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## Memorandum

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**To:** Town of Philipstown Planning Board  
**From:** AKRF, Inc.  
Ronald J. Gainer, PE, PLLC, Town Engineer  
**Date:** November 23, 2021  
**Re:** Hudson Highlands Reserve Conservation Subdivision FEIS – 2nd Review  
**cc:** Stephen Gaba, Cheryl Rockett, HHR Applicant Team

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At the November 18, 2021 meeting of the Town of Philipstown Planning Board, AKRF, Inc. (AKRF) and Town Engineer Ron Gainer (RJG) indicated that comments were forthcoming on the revised (resubmitted November 9th – 16th, 2021) Final Environmental Impact Statement (“FEIS”) for the proposed Hudson Highlands Reserve Conservation Subdivision. Those comments are included herein.

*FEIS RESPONSE TO DEIS COMMENTS (REVISED BY APPLICANT)*

All of the itemized comments included in the September 15, 2021 memo from AKRF and RJG on the FEIS section entitled “Response to Comments” are included below in *italicized* text. Follow-up comments, based on AKRF and RJG’s review of the Applicant’s redlined FEIS submission received on November 9, 2021, are shown in **bold** text.

**AKRF has reviewed the Applicant’s revised FEIS Appendices A and B submitted on November 15, 2021, along with the Applicant’s itemized response to AKRF’s October 5, 2021 memorandum on those two appendices. These appendices contain the written comments received on the DEIS and the DEIS hearing transcript, both marked up to indicate where a response has been provided in the FEIS. The revised Appendices A and B are acceptable, and AKRF offers no additional comments.**

**As discussed during the November 18, 2021 Planning Board meeting, all references to, and discussion on potential impacts of, the “alternate road layout” (i.e. East Mountain Road North access), should be removed from the FEIS.**

**As directed by the Planning Board during the November 18, 2021 meeting, AKRF communicated separately with the Applicant on November 19, 2021 to discuss the remaining voice issues throughout the entire FEIS document. The guidance provided during those discussions should be applied to the next submission.**

*Executive Summary*

1. *The substance of the comments have been sufficiently addressed through the FEIS.*

**Comment noted by the Applicant. As communicated with the Applicant on November 19, 2021, all text of the FEIS should be reviewed and revised for issues of voice.**

*Description of the Proposed Action*

2. *The first sentence of Response 2.6 (Farrell) should be revised to read “It is expected that future homebuyers would be a mix of residents new to Philipstown, and current Philipstown residents looking for new housing.” By adding this statement up front in the response, the third sentence can be removed. In addition, by assuming there would be some current Philipstown residents buying homes in the subdivision, the statement provided in Response 2.31 that “units would be marketed as seasonal or second homes” does not appear consistent.*

**Comment has been addressed.**

3. *Response 2.7 (Rae) should be softened to simply state that the Applicant is a homeowner in the Town of Philipstown and that it is common practice to place development projects in their own LLC to isolate liability from other holdings.*

**The response provided still presents unnecessary statements. To address issues of voice, the response should read as follows: “Ulises Liceaga, the Project Sponsor, is a homeowner in the Town of Philipstown. It is common practice to place development projects in their own LLC to isolate any liability from other holdings. The Equestrian Center has been removed as an element of the proposed action.”**

4. *The column headings of Table 6, provided as part of Response 2.8, should be revised as follows:*
  - a. *“Existing” should be changed to “Existing Conditions”*
  - b. *“Change during Original Proposal” should be changed to “Change based on DEIS Plan”*
  - c. *“Original Proposal Total” should be changed to “DEIS Plan Total”*
  - d. *“Modified during SEQRA Review” should be changed to “Change between DEIS and FEIS”*
  - e. *“Modified Proposal” should be changed to “FEIS Plan Total”*

**Comment has been addressed.**

5. *The column headings of Table 7, provided as part of Response 2.8, should be revised as follows:*
  - a. *“Existing” should be changed to “Existing Conditions”*
  - b. *“Change during Original Proposal” should be changed to “Change based on DEIS Plan”*
  - c. *“Total as Original Proposal” should be changed to “DEIS Plan Total”*
  - d. *“Modified during SEQRA Review” should be changed to “Change between DEIS and FEIS”*
  - e. *“Total-Modified Proposal” should be changed to “FEIS Plan Total”*

**Comment has been addressed.**

6. *Response 2.15 (Conner) states that without a detailed design for each structure, an estimate on annual energy consumption cannot be made, citing calculations that would be needed based on floor area, location, wall and roof insulation types, glazing specifications and equipment. However, the commenter asked for estimated annual energy consumption for both existing and proposed structures. General estimates should be provided for the existing structures if at all possible. Furthermore, if the Applicant is able to provide an example comparison of energy consumption between a 3,000-square-foot LEED Platinum home in the Hudson Valley compared to an average home's energy consumption, it would support the statement that a 50-60 percent reduction is anticipated.*

**Comment has been addressed based on best available information. A reference to the U.S. Green Building Council literature has been provided, and the anticipated reduction in energy has been revised to between 20 and 60 percent rather than 50 to 60 percent.**

7. *Responses 2.17 to 2.20 (Scenic Hudson, Audobon, Schuster) should be accompanied by a new figure (perhaps named Figure 1B) that overlays the DEIS plan lot/roadway geometry against the FEIS plan, so that the changes made with the intention to improve habitat connectivity on the overall parcel can be clearly presented. Alternatively, Figure 1 can be updated to show the DEIS plan side-by-side with the currently shown FEIS plan. Specific changes cited to improve conditions include reduced homes around Ulmar Pond, increased buffering between lot lines and Ulmar Pond, as well as the removal of the equestrian center structure and associated parking.*

**The graphics have been updated as requested. These responses still require modifications to improve voice.**

8. *Response 2.23 (Deneher) indicates that homes listed on Airbnb are “not permitted in the RR Zoning District or anywhere in the Town of Philipstown.” It is more likely that the Town’s RR district regulations as currently written pre-date the existence of the Airbnb service/concept. A better response would be to cite the Town Code’s regulations regarding “vacation rentals,” which is a more universally known term. Specific references from the Town Code on vacation rentals should be provided, if any. Alternatively, the Applicant can specify if such arrangements would be permitted or not by the HOA rules, because based on recent internet searches, there are currently active Airbnb listings for homes within the geographic border of Philipstown, including two in Garrison.*

**Comment has been addressed.**

9. *Response 2.24 (Gainer): It was acknowledged in the prior comments offered that as the design and layout of the project plans evolved, the analysis of “constrained lands” should again be reviewed to establish with finality the permitted density for the overall tract. The difference between the applicant’s density calculations and those of the Town’s consultant will be resolved later in the Board’s review process.*

**The comment on Response 2.24 has been addressed.**

**Within Response 2.25 (also responding to Gainer), AKRF has previously provided guidance to the Applicant team on how this response can be revised to address issues of voice. The consecutive sentences written as “When the petition is granted, the density would be assignable...If not, Mr. Gainer would be correct...” should be deleted.**

**Within Response 2.33 (also responding to Gainer), it is recommended that the first paragraph of the response be deleted, and the start of the 2nd paragraph can be re-written to say: “This section of the Code allows a variety of lot sizes, while not mandating consideration of only the smallest of lots, or ‘hamlet’ size.” The balance of the 2nd paragraph can then remain.**

10. Response 2.29 (Hammond) – The response given would benefit by reference to a layout plan illustrating the point being made.

**Comment has been addressed.**

11. Response 2.31 (AKRF) states that units would be “marketed as seasonal or second homes,” which is not consistent with the assumption made in Response 2.6, which states that it is possible some existing Philipstown residents would relocate to the project. AKRF understands that from the onset of review of this application, the assumption of year-round occupancy was conservatively applied to areas such as school aged children, traffic and water usage.

