthompson.com>
Cc: <hzabata@cappelli-inc.com>; "Peter Wise Esq. (pjw@ddw-law.com)" <pjw@ddwwwlaw.com>;
 "Kevin McManus" <kmcmanus@cappelli-inc.com>; <michael.orourke@adler-consulting.com>
Sent: Thursday, September 06, 2012 1:38 PM
Attach: final review letter.pdf
Subject: EPT Concord II, LLC Application

Attached please find comments regarding the application of EPT Concord II, LLC for which the comment period is open until September 7, 2012. Please make sure that it is included as part of the record.

Thank You.

Bernard Adler

Bernard Adler
President



Adler Consulting

Transportation Planning & Traffic Engineering, PLLC

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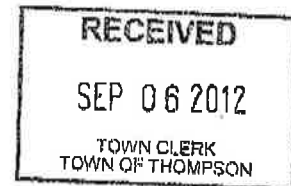
Correspondence: 028

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September 7, 2012



Mr. Anthony Cellini, Supervisor
Town of Thompson
Town Hall
4052 Route 42
Monticello, NY 12701

Subject: Review of EPT Concord II
Town of Thompson
Sullivan County, New York

Dear Supervisor Cellini and members of the Town Board:

Adler Consulting has been retained by Concord Associates, L.P., to review the Traffic and Transportation Section of the Draft Environmental Impact Statement (DEIS), for the proposed Phase I of the EPT Concord Resort and the Draft Generic Environmental Impact Statement (DGEIS), for the proposed full-buildout of the EPT Concord Resort. The proposed Phase I (also known as the Casino Resort) of the EPT Concord Resort would consist of a hotel, casino, harness racetrack, grandstand/showroom, simulcast facilities, banquet event center, restaurants and related facilities. When completed, the proposed EPT Concord Resort would also include an 18-hole golf course, an RV park, hotels, an entertainment village with cinemas and supporting retail, a residential village, a civic center, a health care facility and an active adult residential community on a total of approximately 1,538 acre site.

The following are our comments:

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A. COMPLETENESS OF THE DEIS

The *DGEIS and Phase I DEIS Scoping Outline*, adopted by the Town of Thompson, dated April 17, 2012, for the EPT Concord Resort lists the elements to be contained within the combined document. The description of the proposed project states that the "combined DGEIS and Phase I DEIS will be prepared in accordance with this Scoping Document and will include, at a minimum, (emphasis added) the elements described below." The items to be included in Chapter 11 (Traffic and Transportation) are listed on Pages 15 and Page 16 of the Scoping Document. The items include a list of intersections to be studied which states: "NY Route 42/NY Route 17 Interchange."

The chapter of the DEIS which contains the analysis of the traffic impacts of the proposed EPT Concord Resort, Chapter 11 - Traffic and Transportation, includes a detailed list of 23 locations to be studied to assess the potential impacts of the project. The list of the locations to be studied, which are depicted on Page 11-4 and 11-5, includes:

- NY Route 42/NY Route 17 Eastbound Ramps;
- NY Route 42/NY Route 17 Eastbound Loop Ramps;
- NY Route 42/NY Route 17 Westbound Loop Ramps;
- NY Route 42/NY Route 17 Westbound Off-Ramp; and,
- NY Route 42/NY Route 17 Westbound On-Ramp.

A review of the capacity information summarized in Table 11-3 and Table 11-4 for, respectively, the signalized intersections and unsignalized intersection under Existing Conditions, as well as the subsequent summary tables, only provides information for the intersection of NY Route 42 and NY Route 17 Westbound Direct Off-Ramp. No capacity or Level-of-Service information is contained in the DEIS for NY Route 42/NY Route 17 Eastbound Ramps; NY Route 42/NY Route 17 Eastbound Loop Ramps; NY Route 42/NY Route 17 Westbound Loop Ramps; and, NY Route 42/NY Route 17 Westbound On-Ramp. Without the ramp and weave capacity analyses for these locations, the *DGEIS and Phase I DEIS* is not complete, since not all the information required by the Scoping Document has been provided.

It is further noted that the roadway inventory information is not provided for the following intersections:

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- Joyland Road with Cimarron Road;
- NY Route 17 with Cimarron Road/Towner Road; and
- NY Route 17 ramps with Joyland Road.

This information is needed to check the veracity of the capacity analyses performed to assure that the impacts of the project are fully documented.

