

Amended
Final Supplemental Environmental Impact Statement
MALTA TOWN-WIDE
Generic Environmental Impact Statement

Town of Malta
Saratoga County, New York

Lead Agency:
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DSEIS Deemed Complete June 15, 2015
Public Hearing July 6, 2015
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1.0 INTRODUCTION

This document is the Amended Final Supplemental Environmental Impact Statement (FSEIS). This document incorporates the Draft Supplemental Environmental Impact Statement (DSEIS) accepted on June 15, 2015 by reference. This Supplemental EIS has been prepared by the Town of Malta Town Board, as Lead Agency, as a supplement to the Malta Town-Wide Generic Environmental Impact Statement (2006 TWGEIS).

The Town of Malta initiated preparation of a Town-Wide Generic Environmental Impact Statement evaluating the cumulative impacts of potential future development in 2005 completing the process in 2006. The 2006 TWGEIS was prepared for the purpose of evaluating potential growth anticipated from development of the Luther Forest Technology Campus (LFTC) and the impacts of that growth on the Town's resources; principally on the town's transportation system (traffic), recreation facilities, open space, rural character and agriculture, and community facilities.

1.1 Purpose and Scope of Document

This Final Supplemental Environmental Impact Statement responds to the substantive comments on the Draft Supplemental Environmental Impact Statement. The overall goal of this Supplemental EIS is to update the growth projections, examine those resource areas impacted by growth and explore any mitigation (or fee- in-lieu of) measures to avoid or minimize adverse impacts on the town's natural and built environment. Formal scoping was not conducted but a scoping outline was prepared under the direction of the Town of Malta Town Board as Lead Agency.

The scope of the Supplemental EIS:

- Provides an update to the 2006 TWGEIS Buildout Study;
- Provides an inventory of water and sewer facilities and explores planned expansion of these utilities as they may influence growth;
- Examines and Provides two alternate growth scenarios;
- Evaluate potential impacts on the Town's
 - Recreation resources
 - Agricultural and Open Space resources
 - Transportation system including multimodal features

1.2 SEQRA Process

The State Environmental Quality Review Act (SEQRA) sets forth a review process designed to ensure the consideration of environmental concerns in the planning and design stages of projects that are deemed to have the potential to cause significant impacts on the environment. By reviewing projects in the

planning phase, environmental concerns can be addressed and projects can be modified as needed to avoid potentially adverse environmental impacts.

An EIS is an informational document prepared by the Lead Agency and used by the Lead Agency, Involved Agencies, interested agencies, the Applicant, and the public to systematically consider potential environmental impacts, alternatives, and mitigation measures associated with anticipated growth and development. The Lead Agency weighs each of the social, economic, and environmental factors as part of the decision making process.

SEQR Timeline	
Activity	Date
DSEIS Deemed Complete	June 15, 2015
Public Hearing	July 6, 2015
Close of Comment	July 24, 2015
FSEIS Acceptance	June 20, 2016
Amended FSEIS Accepted	November 11, 2016

1.3 Amendments to the Final Supplemental EIS

Subsequent to accepting and issuing the Final Supplemental Environmental Impact Statement (FSEIS) on June 20, 2016 the Town Board upon further consideration of the FSEIS and additional information provided by Town Staff , determined that further modification and amendment of the FSEIS would be appropriate.

This document incorporates amendments to address general revisions of language/text which further clarify the meaning and intent of the document, together with an alternative means of evaluating the impact of Non-Residential development as described below.

1.4 Non-Residential Development & Recreational Impacts

The 2006 TWGIES established that commercial enterprises generate a need for recreational facilities, and their non-resident employees and customers use recreational facilities, citing various references to this effect. The following information is offered in further support of the benefits non-residential users derive from a robust recreation system including parks, open space and trails.

In 2014, Community Builders, a not-for profit, conducted a survey of over 1000 employers and community members in the Rocky Mountain West in an effort to better understand key factors influencing economic development and the attraction of talent and business.

The study found that:

- Jobs Follow People
- Community Quality is a Top Priority for Business & Residents
- Being in a Place that can Attract Talented Employees is Important to Growing Business
- People on the Move Are Looking for Great Places
- People are Willing to Sacrifice Salary for the Ideal Community
- Housing Costs are a Concern for Business & Employees

Smart Growth America, a not for profit advocacy group indicates *“Investing in Smart Growth is one of the best ways for a region to attract educated, talented workers. Young professionals demand opportunities for social interaction, high quality schools and parks.....Smart Growth includes all of these things and more.”* Using smart growth strategies helps attract and retain employees.

The National Recreation and Parks Association (NRPA) reported *“But the power of local and regional parks expands beyond the direct, indirect and induced economic impacts of their spending. Local towns, cities and counties with strong, vibrant public park systems benefit from improved health, a closer connection to nature and a greater sense of community. This leads to lower health care costs, higher property values and an overall boost in the standard of living that benefits all. Studies conducted by NRPA and other researchers find Americans across all ages, social strata and political affiliations support investments made for public parks, seeing their local parks as a valuable and essential features of their community.”* (2015 NRPA “The Economic Impact of Local Parks”).

Much has been written over the last decade about millennials, the creative economy, and the changing nature of economic development. The studies referenced above highlight the importance of creating a sense of place in order to attract and retain a talented workforce. Saratoga County’s “Economic Development Strategic Plan” prepared in March 2014 for the Saratoga Prosperity Partnership, identifies creation of a “more connected sports and recreation cluster” as an economic development opportunity focusing on agriculture, tourism and business & industry. The County’s strategic plan focuses on attracting industry clusters including Advanced Manufacturing, Research and Development, and Clean Technology; building on the synergy of Global Foundries and the Tech Valley. Attraction and retention of the next generation of technology employees requires a firm commitment to investing in the Town (and regional) green infrastructure. Both visitors and employees benefit from a robust parks and trails network.

The 2006 TWGEIS noted that the direct/indirect impacts of commercial/non-residential development created a demand for recreational facilities arriving at 15% non-residential share of these costs. Based on more recent data (2015) collected by the Town of Malta Recreation Department regarding users of the Town’s Community Center programs, approximately 39% (or 2,699) of program participants were non-residents. Early reporting of 2016 figures is identical in this breakdown.

Another means of examining the relative demand created by non-resident employees is to examine usage. If, on average a non-resident employee were to use a Town facility (park, trail, open space) just 1 hour per

week and on average a resident were to use a facility 2 hours per week the relative use/demand for facilities would be calculated as follows:

Table 1-1 Recreation Usage

	Net Growth	Use factor (hours/week)	Usage	Percent
Residents	5,601	2	11,202	85
Employee	1,960	1	1,960	15
			13,162	

The Town concluded that this was a reasonable assumption and point of reference when examining the overall demand on the town’s recreational resources. The Town Board also recognizes that non-residential development does not create an identical demand or impact on the Town’s recreational and open space facilities and that there is a strong correlation with the number of employees and potential impact on recreation.

Employee Density by Building Type

Employee estimates by building/land use type were derived from consulting industry standards, the NYS Building Code, and a sampling of demographic multipliers (from similar analyses). For the purpose of the evaluation, land use types were aggregated as follows

Table 1-2 Building Area Per Employee

Land Use	Examples	Building Area/Employee
Commercial	<ul style="list-style-type: none"> • Retail • Restaurant • Specialty • Hospitality 	500 Sq. Ft. / Employee
Office	<ul style="list-style-type: none"> • Medical • Professional • Research & Development 	350 Sq. Ft. / Employee
Manufacturing & Warehouse	<ul style="list-style-type: none"> • Light Industrial • Manufacturing & Assembly • Warehouse • Self Storage 	1500 Sq. Ft. / Employee

These figures were compare to Institute of Transportation Engineers (ITE) land use codes as well as the Town’s parking standards and compared favorably with these figures. It is difficult to make employee estimates by every land use type; we believe these are reasonable estimates.

Employment Estimates by Land Use

Utilizing the DSEIS growth projections, employment projections can be calculated based on the land use. The low growth scenario estimated up to 1,600,000 SF of non-residential development Town-wide, generally comprised of commercial (i.e., retail, service), office, and warehouse uses. As indicated in the DSEIS, up to 400,000 SF of non-residential development was projected to occur at the STEP campus (as identified in the GlobalFoundries Fab 8.2 EIS) and therefore not subject to additional mitigation requirements under the TWGEIS, and the estimated new non-residential building area is therefore reduced from 1,600,000 SF to 1,200,000 SF (or 1.2 MSF) for purposes of these calculations.

The 1.2 MSF of development is a mix of commercial, office and light industrial/warehouse. When preparing the projections, it was necessary to identify this mix and, in the case of the traffic impact analysis, the location of the development. Approximately 700,000 SF of development (all commercial and office) was readily identifiable (and as presented in the DSEIS) based on projects currently contemplated in the Downtown and conceptualized or on approved sites.

Most recently, the Saratoga County Regional Traffic Study (SCRTS) was issued and provided further insight on the land use mix. The following table presents a breakdown of the 1.2 MSF of development and employment estimates under the Low Growth scenario.

Table 1-3 Non-Residential Mitigation Share

	Projected Building Area (SF)	Building Area (SF) /Employee	Employees	Percent of Total
Commercial	500,000	500	1000	36
Office	600,000	350	1714	62
Warehouse	100,000	1500	67	2
Total	1,200,000		2867	

Based on employment generation rates as shown above, Office uses have the potential to generate the greatest number of employees and therefore create the greatest potential demand on the Town recreation facilities. Non-residential land uses as categorized above would each pay a corresponding fractional share of the partial cost of new recreational facilities attributable to non-residential development.

As described above, the 2016 TWGEIS established Non-Residential demand at 15% of the total facility demand. Using a 15% share of overall recreation costs (\$7.56 M); non-residential development would be responsible for \$1.134M of the Town’s overall facility needs. The recreation mitigation costs for Non-Residential development are as follows:

Table 1-4 Non-Residential Mitigation Cost

	Percent of Total	Share of Recreation Cost	Projected SF	Cost Per SF
Commercial	36	\$408,240	500,000	\$0.82
Office	62	\$703,080	600,000	\$1.17
Warehouse	2	\$22,680	100,000	\$0.23
Total		\$1,134,000	1,200,000	

2.0 DESCRIPTION OF THE PROPOSED ACTION

The Town anticipates that previous trends will continue and the Town will continue to grow and develop incoming years. The Town believes it is prudent to anticipate growth and to be pro-active in implementing appropriate mitigation measures to avoid or minimize detrimental environmental effects that otherwise often accompany growth. For these reasons, the Town has undertaken this update to the TWGEIS in order to evaluate potential impacts of anticipated growth on the Town’s transportation system, agricultural and open space resources, recreation facilities, and utilities in order to identify appropriate mitigation measures. Because this document is a Supplemental EIS, it focuses on just these resources and changes that have occurred since the issuance of the Malta Town-wide Generic Environmental Impact Statement. The Draft Supplemental EIS provides an update to the analyses contained in the 2006 TWGEIS.

Buildout Analysis

A build-out analysis is an estimate of the overall development potential of a land area given a set of assumptions and constraints. It provides an estimate of the total potential for development; it does not predict the amount of development or the rate of growth. The table below summarizes the combined results of the analyses. Based on this analysis, approximately 6,500 residential units and 18.1 million square feet of nonresidential development could be developed within the Town. These figures do not include the development potential on the Luther Forest Technology Campus (LFTC).

Table 2-1: Combined Build-out Results		
Build-out Analysis Type	Residential Units	Commercial SF
GIS Build-out	3,183	11,050,000
FBC Build-out	2,963	4,889,096
PDD Build-out	371	2,219,250
Total	6,517	18,158,346

GIS: Geographic Information System

FBC: Form Based Code

PDD: Planned Development District

Growth Scenarios

A growth projection examines historical development patterns, potential for additional development, and other planning trends to estimate the potential amount of growth that could occur over a period of time. A ten (10) year timeframe (2014-2024) was selected as the basis for the projection. Due to the passage of time, the Town Board determined that an update is warranted to evaluate likely future growth. Consistent with the scoping outline, for the purpose of preparing the environmental analyses two growth scenarios are presented.

Low Growth Scenario

The first scenario assumes approximately 80 percent of the Town’s current inventory of approved residential units (outside of the downtown) are developed in the next 10-years. Within the Downtown FBC District, it is assumed that the current inventory of approved and proposed residential units will be developed in the next 10-years, resulting in additional 1,500 dwelling units. Combined, the total number of additional new residential units could reach 2,100.

Non-residential development is anticipated to total approximately 1,600,000 SF in the next 10 years. This growth does not include GlobalFoundries Fab 8.2 as Fab 8.2 was the subject of a separate comprehensive environmental evaluation. The projected 1,600,000 SF of non-residential building is based on projections of approved or proposed non-residential development within the Town’s downtown and conventional zoning districts as well as within the Town’s existing PDDs. In total, the Town has more than 3,100,000 SF of approved or proposed non-residential development. The low growth scenario is approximately half of this total.

High Growth Scenario

The High Growth scenario assumes nearly 100 percent of the Town’s current inventory of approved residential units (outside of the downtown) are developed in the next 10-years. This could include over 700 new homes in the next 10 years outside of the downtown. New multi-family housing (apartments, townhomes) could experience nearly 2,400 new units within the Downtown FBC District. The total number of additional new residential units could reach 3,100.

Under the high growth scenario non-residential development is anticipated to total 2,500,000 SF in the next 10 years and assumes a more complete buildout of commercial development with the downtown, previously approved PDDs and additional non-residential development as a result of construction of Fab 8.2. As with the low growth scenario, this does not include the development at GlobalFoundries Fab 8.2.

The table below provides a summary of the Town’s 2014-2024 growth projections.

Table 2-2: 2015-2024 Growth Scenarios		
Land Use	Lower Growth Scenario	Higher Growth Scenario
Single Family Residential (Units)	600	700
Downtown FBC District Residential (Units)	1,500	2,400
Nonresidential Development (SF)	1.6 Million SF	2.5 Million SF

The low and high growth scenarios represent two potential growth alternatives. For the purpose of preparing the environmental impact analyses, the low growth scenario is utilized as the preferred alternative. Both scenarios were developed with the input of Town Staff, reviewed with the Town

Board/Lead Agency and shared with the development community for feedback. The low growth scenario was selected for further consideration as this alternative has a greater likelihood of occurring.