**Comment has been addressed.**

12. Response 2.83 (Gainer) – The Applicant’s plan to sprinkler all residential housing is beneficial and to be commended. However, the local Fire Department often still seeks access to nearby, or in this case, on-site ponds to draft water using suction hydrants for fire fighting purposes. This matter will again be reviewed with the North Highlands Engine Company as the application is processed, and all of their recommendations should be considered to the extent possible.

**RJG is requesting that the 2nd paragraph of the response be re-written as follows:**

**“It is recognized that fire departments in rural areas often seek to have suction hydrants placed in local ponds and lakes for fire-fighting purposes. As Ulmar Pond is lower than most of the lots and roadways in the planned development, installation of the equipment along the pond’s edge would require construction of a roadway and related infrastructure in order to make the hydrant functional. Throughout the project’s layout and design, mitigation measures have been identified to protect the pond from the potential adverse impacts of the project’s development, and so disturbances in the immediate area of the pond have been avoided. However, this matter will again be referred to the North Highland Engine Company for further review. If such a suction hydrant is included in their recommendations, the potential negative effects of these disturbances on the condition of the pond will be considered and mitigated as appropriate.”**

13. Response 2.82 (Gainer) – The 50 scale plans offer much clearer understanding of the sanitary sewer components with lot 23 (formerly lot 21). Why are these “community” facilities concentrated within the lot, as opposed to re-configuring the lot’s boundaries so that they lie within HOA property? Further, given their location, and need for occasional inspection/monitoring, a vehicular driveway should be identified on plan to illustrate the practicality of this location.

**Comment has been addressed.**

14. Response 2.85 (Gainer)– The response offered suggests the possibility of utilizing East Mountain Road North as the main access for the overall project, even though the narrowness and geometry of the roadway previously determined this to be infeasible. Nevertheless, since this is now being given consideration in the FEIS, the applicant should explain in detail what improvements to the Town roadway would become necessary in order to make this alternative viable. This would likely include widening of the roadway, vegetative/tree removals along the road as necessary, and turn lanes and/or a traffic light at the Route 9 intersection.

**As discussed during the November 18, 2021 Planning Board meeting, all references to, and discussion on potential impacts of, the “alternate road layout” (i.e. East Mountain Road North access), should be removed from the FEIS.**

15. *Response 2.86 (Gainer)– It appears that the applicant is planning to re-configure the present access to the Ulmar House as a driveway serving only this lot. If so, the text should be made clear. This would require removing/abandoning the present path beyond the Ulmar house. In addition, it should be noted that “the Applicant/Project Sponsor chose” is more appropriate phrasing for an FEIS document than “We chose.”*

**Comment has been addressed.**

16. *Response 2.87 (NYSDOT) should be expanded to provide any additional correspondence that has occurred with NYSDOT as part of the permit application process since the DEIS hearing was held. As an Involved Agency in the review, NYSDOT will be required to issue findings under SEQRA. Therefore any comments or concerns NYSDOT has at this stage warrant a thorough response in the FEIS. For example, if responses were provided to NYSDOT’s five required items for permitting identified in their July 26, 2019 letter, those should be provided for the Planning Board’s review as part of the FEIS record.*

**No revisions were made regarding any additional correspondence with NYSDOT since the DEIS hearing. Based on the FEIS as currently written, the Applicant/Project Sponsor is confident that all NYSDOT concerns would be addressed between the conclusion of the SEQRA process and issuance of a Highway Work Permit necessary to provide access from Route 9.**

17. *Response 2.89 (AKRF) – This response discusses the need for emergency access to the adjacent Town roadways if the Route 9 access planned is approved by NYS DOT. However, the northerly “emergency access road” described would utilize the driveway to the former Frisenda house to access East Mountain Road North. The text should also explain the need for improving/maintaining access between the present driveway limits and the planned terminus of the interior project roadways, so that this emergency access would be viable.*

**Comment has been addressed.**

18. *Response 2.92 (Gainer) – The response provides a written summary of the individual construction phases planned for the project, including a very small-scale plan. To better illustrate this outline, this could be made clearer by illustrating the various construction phases on the site utility plans (sheets 8 & 9) included in the rear of the FEIS.*

**RJG offers the following comments/questions on the portion of this response outlining the construction sequencing for the project:**

**The “Pre-Construction” item (1e) should also include a representative from NYSDOT.**

**As the model home is proposed to be constructed in Phase 2 and presumably marketing of the overall project would subsequently begin, wouldn’t it be necessary to complete the Route 9 access in order for the public to enter the project (this work is currently identified as being in “Phase 5”)? The issue of public access into the site should be discussed, so that the timing and scope of each phase is understood.**

**While the model home would be constructed in Phase 2, the phasing plan specifies that the common septic area will not be constructed until Phase 4. However, development through Phase 3 will include roadways on which multiple lots front. How will the marketing for, and construction of, these homes within the first 3 phases be controlled in the interim?**

19. *Response 2.93 (Gainer) - Disturbances of the project's infrastructure (roadways, utility extensions, SSTS disposal areas) will be monitored by both the Applicant's and Town representatives as the site is developed, and so reasonable oversight will be employed to supervise these activities. However, Significant oversight will be also be required to assure that the identified limits of disturbance within individual lots are not exceeded. This is not within the duties of the Town Building Department to monitor or control. The applicant must develop a workable plan of on-site inspections during the development of the individual lots to assure that these limits, too, are complied with. Reliance on the HOA to perform this oversight does not seem practical.*

**The response has been revised to indicate how architectural and site disturbance inspections would be carried out by the HOA until 60 days after a home is completed. The response also indicates that the Applicant is prepared to hire a third-party surveyor to confirm individual lot limits are complied with. Formation of the HOA could be a condition of approval imposed by the Planning Board. AKRF and RJG defer to the Planning Board Attorney on the appropriateness of such a condition.**

20. *Response 2.96 (AKRF) and Figure 6 provides a cut and fill summary for what appears to be the FEIS plan. However, the numbers in the figure are not consistent with the text of Response 2.96 or the DEIS to FEIS plan comparison table earlier in the document (Table 1). This should be reconciled for the final version of the FEIS.*

**Comment has been addressed.**

21. *Response 2.101 (AKRF) describes the applicability of Town Code Section 175-36 (Steep terrain and ridgeline protection regulations) to the areas of the currently proposed entrance from Route 9 that would be constructed on land exceeding slopes of 35 percent. While Section 175-36 B(1) permits "streets" that are "clearly needed" as a permitted disturbance of slopes greater than 20 percent, the response provided in the FEIS offers the Lead Agency the option of "instructing the Project Sponsor to utilize East Mountain Road as the primary entry point." In considering the alternative presented in the FEIS, which utilizes East Mountain Road North as the primary access to the project, the Planning Board would need to weight the potential benefits (less disturbance to the steep area along Route 9 and less overall disturbance across the site) against the potential impacts (routing of all residential traffic for the project on East Mountain Road North). As noted in Comment 14 above, while it can be assumed the elimination of the equestrian center reduces the overall trip generation of the project, the Planning Board would need to fully understand the potential traffic impacts of utilizing East Mountain Road North for access, including any sight distance issues, turning movement delays onto Route 9, etc.*

**As discussed during the November 18, 2021 Planning Board meeting, all references to, and discussion on potential impacts of, the "alternate road layout" (i.e. East Mountain Road North access), should be removed from the FEIS.**

#### *Water Resources*

22. *Note: According to the FEIS, comments/responses 3A.1 through 3A.28 correspond to the topic of water resources. However, there is an error in numbering as 3A.21 has been omitted from the sequence. The numbering of these comments and responses should be revised prior to finalization of the FEIS.*

**Comment has been addressed.**

23. *Response 3A.1 to 3A.4 (Gainer) - The responses to the concerns raised all refer to a "Preliminary Stormwater Pollution Prevention Plan" (SWPPP) which is intended to address the concerns raised over the project's stormwater design. However, this document has not be provided for review. These statements cannot be verified without submission of the SWPPP for the Town's review and acceptance.*