Lastly, the DGEIS contains only a qualitative analysis of the Future Build conditions for the complete project. Without the full quantitative analyses for the Future Build conditions for the entire project, the Town of Thompson cannot assess the anticipated impacts of the full build-out and the traffic improvements required to be constructed to mitigate these impacts. Accordingly, the entire Phase II should not be considered part of the Application in that it does not conform to the standards of the SEQRA process.

B. QUANTITATIVE ASSESSMENT

I. Data Collection

The *DGEIS and Phase I DEIS* indicate that traffic volume data were collected in August and September of 2011 and that "...the counts and traffic observations were conducted over the Labor Day weekend when recreational travel peaks." The DEIS further states that "...turning movement counts were collected...on a Friday and a Sunday...." Data collected on the **Sunday** (emphasis added) of the Labor Day weekend, however, is not representative of the recreational travel peak nor would the counts provide for a conservative data base, in that the weekend return trip is spread over the Sunday and Monday of a Labor Day weekend.

The *DGEIS and Phase I DEIS* further states that traffic counts were performed at the Joyland Road/NY Route 17 Interchange in December, 2011 after the reconstruction of the Interchange was completed and that the data were then adjusted to reflect summer conditions. No information was provided concerning when the data were collected in December and whether the data collection effort avoided the traffic fluctuations caused by the Hanukkah and Christmas holidays. In addition, the methodologies used to adjust December counts "to reflect summer conditions" are not provided. The adjustment methodologies are not provided nor explained.

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2. Pedestrian Analyses

The *DGEIS and Phase I DEIS* states that pedestrian volumes were generally light in the study area. It appears, however, that no pedestrian volume data were collected for the study, despite the presence of sidewalks along portions of NY Route 42, East Broadway, Liberty Street, and Anawana Road, among other locations. Further, there is a considerable summer bungalow colony activity in the area. In addition, there are several children summer camps that are active in the area. The presence of the summer bungalow and summer camp populations which would result in a significant increase in pedestrian activity and which occurs in the roadbed of Joyland Road without a sidewalk requires that pedestrian counts, not merely observations, be performed during the Friday and Sunday peak hours along Joyland Road during the summer when the pedestrian population peaks. Capacity analyses should then be performed to assess the potential impacts and the need for pedestrian facilities.

3. Accident Analyses

With regard to safety implications, no statistical accident analysis has been performed. There is merely a summary of the accidents that had occurred over a three-year period. It is considered deficient that a complete, statistical accident analysis was not performed by the Applicant to determine the potential safety impacts of increased traffic volumes on the area roadways. The accident analysis can be used to identify the accident rates at intersections and roadway segments. Further, these rates need to be compared with state-wide average rates for similar roadway operating conditions. It is also incumbent on the Applicant to list the locations on the most recent Priority Investigation List (PIL) available. Moreover, mitigation measures need to be implemented where there is a causal relationship between the roadway and/or traffic control devices and the accident picture. With 1,190 vehicles being added in the Friday PM Peak Hour and 1,346 vehicles added to the roadway network in the Sunday PM Peak Hour, the Applicant should also identify current accident locations that would be most impacted by the increase in volumes and propose mitigation measures for these locations.

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4. Deficiencies in the Analyses

a. No Queues Details Included

Despite statements in the *DGEIS and Phase I DEIS* about the importance of providing information concerning the queues encountered on the roadways in the study area, the analysis sheets provided in Appendix J do not contain information on the queues that currently occur or are anticipated for the future operating conditions. In addition, the analysis sheets provided in Appendix J do not include information concerning the truck percentages on the roadway system, an important component to accurately analyzing the roadway capacities.

b. Vicinity Developments Not Included

The traffic expected to be generated by the proposed Rock Hill Town Center is not part of the No-Build analysis. The "Concord No-Build Project List - Traffic" contained in Appendix J-3, No-Build Projects, does not include the information for the Rock Hill Town Center. Since the Rock Hill Town Center is included in Figure J-3 as Project Number 12, its omission from the Project List indicates a deficiency in the analysis. The Rock Hill Town Center should be included in the "Concord No-Build Project List - Traffic" and also the traffic from this No-Build project should be included as part of the No-Build and subsequent Build analyses.

c. Vicinity Improvements Incorrectly Accounted

The *DGEIS and Phase I DEIS* assumes that Phase 1 of the Concord Associates L.P. project will be constructed with the roadway improvements associated with their approval. The *DGEIS and Phase I DEIS* does not include an analysis of the roadway network that would occur if Phase I of the Concord Associates L.P. project were not constructed. Since the EPT Concord Resort and Phase I of the Concord Associates L.P. are substantially the same project, albeit in slightly removed locations, it is unlikely that both projects would be constructed. If the EPT Concord Resort were built, Phase I of the Concord Associates L.P. and the associated roadway improvements would not be constructed. However, the Applicant analyzed the No-Build and Build roadway networks that would be in place if Phase I of the Concord Associates L.P. and its associated roadway improvements were built. This assumption is tenuous at best and, in the considered professional opinion of Adler Consulting, is considered incorrect.