3.0 RESPONSES TO COMMENTS

This section addresses all comments received during the public comment period on the DSEIS, which ended on July 29, 2015. Comments were submitted in writing and were also expressed orally at the DSEIS public hearings held on July 6, 2015 and at the Town Board Meeting held July 27, 2015. Copies of the Public Hearing transcripts are provided in Appendix A and copies of written comments received by the Planning Board are provided in Appendix B.

Comments are organized by commenter. Some of the written and oral comments presented in this section have been paraphrased.

3.1 Public Hearing Comments

The following individuals commented on the DEIS at the Public Hearing held on July 6, 2015:

- Rick Weiss
- Carol Henry
- Elwood Sloat

Comments are numbered in order made and noted as Public Hearing 1 (PH-1) followed by commenter name.

JULY 6, 2015 PUBLIC HEARING COMMENTS

PH-1 Rick Weiss

We're not interested in more traffic on Old Post Road and having it move more smoothly. We would like to see it restricted. We don't need an additional 3,000 or 4,000 cars a day on Old Post Road. It's not designed to handle it. It's a residential road.

Response: Comment Noted.

PH-2 Carol Henry

Having lived on Malta Avenue between Old Post and -- I know Malta Avenue is a County road. A roundabout is not going to solve anything. You know, my problem with all these traffic studies is, we get all the traffic from every other town, and we're bearing the brunt of it, and, one, did those traffic -- was that traffic pattern taken into account? Two, we need to work on a way, because Old Post and Malta Avenue just can't handle the traffic.

Response: The traffic impact analysis existing conditions and the build year analysis does account for traffic originating within Town and from adjoining communities.

PH-3 Elwood Sloat

My statement is, I'm dissatisfied with the fact that the Town's taxpayers will pay 70 percent on the State road. That's my statement.

Response: Any traffic mitigation constructed in the Town will rely on a variety of funding sources including state and federal funds, grant sources, developer contributions, as well as fee-in—lieu of mitigation costs. The commenter is referring to the statement in the Draft SEIS indicating that approximately 70% of traffic occurring within the Town of Malt originates in Malta. As a result, theoretically only 70% of the cost of a planned mitigation measure could be recovered based upon traffic originating in Malta.

JULY 27, 2015 TOWN BOARD MEETING COMMENTS

Town Board 1 (TB-1) Mr. Elwood Sloat: The Executive Summary under the Transportation Area divides the study area into 13 neighborhoods. Table G, Summary of Transportation Mitigation describes Intersection 11 as Route 67 /Eastline Rd with a projected \$1,600,000 cost to change this to a Roundabout. This intersection is the boundary of the Town of Malta with the Town of Ballston, therefore is only ½ within the Town of Malta Boundaries. Furthermore, it is a State Owned Highway. The Town share according to your document is 70% of the total cost. Why would the Town of Malta be responsible for 70% cost of the road change? What is the cost to the County and Town of Ballston?

Response TB-1: Any traffic mitigation constructed in the Town will rely on a variety of funding sources including state and federal funds, grant sources, developer contributions, as well as fee-in—lieu of mitigation costs. The commenter is referring to the statement in the Draft SEIS indicating that approximately 70% of traffic occurring within the Town of Malt originates in Malta. As a result, theoretically only 70% of the cost of a planned mitigation measure could be recovered based upon traffic originating in Malta.

Town Board 2 (TB-2) Mr. Elwood Sloat: Table G, Summary of Transportation Mitigation (from the Executive Summary of the DSEIS) describes Intersection 28 as Round Lake Rd/Raylinski Rd/Ruhle Road. The mitigation lists Construction of a second approach Jane on Ruhle Road with a projected cost of \$130,000. This intersection is currently under construction with a single lane roundabout being constructed which will immediately reduce the level of service (LOS) to the motorists southbound on Ruhle Road. This is a well-known documented fact that had been brought up during the past few years during public reviews of the Round Lake Road Project Planning. There is limited room between the required retention pond on the Adirondack Bank property and Ruhle Road to add a second lane. The buildout of residential housing along the Rhule Rd section is completed. This mitigation recommendation verifies the current design and intersection construction being undertaken is flawed. Why is the Town of Malta looking for mitigation fees in the amount of \$130,000 to reconstruct the southbound portion Ruhle Road, when the present construction has not been completed? Why isn't the second lane being completed during the current construction phase?

Response TB-2: The improvement identified would be needed for growth projected if full buildout of facilities on the northwest and northeast quadrants of this intersection were to occur.

Town Board 3 (TB-3) Mr. Elwood Sloat: Finally, the 70% Town Share of cost to highway construction. I am told that this levy was a result of 70% of the users on the highways are town residents. This percentage on State Highways, particularly Route 67 is disputable; kindly explain the manner of statistical study/evaluation that was utilized to establish this cost. If this is an outdated number, the Town Board should establish an accurate amount through sound statistical studies before levying fees on anyone.

Response TB-3: The commenter is referring to the statement in the Draft SEIS indicating that approximately 70% of traffic occurring within the Town of Malta originates in Malta. As a result, theoretically only 70% of the cost of a planned mitigation measure could be recovered based upon traffic originating in Malta. This figure was derived from the Town Wide GEIS and is representative of the Town overall and not necessarily indicative of traffic origin/destination on any one roadway. See also the discussion on the alternative traffic model (Response Goldman 3).

JUNE 6, 2016 TOWN BOARD MEETING COMMENTS

The Town has historically collects a Residential Recreation fee at the time of final approval for a proposed single family subdivision at \$1,330 dwelling unit. Multi-family housing creates a similar demand for recreational facilities and is assessed this fee as well. Both of these housing types demand recreational amenities and generate similar levels of new residents within the Town.

NYS Town Law authorizes the application of recreation fees at the time of subdivision (NYS TL Section 227) approval as well as at the time of site plan approval (NYS TL Section 274a). The Town Board expressed concerns about the fee and the discussed alternative methods of equitably distributing the cost of recreation facilities attributable to new development. Using the models developed in the 2006 TWGEIS and explored previously, the Town Board expressed that new residential development should pay a fair share based on anticipated growth.

Using the buildout analysis and growth projections developed in the DSEIS, the Low Growth Scenario projected a total of 2100 new dwelling units. As a result, it is anticipated that between 4526-5601 new residents could result during the GEIS planning timeframe (2015-2025). This number is derived from the average existing household size from American Community Survey (ACS) and Rutgers University (Rutgers) demographic multipliers and presented below in Table 3.1.

Table 3-1 Housing and Population

	Projected Housing Units	Associated Population	
		ACS Ratio ⁽¹⁾	Rutgers ⁽²⁾
New Single Family	600	1,293	1,836
New Dwelling Units- FBC Area	1,500	3,233	3,765
Existing Housing Units	6,925	14,925	
Total	9,025	4,526	5,601

(1) Based on ratio of existing housing units and population

(2) Based on Rutgers Residential Demographic Multipliers for Single-Family Detached, 3 BR (all values) and 5+ Units-Rent, 2 BR (all values)

Based on a current Town population of 14,925 residents, 5601 new residents would constitute 27% of the build year population (5601/20,526).

Table 3-2: New Population as Percent of Total

	Population	Percent of Build
New (projected) Population	5,601	0.27
Existing Population ⁽³⁾	14,925	0.73
Total Build Year Population	20,526	

(3) Based on 2010-2014 ACS 5-Year Survey

The Draft Supplemental Environmental Impact Statement (DSEIS) identified approximately \$7.6 Million in new recreation needs. Not all of these facilities can be attributed to new growth. New residential growth (at buildout) accounts for 27% of the Town’s total build year population and it is reasonable to conclude creates 27% of the demand for new facilities.

Based on this rationale, new residential development (including single family, multi/family, duplex, apartments) would pay \$972 per dwelling unit; representing a reduction from the current Town fee assessed at subdivision. The Town’s zoning law would be amended as needed to reflect this change.

Table 3-3: Residential Recreation Mitigation

	Cost
2016 Recreation Needs	\$7,560,000
New Development @27% of Total	\$2,041,200
Per New Dwelling Unit	\$972

Table 3-4: Summary of Recreation Mitigation Costs

Source	Cost Share	Share
Non-Residential Share	\$1,134,000	15%
New Residential Share	\$2,041,200	27%
Other Sources (grants, other revenue sources)	\$4,384,800	58%
Total	\$7,560,000	

3.2 Written Comments

Comments that were received in writing are provided in Appendix B. The following firms, organizations, and individuals commented in writing on the DEIS:

Table 3-5: List of Written Comments on the DEIS

Letter ID	Name	Date
Goldman (DCG)	Paul J. Goldman, Goldman Attorneys, representing Lakeview Outlets and DCG Development Company	7-27-2015
Goldman (Windsor)	Paul J. Goldman, Goldman Attorneys, representing Windsor Development Group (Kelch Drive)	7-29-2015
Goldman (Morgan & Lecessee)	Paul J. Goldman, Goldman Attorneys, representing Morgan Management and Lecessee Construction, "Park Place Owner;"	7-29-2015
Hayes	Hayes Development	7-27-2015
Jersen	Jersen Construction & Lansing Engineering	7-27-2015
* Goldman Attorneys sent three nearly identical letters on behalf of their respective clients. The correspondence from Jersen Construction, Lansing Engineering and Hayes Development expressed their support for Goldman's comments and reference the Goldman letter from July 27, 2015. The response to the Goldman letters (and the support letters) is provided as a single/collective response to comments.		

Substantive comments raised by the public and involved and interested agencies during their review are addressed below.

In general, the order and categories of topics follow the outline of the DEIS. General comments and those which do not concern a specific section of the DEIS are addressed first.

Goldman 1

We write to object to the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town's acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town such that the cost for such projects is required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction.

Response Goldman 1

The proposed project is the evaluation of cumulative impacts of potential growth on the Town's transportation system, agricultural and open space resources, recreation facilities, and utilities. The nexus between growth and the impact on these systems was established by the Town in 2006 with the acceptance of the Draft/Final Malta Townwide Generic Environmental Impact Statement GEIS (collectively "2006 TWGEIS") and addressed through mitigation measures set forth in SEQRA Findings adopted by the Malta Town Board on June 5, 2006.

The 2006 TWGEIS included a series technical studies and analysis which quantitatively and qualitatively evaluated the impact of growth on the Town's transportation network, the loss of open space and agricultural lands and the demand for new recreational facilities. These studies included the Recreation and Open Space Needs Assessment Report (2004), Route 9 Sewer Feasibility Study (Adopted November 2004), Town of Malta GIS Needs Assessment, Conceptual System Design and Implementation Plan (adopted 2004), Town of Malta Linkage Study (Accepted 2003) (*Included the Downtown Pedestrian Plan, Sidewalk Standards, Shared-Use Trail Guidelines, and Highway Access Planning Guide*), Town of Malta Agricultural and Open Space Preservation Study (adopted 2001), Buildout Analysis, Affordable Housing Report, Recreation Needs Assessment (2004), and Traffic Impact Analysis.

The 2015 Draft Supplemental EIS (DSEIS) provides updated growth projections, examines those same resource areas impacted by growth and explores mitigation (or fee- in-lieu of) measures consistent with the 2016 TWGEIS to avoid or minimize adverse impacts on the town's natural and built environment. The metrics established in the 2006 TWGEIS were validated and adjusted to account for changes in the community, changes in projected rate and location of this growth as well as the changes in resultant impacts.

The Town has historically funded capital improvements with a variety of funding sources including sales tax, special assessments, grants, state & federal funds, and other funding sources and continues to do so. In fact, the majority of the funds for improvements to recreational facilities come from grants and other non-fee sources. (See Table 3-4.) The use of local and state tax revenues to fund capital improvements has become increasingly difficult and the competition for grant dollars similarly challenging. Apportioning part of the cost of the demand for new facilities to those who create the demands for facilities is seen as a reasonable and fair measure.

As an example, the Town currently funds both operational and capital project costs of recreation facilities from a variety of funding sources include sales tax revenue, grants, user fees and other charges. The fee in-lieu of mitigation established in 2006 and updated in the DSEIS funds only capital improvements needed as a result of increased demand attributable to growth in population from new development. New non-residential development funds only 15% of the cost of new facilities. (See Table 3-4.)

Goldman 2

The cost of these projects should be paid from the Town's General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client's project. Under applicable law, a municipality is not allowed to charge "newcomers" an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. See generally, Phillips v. Town of Clifton Water Authority, 286 A.D.2d 834, 834-835 (3d. Dept. 2001). Albany Area Builders Association v. Town of Guilderland, 141 A.D.2d 293 (3d Dept. 1988).

Response Goldman 2

The imposition of fee-in lieu of mitigation is not a “newcomer fee.” See response to Goldman 1 above. The commenter does not seem to understand or acknowledge that the Town has several potential sources funding for needed improvements. While the Town could possibly seek to raise these funds by means of general and/or highway taxes as the commenter notes, the Town has instead decided to avail itself of the ability to establish a protocol for impact mitigation fees pursuant to the State Environmental Quality Review Act and, more specifically, this Generic Environmental Impact Statement.

Goldman 3

The DSEIS seeks to impose traffic mitigation fees equal to \$6,099,000 to fund various highway projects throughout the Town (DSEIS, p. vi and p. 48). Since highway improvements are deemed to generally benefit the entire Town, they are typically paid for by a general Town highway tax that is levied and collected with the January Town/County bill. Here, the Town of Malta does not have a Town tax and/or Town highway tax so that all highway improvement costs prior to the imposition of mitigation fees were apparently paid from the Town General Fund.

In the situation faced by my clients, the proposed highway improvements bear no relationship and/or nexus to our client or their proposed building projects. Attached hereto as Exhibit “A” is a copy of the Study Area Map from the DSEIS reflecting the various highway improvement projects that are proposed to be paid from mitigation fees imposed on my clients who have property at the southeast corner of Exit 12 and in the Town center area at the intersection of Route 9 and Phaeton Lane directly across from Stone Break Road. A review of this study map confirms that the highway improvements projects proposed in the DSEIS have no relationship or nexus to any traffic created on improvements proposed on the property of my clients. Specifically, Lakeview is proposing to develop another hotel and a Panera restaurant at Malta Commons Business Park. The traffic impact fee for the hotel and the Panera restaurant is estimated to be \$71,165 and \$110,885, respectively. There is absolutely no nexus between the \$3,225,000 of highway improvements proposed to be paid under the DSEIS for improvements at Northline/Old Post Road and the \$1,600,000 of improvements at Route 67/Eastline Road. These two projects account for 79.11% of the total highway improvements to be funded and undertaken under the DSEIS. Without the nexus to a traffic burden created by my client’s projects, the proposed impact fees are illegal substitute for a Town highway tax since these improvements clearly have Town wide benefit.