**RJG's review of the SWPPP is ongoing. The project plans do illustrate stormwater mitigation for the overall project (stormwater/bio-retention basins, rain gardens, etc.), the detailed design of which will be evaluated as part of the overall detailed plan review that will be performed subsequent to the SEQRA process.**

24. *Response 3A.10 (AKRF) states that "It is anticipated that the HOA will contract a professional lake management firm that will conduct baseline testing before a management strategy is developed." The Applicant/HOA should be required to engage a firm to develop and implement a management strategy that requires regular testing and maintenance of Ulmar Pond. AKRF defers to the Planning Board Attorney regarding the legal mechanism which would ensure this takes place should the project be approved.*

**The response has been revised to indicate that the HOA's engagement of a lake management firm to develop and implement a management program for the pond could be a condition of approval imposed by the Planning Board. AKRF and RJG defer to the Planning Board Attorney on the appropriateness of such a condition.**

25. *Responses 3A.12 and 3A.13 (Conservation Board) should be revised as follows: "The Applicant/Project Sponsor agrees that baseline conditions for Ulmar Pond and Clove Creek should be established prior to construction, and both resources would be routinely monitored/inspected by the Town while construction is in progress nearby to ensure that erosion and sedimentation controls are effective. Following construction of the project, the HOA would retain a professional pond management firm to conduct baseline testing of Ulmar Pond before a pond management strategy is developed and implemented for the operational life of the project. Should the project be approved, since construction may not begin for many months following such approval, the request of the commenter for establishing baseline conditions at Ulmar Pond within 30 days of approval would not prove useful."*

**Comment has been addressed.**

26. *Response 3A.15 (HHLT): The first sentence of the 2nd paragraph in this response should be revised to read: "The Applicant and the commenter have differing opinions on what page 33/ Figure 2B of the referenced 1998 Lathrop paper conclude regarding buffers from surface waters." In addition, the first two sentences of the third paragraph of this response should be deleted.*

**The additional sentence recommended was included, however the overall response still contains issues related to voice.**

27. *Response 3A.16 (HHLT) should be revised to be consistent with the recommended revisions for Responses 3A.12 and 3A.13 above.*

**Comment has been addressed.**

28. *Responses 3A.20, 3A.22, and 3A.23 (Hammond) related to the methodology for calculating residential water demand and groundwater recharge is deferred to the Town Engineer for review and comment.*

**RJG has reviewed the water demand and groundwater recharge calculations provided through these responses and has no further comments.**

29. *Response 3A.25 (AKRF): The vernal pool report contained in Appendix D of the FEIS indicates that "The hillside wetland is fed by seeps and surface water..." This again raises the question of their connectivity to previously delineated surface waters and thus their potential to be regulated. The Town could consider requesting that the Natural Resource Officer / Wetlands Inspector visit the project site to determine whether these seeps are hydrologically connected to the delineated wetlands and, if they are, either delineate them or request they be delineated.*

**Comment has been partially addressed. For ease of reference, the Applicant should indicate in this response if the Town's Natural Resources Officer / Wetland Inspector visited the project site and, if a site visit was made, then document the date and the outcome.**

30. *Response 3A.28 (Ertl): The first sentence of this response should be revised to read "The wetlands protection legislation cited by the commenter, which would have extended NYS protection to wetlands of one acre or more, failed to pass." The second sentence of this response should be revised to read "The watercourse protection legislation cited by the commenter, which would have extended NYS protection to Class C streams,..." The Applicant should confirm the status of this legislation.*

**Comment has been addressed.**

#### *Vegetation and Wildlife*

31. *General comment: Since it has been more than one year since the initial review of the DEIS and the FEIS does not include updates to natural resources database searches, the project sponsor should provide the latest information obtained from the NYSDEC EAF Mapper, NYSDEC Hudson Valley Natural Resource Mapper, NYS Natural Heritage Program (as appropriate), and the U.S. Fish and Wildlife Service IPaC for the project site. Details of the resources identified in these databases should be included in the FEIS.*

**This comment remains outstanding. The Applicant should provide information from the noted sources and document the resources identified.**

32. *Response 3B.2 (AKRF): The last sentence should be reviewed and rewritten to be clearer. As written, it seems to indicate that, for their preservation, the existing home and barn are located in a "high conservation value" area.*

**Comment has been addressed.**

33. *Response 3B.5 (AKRF): Figure 10: Location of Talus Slope, should be revised to include the project boundary for reference.*

**Comment has been addressed.**

34. *Response 3B.6 (AKRF): The first sentence under the second bullet "Improve water quality and enhance wildlife habitat at Umlar Pond:" should be revised to read "Native emergent wetland plants and nectaring plants..."*

**Comment has been addressed.**

35. *Response 3B.8 (AKRF): We repeat the portion of the comment that "The Town could consider enlisting the services of an independent ecological consultant to verify the ecological community types onsite, particularly within the footprint of proposed disturbance." Alternatively, the Town's Conservation Board and/or Natural Resource Officer / Wetlands Inspector could be asked to assess the area within the limit of disturbance if this is within their expertise and is under their purview.*

**The description of the communities presented in the DEIS and FEIS appear to be accurate based on a cursory review of publicly available aerial imagery. As a condition of approval, the Planning Board can require that the Applicant implement the methods for treating the noted invasive species set forth in their response. The overall response still contains issues related to voice.**

36. *Response 3B.10 (AKRF) should be revised by removing the first sentence and beginning the second sentence with "The DEIS (p.106) states that the loss of habitat..."*

**Comment has been addressed.**

37. *Response 3B.11 (AKRF): The last sentence in the first paragraph should be revised by adding the word "native" between "...variety of..." and "...plants, shrub and tress..."*

*The response should include a comparison of the current development program limit of disturbance (LOD) and the LOD used for the earlier assessment of habitats and natural resources by providing a description of (and graphic depicting as appropriate) the areas where the current plan extends beyond the bounds of the previous plan. If the current plan lies entirely within the LOD of the plan used for the assessment, then this should be stated.*

**Comment has been addressed.**

38. *Response 3B.12 (AKRF): The first sentence of the response indicates that "...figures have been revisited to correct any inconsistencies..." The project sponsor should indicate where corrected figures are located.*

*The second sentence of the second paragraph, "While it is true that some individual owners may disregard the rules of the HOA, it is not reasonable to assume that all lot owners will therefore clear to their lot lines." should be deleted from the response.*

*The project sponsor should define what is meant by "...infrastructure to support the use and enjoyment of homes."*

*The project sponsor should also provide an explanation of how the anticipated disturbance per lot presented in Table 12 was set.*

*The second sentence in the paragraph following Table 12 should be revised to read, "The project sponsor considered that the lots will not have individual septic systems which normally contributes substantially to the disturbance on an individual lot."*

**Comment has been addressed.**

39. *Response 3B.16 (AKRF): Since it is not possible to determine which year(s) a timber rattlesnake might use the project site, it is recommended that the project sponsor either implement the Mitigation Recommendations of NYSDEC's "Guidelines for Reviewing Projects for Potential Impacts to the Timber Rattlesnake" for the protection of timber rattlesnakes during construction of the proposed project or provide written confirmation from the NYSDEC that such mitigation is not required for this project site.*

**The comment stands.**

**The Applicant should remove the following sentence "Given the low probability of even a single rattlesnake being present on the property during construction, there is no need for mitigation as suggested."**

**Given there is the chance for timber rattlesnake use of the project site, the newly added last sentence of the response should be replaced with "Mitigation Recommendations of NYSDEC's 'Guidelines for Reviewing Projects for Potential Impacts to the Timber Rattlesnake' for the protection of timber rattlesnakes during construction will be implemented." As the SEQR review continues, the Applicant should initiate coordinate with the NYSDEC to determine if the Department will require that the protection measures be implemented. As a result of this coordination, should the NYSDEC indicate implementation of the protection measures is not needed, the requirement to do so can be lifted. All correspondence and communication with the NYSDEC will be shared with the Planning Board.**