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d. Parking Facilities

The *DGEIS and Phase I DEIS* states that parking would be provided for the Phase I operations via a 1,300-space parking structure and a 2,000-space parking lot which would be located along Joyland Road south of Thompsonville Road. It is noted, however, that capacity analyses were not performed to assess the traffic impacts that the access driveways/streets would have on the Joyland Road corridor. In addition, no details have been provided concerning the exact locations of the driveways on Joyland Road, the number of portals, their proximity to other portals and intersections, the number of entering or exiting lanes, traffic control of the portals and the effects of introducing between 524 vehicles (exiting traffic during the Friday PM Peak Hour) and 592 vehicles (exiting traffic during the Sunday PM Peak Hour) onto the local roadway system.

e. Arrival/Departure Percentages

The arrival and departure percentages for the proposed Phase I project were based on the information contained in the Eighth Edition of *Trip Generation* prepared by the Institute of Transportation Engineers (ITE). A review of the Eighth Edition of *Trip Generation* reveals that the percentages cited are based on the data presented for Land Use 473, "Casino/Video Lottery Establishment." However, the Applicant's use of these data as the basis for the directional distribution for the project is questioned. The Eighth Edition clearly states "Trip generation rates for full-service casinos and casino/hotel facilities are not included in this land use." Therefore, the use of the information to set arrival and departure percentages is inappropriate. In addition, the minimal amount of data that is provided is based on only six (6) studies. It is also noted that the information provided in *Trip Generation* is only for weekday PM Peak Hour. No trip generation or directional distribution data are provided for the Sunday Peak Hour and its use as the basis for the traffic assignment is not considered appropriate.

f. Lack of Mitigation

Standard engineering practice dictates that the traffic impacts including increased delays or greater volume-to-capacity (v/c) ratios due to a development, shall be mitigated, even if the operating conditions remain at Level-of-Service "F" when comparing the No-Build and the Build scenarios. As an example, the 2010 New York City Environmental Quality Review (CEQR) Manual states that where a lane group is expected to operate at Level-of-Service "F" in the No-Build condition, an increase in the projected delay of three (3.0) seconds for the Build condition should be considered significant and, therefore, require mitigation.

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(1.) NY Route 42 with Anawana Lake Road

For the intersection of NY Route 42 with Anawana Lake Road, the capacity analysis indicates that the southbound through and right-turn movements are expected to experience Level-of-Service "F" conditions during the weekday PM Peak Hour in the No-Build and Build conditions. For the weekday PM Peak Hour in the Build condition, the vehicle delay is expected to be 123.1 seconds, an increase of approximately 7.5 seconds from the anticipated No-Build conditions. No mitigation is offered.

(2.) NY Route 42 with Depot Drive

For the intersection of NY Route 42 with Depot Drive, the capacity analysis indicates that the northbound through and right-turn movements are expected to experience Level-of-Service "F" conditions during the weekday PM Peak Hour in the No-Build and Build conditions. For the weekday PM Peak Hour in the Build condition, the vehicle delay is expected to be 107.0 seconds, an increase of approximately 10.2 seconds from the anticipated No-Build conditions. The capacity analysis also indicates that the westbound left-turn movement is expected to experience Level-of-Service "F" conditions during the Sunday PM Peak Hour in the No-Build and Build conditions. For the Sunday Peak Hour in the Build condition, the vehicle delay is expected to be 170.8 seconds, an increase of approximately 10.1 seconds from the anticipated No-Build conditions. No mitigation is offered.

(3.) NY Route 42 with Fraser Road/Kiamesha Lake Road

For the intersection of NY Route 42 with Fraser Road/Kiamesha Lake Road, the capacity analysis indicates that the westbound and northbound approaches are expected to experience Level-of-Service "F" conditions during the weekday PM Peak Hour in the No-Build and Build conditions. For the weekday PM Peak Hour in the Build condition, the vehicle delay for the westbound approach is expected to be 232.0 seconds, an increase of approximately 36.4 seconds from the anticipated No-Build conditions. For the northbound approach, the vehicle delay is expected to be 153.2 seconds, an increase of approximately 1.3 seconds from the anticipated No-Build conditions. The capacity analysis also indicates that the westbound approach is expected to experience Level-of-Service "F" conditions during the Sunday PM Peak Hour in the No-Build and Build conditions. For the Sunday Peak Hour in the Build condition, the vehicle delay is expected to be 93.0 seconds, an increase of approximately 23.7 seconds from the anticipated No-Build conditions. No mitigation is offered.