Response Goldman 3

The Town funds the Highway Department with a combination of revenue sources including sales tax and NYS Consolidated Local Street and Highway Improvement Program (CHIPS). This revenue funds the maintenance and repair of roadways under the Town’s local jurisdiction (including snow removal).

The Town does not fund new roadways nor major improvements to roadways that occur as a result of new development. The commenter does not seem to understand or acknowledge that the Town has

several potential sources of funding for required improvements. While the Town could possibly seek to assess these fees by means of general and/or highway taxes as the commenter notes, the Town has instead decided to avail itself of the ability to establish a protocol for impact mitigation fees pursuant to the State Environmental Quality Review Act and, more specifically, this Generic Environmental Impact Statement.

In evaluating the concerns expressed by the commenter, the Town explored alternatives to the current traffic impact assessment methodology and consulted with Capital District Transportation Committee (CDTC). The Town of Colonie was an early pioneer in the use of SEQRA and cumulative impact analysis to proactively address the impacts of growth on the local transportation system through the imposition of mitigation fees. The CDTC has long been involved with the Town of Colonie transportation planning efforts and provides technical assistance to the Town in support of administering traffic mitigation measures included in three (3) separate generic environmental impact statements addressing growth. The CDTC assists the Town with evaluating project specific impacts in identified in the Wolf Road/Airport area GEIS ("Airport Area GEIS"), Bought Road- Columbia Street Area GEIS, and the Lishakill-Kings Road Area GEIS.

Similar to the Town of Malta TWGEIS –the Airport Area GEIS identifies a series of mitigation measures to address traffic impacts associated with growth in the study area. The cost of these improvements has been calculated and is keyed to a consumer price index (CPI) cost escalator. How these costs are distributed to individual projects differs from the Town's current method and is described below.

The model developed by the CDTC (and employed in Colonie) calculates and assesses mitigation costs to individual development projects based on the capacity of the mitigation measure 'consumed' by an individual project. This is accomplished through use of the CDTC's Systematic Traffic and Evaluation and Planning (STEP) Model. The STEP model is a travel demand model maintained for the CDTC's entire service area which has a long history of use in the region and has been recently updated. In simple terms: A) traffic growth for the planning period is estimated; B) mitigation measures are identified to address growth; C) the design capacity (and cost) of the improvement (mitigation measure) is calculated, and; D) the available capacity of the mitigation measure is calculated (accounting for existing traffic).

Additionally, when a new development project is proposed, the share (or portion) of improvement, based on capacity consumed is calculated. This is determined by identifying new PM peak hour trips traveling through the impacted intersection and calculating this as percentage of available capacity. A project may have impacts on any number of intersections or roadways and a proportional cost for each affected intersection improvement (mitigation) is identified and a total cost is provided. Individual projects pay for what they use.

The traffic impact analysis contained in the Draft SEIS provides the basis for Tasks A and B described above. In evaluating this alternate model, the CDTC working with the Town's consultant team, identified Design Capacity (Task C) and Available Capacity (Task D) for the study area intersections.

As an illustration, the details of the Route 67/Eastline Roundabout can be summarized as follows:

- New Facility Capacity 825 Vehicles/Hour
- Development Trips 150 New Trips
- Development Traffic 18.1% (150/825)
- Project Costs \$3.257 Million

The cost of capacity consumed by new development (Development Cost) is calculated as follows $0.181 \times \$3.257M = \$589,571$. Dividing this cost by the total number of new trips attributed to new development (Development Traffic) $\$589,571/150 = \3930 or the per trip costs for a project contributing traffic to this location.

Table 3-6 below depicts the 5 key locations where mitigation is required (as identified in the SDEIS) and summarizes new traffic growth (Development Traffic), new capacity provided by the mitigation measure (less existing traffic volumes), and that portion of the capacity consumed by new traffic. The proportional share of the mitigation measure is calculated as follows $\text{Capacity Consumed (\%)} \times \text{Total Cost} = \text{Development Costs}$. Development costs represent a fractional share of the overall costs and these cost are assigned on a per trip basis –for trips originating form a new development as identified by CDTC in the STEP model.

Table 3-6: Design Capacity & Development Cost of Affected Intersections

Capacity Improvement	Total New Capacity (vph)	Development Traffic (vph)	Capacity Consumed (%)	Estimated Cost (\$M)	Development Cost
Rte 9/Old Post/Cherry Choke	346	70	20	\$0.4	\$80,000
Old Post/Northline Malta Ave	432	150	34.7	\$3.9	\$1,353,300
Route 9/Malta Ave	692	702	100	\$0.85	\$850,000
Round Lake/Rhule Road	400	50	12.5	\$0.13	\$16,250
Rte 9/Plains Road	340	250	73.5	\$0.39	\$286,650
Route 67/Eastline	825	150	18.1	\$3.3	\$597,300
TOTAL		3,155		\$7.542	\$2.333M

Vph: Vehicles per hour

As a means of illustrating this alternate model, three hypothetical development scenarios (or test projects) were evaluated. For each scenario, the project generated traffic (Development traffic) was distributed on the roadway network utilizing the CDTC's STEP model and peak PM trips impacting those intersections requiring mitigation were identified and the resultant share of the intersection's capacity and cost were calculated. The results of the analysis are provided below in Table 3-7

Table 3-7: CDTC STEP Model Mitigation Cost Assignments

	Development 1	Development 2	Development 3
Location	Stonebreak Road	Malta Ave Ext/Route 9	Round Lake Road
Type	100,000 SF Office	100 Single Family Homes	100 Single Family Homes
Trip generation (Peak Hour)	150	100	100
Cost of Proportional Share of Mitigation	\$189,100	\$137,670	\$44,486
Cost Per Trip	\$1,260	\$1,390	\$450
Compared to Current	\$64 less per trip	\$26 more per trip	\$914 less per trip

The Town of Colonie currently has an agreement with CDTC where the CDTC provides technical assistance to perform the calculations described above and calculate the mitigation fees using the regional travel demand model. Under this alternative, the Town of Malta would also engage CDTC to complete this work for each proposed new development project and thus calculate the specific mitigation fee that would be due for each particular project. This use of this methodology and this arrangement with CDTC would be reflected in SEQRA Findings adopted by the Town if they elect to use this method.

Goldman 4

The imposition of mitigation fees under the DSEIS also violates the following enactments:

- 1) *Town Law Section 200. The proposal to finance the various highway improvements set forth at p. 48 of the DSEIS is not properly before the Town Board since a prerequisite to undertaking such highway improvements is a duly verified petition under Section 200 of the Town Law. Upon information and belief, the Town did not obtain the required petitions for each component of the highway improvements to be undertaken in the DSEIS. Accordingly, the Town may not procure mitigation fees for projects lacking a duly verified petition under Section 200 of the Town Law.*

Response Goldman 4

The commenter does not seem to understand or acknowledge that the Town has several potential sources of funding for necessary improvements. While the Town could possibly seek to assess these fees by means of general and/or highway taxes as the commenter notes, the Town has instead decided to avail itself of the ability to establish a protocol for impact mitigation fees pursuant to the State Environmental Quality Review Act and, more specifically, this Generic Environmental Impact Statement.

Goldman 5

- 2) *Town Law Section 202(4). Upon information and belief, prior to the 2006 adoption of mitigation fees, the cost and expense of highway improvements was funded from the general fund and the Town did not impose mitigation fees on a “benefit basis” to fund the construction and improvement of all Town highways. Therefore, the attempt to impose mitigation fees on a benefit basis under the DSEIS is in violation of the requirements of Town Law Section 202(4).*

Response Goldman 5

The Town has not imposed a highway tax since 2001/2.

The imposition of fee-in lieu of mitigation is not a “newcomer fee.” See response to Goldman 1 above. The commenter does not seem to understand or acknowledge that the Town has several potential sources of funding for needed improvements. While the Town could possibly seek to raise these funds by means of general and/or highway taxes as the commenter notes, the Town has instead decided to avail itself of the ability to establish a protocol for impact fees pursuant to the State Environmental Quality Review Act and, more specifically, this Generic Environmental Impact Statement.

Goldman 6

- 3) *Town Law Section 202-f. It is clear from a review of the proposed highway improvements set forth in the DSEIS that certain of the projects involve highway improvements at Route 67 which is a State and/or County highway. Pursuant to Town Law Section 202-f(2), these improvements are required to be a Town charge and not allowed to be imposed through a benefit assessment. Therefore, the imposition of mitigation fees for any portion of State and/or County highway improvement violates Town Law Section 202-f.*

Response Goldman 6

The imposition of fee-in lieu of mitigation is not a “newcomer fee.” See response to Goldman 1 above. The commenter does not seem to understand or acknowledge that the Town has several potential sources of funding for required improvements. . While the Town could possibly seek to raise these funds by means of general and/or highway taxes as the commenter notes, the Town has instead decided to avail itself of the ability to establish a protocol for impact mitigation fees pursuant to the State Environmental Quality Review Act and, more specifically, this Generic Environmental Impact Statement.

Goldman 7

A cursory review of the Open Space and Recreation projects that are to be financed from mitigation fee obtained under the DSEIS reveals that they benefit the entire Town and have no relationship to the commercial projects to be under taken by my client (p.iii, iv and p.15-16). My client is to be charged the following open space and recreation fees for the respective project as follows:

	Hotel	Panera
Recreation	\$61,694	\$ 953.10
Open Space	\$ 1,885	\$4,905.00

There is absolutely no nexus between the impacts of a Panera restaurant and hotel at Exit 12 to the open space and recreational improvements to be funded under DSEIS. The improvements contemplated by the Town under the DSEIS are properly part of a Park District under Town Law Section 198(4) and any improvements constituting park improvements are Town charges under Town Law Section 202 which are required to be paid from the Town general fund and defrayed from a general Town tax. Without the nexus to the impact from my client's projects, the imposition of mitigation fees to pay open space and/or recreation fees is unauthorized under the Town Law. In addition, the cost and expense of recreation and parks is required to be paid by real estate taxes or the Town general fund and is not allowed to be paid from the collection of mitigation fees. Town Law Section 220.

Response Goldman 7

The nexus between growth in the Town, loss of open space and farmland as well as the demand for recreational facilities to address growth was documented in the 2006 TWGEIS. (Please refer to Response GLV 1). The following excerpts from the TWGEIS are provided in support of the response.

"The Development in the Town of Malta over the next 10 years has the potential to impact rural character. New suburban residential development can fragment or eliminate farmlands and reduce an already declining industry to the point where the "critical mass" no longer exists. This farmland (if followed by typical patterns) will be replaced by expanding suburban development and the rural character of the areas may be altered. This pattern of loss of farmland, alteration of the rural landscape and loss of rural character can be mitigated through tools that focus on two complimentary actions: conservation of lands and features that contribute to rural character and management of growth and changes in the landscape.

Build-out of the Town of Malta as projected over the next 10 years will demand additional recreational facilities to serve the increased population. Improving the Town's recreation system will enhance the Town's quality of life thus enhancing the ability of local corporations to attract employees. This will aid in improving the future economics of the Town. As noted above, existing recreational facilities are highly utilized and reaching maximum use levels. Given the limited capacity at existing Town facilities, it is evident that additional facilities will need to be constructed and land acquired to meet the recreation needs of the Town's future businesses and residents." (Page III-95)

The Recreation and Open Space Report (draft) prepared in May, 2004 by Town staff, established a well-defined argument to support the opinion that there should be a private share in future development of recreation facilities. A well-developed recreation system enhances the quality of life

of a community. It has been documented that employees are attracted to locate in a place with a high quality of life thus supporting the economy of the community. The Recreation and Open Space Report prepared by Town staff estimated that future commercial development should support a 15% allocation of the total estimated future recreation and open space needs. (p III-97)

Specific references providing documentation in support of the funding options identified in F.3 above include the following: The Town of Malta Recreation and Open Space Needs Assessment Report; "Town of Malta Recreation and Open Space Memorandum," May 2004; "Executive Summary" by New York State Parks, Recreation & Historic Preservation in Final Statewide Comprehensive Outdoor Recreation Plan and FEIS for New York State in 2003, p.3; Slack, Enid. Municipal Funding for Recreation, 2003. Laidlaw Foundation; National Park Service, 1995, Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors, A Resource Book, Fourth Edition; Development of Impact Fees: A Primer, Carmen Carrion & Lawrence W. Libby; and the following websites: <http://www.nps.gov/pwro/rtca/econindx.htm>; <http://nysparks.state.ny.us/grants/>. (SEQRA Findings p 15)

It is important to note that no more than 15% of the costs of any recreation capital project is funded with mitigation fees collected under the TWGEIS. NYS Town Law 220 does not contain the prohibition implied by the commenter.

Goldman 8

Offsets

The DSEIS is improper since it does not provide for a system of offsets or reduction of the mitigation fees for the traffic and recreation improvements installed as part of any project. At a minimum, the DSEIS should recognize some offset against the mitigation fees for traffic improvements made by a project or any set aside of conservation area or green space in the project which creates open space for the benefit of the entire community.

Response Goldman 8

The Town's Planning Board is responsible for conducting the environmental (SEQR) review for individual development projects. The 2006 TWGEIS SEQR Findings and policies adopted by the Town Board (included in Appendix D of the DSEIS) describe submittal requirements for project applicants. There is no prohibition against individual project sponsors constructing project specific mitigation as identified in the TWGEIS and there have been several instances where project sponsors have done so. Additionally, the Town does entertain the offer of dedication of open space/park land as a means of addressing required mitigation.

Goldman 9

Benefit of General Tax Levy

The projects that are contemplated to be financed from the collection of mitigation fees under the DSEIS should be collected as part of a Town wide ad valorem property tax and/or highway tax since that imposition would provide the Town and its residents with the additional benefit of the ability to share in all payments in lieu of taxes made with the County of Saratoga IDA, including the existing Global Foundries PILOT Agreement pursuant to General Municipal Law Section 858(15). This enactment requires proportional allocation of all payments under any PILOT Agreement based on the relative tax rate. Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007). If the Town were to fund for these costs through a general Town tax, then the Town would be able to receive a portion of all payments in lieu of taxes which creates additional revenue for the Town general fund.

The fact that the Town is trying to defray Town wide expenditures through mitigation fees injures the entire Town since the Town is unable to obtain any share of the IDA PILOT payments for projects in the Town. The Town Board should recognize the obvious benefit to be obtained from funding these costs by a town wide tax since it will reap additional dividends in the form of a share of the payments in lieu of taxes for which it now receives no share.