40. *Response 3B.17 (AKRF): The project sponsor should confirm the dates of the winter tree clearing window for protection of the Indiana bat.*

**Comment has been addressed.**

41. *Response 3B.18 (AKRF): The comment is specific to forest-interior bird species. Impact to these species due to encroachment into/loss of their habitat cannot be offset by landscaping, even with the planting of native trees and shrubs as this will not replace the habitat disturbed/lost. That said the project sponsor indicates that "...elimination of habitat will be an unavoidable environmental impact as a result of construction..." The third sentence of the second paragraph should be revised to read, "Without significant adverse impacts to the forest interior, and construction limited to the forest edge, forest-interior wildlife would not be significantly adversely affected."*

**Comment has been addressed.**

42. *Response 3B.19 (AKRF): The response provided does not address all species noted in the comment. The project sponsor should add input on eastern box turtle, wood turtle, and red shouldered hawk to the response. Additionally, the following sentence should be replaced with language referring to the definition of a cluster development and indicating how this project conforms, or not, to that definition. The last two sentences should remain.*

**The Applicant has included reference to other responses where the species in question were addressed. This response should indicate which referred to responses apply to which of the noted species. For example, "Refer to response(s) XB.XX for further assessment of the red-shouldered hawk." This should be done for each species not addressed within this response.**

**Responses 3B.24, 3B.25, and 3B.34 do not specifically address any of the species noted in comment 3B.19; these references should be removed or a note should be added indicating that these responses are included because they discuss habitat related issues in general.**

**The previous AKRF comment did not include the sentence to be replaced. The comment should have read: "...Additionally, the following sentence should be replaced with language referring to the definition of a cluster development and indicating how this project conforms, or not, to that definition. "Contrary to the commenter's statement, the proposed layout is a true cluster development, setting aside 76% of the project site as undisturbed open space." The response should include language addressing this portion of the comment.**

**This response should be revised to address voice issues.**

43. *Response 3B.21 (Conservation Board): The proposed homes in the area of the removed equestrian center appear to extend development /disturbance as far as if not beyond the disturbance proposed under the development program assessed in the DEIS. The project sponsor should describe the difference in the areas of impact and how this provides a sufficient corridor for wildlife movement.*

**This comment has been addressed.**

**For clarity, revise the table to read "Distance Between Wetland Buffer and Nearest Proposed".**

**For accuracy and voice, revise the last sentence of the first paragraph to read, "The number of homes on the west side of Ulmar Pond has been reduced to three in the revised proposed plan to further limit potential impacts to wildlife movement. In the Applicant's opinion any impacts that may remain would not be significant."**

**For accuracy and voice, revise the second sentence of the second paragraph to eliminate "wide" and read, "Homes are now proposed in the area previously proposed for the Equestrian Center, but have been placed to allow for a corridor surrounding the preserved watercourse/wetland system draining to Ulmar Pond."**

**For voice, revise the remainder of the second paragraph to read, "The stream, wetlands, and wetlands buffer in this area were not proposed to be disturbed under previous versions of the proposed project. This is also the case with the proposed layout presented in this FEIS."**

**Compared with the plan in the DEIS, there is an increase in separation between the wetlands buffer and a corresponding widening of the wildlife corridor being preserved.”**

44. *Response 3B.23 (HHLT): This response should include discussion of available off-site habitat that is contiguous to that on the project site and that can provide habitat of the species noted.*

**This comment has been addressed.**

**For accuracy, “The last sentence of the first paragraph should read, “The preserved open space at Hudson Highlands Reserve will protect habitat used by both bird species present on the project site.”**

45. *Response 3B.24 (HHLT): This response should 1) refer to the response to 3B.23 and 2) be rewritten so it is in the voice of the Planning Board. Descriptions like “every square foot” and “every inch” should be removed. For ease of reference, the project sponsor should provide description here and elsewhere in the FEIS of the location of the “...most valuable identifiable wildlife corridors...” and indicate why they are considered as such.*

**The first sentence should read “See Response 3B.23 for discussion of the red-shouldered hawk.”**

**The Applicant identifies drainage pathways as the “...most valuable identifiable wildlife corridors...” The specifics of this corridor as it exists on the project site should be included in the response. If valuable wildlife corridors are present on the project site, then they should also be identified. The Applicant should document why each identified corridor is considered to be “most valuable.”**

**The overall response still contains issues related to voice.**

46. *Response 3B.25 (HHLT): The project sponsor should discuss why the houses are sited on the east side of Reserve Road and the Proposed Common SSTS Area on the west. Wildlife movement to the east of the road between the road and the toe of slope further east would be less restricted if the use’s locations were to be swapped.*

*The third paragraph should be revised as the introduction of a road/cul-de-sac houses, yards, possible pets, and associated human use will be a new barrier to wildlife and will impeded movement. The last sentence should be stricken from the response.*

**This comment has been partially addressed.**

**The last sentence of the third paragraph should be revised to read “These additional modifications to the project and the preservation of the stream/wetland wildlife corridor between Ulmar Pond and Clove Creek have been implemented to reduce potential impacts to wildlife movement in the area to the maximum extent practicable. In the Applicant’s opinion any impacts that may remain would not be significant.”**

47. *Response 3B.27 (HHLT): Refer to comments on 3B.24 and 25 and revise this response accordingly.*

**Comment has been addressed.**

48. *Response 3B.28 (HHLT): To address the issue of voice, the first sentence should be revised to read, “The presence of salamanders is acknowledged in Appendix C of the DEIS.” And the third sentence should be revised to read, “The presence of other less common species, while not observed, has been presumed, and was considered in designing the layout and choosing the land to be set aside under permanent preservation.”*

**Comment has been addressed.**

49. *Response 3B.29 (HHLT): This response should be revised to address the issue of voice.*

**The comment has not been addressed. This response should be revised to address voice issues – “While it is not disputed...” “...far removed...” etc.**

50. *Response 3B.30 (HHLT): To address the issue of voice, the second sentence of the response should be revised to read, “There is the probability that it hunts the open field habitats and lowlands near the pond. An individual was observed during multiple site investigations flying over the less fragmented forested areas to the east (to the east of what?) that are proposed for permanent preservation. Additionally, “at least”, this could be replaced with a range, and “also” should be removed from the third sentence.*

**The comment has been partially addressed.**

**This response should be revised to address voice issues – “While it is not disputed...” “...far removed...” etc. The revisions did not include removal of “...at least...” in the second to last sentence. The last sentence should replace “...would also...” with “may.”**

51. *Response 3B.31 (HHLT): This response should be revised to address the issue of voice.*

**Comment has been partially addressed. Voice can still be improved. The first two sentences can be deleted. The response can start with the sentence “The carapace of a box turtle was found....”**

52. *Response 3B.32 (HHLT): The third sentence should be revised to replace “large” with the acreage to be preserved. There should be language added acknowledging impact to habitat used by the hognose snake and eastern worm snake.*

**This comment has not been addressed.**

53. *Response 3B.33 (HHLT): The accuracy of the following sentence, specifically the text in italics, should be confirmed, “The proposed plan as stated in the DEIS to landscape each developed site with native shrubs and trees would create more nesting habitat and minimize habitat impact not only for the wood thrush but also for other species known to nest in this type of habitat. From the literature, it is unclear that planting native trees and shrubs within and residential development provides more nesting habitat. This statement seems to indicate that the project will result in more nesting habitat than exists predevelopment.*

**This comment has been addressed.**

54. *Response 3B.34 (HHLT): In the first sentence of the second paragraph, text should be added to indicate by what the stream/wetland system and uplands to the east is bifurcated. The second sentence of that paragraph should be revised to remove “possibly”. The project sponsor should also indicate from where the conclusion that “...it is very clear that wildlife, including turtles and amphibians, are not likely to choose to climb 120 feet of elevational difference (about equivalent to a 12-story building) on a steep 76% slope (the maximum grade allowed by Town Code for a road is 10%) as a “preferred” pathway...” originates. Additionally, in the last sentence, “at least” should be removed, this could be replaced with a range, and “zero” should be replaced with a more neutral descriptor.*