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(4.) Proposed Signal Installations

The applicant proposes to mitigate the traffic impacts at the unsignalized intersections impacted by the proposed Phase I with the provision of turn lanes and the installation of traffic signals at the following locations:

- Cimarron Road with Joyland Road;
- Cimarron Road and Towner Road with NY Route 17 westbound ramps; and,
- Cimarron Road with NY Route 17 eastbound ramps.

It is noted, however, that no signal-warrant analyses were included as part of the *DGEIS and Phase I DEIS* to determine if the anticipated traffic volumes warrant the installation of traffic signals. Signal warrant analyses for the intersections listed above are needed to determine whether the installation of traffic signals are warranted and appropriate mitigation measures.

(5.) Additional Turn Lanes

The analyses of the results of the proposed mitigation measures are summarized in Table 11-13 for the Friday PM Peak Hour and in Table 11-14 for the Sunday Peak Hour. It is noted that the proposed mitigation includes construction to provide a 200-foot eastbound left-turn lane for the intersection of Cimarron Road with Joyland Road; a 200-foot southbound left-turn lane for the intersection of Cimarron Road with NY Route 17 eastbound ramps; and an additional 200-foot northbound left-turn lane for the intersection of Cimarron Road and Towner Road with NY Route 17 westbound ramps. However, since the capacity analyses do not include information concerning vehicle queues, it is impossible to determine if the proposed additional turn lanes will be adequate to accommodate the anticipated vehicle volumes and queues.

(6.) Volume-to-Capacity Ratios at or Greater Than Capacity

Another measure used by traffic engineers to measure the impact of traffic on a roadway is the v/c ratio, which compares the rate of vehicle flow in an hour with the capacity of the approach to accommodate the vehicle flow. A v/c ratio approaching 1.00 is considered to be a serious condition and generally warrants close surveillance. A v/c ratio greater than 1.00 indicates that more vehicles are trying to get through an intersection than can actually be accommodated and that mitigation is needed.

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The capacity analysis information for the No-Build and Build conditions for the signalized intersections are summarized in Table 11-10. The data indicate that there will be four (4) signalized intersections where one, or more, approaches would be expected to operate with v/c ratios greater than 1.00.

For the intersection of Pleasant Street with Broadway, the capacity analysis indicates that the eastbound left-turn movement is expected to experience a v/c ratio of 1.07 during the weekday PM Peak Hour in the Build conditions, an increase from the 1.04 v/c ratio for the anticipated No-Build conditions. No mitigation is offered.

For the intersection of NY Route 42 with Anawana Lake Road, the capacity analysis indicates that the southbound through and right-turn movements are expected to operate with a v/c ratio of 1.18 during the weekday PM Peak Hour in the Build conditions, an increase from the 1.16 v/c ratio for the anticipated No-Build conditions. No mitigation is offered.

For the intersection of NY Route 42 with Depot Drive, the capacity analysis indicates that the northbound through and right-turn movements are expected to operate with a v/c ratio of 1.14 during the weekday PM Peak Hour in the Build conditions, an increase from the 1.11 v/c ratio for the anticipated No-Build conditions. The capacity analysis also indicates that the westbound left-turn movement is expected to operate with a v/c ratio of 1.23 during the Sunday Peak Hour in the Build conditions, an increase from the 1.20 v/c ratio for the anticipated No-Build conditions. No mitigation is offered.

For the intersection of NY Route 42 with Fraser Road/Kiamesha Lake Road, the capacity analysis indicates that the westbound approach is expected to operate with a v/c ratio of 1.43 in the Build Condition for the PM Peak Hour, an increase from the v/c ratio of 1.34 for the anticipated No-Build Conditions. For the Sunday Peak Hour in the Build condition, the westbound approach is expected to operate with a v/c ratio of 1.09, an increase from the v/c ratio of 1.00 for the anticipated No-Build Conditions.