Response Goldman 9

The collection of fees in-lieu of mitigation does not preclude the Town from levying a general Town tax or a highway tax. Funds generated through the collection of fee-in-lieu of mitigation will only partially fund required mitigation/highway improvements. The Town Board is responsible for establishing public policy on the matter of levying a general town tax. Comment noted.

Goldman 10

Please accept this as our written public comments on the DSEIS, and we reserve the right to provide additional comments to you on the DSEIS. Should you have any questions and/or comments, please do not hesitate to call.

Response Goldman 10

The comment period on the Draft Supplemental EIS closed July 29, 2015.

4.0 ERRATA

Since the issuance of the Draft Supplemental EIS, the Saratoga County Regional Traffic Study (SCRTS) was completed (January 2016). The SCRTS evaluated traffic and transportation concerns in an area focused around Northway Exits 11 and 12. The project was administered by the Center For Economic Growth with support from CDTC, and with the participation of the Towns of Malta and Stillwater, Saratoga County and a variety of stakeholders. The SCRTS identifies a series of capacity improvements to address forecasted growth at levels consistent with the Town’s projections. This includes several intersection improvements that are contemplated in the Draft SGEIS including Route 9/Malta Avenue, Route 67/Eastline Road, Route 9P/Plains Road, and Old Post Road/Northline Road. Updated cost estimates were prepared for these locations. The changes in the cost estimates are largely the result of additional details regarding right-of way acquisition needs and construction inspection costs associated with state/federally funded projects.

The revised mitigation cost estimates include in **Table 2.3-11** of the DSEIS have been updated as follows:

DSEIS Table 2.3-11 - Summary of Mitigation		
Intersection	Mitigation	Cost
1 Route 9/Malta Ave	A southbound right-turn lane and installation of left-turn arrows for protected left-turns eastbound and westbound are the recommended improvements under both growth scenarios.	\$850,000
3 Route 9/Cramer Rd	Sight distance improvements. To be completed by Cramer Road North PDD sponsor	(1)
5 Route 9/Route 67/Dunning St	No physical changes. Volume reductions, diversion of traffic, transportation demand This improvement is identified as mitigation in LFTC Feb 8.2 Findings Statement	*
6 Routes 9&67/Hemphill Place	Restrict Left Turns	\$73,000
7 Routes 9&67/Saratoga Village Blvd	Restrict left Turns	\$36,000
11 Route 67/Eastline Rd	Roundabout.	\$3,300,000
12 Route 67/Raymond Rd	Raymond Road left-turns be restricted	\$35,000
13 Route 67/State Farm Place/Saratoga Medical	Site-specific traffic impact study and any improvements that may be needed be entirely the responsibility of the development	NA
17 Dunning St/Hemphill Place	Restrict left Turns	\$35,000

DSEIS Table 2.3-11 - Summary of Mitigation		
Intersection	Mitigation	Cost
19 Dunning St/Fox Wander East	Restrict Left Turn	\$35,000
25 Route 9P/Plains Rd	Establish separate right turn lane	\$390,000
28 Round Lake Rd/Raylinski Rd/Ruhle Rd	Construction of second approach lane on Ruhle Road.	\$130,000
Rt 9/Old Post Rd Cherry Choke Rd	Construct eastbound turn lane on Old Post Rd.	\$400,000
Northline Rd/Old Post Rd	Realignment of intersections into a single intersection, namely a roundabout	\$3,900,000
	Total	\$9,184,000

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APPENDIX A

Public Hearing Transcripts

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P R O C E E D I N G S

PUBLIC HEARING

MALTA TOWN BOARD MEETING
Malta, New York

A Public Hearing

- in the matter of -

Town-wide Supplemental

Generic Environmental Impact Statement

July 6, 2015
6:55 p.m.

Malta Town Hall
2540 NYS Route 9
Malta, New York 12020

1 **PRESENT :**

2
3 **FOR THE MALTA TOWN BOARD:**

4 PAUL SAUSVILLE
5 Supervisor

6 CRAIG WARNER
7 Deputy Supervisor

8 THOMAS W. PETERSON
9 Attorney

10 PETER KLOTZ
11 Councilman

12 TARA THOMAS
13 Councilwoman

14 JOHN HARTZELL
15 Councilman

16 MAGGI RUISI
17 Councilwoman

18 FLO SICKELS
19 Town Clerk

20 FOR CHAZEN COMPANIES:

21 Chris Round

22 MEMBERS OF THE PUBLIC:

Proceedings -- July 6th, 2015

1
2 **SUPERVISOR SAUSVILLE:** The hearing that
3 we're having tonight is on the Town-wide
4 Supplemental Generic Environmental Impact
5 Statement. That's a mouthful.

6 Back in 2006, when we hired Clough
7 Harbour & Associates to take a look at where we
8 were going, the impact that that growth will have
9 on our Town, they put together a study and made
10 some recommendations on mitigation fees and three
11 or four areas, transportation being one of them,
12 Open Space and Recreation being two more, and the
13 last one is recovery of costs for our
14 investigation.

15 It came to us here about a year ago, I
16 believe, Chris, when we realized that that study
17 no longer was adequate and updated, so we went to
18 Chazen, our engineers, and they put together a
19 proposal and have been working very carefully
20 over the last nine months or so on the Generic
21 Environmental Impact Statement update.

22 Chris Round is here with us tonight and
23 is going to give us a brief introduction on what
24 this hearing is all about.

25 **MR. ROUNDS:** Thank you. For the record,

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1
2 I'm Chris Round with The Chazen Companies. I'll
3 give you a brief overview. The Town Board has
4 had a series of workshops on the elements of this
5 plan, and so tonight is really to hear from you
6 rather than for us to present.

7 For the record, this Draft document was
8 adopted on June 8th, when the document was
9 complete. It's available on the Town's website.
10 Hard copies are available at the Clerk's office
11 and the Planning office. At the Supervisor's
12 suggestion, we have a limited number of Executive
13 Summaries over here for folks.

14 Process-wise, the EIS includes an update
15 to the Town-wide build-out analysis. We looked
16 at two alternate growth scenarios, a low growth
17 and a high growth scenario. We looked at an
18 infrastructure inventory to understand where
19 growth might want to occur associated with that
20 infrastructure. As the Supervisor indicated, we
21 updated the traffic analysis based on this growth
22 projection, and then we visited and had a series
23 of meetings to make sure that the rec priorities
24 and the Open Space priorities were still in line
25 with the Town's goals. As a result, we updated

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1
2 the mitigation fee program.

3 I'm going to go quickly through a couple
4 of slides here. This is just an image of the
5 Town-wide build-out projection. The numbers
6 didn't change significantly from the prior
7 analysis. The GEIS technologies improved in the
8 ten years since the initial study was done.
9 There is still a tremendous development potential
10 in the Town, and the slide points to that, those
11 numbers.

12 The build-out analysis was converted to
13 potential growth projections, how might the Town
14 grow over a ten-year period, and we utilized a
15 variety of information sources when looking at
16 the growth projections. Capital District
17 Regional Planning Commission publishes
18 information, the Town has a very strong history
19 of tracking growth. We had a series of meetings
20 with the development community, real estate
21 community, developers, folks who are
22 knowledgeable about what might happen in the near
23 future, and the two scenarios that we laid out
24 are on the slide in front of you.

25 Potentially, under the low growth, 600

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1
2 new single-family homes throughout the Town,
3 1,500 new dwelling units, largely within the
4 Form-Based Code or the downtown area, and then
5 upwards of 1.6 million square feet of
6 non-residential development. That could be
7 retail, commercial, warehouse, a mix of those
8 uses. The high growth is on the page as well.
9 We used the low growth scenario to perform the
10 subsequent analyses.

11 The assumption here is that Fab 8.2 will
12 be constructed and brought online, and it does
13 not include the actual square footage of what's
14 happening at the Tech Campus itself. This is
15 above and beyond that.

16 So where might this growth occur? We
17 looked at the zoning districts, the availability
18 of land, the availability of approved
19 subdivisions of projects. We looked at where the
20 infrastructure actually exists. We met with the
21 various purveyors of water and sewer facilities,
22 where have they heard that extensions might occur
23 and might exist. Growth follows infrastructure.

24 So, we actually distributed the growth
25 throughout the Town based on those factors, that,

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1
2 hey, growth is going to occur at growth nodes
3 where infrastructure meets, where water and sewer
4 meets, roadways, and available supply of land.

5 So, taking that information, we prepared
6 an update to the Town-wide traffic impact
7 analysis. There are over 32 intersections that
8 were analyzed using both growth scenarios. We
9 think the low growth scenario is the more likely
10 to occur, and then we actually looked at -- there
11 are a variety of planning studies in the original
12 2005 GEIS. They're termed as linkage studies,
13 where bike and pedestrian facilities are going to
14 go. We looked at those, and then we updated the
15 mitigation to address the growth associated with
16 the traffic, and we updated the cost estimates.

17 The important thing here to note is that,
18 at the time the original '05 EIS was produced for
19 the Town, the Global Foundries projects weren't
20 -- the mitigation was not yet constructed.

21 There's been a series of activities that have
22 occurred since that time, and so what we did --
23 what we saw were -- here's two slides that just
24 identify a series of intersections and planned
25 improvements at those intersections.

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1
2 There's no surprises on these two slides.
3 It's the same or nearly the same traffic
4 mitigation that's been contemplated in '05, and
5 in the traffic study that was recently completed
6 by Global Foundries as part of the Fab 8.2, the
7 supplemental EIS, with some minor nuances.
8 There's a couple of locations where, in order to
9 accommodate growth, not a new facility needs to
10 be constructed, but we need to control traffic
11 movement. For instance, we control left-hand
12 turn lanes at the 9 and 67 intersections,
13 Hemphill. So we looked at those things. This is
14 another slide with that same information.

15 We provided updated cost estimates. The
16 Town, since 2006, has been adjusting the cost of
17 mitigation based on using a rate of inflation, so
18 it has not stayed the same. The cost of
19 constructing all the traffic improvements has
20 escalated over time. What we found is, that that
21 escalation probably outpaced the actual costs,
22 and in some instance, there have been a series of
23 improvements that have been constructed so that
24 they're no longer necessary.

25 When we look at what needs to be

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1
2 constructed in order to address the growth over
3 this ten-year period, the costs on this slide are
4 just slightly lower than were estimated in 2006,
5 and also the cost that was estimated currently
6 today is at \$1,655 per trip. So, if you're a
7 non-residential development, you would pay this
8 fee based on a trip generation characteristic of
9 your project.

10 What we see under our new calculation is
11 this number actually drops, so there's a decrease
12 in the trip generation cost or the mitigation fee
13 assessment. It drops to \$1,355 per trip. So,
14 this was one of the things we didn't know going
15 in, will the price increase or decrease? What we
16 found in the case of traffic mitigation is,
17 there's been a series of projects that have been
18 constructed and so the costs to address growth
19 have been reduced because certain private
20 developments have borne that cost, largely the
21 Global Foundries project.

22 We then looked at the Recreation and
23 Trails programs. There were a series of planning
24 documents that were produced in '05 and '06 as
25 part of the Town-wide GEIS, and then subsequent

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1
2 to that, the Town's Planning Department and Rec
3 Department has produced a series of documents
4 looking at park needs over the last decade. What
5 we did is we inventoried those things. We met.
6 We got a basic understanding of what has been
7 constructed since '05, what demands are still not
8 being met and what new demands might be coming
9 up, and we went through, with the Town Board, and
10 went through a priority setting exercise, and we
11 identified a series of priority projects with
12 those associated cost estimates.

13 I apologize if you can't see that in the
14 slide. There's a series of projects on the
15 slide. Just because a project appears on the
16 slide, does not mean that it's necessarily going
17 to be constructed, but there is sufficient demand
18 for these things. As we know, demands change
19 over time, priorities change, facility needs
20 change, and so this really is not a master list
21 of projects to be constructed, but it
22 demonstrates what is the capital demand for rec
23 facilities over a ten-year period.

24 What we did is we took that and we looked
25 at what percentage of that cost should be

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1
2 attributable to non-residential development. In
3 '05, the Town went through a process and made a
4 decision that up to 15 percent of the cost for
5 future recreational needs should be borne by the
6 development community, those folks who are
7 creating retail, commercial, non-residential
8 development.

9 The Town already assessed a recreation
10 fee to single-family housing. In the GEIS, we're
11 clarifying the record to make sure it's
12 understood that multifamily housing is going to
13 be assessed that same fee. We also looked at
14 what has been constructed since 2005. There are
15 a series of projects that have been constructed
16 where the Town has not totally recouped the cost
17 for that expense. So, when we add those two
18 costs together, we come up with a future
19 mitigation fee, and, in this instance, the
20 current fee is \$1.09 a square foot, and what is
21 being proposed in the Draft EIS is that is going
22 to increase to \$1.83 per square foot. That is
23 one of the fees that did go up.

24 With respect to Ag and Open Space, the
25 Town has seen a considerable amount of

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1
2 with that, we also updated the cost allocation
3 process. What we are proposing is that
4 19 percent of the cost of protecting the land
5 should be borne by development that's going to
6 occur between now and the next ten years, and the
7 balance of that cost needs to be borne by the
8 public, meaning the folks who already reside and
9 live in the Town, whether that be through
10 acquisition of grants or other mechanisms to
11 raise revenue for that purpose.

12 With that, the current Open Space
13 mitigation fee is approximately \$1,059 per
14 disturbed acre. That, under this Draft proposal,
15 would increase to \$1,131, so a very modest
16 increase in the Open Space protection.

17 So that's what I have. I'm trying to
18 just give you a lot -- there's a lot of
19 information, and I'm trying to boil it down to a
20 real simple sense.

21 You can see on this slide we do summarize
22 the '06 fee with the current fee and the proposed
23 fee, and the most significant, we did note, was
24 the traffic mitigation fee is decreasing slightly
25 and the rec fee is going up modestly.

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1
2 Final EIS.

3 The Final EIS is basically the Draft EIS,
4 together with public comment and the response to
5 public comment, and that FEIS is delivered to the
6 Town. The Town Board, as the lead agency, would
7 identify whether the response is satisfactory,
8 and then the Town Board would adopt the Final
9 EIS.

10 There's, what they call, a cooling off
11 period. There's a ten-day period. After the
12 FEIS is accepted, a finding statement would be
13 produced, and the finding statement would
14 articulate the record, describe what has occurred
15 since the Draft EIS was issued, and, actually, if
16 adopted, would adopt a modified mitigation fee
17 structure.

18 So, I hope that answers the question.

19 **MR. HARTZELL:** Thank you.