**This comment has been partially addressed. The following was not addressed: “The project sponsor should also indicate from where this conclusion originates: “...it is very clear that wildlife, including turtles and amphibians, are not likely to choose to climb 120 feet of elevational difference (about equivalent to a 12-story building) on a steep 76% slope (the maximum grade allowed by Town Code for a road is 10%) as a “preferred” pathway...”**

**This response should be revised to address voice issues – “Great care was taken...”, “...massive...”, etc. are not appropriate to include.**

55. *Response 3B.36 (Klemens): This response should be rewritten to be clearer and to indicate breeding for what species.*

**This comment was partially addressed.**

**The year of the wildlife observations and vegetation inventories should be added to the end of the following sentence: “As stated in the DEIS, wildlife observations and vegetation inventories were conducted during four site visits during a three-month period, May through July of [YEAR].”**

56. *Response 3B.37 (Klemens): This response should be revised to address the issue of voice.*

**This comment has not been fully addressed; voice issues still remain. The response and the entire document must be presented in the words and from the point of view of the Planning Board and its members. For example, the first two sentences should be removed and the remainder of the comment edited to remove commentary and to state facts only.**

57. *Response 3B.38 (Klemens): With regard to the use of steep slopes by wildlife in general, to avoid introducing impediments to movement across the relatively level area on which lots 15 to 19 are proposed and driving wildlife onto the relatively steep slope to the south, and understanding that all of the lots would be connected to the SSTS, the project sponsor should discuss why lots 15 through 19 are sited on the east side of Reserve Road and the Proposed Common SSTS Area is sited on the west. Wildlife movement to the east of Reserve Road, between the road and the toe of the steep slope to the east, would be less restricted if the locations of the lots and SSTS were swapped. Another alternative to the proposed development in this area would be to condense development and reduce the limit of disturbance by moving lots 15 through 19 further west, providing them access off the road on which lots 20 through 22 are sited. This alternative should be discussed in the FEIS. Additional comments on this response may follow.*

**This comment has not been addressed and significant voice issues remain.**

58. *Response 3B.39 (Klemens): To better understand the vernal pool habitats in the surrounding area and the potential for one or both of them to be the source of the observed wood frogs, the location of the off-site vernal pools should be discussed along with their distance from the project site and the existing, intervening land use(s).*

**Comment has been addressed.**

59. *Response 3B.40 (Klemens): Refer to the comment on Response 3B.39. Additionally, this response should be revised to address the issue of voice.*

**This comment has not been fully addressed; voice issues remain.**

**Regarding the new language added, the Applicant should indicate for which species suitable breeding habitat may be provided. The Applicant should also indicate if vernal pool species or their egg masses were observed in braided stream/wetland system or in the fringe areas of Ulmar Pond.**

60. *Response 3B.41 (Klemens): This response should be revised to address the issue of voice. Additionally, the statement “As specifically stated in the SEQOR Handbook, “EISs must be analytical and not encyclopedic.”” should be confirmed. Ensure the fourth edition of The SEQOR Handbook, dated 2020, is referenced.*

**This comment has not been addressed. Ensure the fourth edition of the Handbook (2020) is referenced. Voice issues remain in the overall response.**

61. *Response 3B.42 (Audubon): The statement “As noted in the previous response, EISs must not be encyclopedic.” should be confirmed. Ensure the fourth edition of The SEQR Handbook, dated 2020, is referenced. The third sentence of the last paragraph should be revised to replace “a robust” with “the existing” and add “that currently uses the area to be protected.”*

**This comment has not been fully addressed. The third sentence should be revised as noted.**

62. *Response 3B.43 and 44 (Audubon): The project sponsor should indicate how it is anticipated that the planting of native trees and shrubs in areas cleared of the existing habitat(s) will “...help to invigorate the adjacent forests...” and “...increase...habitat diversity...”*

**This comment has not been fully addressed.**

**In response 3B.43, the Applicant should cite literature/source(s) showing that the planting of native trees and shrubs in areas cleared of the existing habitat(s) will “...help to invigorate the adjacent forests...” or remove this language from the response.**

**In response 3B.43, regarding the new language added, the Applicant should cite literature/source(s) showing that “Invasive and non-native plants can be sinks for native insects...” or remove this language from the response.**

**In response 3B.43, all the new information provided should be tied back to birds, the main focus of the original comment.**

**In response 3B.43, the last sentence should be revised to as follows: “Additionally, the applicant expects that by establishing a HOA to enforce guidelines to manage/oversee environmental conditions, site biodiversity after project construction would be maintained.”**

63. *Response 3B.45 (Audubon): This response should include the dates of the tree clearing window for Indiana and northern long-eared bats.*

**The comment was partially addressed. The response should be revised to indicate that tree clearing would be conducted only during the most restrictive work window and the start and end dates of that window should be provided.**

64. *Response 3B.46 (Audubon): As noted previously, the project sponsor should provide the latest information obtained from the NYSDEC EAF Mapper, NYSDEC Hudson Valley Natural Resource Mapper, NYS Natural Heritage Program (as appropriate), and the U.S. Fish and Wildlife Service IPaC for the project site. If New England cottontail are identified on or adjacent to the project site, then further coordination with the NYSDEC will be required.*

**This comment was partially addressed. To address voice issues, at a minimum, the first sentence should be deleted.**

**As noted, a report generated by the U.S. Fish and Wildlife Service IPaC should be included in the FEIS. Since the NYSDEC ERM indicated that the site is in a location that contains “Rare Plants and Animals”, written correspondence from the NYS Natural Heritage Program should be included.**

65. *Response 3B.47 (Audubon): The project sponsor should include the date on which the wetland delineation was confirmed by the Town. Additionally, for ease of reference, any coordination with the NYSDEC and USACE should be restated here and/or in another appropriate response. Refer to Response 3A.25 for an additional comment on the seep(s) located on the project site.*

*The project sponsor should indicate from where the conclusion was drawn that “Wildlife use of the pond can be expected to continue unabated.”*

**This comment was partially addressed. The revised response does not include information related to coordination with the USACE. If the USACE visited the project site to determine jurisdiction of surface waters present, then the date of the visit and the results of the**

**inspection should be included. If the USACE was not invited to the project site to determine jurisdiction, then a reason should be given as to why not.**

**As noted previously, the project sponsor should indicate from where the conclusion was drawn that “Wildlife use of the pond can be expected to continue unabated.” A source supporting this statement should be cited.**

66. *Response 3B.50 (Chester): This response should be revised to include the approximate height and width of the proposed stone wall. The last sentence of the first paragraph should be replaced with an acknowledgement that existing habitat beyond the 140-foot preserved buffer will be altered and that this alteration along with the installation of the stone wall will change access to the Ulmar Pond. The following sentence should be removed from the response, “It is not intended to convert surfaces to lawn to any great extent.”*

**This comment was partially addressed. As noted, the last sentence of the first paragraph should be replaced with an acknowledgement that existing habitat beyond the 140-foot preserved buffer will be altered and that this alteration along with the installation of the stone wall will change access to the Ulmar Pond.**

**The response in its entirety should be revised to address issues of voice. For example, “...as the commenter may be assuming.” should be removed.**

67. *Response 3B.51 (Tashjian): Refer to our comment on Response 3B.33 and revise this response in a similar manner.*

**Comment has been addressed.**

68. *Response 3B.52 (Hammond): The project sponsor should indicate if toxic algae were identified or assumed to be present in Ulmar Pond. If not, then including statements about this type of algae seems irrelevant and should be removed from the response.*