The Applicant proposes to change the timing of the signal at the intersection of NY Route 42 with Fraser Road/Kiamesha Lake Road. As noted in Table 11-14, the Applicant proposes to shift 2.5 seconds of green time from the north- and southbound approaches to provide additional green time for the east- and westbound approaches. It is noted, however, that even with the proposed changes to the signal

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timing, the westbound approach to the intersection would be expected to operate with a v/c ratio of 1.04, which still exceeds the threshold v/c ratio of 1.00 which indicates that more vehicles are trying to get through an intersection than can actually be accommodated and that further mitigation is needed. It is also noted that the Applicant does not recommend the implementation of this signal timing change for the Friday Peak Hour, which leaves the intersection expected to experience Level-of-Service "F" conditions unmitigated.

C. SITE PLAN ISSUES

A Site Plan for the Phase I development was not included in the *DGEIS and Phase I DEIS* nor was a Site Plan included for the overall Master Plan. The renderings that are included as part of the *DGEIS and Phase I DEIS* do not provide sufficient detail to assess the impacts of the proposed project. It is also noted that capacity analyses were not performed to assess the traffic impacts that the access driveways/streets would have on the Joyland Road corridor. In addition, no details have been provided concerning the exact locations of the driveways on Joyland Road, the number of entering and exiting portals, their proximity to other portals and intersections, the number of entering or exiting lanes, traffic controls devices at the portals, including the completion of signal warrant analyses as appropriate and the possible impacts of the intersection portals on Joyland Road.

D. SUMMARY

There are fatal flaws with the DEIS, as follows:

- The DEIS is incomplete in that not all intersections/locations mandated by the adopted Scoping Document were analyzed;
- Only a qualitative, not quantitative analysis was performed for full build-out and therefore the DGEIS is not considered to in conformity with SEQRA requirements;
- Inappropriate traffic distribution data were used;

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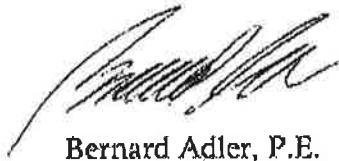
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Supervisor Anthony Cellini
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- No analyses were performed for the intersection portals with Joyland Road for the Phase I development; and,
- No mitigation or insufficient mitigation is proposed for intersections/locations impacted by the proposed project.

We trust that this information will assist you with your continued review of this project. Should you have any questions, please do not hesitate to contact us.

Sincerely,
Adler Consulting,
Transportation Planning & Traffic Engineering, PLLC



Bernard Adler, P.E.
President
NY Professional Engineer No. 48373



Michael P. O'Rourke, P.E., PTOE
Senior Associate
NY Professional Engineer No. 61375



Peter Feroe <pferoe@akrf.com>

FW: Concord

1 message

Chris Robbins <crobbins@akrf.com>

Fri, Sep 7, 2012 at 5:29 PM

See below for Lisa Masi's comments on the DGEIS/DEIS.

-----Original Message-----

From: Lisa Masi [mailto:lmmasi@gw.dec.state.ny.us]

Sent: Friday, September 07, 2012 5:19 PM

To: Chris Robbins

Cc: Chad Seewagen; Andrea Sheeran

Subject: Concord

Hi Chris,

I did get a chance to read through the DGEIS/DEIS sections on wetlands and Natural resources. I sent some comments on to Andrea, but from what was conveyed at the meeting DEC was not planning on sending in other comments on the DGEIS/DEIS. The most significant question I had after reading through the section was, were all vernal or woodland pools mapped for phase I or any other sections of the development? There is reference to some vernal pools in the forest section of Phase I, but it is not clear if those were mapped or not.

Otherwise I thought the document thoroughly discussed the potential impacts of the development on wildlife.

I would recommend further avoidance of vernal and woodland pool and the maintenance of adequate upland buffers and connections around such pools and other wetlands. The best management practices specified in Calhoun and Klemens 2002 should be followed to preserve functional populations of amphibians in the appropriate habitat on site.

Calhoun, A. J. K. and M. W. Klemens. 2002. Best development practices: Conserving pool-breeding amphibians in residential and commercial developments in the northeastern United States. MCA Technical Paper No. 5, Metropolitan Conservation Alliance, Wildlife Conservation Society, Bronx, New York.

<http://www.umaine.edu/vernalpools/PDFs/Best%20Development%20Practices%20%20-%20%20Conserving%20Pool-breeding%20Amph.pdf>

I would also recommend further limiting forest fragmentation and avoiding the need to create new roads in the area.

I'm not sure if the comments I sent to Andrea will be transmitted

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separately to your office or the lead agency or not.

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Lisa

Lisa Masi
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