20 **SUPERVISOR SAUSVILLE:** Thank you, Chris.

21 So, Laurel Stephenson is here as our court
22 stenographer this evening, taking time away from
23 this beautiful summer that we have, working here
24 for the Town of Malta.

25 As Chris pointed out, it is a public

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1
2 hearing. If you would like to make a statement,
3 just come to the podium. Speak right into the
4 microphone nice and loud. State your name, and
5 give us your input.

6 Our first speaker is?

7 **MR. SLOAT:** Thank you for allowing me to
8 speak. My name is Elwood Sloat. I live at 3
9 Homestead Commons in Ballston Lake, New York.

10 I just want to clear something up. When
11 Chris was explaining --

12 **SUPERVISOR SAUSVILLE:** Is your microphone
13 on?

14 **MR. SLOAT:** Can you hear me?

15 **SUPERVISOR SAUSVILLE:** Now, yes.

16 **MR. SLOAT:** Chris Round, you did a nice
17 job.

18 **MR. ROUND:** Thank you.

19 **MR. SLOAT:** I'm a little concerned about
20 the Town's share of your traffic mitigation.
21 Seventy percent for several of these roads, which
22 are State roads, and the traffic that's on that
23 is generated from more towns than the Town of
24 Malta. Can you explain to me why the Town's
25 share would be 70 percent on a State road?

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2 **SUPERVISOR SAUSVILLE:** Well, this isn't a
3 Q & A, Woody. It's a question of --

4 **MR. SLOAT:** Okay. My statement is, I'm
5 dissatisfied with the fact that the Town's
6 taxpayers will pay 70 percent on the State road.
7 That's my statement. Thank you.

8 **SUPERVISOR SAUSVILLE:** Thank you.
9 Yes.

10 **MR. WEISS:** I'm Rick Weiss from Old Post
11 Road.

12 I'm concerned about the two items on the
13 summary of transportation mitigation, the very
14 last items concerning Old Post Road/Cherry Choke
15 Road and North Line Road and Old Post Road.

16 The residents of Old Post Road, a Town
17 road, would probably, I would say, feel that any
18 improvement to the road that provides an increase
19 of traffic is something we don't want. We're not
20 interested in more traffic on Old Post Road and
21 having it move more smoothly. We would like to
22 see it restricted.

23 We don't need an additional 3,000 or
24 4,000 cars a day on Old Post Road. It's not
25 designed to handle it. It's a residential road.

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2 If we realign the road, spend \$3 million to
3 improve the flow, all we're going to do is
4 increase traffic, and I think it's a serious
5 mistake. It will change the whole complexion of
6 the atmosphere on the road.

7 **SUPERVISOR SAUSVILLE:** Thank you, Rick.
8 Are there any other folks?

9 **MS. HENRY:** Carol Henry on Malta Avenue.
10 I would like to reiterate what that gentleman
11 said about that intersection. Having lived on
12 Malta Avenue between Old Post and -- I know Malta
13 Avenue is a County road. A roundabout is not
14 going to solve anything.

15 You know, my problem with all these
16 traffic studies is, we get all the traffic from
17 every other town, and we're bearing the brunt of
18 it, and, one, did those traffic -- was that
19 traffic pattern taken into account? Two, we need
20 to work on a way, because Old Post and Malta
21 Avenue just can't handle the traffic.

22 Malta Avenue, in the 15 years that I've
23 lived there, the traffic, the truck traffic, has
24 become crazy. I live now on a major highway, and
25 that's supposed to be a rural section of the Town

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1
2 of Malta, and based on the traffic, it is no
3 longer a rural section of the Town.

4 **SUPERVISOR SAUSVILLE:** Thank you, Carol.

5 Other folks that wish to make a
6 statement?

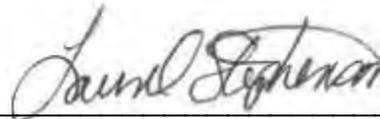
7 (There was no response.)

8 **SUPERVISOR SAUSVILLE:** If not, that draws
9 to a conclusion the formal hearing that we have
10 here. However, as Chris pointed out, the record
11 will be open until the 29th of July, and if you
12 have a comment that you would like to have placed
13 into the record, you have until that date to get
14 them in. So that brings the hearing to a
15 conclusion, and we will move on to the next item.

16 (Whereupon, at 7:17 p.m. the proceedings
17 in the above-entitled matter were concluded.)
18
19
20
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C E R T I F I C A T I O N

I, LAUREL STEPHENSON, a Court Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing record taken by me at the time and place as noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.



Laurel Stephenson

Date: **July 16, 2015**

** PLEASE NOTE: This transcript is not to be distributed to any third-party. You may copy it or send it internally within your own offices and branches. Notify this office first if you need to distribute or copy any portion of it for any other purposes.

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APPENDIX B

Written Comments

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Paul J. Goldman, Esq.
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July 27, 2015

Town Board
Town of Malta Town Board
Town Hall
2540 Route 9
Malta, New York 12020



RE: Draft Supplemental Environmental Impact Statement of the Town of Malta
accepted June 15, 2015 ("DSEIS")

RECEIVED

JUL 29 2015

Town of Malta
Supervisor's Office

Dear Sir or Madam:

This office represents **Lakeview Outlets, Inc. ("Lakeview")** and **DCG Development Co. ("DCG")** in connection with the DSEIS of the Town of Malta, County of Saratoga, New York (the "Town") that is referenced above. On behalf of Lakeview and DCG, we write to provide written comment to the Town Board of the Town on the DSEIS.

General Statement

We write to object to the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town's acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town such that the cost for such projects is required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction. The cost of these projects should be paid from the Town's General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client's project. Under applicable law, a municipality is not allowed to charge "newcomers" an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. *See generally, Phillips v. Town of Clifton Water Authority*, 286 A.D.2d 834, 834-835 (3d. Dept. 2001). *Albany Area Builders Association v. Town of Guilderland*, 141 A.D.2d 293 (3d Dept. 1988).

Traffic Mitigation Fees

The DSEIS seeks to impose traffic mitigation fees equal to \$6,099,000 to fund various highway projects throughout the Town (DSEIS, p. vi and p. 48). Since highway improvements are deemed to generally benefit the entire Town, they are typically paid for by a general Town highway tax that is levied and collected with the January Town/County bill. Here, the Town of Malta does not have a Town tax and/or Town highway tax so that all highway improvement costs prior to the imposition of mitigation fees were apparently paid from the Town General Fund. In the situation faced by my clients, the proposed highway improvements bear no relationship and/or nexus to our client or their proposed building projects. Attached hereto as Exhibit "A" is a copy of the Study Area Map from the DSEIS reflecting the various highway improvement projects that are proposed to be paid from mitigation fees imposed on my clients who have property at the southeast corner of Exit 12 and in the Town center area at the intersection of Route 9 and Phaeton Lane directly across from Stone Break Road. A review of this study map confirms that the highway improvements projects proposed in the DSEIS have no relationship or nexus to any traffic created on improvements proposed on the property of my clients. Specifically, Lakeview is proposing to develop another hotel and a Panera restaurant at Malta Commons Business Park. The traffic impact fee for the hotel and the Panera restaurant is estimated to be \$71,165 and \$110,885, respectively. There is absolutely no nexus between the \$3,225,000 of highway improvements proposed to be paid under the DSEIS for improvements at Northline/Old Post Road and the \$1,600,000 of improvements at Route 67/Eastline Road. These two projects account for 79.11% of the total highway improvements to be funded and undertaken under the DSEIS. Without the nexus to a traffic burden created by my client's projects, the proposed impact fees are illegal substitute for a Town highway tax since these improvements clearly have Town wide benefit.

The imposition of mitigation fees under the DSEIS also violates the following enactments:

1) Town Law Section 200. The proposal to finance the various highway improvements set forth at p. 48 of the DSEIS is not properly before the Town Board since a prerequisite to undertaking such highway improvements is a duly verified petition under Section 200 of the Town Law. Upon information and belief, the Town did not obtain the required petitions for each component of the highway improvements to be undertaken in the DSEIS. Accordingly, the Town may not procure mitigation fees for projects lacking a duly verified petition under Section 200 of the Town Law.

2) Town Law Section 202(4). Upon information and belief, prior to the 2006 adoption of mitigation fees, the cost and expense of highway improvements was funded from the general fund and the Town did not impose mitigation fees on a "benefit basis" to fund the construction and improvement of all Town highways. Therefore, the attempt to impose mitigation fees on a benefit basis under the DSEIS is in violation of the requirements of Town Law Section 202(4).

3) Town Law Section 202-f. It is clear from a review of the proposed highway improvements set forth in the DSEIS that certain of the projects involve highway improvements

at Route 67 which is a State and/or County highway. Pursuant to Town Law Section 202-f(2), these improvements are required to be a Town charge and not allowed to be imposed through a benefit assessment. Therefore, the imposition of mitigation fees for any portion of State and/or County highway improvement violates Town Law Section 202-f.

Open Space Mitigation Fee and Recreation Fees.

A cursory review of the Open Space and Recreation projects that are to be financed from mitigation fee obtained under the DSEIS reveals that they benefit the entire Town and have no relationship to the commercial projects to be under taken by my client (p.iii, iv and p.15-16). My client is to be charged the following open space and recreation fees for the respective project as follows:

	Hotel	Panera
Recreation	\$61,694	\$ 953.10
Open Space	\$ 1,885	\$4,905.00

There is absolutely no nexus between the impacts of a Panera restaurant and hotel at Exit 12 to the open space and recreational improvements to be funded under DSEIS. The improvements contemplated by the Town under the DSEIS are properly part of a Park District under Town Law Section 198(4) and any improvements constituting park improvements are Town charges under Town Law Section 202 which are required to be paid from the Town general fund and defrayed from a general Town tax. Without the nexus to the impact from my client's projects, the imposition of mitigation fees to pay open space and/or recreation fees is unauthorized under the Town Law. In addition, the cost and expense of recreation and parks is required to be paid by real estate taxes or the Town general fund and is not allowed to be paid from the collection of mitigation fees. Town Law Section 220.

Offsets

The DSEIS is improper since it does not provide for a system of offsets or reduction of the mitigation fees for the traffic and recreation improvements installed as part of any project. At a minimum, the DSEIS should recognize some offset against the mitigation fees for traffic improvements made by a project or any set aside of conservation area or green space in the project which creates open space for the benefit of the entire community.

Benefit of General Tax Levy

The projects that are contemplated to be financed from the collection of mitigation fees under the DSEIS should be collected as part of a Town wide ad valorem property tax and/or highway tax since that imposition would provide the Town and its residents with the additional benefit of the ability to share in all payments in lieu of taxes made with the County of Saratoga IDA, including the existing Global Foundries PILOT Agreement pursuant to General Municipal Law Section

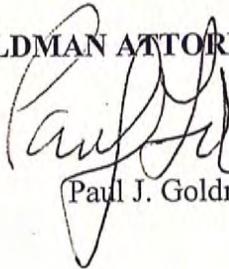
GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

858(15). This enactment requires proportional allocation of all payments under any PILOT Agreement based on the relative tax rate. Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007). If the Town were to fund for these costs through a general Town tax, then the Town would be able to receive a portion of all payments in lieu of taxes which creates additional revenue for the Town general fund. The fact that the Town is trying to defray Town wide expenditures through mitigation fees injures the entire Town since the Town is unable to obtain any share of the IDA PILOT payments for projects in the Town. The Town Board should recognize the obvious benefit to be obtained from funding these costs by a town wide tax since it will reap additional dividends in the form of a share of the payments in lieu of taxes for which it now receives no share.

Please accept this as our written public comments on the DSEIS, and we reserve the right to provide additional comments to you on the DSEIS. Should you have any questions and/or comments, please do not hesitate to call

Very truly yours,

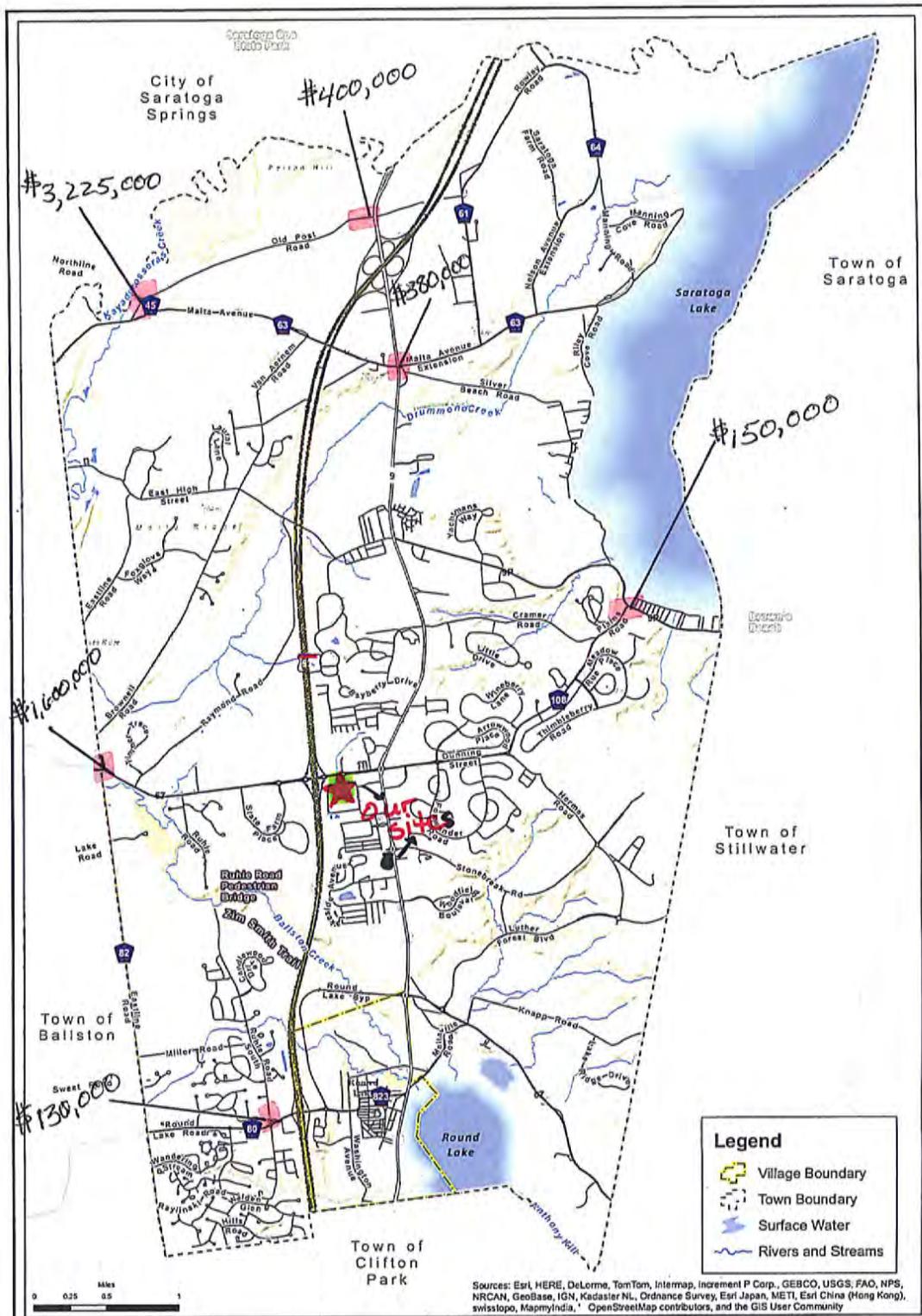
GOLDMAN ATTORNEYS PLLC



Paul J. Goldman

Enclosures

cc. Mr. Donald C. Greene
Mr. Donald MacElroy



THE Chazen COMPANIES
 Environmental
 Planning
 and
 Land
 Services

CHAZEN ENGINEERING, LAND SURVEYING & LANDSCAPE ARCHITECTURE CO., D.P.C.
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 Capital District Office: 547 River Street, Troy, NY, 12182, Phone: (518) 273-0055
 North Country Office: 375 Bay Road, Queensbury, NY, 12804, Phone: (518) 812-0513

**Draft Supplemental Environmental Impact Statement
 Town-wide GEIS**
 Study Area
 Town of Malta - Saratoga County, New York

Drawn	RL-8
Date	03/13/2015
Scale	1:38,000
Project	31361.21
Sheet	1-1-2

This map is a product of The Chazen Companies. It should be used for reference purposes only. Representative offices have been made to ensure the accuracy of the map. The Chazen Companies expressly disclaims any responsibility or liability from the use of the map for any purpose other than its intended use.