*In the following sentence, the project sponsor should include the distance between the proposed SSTS and Ulmar Pond in place of the word “far” – “HHR’s plan is to have all homes in the development share a common sanitary disposal system which will be far from the pond.”*

**Comment has been addressed.**

69. *Response 3B.53 (Hammond): Similar to that provided for the Northern long-eared bat, information on what threatens the Indiana bat should also be included in this response.*

**The comment was not addressed. Similar to that provided for the Northern long-eared bat, information on what threatens the Indiana bat should also be included in this response.**

**Regarding the new language added, the response should be revised to indicate that tree clearing would be conducted only during the most restrictive work window and the start and end dates of that window should be provided.**

70. *Response 3B.54 (AKRF): This response should be revised to address the issue of voice. For example, the word “alleges” should be removed from the response. The response should clarify what is meant by “...the original proposal.”; is this the DEIS proposal or an early version of the project. Additionally, language should be added to the response indicating that, in addition to the unavoidable reduction in the habitat onsite, the proposed disturbance will introduce edge habitat further into the forested habitat and describe the potential impacts associated with this type of habitat alteration. Finally, the last paragraph which states it is unclear why parcel scale might be relevant and also includes a statement that the DEIS analysis satisfies parcel scale analyses should be revised.*

**This comment was partially addressed. There remain issues with voice. Two examples are the use of “appropriately” in the first sentence of the first paragraph and the use of “Clearly,**

any” to start the second sentence of the first paragraph. These should be removed from the response.

The following sentence is difficult to understand; it should be revised. “With loss that is not a uniform incursion from the current edge at all times, there will be an increase of the proportion of edge habitat.”

As stated previously, language should be added to the response documenting that the proposed disturbance will introduce edge habitat further into the forested habitat and describe the potential impacts associated with this type of habitat alteration.

71. *Response 3B.55 (AKRF): The project sponsor should indicate how forest canopy will be maintained over/within disturbed areas. The response should also indicate how the forest habitat impact and the introduction of new forest edge into the forest habitat that will result from the development can mitigate potential increases in nest parasitism. The inadvertent introduction of invasives during construction, including the carrying of invasive plant seeds onto the project site, and how this can result in their introduction and spread should also be included. In addition, potential impacts associated with increased exterior noise resulting from human activities should be provided; currently only interior noise is mentioned. Finally, more detail should be provided on the potential impacts of pet predation.*

**This comment was partially addressed.**

As noted previously, the first bullet in the response should also indicate how the forest habitat impact and the introduction of new forest edge resulting from the development can mitigate potential increases in nest parasitism. As stated in the first bullet, “Nest parasitism is often increased along forest edges...” This project introduces new forest edges (and possibly pets) with which come the potential for an increase in nest parasitism. Maintenance of the forest canopy to remain after development would not be expected to mitigate any increase in nest parasitism.

The Applicant should document how care will be taken to minimize the possibility of invasive seeds being brought onto the site during construction. Since it is unlikely the Applicant can guarantee that seeds will not be brought on site during construction, reference to invasive species management during and post construction should be documented.

The last sentence provided in the third bullet can be revised as follows: “Homeowners may spend time outside generating temporary noise, which is unavoidable and in the Applicant’s opinion, would not be significant. In addition to any stipulations on noise enforced by the HOA, the Town’s noise ordinance would be enforceable by the Town.”

As stated previously, more detail should be provided on the potential impacts of pet predation. Language was added regarding how to limit pet predation but not on its impacts. Additional language should be added documenting the impacts of pet predation. This should include the types of wildlife expected to be impacted, whether the impacts would be considered significant in the Applicant’s opinion, and, along with the language added on limiting pet predation, how other measures can be employed to reduce/offset impacts.

72. *Response 3B.56 (AKRF): Refer to comments on Response 3B.54. The project sponsor should include language in support of the statement “...that the area between HHR and Fahnestock is already compromised forest that is utilized primarily by wildlife species tolerant of proximity to human occupation.”*

**Language has been added that partially addresses this comment. The Applicant should cite a definition of “compromised forest”.**

To address issues of voice, at a minimum, the first sentence should be deleted/revised, the second sentence could be rewritten as noted below, “In fact” and “actually” should be deleted

from the third sentence, and the word “many” should be removed from these two sentences - “East Mountain Road South is surrounded by many homes with clearings as well.” and “Horton Road, the closest road to the HHR property and bordering the property, already has many homes and structures.” Additional revisions are needed to correct the voice of this response.

**Re-write the second sentence as follows: “The parcel scale analysis is addressed in Response 3B.54 and is based on all parcels held by the Project Sponsor; individual “tax parcels” that comprise the property are not considered separately.”**

**The fifth paragraph (new) should be revised for clarity and readability.**

73. *Response 3B.57 (AKRF): This response should be revised to include language specific to the presence of “Significant Natural Communities (SNC)”, specifically a “high quality occurrence” of the “Appalachian Oak-Hickory Forest” community and the “Chestnut Oak Forest” community.”*

**Language has been added that partially addresses this comment. The Applicant should include specific reference to the two SNCs noted in the comment and documented in the DEIS. In support of the new language added, a graphic should be provided depicting the SNC’s to help the reader understand their relationship and location with respect to the proposed development. If this graphic has been provided elsewhere, then reference to it should be included in this response.**

74. *Response 3B.59 (HHLT): Reference to the DEIS section IV A 1.c addresses floodplains on the project site. This response should include language regarding how the information on floodplains was used to assess the project for flooding in accordance with the first parameter in the Lathrop paper. The project sponsor should indicate where the soil conditions and steep slopes portions are addressed in the DEIS and how this information was tied back to the first parameter in Lathrop paper. The same type of connection between the DEIS information referenced in the response and the other four parameters in the Lathrop paper used to assess the project should be included in the response.*

*In support of the following sentence, the response should indicate the more recent research HHR used in assessing the project: “HHR based decisions ultimately on more recent research and site specific characteristics.” The project sponsor should confirm that the visibility issue section of the DEIS is IV Cb. In the last paragraph “...route 9” should be capitalized.*

**This comment has not been addressed.**

**Specifically, language to address the first paragraph was not added.**

**Regarding the new language provided that is to address the second paragraph of the comment above, it should be noted that the original comment on the DEIS and the above comment on the FEIS focus on habitat fragmentation and the 1998 Lathrop paper. The Applicant states that “HHR based decisions ultimately on more recent research and site-specific characteristics.” The more recent research upon which project related decisions were based and specific to habitat fragmentation should be documented/cited.**

**Voice still needs to be addressed. For example, language related to Applicant Team personnel and their experience should be removed.**

75. *Response 3B.60 (HHLT): In support of the following sentence, the response should indicate the more recent information and current technology HHR used: “As noted in Response 3B.59, though the Lathrop 1998 paper provided the outline of the DEIS analysis, more recent information has been used in the analysis and current technology was used.” The response should also document the best practices used to minimize negative effects of fragmentation. Additional comments on this response may follow.*

**This comment has been partially addressed.**

**In the new language provided, the Applicant states "...that HHR was designed in accordance with the principles recommended in the 2017 publication "Guidelines for managing wood thrush and scarlet tanager habitat in the Northeast and Mid-Atlantic regions" (Lambert, J. D., B. Leonardi, G. Winant, C. Harding, and L.Reitsma." The Applicant should provide specifics on how the Guidelines were incorporated into the design.**

**As noted above, the response should also document the best practices used to minimize negative effects of fragmentation.**

**An example of how to address the issue of voice, the first and possibly the second sentence of the last paragraph could be removed and the third sentence revised to start the paragraph without refence to the commenter.**

76. *Response 3B.61 (HHLT): Mention of the contribution of off-road vehicles to nest failures included in this response. The project sponsor should indicate if off-road vehicles are currently used on the project site and, if so, that this project will or will not prevent future use. This response should be revised to include discussion of the potential impact to the red-shouldered hawk that will result from the development of the proposed project.*