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Paul J. Goldman, Esq.
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July 29, 2015

Town Board
Town of Malta Town Board
Town Hall
2540 Route 9
Malta, New York 12020



RE: Draft Supplemental Environmental Impact Statement of the Town of Malta
accepted June 15, 2015 ("DSEIS")

JUL 29 2015

Town of Malta
Supervisor's Office

Dear Sir or Madam:

This office represents Windsor Development Group ("Windsor") in connection with the DSEIS of the Town of Malta, County of Saratoga, New York (the "Town") that is referenced above. As you know, Windsor seeks to develop a commercial project on its Kelch Drive Property in the Town of Malta. On behalf of Windsor, we write to provide written comment to the Town Board of the Town on the DSEIS.

General Statement

We write to object to the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town's acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town. Due to the fact that the open, park and traffic improvements benefit the entire such costs are required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction. The cost of these projects should be paid from the Town's General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client's project. Under applicable law, a municipality is not allowed to charge "newcomers" an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. *See generally, Phillips v. Town of Clifton Water Authority*, 286 A.D.2d 834, 834-835 (3d. Dept. 2001). *Albany Area Builders Association v. Town of Guilderland*, 141 A.D.2d 293 (3d Dept. 1988).

Traffic Mitigation Fees

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The imposition of mitigation fees under the DSEIS also violates the following enactments:

1) Town Law Section 200. The proposal to finance the various highway improvements set forth at p. 48 of the DSEIS is not properly before the Town Board since a prerequisite to undertaking such highway improvements is a duly verified petition under Section 200 of the Town Law. Upon information and belief, the Town did not obtain the required petitions for each component of the highway improvements to be undertaken in the DSEIS. Accordingly, the Town may not procure mitigation fees for projects lacking a duly verified petition under Section 200 of the Town Law.

2) Town Law Section 202(4). Upon information and belief, prior to the 2006 adoption of mitigation fees, the cost and expense of highway improvements was funded from the general fund and the Town did not impose mitigation fees on a "benefit basis" to fund the construction and improvement of all Town highways. Therefore, the attempt to impose mitigation fees on a benefit basis under the DSEIS is in violation of the requirements of Town Law Section 202(4).

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Attorney and Counselors at Law

3) Town Law Section 202-f. It is clear from a review of the proposed highway improvements set forth in the DSEIS that certain of the projects involve highway improvements at Route 67 which is a State and/or County highway. Pursuant to Town Law Section 202-f(2), these improvements are required to be a Town charge and not allowed to be imposed through a benefit assessment. Therefore, the imposition of mitigation fees for any portion of State and/or County highway improvement violates Town Law Section 202-f.

Open Space Mitigation Fee and Recreation Fees.

A cursory review of the Open Space and Recreation projects that are to be financed from mitigation fee obtained under the DSEIS reveals that they benefit the entire Town and have no relationship to the commercial projects to be undertaken by my client (p.iii, iv and p.15-16). There is absolutely no nexus between the impacts of on the Kelch Drive Property at Exit 12 to the open space and recreational improvements to be funded under DSEIS. The improvements contemplated by the Town under the DSEIS are properly part of a Park District under Town Law Section 198(4) and any improvements constituting park improvements are Town charges under Town Law Section 202 which are required to be paid from the Town general fund and defrayed from a general Town tax. Without the nexus to the impact from my client's projects, the imposition of mitigation fees to pay open space and/or recreation fees is unauthorized under the Town Law. In addition, the cost and expense of recreation and parks is required to be paid by real estate taxes or the Town general fund and is not allowed to be paid from the collection of mitigation fees. Town Law Section 220.

Offsets

The DSEIS is improper since it does not provide for a system of offsets or reduction of the mitigation fees for the traffic and recreation improvements installed as part of any project. At a minimum, the DSEIS should recognize some offset against the mitigation fees for traffic improvements made by a project or any set aside of conservation area or green space in the project which creates open space for the benefit of the entire community. Please note that the form based code for the Town has a minimum twenty percent set aside for amenity space which should be offset against any mitigation fees under DSEIS.

Benefit of General Tax Levy

The projects that are contemplated to be financed from the collection of mitigation fees under the DSEIS should be collected as part of a Town wide ad valorem property tax and/or highway tax since that imposition would provide the Town and its residents with the additional benefit of the ability to share in all payments in lieu of taxes made with the County of Saratoga IDA, including the existing Global Foundries PILOT Agreement pursuant to General Municipal Law Section 858(15). This enactment requires proportional allocation of all payments under any PILOT Agreement based on the relative tax rate. Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007). If the Town were to fund for these costs through a

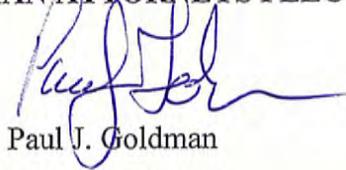
GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

general Town tax, then the Town would be able to receive a portion of all payments in lieu of taxes which creates additional revenue for the Town general fund. The fact that the Town is trying to defray Town wide expenditures through mitigation fees injures the entire Town since the Town is unable to obtain any share of the IDA PILOT payments for projects in the Town. The Town Board should recognize the obvious benefit to be obtained from funding these costs by a town wide tax since it will reap additional dividends in the form of a share of the payments in lieu of taxes for which it now receives no share.

Please accept this as our written public comments on the DSEIS, and we reserve the right to provide additional comments to you on the DSEIS. Should you have any questions and/or comments, please do not hesitate to call

Very truly yours,

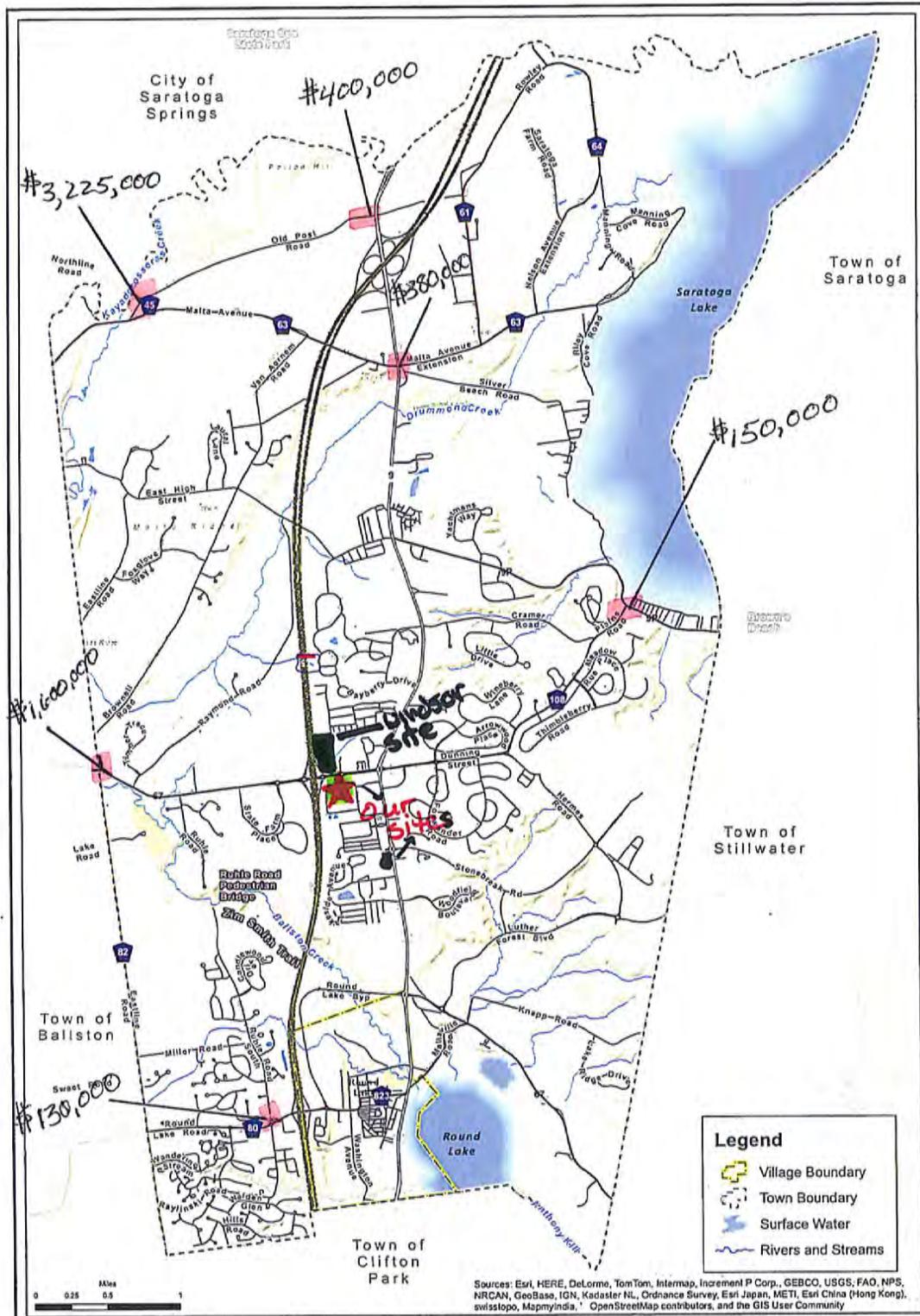
GOLDMAN ATTORNEYS PLLC



Paul J. Goldman

Enclosures

cc. Mr. Robert C. Miller
Mr. Robert C. Miller, Jr.
Mr. Larry Becker



THE CHAZEN COMPANIES

CHAZEN ENGINEERING, LAND SURVEYING & LANDSCAPE ARCHITECTURE CO., D.P.C.

Dutchess County Office: 21 Fox Street, Poughkeepsie, NY, 12601 Phone: (845) 454-3980

Capital District Office: 247 Oliver Street, Troy, NY, 12180 Phone: (518) 273-0055

North County Office: 372 Bay Road, Queensbury, NY, 12056 Phone: (518) 812-0513

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Draft Supplemental Environmental Impact Statement
Town-wide GEIS

Study Area

Town of Malta - Saratoga County, New York

Project	RL-B
Date	03/12/2015
Scale	1:30,000
Project	2150121
Page	1-2

GOLDMAN ATTORNEYS PLLC
Attorneys and Counselors at Law

210 WASHINGTON AVENUE EXTENSION
ALBANY, NEW YORK 12203

TELEPHONE: (518) 431-0941
FAX: (518) 694-4821

Paul J. Goldman, Esq.
pgoldman@goldmanpllc.com

July 29, 2015

Town Board
Town of Malta Town Board
Town Hall
2540 Route 9
Malta, New York 12020



RECEIVED

JUL 29 2015

**Town of Malta
Supervisor's Office**

RE: Draft Supplemental Environmental Impact Statement of the Town of Malta accepted June 15, 2015 ("DSEIS")

Dear Sir or Madam:

This office represents Morgan Management and Lecesce Construction and affiliate entities (hereinafter called the "Park Place Owner") in connection with the DSEIS of the Town of Malta, County of Saratoga, New York (the "Town") that is referenced above. As you know, the Park Place Owner is developing a residential project in the Town known as Park Place. On behalf of Park Place Owner, we write to provide written comment to the Town Board of the Town on the DSEIS.

General Statement

We write to object to the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town's acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town. Due to the fact that the open, park and traffic improvements benefit the entire such costs are required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction. The cost of these projects should be paid from the Town's General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client's project. Under applicable law, a municipality is not allowed to charge "newcomers" an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. *See generally, Phillips v. Town of Clifton Water Authority, 286*

A.D.2d 834, 834-835 (3d. Dept. 2001). Albany Area Builders Association v. Town of Guilderland, 141 A.D.2d 293 (3d Dept. 1988).

Traffic Mitigation Fees

The DSEIS seeks to impose traffic mitigation fees equal to \$6,099,000 to fund various highway projects throughout the Town (DSEIS, p. vi and p. 48). Since highway improvements are deemed to generally benefit the entire Town, they are typically paid for by a general Town highway tax that is levied and collected with the January Town/County bill. Here, the Town of Malta does not have a Town tax and/or Town highway tax so that all highway improvement costs prior to the imposition of mitigation fees were apparently paid from the Town General Fund. In the situation faced by my clients, the proposed highway improvements bear no relationship and/or nexus to our client or their proposed building projects. Attached hereto as Exhibit "A" is a copy of the Study Area Map from the DSEIS reflecting the various highway improvement projects that are proposed to be paid from mitigation fees imposed on my clients who have property at the northeast corner of Exit 12. A review of this study map confirms that the highway improvements projects proposed in the DSEIS have no relationship or nexus to any traffic created on improvements proposed on the property of my clients. Specifically, the Park Place Owner is proposing to develop apartments at the Park Place Project on Route 9. The traffic impact fees for the proposed improvements at Park Place will be substantial. There is absolutely no nexus between the Park Place Project and the \$3,225,000 of highway improvements proposed to be paid under the DSEIS for improvements at Northline/Old Post Road and the \$1,600,000 of improvements at Route 67/Eastline Road. These two projects account for 79.11% of the total highway improvements to be funded and undertaken under the DSEIS. Without the nexus to a traffic burden created by the Park Place Project, the proposed impact fees are illegal substitute for a Town highway tax since these improvements clearly have Town wide benefit.

The imposition of mitigation fees under the DSEIS also violates the following enactments:

1) Town Law Section 200. The proposal to finance the various highway improvements set forth at p. 48 of the DSEIS is not properly before the Town Board since a prerequisite to undertaking such highway improvements is a duly verified petition under Section 200 of the Town Law. Upon information and belief, the Town did not obtain the required petitions for each component of the highway improvements to be undertaken in the DSEIS. Accordingly, the Town may not procure mitigation fees for projects lacking a duly verified petition under Section 200 of the Town Law.

2) Town Law Section 202(4). Upon information and belief, prior to the 2006 adoption of mitigation fees, the cost and expense of highway improvements was funded from the general fund and the Town did not impose mitigation fees on a "benefit basis" to fund the construction and improvement of all Town highways. Therefore, the attempt to impose mitigation fees on a benefit basis under the DSEIS is in violation of the requirements of Town Law Section 202(4).

3) Town Law Section 202-f. It is clear from a review of the proposed highway improvements set forth in the DSEIS that certain of the projects involve highway improvements at Route 67 which is a State and/or County highway. Pursuant to Town Law Section 202-f(2), these improvements are required to be a Town charge and not allowed to be imposed through a benefit assessment. Therefore, the imposition of mitigation fees for any portion of State and/or County highway improvement violates Town Law Section 202-f.

Open Space Mitigation Fee and Recreation Fees.

A cursory review of the Open Space and Recreation projects that are to be financed from mitigation fee obtained under the DSEIS reveals that they benefit the entire Town and have no relationship to the commercial projects to be undertaken by my client (p.iii, iv and p.15-16). There is absolutely no nexus between the impacts of the Park Place Project to the open space and recreational improvements to be funded under DSEIS. The improvements contemplated by the Town under the DSEIS are properly part of a Park District under Town Law Section 198(4) and any improvements constituting park improvements are Town charges under Town Law Section 202 which are required to be paid from the Town general fund and defrayed from a general Town tax. Without the nexus to the impact from my client's projects, the imposition of mitigation fees to pay open space and/or recreation fees is unauthorized under the Town Law. In addition, the cost and expense of recreation and parks is required to be paid by real estate taxes or the Town general fund and is not allowed to be paid from the collection of mitigation fees. Town Law Section 220.

Offsets

The DSEIS is improper since it does not provide for a system of offsets or reduction of the mitigation fees for the traffic and recreation improvements installed as part of any project. At a minimum, the DSEIS should recognize some offset against the mitigation fees for traffic improvements made by a project or any set aside of conservation area or green space in the project which creates open space for the benefit of the entire community. Please note that the form based code for the Town has a minimum twenty percent set aside for amenity space which should be offset against any mitigation fees under DSEIS.

Benefit of General Tax Levy

The projects that are contemplated to be financed from the collection of mitigation fees under the DSEIS should be collected as part of a Town wide ad valorem property tax and/or highway tax since that imposition would provide the Town and its residents with the additional benefit of the ability to share in all payments in lieu of taxes made with the County of Saratoga IDA, including the existing Global Foundries PILOT Agreement pursuant to General Municipal Law Section 858(15). This enactment requires proportional allocation of all payments under any PILOT Agreement based on the relative tax rate. Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007). If the Town were to fund for these costs through a general Town tax, then the Town would be able to receive a portion of all payments in lieu of taxes

GOLDMAN ATTORNEYS PLLC

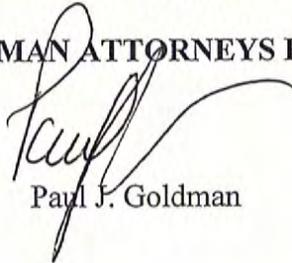
Attorney and Counselors at Law

which creates additional revenue for the Town general fund. The fact that the Town is trying to defray Town wide expenditures through mitigation fees injures the entire Town since the Town is unable to obtain any share of the IDA PILOT payments for projects in the Town. The Town Board should recognize the obvious benefit to be obtained from funding these costs by a town wide tax since it will reap additional dividends in the form of a share of the payments in lieu of taxes for which it now receives no share.

Please accept this as our written public comments on the DSEIS, and we reserve the right to provide additional comments to you on the DSEIS. Should you have any questions and/or comments, please do not hesitate to call

Very truly yours,

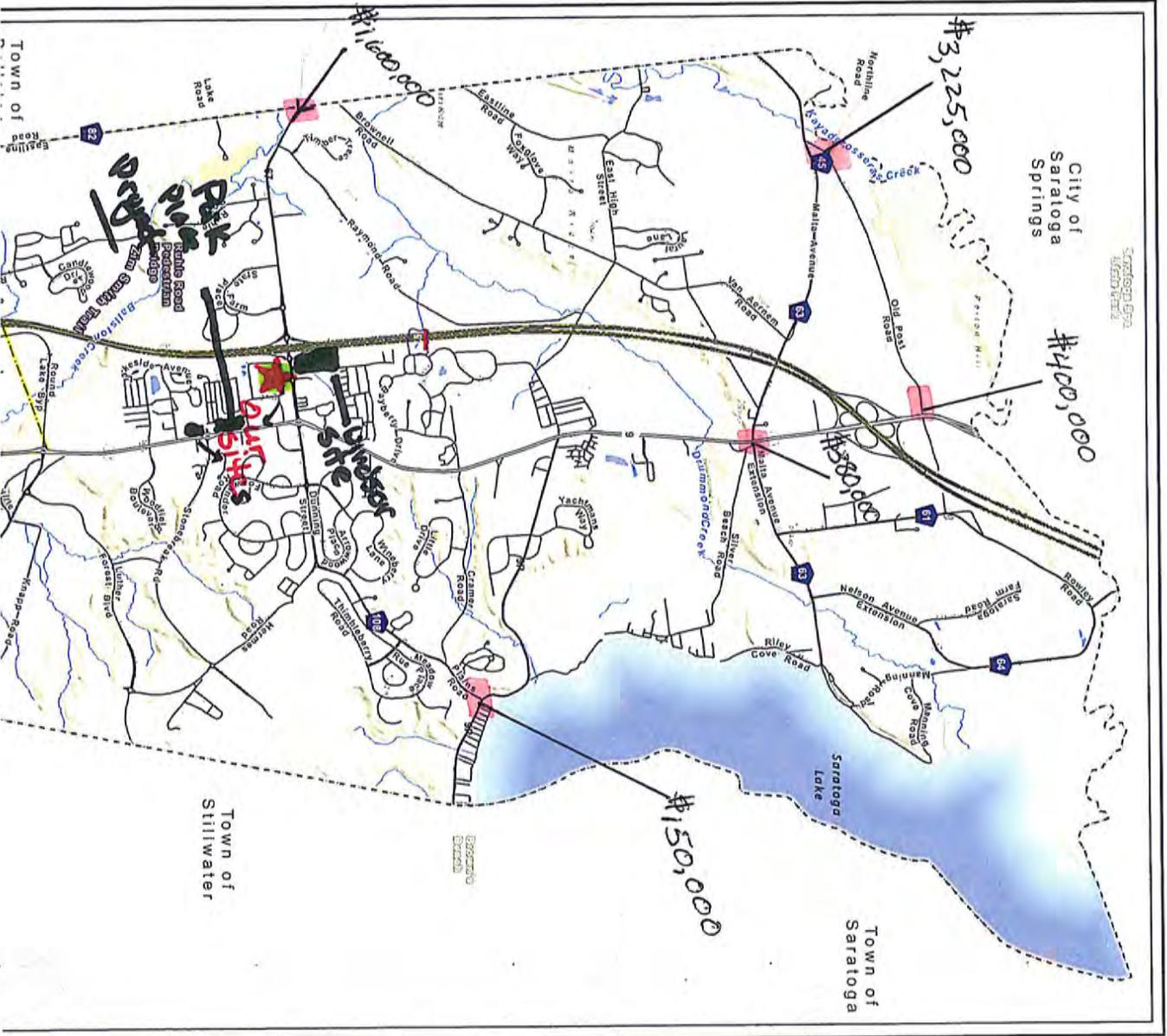
GOLDMAN ATTORNEYS PLLC



Paul J. Goldman

Enclosure

cc. Mr. Robert Morgan
Mr. Salvatore Lecesse





Hayes Development Company

4 Stable Lane
Saratoga Springs, NY 12866
Phone: 518.505.2108 Fax: 518.580.1490
E-Mail: Robert@Hayes-Development.com
Web: www.Hayes-Development.com

July 27, 2015

Town Board
Town Of Malta
Town Hall
2540 Route 9
Malta, NY 12020

Re: Draft Supplemental Environmental Impact Statement of the Town of Malta accepted June 15, 2015
("DSEIS")

To whom it may concern,

We write to support the general statements and conclusions contained within the letter dated July 27, 2015 from Attorney Paul J. Goldman to the Town Board of Malta (copied attached herewith).

Furthermore, we restate that we object to "the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town's acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town such that the cost for such projects is required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction. The cost of these projects should be paid from the Town's General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client's project. Under applicable law, a municipality is not allowed to charge "newcomers" an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. *See generally, Phillips v. Town of Clifton Water Authority*, 286 A.D.2d 834, 834-835 (3d. Dept. 2001). *Albany Area Builders Association v. Town of Guilderland*, 141 A.D.2d 293 (3d Dept. 1988). "

Sincerely,

Robert A. Hayes
President
Hayes Development Company

Cc: N. Robert Hayes Esq.



6 Industry Drive, Waterford, New York 12188

Phone: (518) 233-0600

Fax: (518) 233-1215

Jersen.com

July 28, 2015

Town Board, Town of Malta
Town Hall
2450 Route 9
Malta, NY 12020

Re: Draft Supplemental Environmental Impact Statement of the Town of Malta accepted June 15, 2015
("DSEIS")

To whom it may concern:

Jersen Construction Group as well as Lansing Engineering are writing in support of the letter dated July 27, 2015 to the Town of Malta from Attorney Paul J. Goldman (attached).

As current and future builders and developers we agree with Mr. Goldmans opinion that the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax.

Sincerely,

David J. Jersen
CEO
Jersen Construction Group

Scott Lansing
President
Lansing Engineering



GOLDMAN ATTORNEYS PLLC

Attorneys and Counselors at Law

210 WASHINGTON AVENUE EXTENSION
ALBANY, NEW YORK 12203

TELEPHONE: (518) 431-0941
FAX: (518) 694-4821

Paul J. Goldman, Esq.
pgoldman@goldmanpllc.com

July 27, 2015

Town Board
Town of Malta Town Board
Town Hall
2540 Route 9
Malta, New York 12020

RE: Draft Supplemental Environmental Impact Statement of the Town of Malta
accepted June 15, 2015 (“DSEIS”)

Dear Sir or Madam:

This office represents Lakeview Outlets, Inc. (“Lakeview”) and DCG Development Co. (“DCG”) in connection with the DSEIS of the Town of Malta, County of Saratoga, New York (the “Town”) that is referenced above. On behalf of Lakeview and DCG, we write to provide written comment to the Town Board of the Town on the DSEIS.

General Statement

We write to object to the adoption by the Town of the mitigation fees under DSEIS and the imposition of any mitigation fee since the imposition of the mitigation fees as proposed under the DSEIS is an impermissible and illegal tax. Specifically, under the DSEIS, the Town is proposing to impose mitigation fees on only new construction projects to defray the cost of Town’s acquisition of open space and new recreation projects as well as highway improvement projects which benefit the entire Town such that the cost for such projects is required to be funded through the imposition of a Town wide tax rather than mitigation fees on only new construction. The cost of these projects should be paid from the Town’s General Fund and recovered through the imposition of general taxes and/or a highway tax imposed on an ad valorem basis since the benefit of the projects reflected in the DSEIS is Town wide and bears no nexus to the impacts of only new construction much less my client’s project. Under applicable law, a municipality is not allowed to charge “newcomers” an impact fee to cover new municipal projects unless the municipality can demonstrate that the mitigation fee is necessitated by the new project or that the newcomer would be primarily or proportionately benefitted by the expansion. *See generally, Phillips v. Town of Clifton Water Authority*, 286 A.D.2d 834, 834-835 (3d. Dept. 2001). *Albany Area Builders Association v. Town of Guilderland*, 141 A.D.2d 293 (3d Dept. 1988).

GOLDMAN ATTORNEYS PLLC

Attorney and Counselors at Law

Traffic Mitigation Fees

The DSEIS seeks to impose traffic mitigation fees equal to \$6,099,000 to fund various highway projects throughout the Town (DSEIS, p. vi and p. 48). Since highway improvements are deemed to generally benefit the entire Town, they are typically paid for by a general Town highway tax that is levied and collected with the January Town/County bill. Here, the Town of Malta does not have a Town tax and/or Town highway tax so that all highway improvement costs prior to the imposition of mitigation fees were apparently paid from the Town General Fund. In the situation faced by my clients, the proposed highway improvements bear no relationship and/or nexus to our client or their proposed building projects. Attached hereto as Exhibit "A" is a copy of the Study Area Map from the DSEIS reflecting the various highway improvement projects that are proposed to be paid from mitigation fees imposed on my clients who have property at the southeast corner of Exit 12 and in the Town center area at the intersection of Route 9 and Phaeton Lane directly across from Stone Break Road. A review of this study map confirms that the highway improvements projects proposed in the DSEIS have no relationship or nexus to any traffic created on improvements proposed on the property of my clients. Specifically, Lakeview is proposing to develop another hotel and a Panera restaurant at Malta Commons Business Park. The traffic impact fee for the hotel and the Panera restaurant is estimated to be \$71,165 and \$110,885, respectively. There is absolutely no nexus between the \$3,225,000 of highway improvements proposed to be paid under the DSEIS for improvements at Northline/Old Post Road and the \$1,600,000 of improvements at Route 67/Eastline Road. These two projects account for 79.11% of the total highway improvements to be funded and undertaken under the DSEIS. Without the nexus to a traffic burden created by my client's projects, the proposed impact fees are illegal substitute for a Town highway tax since these improvements clearly have Town wide benefit.