**This comment has been partially addressed.**

**This text in the second to last paragraph of the response, "...off-road vehicles will be prohibited and enforced ...", should be revised to clearly state what will be enforced.**

**The focus of this response as currently written is the benefits that would be derived from the project post-development. As noted in the comment above, "This response should be revised to include discussion of the potential impact to the red-shouldered hawk that will result from the development of the proposed project."**

77. *Response 3B.62 (HHLT): The project sponsor should include in this response reference(s) to the specific, updated methodologies used in the project assessment beyond mention of "...roads in the Sterling Forest study..." and "...recent guidelines..."*

**This comment was not addressed; there is no mention of the specific updated methodologies used.**

78. *Response 3B.63 (HHLT): Refer to the comment on Responses 3B.52 and 3B.59.*

**To supplement the new language, "These buffers are far in excess of the required buffer", and for ease of reference, the Applicant should indicate who requires the buffer and provide specifics related to the required buffer, including its distance from Ulmar Pond. Additionally, the text should indicate from where the recommendation noted in this new language "...which is a recommendation to improve water quality..." comes.**

79. *Response 3B.64 (HHLT): This response should be revised to address the issue of voice. Additional comments on this response may follow.*

**This comment has been addressed.**

80. *Response 3B.65 (Klemens): This response should be revised to address the issue of voice. Additional comments on this response may follow.*

**This comment has been partially addressed. The response requires additional revisions to address the issue of voice including removing the sentence "Obviously, that would be an extreme position."**

81. *Response 3B.66 (Klemens): This response should be revised to address the issue of voice. Additional comments on this response may follow.*

**This comment has been partially addressed; issues of voice remain.**

82. *Response 3B.67 (Klemens): This response should be revised to address the issue of voice. The project sponsor should include in this response language on the ecofriendly best practices that will be used on the project site.*

**This comment has been partially addressed; issues of voice remain in both old and new text including "...as the commenter himself noted,..."**

**The project sponsor should include in this response language on the ecofriendly best practices that will be used on the project site.**

**With regard to new language added, the Applicant should refer the reader to response 3B.68 where curb details are discussed in detail.**

83. *Response 3B.68 (Klemens): The project sponsor should indicate how forest canopy will be maintained over/within developed areas. Included in this response should be detailed language addressing the perforation versus fragmentation issue raised in the comment.*

**This comment should have been included in the previous comment on response 3B.67 which discusses forest canopy, fragmentation and perforation and not as part of Comment 3B.68.**

**This comment has been partially addressed in the revised 3B.67 response.**

**The project sponsor should indicate how forest canopy will be maintained over/within developed areas to further address the comment.**

**Additionally, while the commenter indicates that "Perforation maintains connections to adjacent habitats.", the following sentence in the comment is "The current development configuration for the reasons I have stated previously is not perforation, but fragmentation." The commenter does not state specifically that the impact from the proposed project would be considered perforation as seems to be indicated in the newly edited sentence, "All preserved areas will be interconnected to each other and to adjacent habitats, which is why, as the commenter himself noted, the impact from the proposed project would be considered perforation." This sentence should be revised.**

**The overall response has issues of voice including in the first sentence.**

84. *Response 3B.68 (Klemens): The project sponsor should revise this response to include language related to the potential impacts of the ecological traps listed in the comment, including but not limited to curbs, catch basins, drains, hydrodynamic separators, and how those impacts are to be addressed.*

**This comment is partially addressed. Language is provided on curbs. The Applicant should include language related to the potential impacts of the other ecological traps listed in the comment, including but not limited to catch basins, drains, hydrodynamic separators, and how those impacts are to be addressed to further address the comment.**

85. *Response 3B.69 (Audubon): This response should include language on how the permanent preservation of 159.5 acres can contribute to a green corridor.*

**This comment has been addressed. However, issues of voice remain and should be addressed.**

86. *Response 3B.70 (Scenic Hudson): Language specific to Hudson Highlands Significant Biodiversity Area and the Hudson Highlands Forest Block designation should be included in this response.*

**This comment has been partially addressed; issues of voice remain.**

**Further discussion of the measures taken to cluster the development and minimize its footprint through the SEQR process would benefit the reader and should be added.**

87. *Response 3B.71 (Gordon): Refer to the comment on Response 3B.68.*

**The comment has been partially addressed.**

**Distinction between perforation and fragmentation is not consistent throughout the FEIS. In response 3B.54 the two terms are conflated in a way that makes them interchangeable in this sentence: “Most of the previously proposed cul-de-sac and homes in the center of the property have been removed, reducing the level of fragmentation/perforation that will be an unavoidable impact of any development.” In certain responses the language indicates the proposed project will perforate and not fragment the forest. In others, the language discusses fragmentation and how the proposed project is designed to reduce it and related impacts. New text in this response states “In many instances, perforation is referred to as a type of fragmentation, though it is technically different because with perforation, all areas of intact habitat are connected.” Based on the above, for consistency, and to eliminate any confusion between the two terms, The FEIS should be revised to acknowledge, up front, that perforation is a type of fragmentation and use fragmentation or fragmentation/perforation throughout the document.**

**Additionally, the Applicant should indicate that the proposed project will result in fragmentation/perforation of the forest, that this is an impact and the impact has been mitigated by 123, and state here the measure(s).**

88. *Response 3B.72 (Hammond): The largest concern related to fragmentation expressed in the comments presented on the DIES extends beyond Ulmar Pond. This response should be revised to include information similar to that presented elsewhere in this FEIS. This response refers to proposed development practices that minimize fragmentation impacts. Elsewhere in this FEIS, the project sponsor notes that the forest will be “perforated”. The use of terms should be consistent and impacts related to both conditions, perforation and fragmentation, should be documented.*

**This comment has not been addressed, and issues of voice remain.**

**Refer to the comment to response 3B.71.**

**It has been established elsewhere in the FEIS that impacts associated with fragmentation/perforation will result from the development of the proposed project. Statements such as the following should be removed entirely from the FEIS: “This will reduce any potential fragmentation in an area of specific concern and further allow wildlife migration across and around the pond.” (emphasis added). The use of potential in this context inaccurate; there will be impacts.**

**Additionally, statements such as “It is the clustering itself and locating the development as close as possible to Route 9 and existing areas of development that has a positive effect.” (emphasis added) must be revised/removed from this response and throughout the FEIS. The proposed project will impact vegetation and wildlife, a fact acknowledged throughout the DEIS and FEIS. To include language indicating that this project will have a positive effect is inaccurate and all such statements should be removed from the FEIS. Instead, to make it clear to the reader, language can be added describing the measures taken to avoid, reduce where avoidance is not possible, and mitigate to the maximum extent practicable all unavoidable impacts. As discussed with the Applicant on November 19, 2021, it would be helpful for the Applicant to provide in the FEIS a table (and perhaps graphics) showing the**

**progression of the design, how impacts were reduced over time given findings of the analyses done and comments from the Planning Board, reviewing agencies and the public, as the project moved through the SEQR process.**

#### *Zoning and Land Use*

89. *Response 3C.2 (AKRF): If the language suggested by the commenter is acceptable to the preparer and the Lead Agency, the response should simply acknowledge the error in the DEIS text and confirm that the suggested language correctly characterizes the conservation value of the area proposed to be rezoned from M to RR.*

**Comment has been addressed.**

#### *Community Character*

90. *As noted above, the FEIS is the Lead Agency's document, which in this case is the Town of Philipstown Planning Board. As such, the document should be written in the voice of the Planning Board, and should reflect the majority's opinion. There are many responses in this section of the FEIS (comments 3D.1 through 3D.13) that are written in a dismissive, overly defensive, and confrontational tone/voice. Suggestions for improving the presentation of these responses is provided where appropriate.*

**Significant voice issues still remain in the response. As communicated to the Applicant on November 19, 2021, all text of the FEIS should be reviewed for issues of voice.**

91. *Response 3D.1 (Rogoff): The last sentence of this response should be deleted.*