The imposition of mitigation fees under the DSEIS also violates the following enactments:

1) Town Law Section 200. The proposal to finance the various highway improvements set forth at p. 48 of the DSEIS is not properly before the Town Board since a prerequisite to undertaking such highway improvements is a duly verified petition under Section 200 of the Town Law. Upon information and belief, the Town did not obtain the required petitions for each component of the highway improvements to be undertaken in the DSEIS. Accordingly, the Town may not procure mitigation fees for projects lacking a duly verified petition under Section 200 of the Town Law.

2) Town Law Section 202(4). Upon information and belief, prior to the 2006 adoption of mitigation fees, the cost and expense of highway improvements was funded from the general fund and the Town did not impose mitigation fees on a "benefit basis" to fund the construction and improvement of all Town highways. Therefore, the attempt to impose mitigation fees on a benefit basis under the DSEIS is in violation of the requirements of Town Law Section 202(4).

GOLDMAN ATTORNEYS PLLC

Attorney and Counselors at Law

3) Town Law Section 202-f. It is clear from a review of the proposed highway improvements set forth in the DSEIS that certain of the projects involve highway improvements at Route 67 which is a State and/or County highway. Pursuant to Town Law Section 202-f(2), these improvements are required to be a Town charge and not allowed to be imposed through a benefit assessment. Therefore, the imposition of mitigation fees for any portion of State and/or County highway improvement violates Town Law Section 202-f.

Open Space Mitigation Fee and Recreation Fees.

A cursory review of the Open Space and Recreation projects that are to be financed from mitigation fee obtained under the DSEIS reveals that they benefit the entire Town and have no relationship to the commercial projects to be under taken by my client (p.iii, iv and p.15-16). My client is to be charged the following open space and recreation fees for the respective project as follows:

	Hotel	Panera
Recreation	\$61,694	\$ 953.10
Open Space	\$ 1,885	\$4,905.00

There is absolutely no nexus between the impacts of a Panera restaurant and hotel at Exit 12 to the open space and recreational improvements to be funded under DSEIS. The improvements contemplated by the Town under the DSEIS are properly part of a Park District under Town Law Section 198(4) and any improvements constituting park improvements are Town charges under Town Law Section 202 which are required to be paid from the Town general fund and defrayed from a general Town tax. Without the nexus to the impact from my client's projects, the imposition of mitigation fees to pay open space and/or recreation fees is unauthorized under the Town Law. In addition, the cost and expense of recreation and parks is required to be paid by real estate taxes or the Town general fund and is not allowed to be paid from the collection of mitigation fees. Town Law Section 220.

Offsets

The DSEIS is improper since it does not provide for a system of offsets or reduction of the mitigation fees for the traffic and recreation improvements installed as part of any project. At a minimum, the DSEIS should recognize some offset against the mitigation fees for traffic improvements made by a project or any set aside of conservation area or green space in the project which creates open space for the benefit of the entire community.

Benefit of General Tax Levy

The projects that are contemplated to be financed from the collection of mitigation fees under the DSEIS should be collected as part of a Town wide ad valorem property tax and/or highway tax

GOLDMAN ATTORNEYS PLLC

Attorney and Counselors at Law

since that imposition would provide the Town and its residents with the additional benefit of the ability to share in all payments in lieu of taxes made with the County of Saratoga IDA, including the existing Global Foundries PILOT Agreement pursuant to General Municipal Law Section 858(15). This enactment requires proportional allocation of all payments under any PILOT Agreement based on the relative tax rate. Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007). If the Town were to fund for these costs through a general Town tax, then the Town would be able to receive a portion of all payments in lieu of taxes which creates additional revenue for the Town general fund. The fact that the Town is trying to defray Town wide expenditures through mitigation fees injures the entire Town since the Town is unable to obtain any share of the IDA PILOT payments for projects in the Town. The Town Board should recognize the obvious benefit to be obtained from funding these costs by a town wide tax since it will reap additional dividends in the form of a share of the payments in lieu of taxes for which it now receives no share.

Please accept this as our written public comments on the DSEIS, and we reserve the right to provide additional comments to you on the DSEIS. Should you have any questions and/or comments, please do not hesitate to call

Very truly yours,

GOLDMAN ATTORNEYS PLLC

Paul J. Goldman

Enclosures

cc. Mr. Donald C. Greene
Mr. Donald MacElroy

TO: Town Supervisor Paul Sausville and All Town Board Members
Copy to: Chazen Engineering, Land Surveying & Landscape Architecture Co., DPC
Subject: PUBLIC HEARING COMMENTS
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT - EXECUTIVE SUMMARY
MALTA TOWN-WIDE GENERIC ENVIRONMENTAL IMPACT STATEMENT

Reference is made to the above captioned subject presented at a Public Hearing on July 6, 2015, by Chris Rounds, representing Chazen Engineering, Land Surveying & Landscape Architecture Co, Poughkeepsie, New York.

I respectfully submit my concerns, comments and questions for appropriate inquiry and response in the interest of accuracy and fiscal responsibility.

1. The Executive Summary under the Transportation Area divides the study area into 13 neighborhoods. Table G, Summary of Transportation Mitigation describes Intersection 11 as Route 67/Eastline Rd with a projected \$1,600,000 cost to change this to a *Roundabout*. This intersection is the boundary of the Town of Malta with the Town of Ballston, therefore is only ½ within the Town of Malta Boundaries. Furthermore, it is a State Owned Highway. The Town share according to your document is 70% of the total cost. Why would the Town of Malta be responsible for 70% cost of the road change? What is the cost to the County and Town of Ballston?
2. Table G, Summary of Transportation Mitigation describes Intersection 28 as Round Lake Rd/Raylinski Rd/Ruhle Road. The mitigation lists *Construction of a second approach lane on Ruhle Road* with a projected cost of \$130,000. This intersection is currently under construction with a single lane roundabout being constructed which will immediately reduce the level of service (LOS) to the motorists southbound on Ruhle Road. This is a well-known documented fact that had been brought up during the past few years during public reviews of the Round Lake Road Project Planning. There is limited room between the required retention pond on the Adirondack Bank property and Ruhle Road to add a second lane. The buildout of residential housing along the Rhule Rd section is completed. This mitigation recommendation verifies the current design and intersection construction being undertaken is flawed. Why is the Town of Malta looking for mitigation fees in the amount of \$130,000 to reconstruct the southbound portion Ruhle Road, when the present construction has not been completed? Why isn't the second lane being completed during the current construction phase?
3. Finally, the 70% Town Share of cost to highway construction. I am told that this levy was a result of 70% of the users on the highways are town residents. This percentage on State Highways, particularly Route 67 is disputable; kindly explain the manner of statistical study/evaluation that was utilized to establish this cost. If this is an outdated number, the Town Board should establish an accurate amount through sound statistical studies before levying fees on anyone.

Thank You for your interest and time,


Ellwood A. Sloat, Jr.

3 Homestead Commons, Ballston Lake, New York

Dated: July 27, 2015

APPENDIX C Correspondence

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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ENB - Region 5 Notices 6/24/2015

Public Notice

Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren, and Washington Counties - The Adirondack Park Agency (APA) issued General Permit: Rapid Response Management or Containment of Aquatic Invasive Species Using Benthic Barriers and Hand Harvesting Techniques (General Permit Number 2015G-1) on June 12, 2015. Copies of pertinent documents may be found on the APA's website at: www.apa.ny.gov.

The new general permit authorizes qualified persons, including the New York State Department of Environmental Conservation (NYS DEC) and the Adirondack Park Invasive Plant Program (APIPP), to undertake rapid responses for management or containment of aquatic invasive species. Such activities include the use of benthic barriers or hand harvesting only. General Permit

Contact for this Page

ENB
NYS DEC
Division of
Environmental
Permits
625 Broadway, 4th
Floor
Albany, NY 12233-
1750
518-402-9167
[Send us an email](#)

This Page Covers



Notice of Acceptance of Draft SEIS and Public Hearing

Saratoga County - The Town of Malta Town Board, as lead agency, has accepted a Draft Supplemental Environmental Impact Statement on the proposed Draft SEIS to the Malta Town-Wide Generic Environmental Impact Statement. **A public hearing on the Draft SEIS will be held on July 6, 2015 at 6:55 p.m. at the Malta Town Hall 2540 NYS Route 9 Malta, NY.** Written comments on the Draft SEIS will be accepted until July 29, 2105. The Draft SEIS is available from the Malta Town Hall, Town Clerk's Office and Planning Office at 2540 State Route 9 in the Town of Malta, NY and on line at: <http://malta-town.org/>.

The action involves the evaluation of cumulative impacts of potential growth on the Town's transportation system, agricultural and open space resources, recreation facilities, and utilities. The document is Supplemental EIS to the Town's 2005 Town Wide Generic EIS (TWGEIS) and focuses on just those resources and changes that have occurred since the issuance of the 2005 TWGEIS. The Supplemental GEIS provides an update to the growth projections, examines those resource areas impacted by growth (not previously examined) and explore any mitigation measures to avoid or minimize adverse impacts on the town's natural

and built environment. The project is located throughout the Town of Malta, New York.

Contact: Paul Sausville, Town of Malta, 2540 Route 9, Malta, NY 12020, Phone: (518) 899-3434, E-mail: psausville@malta-town.org.

Notice of Acceptance of Draft GEIS and Extension of Public Comment Period

Saratoga County - The New York State Franchise Oversight Board, as lead agency, has accepted a Draft Generic Environmental Impact Statement on the proposed Saratoga Race Course Redevelopment Plan. **Written comments on the Draft GEIS will now be accepted until June 29, 2015.** The Draft GEIS is available from the Saratoga Springs City Hall; the Saratoga Library; the National Museum of Racing and Hall of Fame; the Office of General Services contact listed below and on line at: www.nyra.com.

The action involves a comprehensive development plan by the New York Racing Association (NYRA) to preserve, restore, and enhance the approximately 330 acre historic Saratoga Race Course. The goal of the proposed project is to ensure that the Saratoga Race Course retains its status as a world-class horse racing facility and a key component of local community character and the regional economy. The proposed



Department of
Environmental
Conservation

ENB - Region 5 Notices 7/20/2016

Public Notice

Type of Notice: Control of *Phragmites australis* (common reed) in the Essex Chain Complex

SEQR Status: Type 1 ___ Unlisted ___

DEC Region: 5

County: Essex

Town: Newcomb

Lead Agency: NYS Department of Environmental Conservation (NYS DEC)

Project Title: Control of *Phragmites australis* in Essex Chain Complex

Contact Person: Kris Alberga

Address: 1115 State Rt 86 - Ray Brook, NY

Phone Number: 518-897-1200

Email: kris.alberga@dec.ny.gov

Project Location: Essex Chain Complex

Project Description: Treat one, 0.04 acre patch of common reed grass (*Phragmites australis*) located along an abandoned trail leading to Eighth Lake in the Essex Chain Lakes Complex. The control method selected is to apply a treatment of a glyphosate based herbicide in accordance with the "Inter-Agency Guidelines for Implementing Best Management Practices for the Control of Terrestrial and Aquatic Invasive Species on DEC Administered Lands in the Adirondack Park." A combination of foliar spray and stem injection treatments of glyphosate will be utilized.

Type of Notice: Control of *Phragmites australis* (common reed) in the Pharaoh Lake Wilderness Area

DEC Region: 5

County: Essex

Town: Schroon

Lead Agency: NYS Department of Environmental Conservation

Project Title: Control of *Phragmites australis* in Pharaoh Lake Wilderness Area

Contact Person: Kris Alberga

Address: 1115 State Rt 86 - Ray Brook, NY

Phone Number: 518-897-1200

system. Both involved structures are greater than 0.4± miles from Bear Cub Lane and are not visible from public roads.

Land Use Classification: Resource Management

Lake George Park Commission Notice of Availability for Review

County: Washington

Applicant: Vincent Beatty, 425 Overhill Road, South Orange, NJ 07079

Office: Lake George Park Commission (LPGC)

Box 749

Lake George, NY 12845

LPGC Contact: Joe Thouin

Application Number: 5346-12-16

Application Type: SW2 Major, Stormwater Management

Location: 4425 Link Way, Town of Putnam

Project Description: Residential redevelopment with erosion and stormwater controls.

Notice of Acceptance of Final Supplemental EIS

Saratoga County - The Town Board - Town of Malta, as lead agency, has accepted a Final Supplemental Environmental Impact Statement to the proposed Malta Town-Wide Generic Environmental Impact Statement. The proposed project is the evaluation of cumulative impacts of potential growth on the Town's transportation system, agricultural and open space resources, recreation facilities, and utilities. The document is Supplemental EIS to the Town's 2005 Town Wide Generic EIS (TWGEIS) and focuses on just those resources and changes that have occurred since the issuance of the 2005 TWGEIS. The Supplemental GEIS provides an update to the growth projections, examines those resource areas impacted by growth (not previously examined) and explores any mitigation measures to avoid or minimize adverse impacts on the town's natural and built environment.

A hard copy of the Final Supplemental EIS is available at Town Hall, Town Clerk's Office and Planning Office, 2540 State Route 9, Malta, NY. An on-line version is available at the following publically accessible web site: <http://malta-town.org/> . The project is located in Town of Malta, NY.

Contact: Vincent DeLucia, Town of Malta, 2540 Route 9, Malta, NY 12020; Phone: (518)899-3434, Fax: (518)899-3207, E-mail: vdelucia@malta-town.org

Negative Declaration

Warren County - The Village of Lake George Board of Trustees, as lead agency, has determined that the proposed Village of Lake George POTW Improvement Project will not have a significant adverse environmental impact. The Board of Trustees of the Village of Lake George has reviewed Parts I and II of the EAF relative to the upgrades to its publicly owned treatment works (POTW)/sewage treatment plant as more particularly described in section 7, proposed project, of the "Village of Lake George Evaluation and Treatment Plant Upgrade Project" prepared by AES Northeast last revised November

13, 2015. The project is being undertaken in accordance with DEC Order on Consent R5-20140530-2120 and New York State EFC Project Number 5571-4-00. The Board of Trustees has taken a hard look at the potential environmental impacts and has determined that the proposed project will not have the potential for one or more environmental impacts. The project is located Village of Lake George, NY.

Contact: Robert M. Blais, PO Box 791, Lake George, NY 12845; Phone: (518)668-5772.