**Comment has been addressed.**

92. *Response 3D.2 (Wendel) includes this statement as the last sentence: "The anticipated value of the proposed homes will be greater than those in surrounding neighborhoods, and if anything, could enhance the value of nearby homes, not reduce them." Since the adopted DEIS scope did not require a real estate market analysis for the proposed subdivision, it is more appropriate to preface the statement in this sentence with "It is the Project Sponsor's opinion that the anticipated value...."*

**Comment has been addressed.**

93. *Response 3D.3 (Majeski) should be revised to read: "The proposed project is being reviewed in accordance with all applicable local, state, and federal laws. The Project Sponsor would be required to adhere to all applicable regulations related to construction in the Town Code."*

**Comment has been addressed.**

94. *Response 3D.4 (Kantor) should be revised to include specific design modifications applicable to the FEIS plan (cited in other responses) to address concerns about wildlife access to critical ponds and waterways. Examples include reduced lots and increased buffer around Ulmar Pond, the removal of the equestrian center which provides a wider corridor surrounding the watercourse/wetlands that drain to the pond, etc.*

**Comment has been addressed.**

95. *Response 3D.5 (Osborn, NY/NJ Trail Conference): Rather than including overly defensive statements about the visual simulation images offered by the commenter, such as "disingenuous fabrication without any validity," referring to it as a "purported 'analysis'" etc., the language in this response can be softened to focus on the main argument of the response, which is that upon review of the commenter's submitted analysis, it was determined by the Applicant's engineer that topographic conditions, the heights of trees to remain relative to the height of proposed homes and structures to remain (existing house and barn) were not accurately taken into account. References can then be made to the supplemental Scofield Ridge visual analysis prepared by the Applicant's*

engineer and included in the FEIS, which does not reveal a potential significant adverse visual impact.

**Significant voice issues still remain in the response. As communicated with the Applicant on November 19, 2021, all text of the FEIS should be reviewed for issues of voice.**

96. Response 3D.6 (HHLT): Consider using the phrase “much more noticeable due to the nature of soil mining” rather than “massively greater” when referring to the visual impact of the as-of-right soil mine proposal that was included in the DEIS for context.

**Comment has been addressed.**

97. Response 3D.7 (HHLT) should be combined with Response 3D.6 (HHLT) since both comments refer to the proposed layout of the subdivision as a “sprawling suburban subdivision spread across the entirety of the developable area of the property.” When combining the responses, the first two sentences of Response 3D.7 should be removed since these statements are not necessary to convey the response provided.

**Comment has been addressed, but issues of voice remain.**

98. Response 3D.10 (Scenic Hudson) should be expanded to explain that a supplemental visual assessment from Scofield Ridge was conducted by the Applicant’s engineer in April 2021 and included as FEIS Appendix E.

**Comment has been addressed, but issues of voice remain.**

99. Response 3D.11 (AKRF): This comment requested that the FEIS provide a panoramic photograph depicting the view of the project site from Scofield Ridge, to accompany the plan and profile section diagram provided through DEIS Figure 36. The Applicant provided two leaf-off photographs from hiking trails/overlooks from Scofield Ridge, labeled north and south, and dated April 2021. It should be noted that the existing structures on the project site and Ulmar Pond are not visible in the two sets of photographs due to the presence of mature trees concealing views, even in a leaf-off condition. As part of this response, which is provided as Appendix E in the FEIS, the Applicant also provided a visual simulation (utilizing Google Earth 3D imagery) of the project’s placement on the site and an assessment of its visibility from the two locations from which photographs were taken. The analysis concluded that portions of some, but not all of the proposed houses (Lots 3, 5, 23, and 15-18) and portions of the proposed entrance road from Route 9 would be visible from Scofield Ridge. The conclusions further state that the “majority of disturbance will be shielded from view by the topography of HHR and the trees that are to remain between Route 9 and the construction within HHR.” Response 3D.12 (Chester – discussed further below) addresses a commenter’s concern about “clear cutting” on the site to accommodate all of the roadways and lots. Specifically, this response states that no clear cutting would occur except for what would be necessary for the proposed roadway rights-of-way, and “trees would be cut selectively on residential lots with the intention of nestling the proposed homes within a forested setting.”

Text included on the graphics provided in FEIS Appendix E mention the planting of new trees along the finished entrance road as a measure to mitigate the potential visual impact. The response provided in the FEIS text does not mention this tree planting measure, but does state that “the selection of natural colors for the siding and roofing of the proposed houses will further minimize any visual impacts.” The FEIS response should provide a complete list of all of the measures proposed by the Applicant as part of the project to help mitigate potential visual impacts of the project when viewed from high points to the west, including Scofield Ridge. From our reading of the FEIS responses it is our understanding that these include the following (should be verified/expanded on by the Applicant):

- a. Selective tree cutting on residential lots to accommodate the placement of homes in a forested setting (no clear cutting will be permitted);

- b. *Planting of new trees along the Route 9 access road to provide screening; and*
- c. *Use of natural colors/earth tones for building materials including siding and roofing.*

*The full understanding of such measures by the Lead Agency is necessary in order to issue findings and impose conditions on the project should it be approved.*

**Comment has been addressed, but references to the “alternate road layout” alternative remain. As discussed during the November 18, 2021 Planning Board meeting, all references to, and discussion on potential impacts of, the “alternate road layout” (i.e. East Mountain Road North access), should be removed from the FEIS.**

100. *Response 3D.12 (Chester) should be expanded to provide additional information on the approximate number of stories/roof heights envisioned for the new homes (above finished grade) and how these heights would relate to the heights of the existing tree canopy, which according to the Applicant currently provide screening from distant views, and would not be clear-cut but rather preserved to the maximum extent practicable. The photographs provided by the Applicant from Scofield Ridge also show that the existing tree canopy blocks the view of the two existing structures on the property, as well as Ulmar Pond.*

**Comment has been addressed.**

#### *Alternatives*

101. *Response 4.1 (AKRF): The second sentence of this response should be revised as follows: “Reducing the proposed lot size to one acre (below the minimum required in the RR zone and OSO overlay) while setting aside 159.5 acres (or 76%) of the project site for conservation is what the Applicant is proposing to meet the Town Code’s definition of a cluster subdivision.”*

**Comment has been addressed.**

102. *Response 4.2 (AKRF): Regarding sub comment (b), the Applicant has stated that no stream or wetland crossings are proposed for the project’s roadways, but does not elaborate further as to whether or not animal crossing tunnels (like box culverts) could be accommodated into the roadway design where the grading permits, even in the absence of a stream or wetland crossing. No response is provided for the recommendation of Cape Cod curbing to reduce reptile/amphibian mortality. Regarding sub comment (f), a “wide buffer” is referenced where the equestrian center has been replaced with a few homes. When referencing this modification to the plan, the FEIS should be specific as to how wide the buffer around the stream and wetlands now is, compared to the DEIS plan. The requested modifications to FEIS Figure 1 (side by side comparison/overlay of DEIS and FEIS plan) would help convey this information.*

**Comment has been addressed, but the added table should be revised to read “Distance Between Wetland Buffer and Nearest Proposed.”**

103. *Response 4.11 (Scenic Hudson): Consider modifying the wording of the first sentence in this response, which as currently written is confusing: “Alternative E is and was not the Project Sponsor’s preferred plan, but rather an alternative that reduced the size of the equestrian center.” A more appropriate opening to this response could be: “The preferred plan at the time of the DEIS was a residential subdivision with an equestrian center. Since the size of the equestrian center was a concern of the Lead Agency and the public throughout the SEQRA process, an alternative was included as part of the adopted DEIS Scope that reduced the size of the equestrian center.”*

**Comment has been addressed.**

#### *Unavoidable Adverse Impacts*

104. *The substance of the comments have been sufficiently addressed through the FEIS.*

**As communicated with the Applicant on November 19, 2021, all text of the FEIS should be reviewed for issues of voice.**