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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:** December 16, 2021

**Re:** Hudson Highlands Reserve Conservation Subdivision FEIS – 3rd Review

**cc:** Stephen Gaba, Cheryl Rockett, HHR Applicant Team

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AKRF, Inc. (AKRF) and Town Engineer Ron Gainer (RJG) have reviewed the revised (resubmitted December 2, 2021) Final Environmental Impact Statement (FEIS) for the proposed Hudson Highlands Reserve Conservation Subdivision.

All of the itemized comments included in the November 23, 2021 memo from AKRF and RJG on the FEIS section entitled “Response to Comments” are included below under “Comments” in *italicized* text. Follow-up comments, based on AKRF and RJG’s review of the Applicant’s redlined FEIS submission received on December 2, 2021, are shown in **bold** text. All comments deemed to be addressed adequately through the November 23, 2021 memo are not included herein.

### RECOMMENDATIONS

AKRF has coordinated with the Applicant on the remaining comments found in this memorandum and revisions to the document are in process. Provided that the Applicant is prepared to address the remaining substantive and editorial comments outlined in this memorandum, the FEIS should be revised and resubmitted to the Planning Board at or shortly after the December 16, 2021 meeting. If all remaining comments have been addressed, AKRF and RJG would not object to the Planning Board accepting the FEIS as complete.

If the Planning Board has comments on the document’s content and/or concerns related to the proposed layout of the subdivision, these should be provided to the Applicant at the December 16, 2021 meeting. Should the Planning Board have comments on any portion of the FEIS during the meeting, it can still be accepted as complete subject to those comments being addressed. If additional time is needed for the Planning Board to complete a thorough review of the FEIS (including the revisions requested herein), then an agreement between the Planning Board and the Applicant can be made at the December 16, 2021 meeting to allow the Board Members additional time to consider the FEIS and accompanying drawings. Once the Planning Board is satisfied with the submitted FEIS, it can be formally accepted, filed as complete and distributed. The FEIS cannot be filed and distributed until revised/clean electronic and hard copy versions of the document and all appendices is received by the Planning Board Secretary.

When the FEIS is ready to be adopted by the Planning Board, a Notice of Completion would be prepared/filed and distributed to all interested and involved agencies. A Notice of Completion would also be submitted to the New York State Dept. of Environmental Conservation (NYSDEC) for inclusion in the Environmental Notice Bulletin (ENB).

As noted in 6 NYCRR Part 617.11 of the Environmental Conservation Law (ECL), "Prior to the lead agency's decision on an action that has been the subject of an FEIS, it shall afford agencies and the public a reasonable time period (not less than 10 calendar days) in which to consider the FEIS before issuing its written Findings Statement." During this time the Planning Board could instruct their consultants to prepare a Findings Statement. Findings under SEQRA certify that the requirements of Part 617 have been met. A positive Findings Statement means that the project or action is approvable after consideration of the FEIS and demonstrates that the action chosen is the one that avoids or minimizes adverse environmental impacts presented in the EIS and weighs and balances them with the social, economic and other essential considerations. If the action is not approvable, a negative Findings Statement documenting the reasons for the denial must be prepared. In the case of the Hudson Highlands Reserve project, which involves an applicant, the lead agency's findings must be made within 30 days from the FEIS filing date [617.11(b)] unless an extension is agreed to by the Applicant and the Planning Board. Each involved agency may also prepare their own Findings Statement. The Findings of each involved agency must be filed with all other involved agencies and the Applicant at the time they are adopted. Findings and a decision to approve or disapprove the project may be made simultaneously.

## COMMENTS

### *Description of the Proposed Action*

1. *Response 2.7 (Rae): 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."*

**This comment has been addressed.**

2. *Responses 2.17 to 2.20 (Scenic Hudson, Audobon, Schuster) - The graphics have been updated as previously requested. These responses still require modifications to improve voice.*

**To resolve unaddressed issues of voice, the 2nd paragraph of Response 2.20 should be re-written as follows:**

**"The lots proposed around Ulmar Pond are separated from the edge of the pond by a 140-foot buffer of existing natural vegetation, which will be maintained undisturbed. As currently shown on the plans, the homes themselves will be situated further beyond the 140-foot buffer (from 198 feet to 285 feet from the edge of the pond, and at an elevation of between 30 and 50 feet above the pond). The Project Sponsor maintains that the modified layout would have no significant impact on east-west ecological connectivity with Ulmar Pond. The connection between Ulmar Pond and Clove Creek would be preserved in its entirety with the preservation of the watercourse and surrounding wetlands that drain Ulmar Pond to Clove Creek. As is explained in more detail elsewhere in the FEIS, it is the collective opinion of the Project Sponsor's ecological and natural resources consultants that the 76% slope above which the homes would be located presents a greater deterrent to wildlife movement than the proposed homes."**

3. *Response 2.25 (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.*

**This comment has been addressed**

4. *Response 2.33 (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.*

**This comment has been addressed.**

**To further address issues with voice, the 2nd sentence of the last paragraph in this response should be revised to read: "Both stormwater and wastewater would be directed away from the pond as part of the Project Sponsor's design."**

5. *Response 2.83 (Gainer): 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."*

**This comment has been addressed.**

6. *Response 2.85 (Gainer): 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.*

**This comment has been addressed.**

7. *Response 2.87 (NYS DOT): 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.*

**Comment noted.**

8. *Response 2.92 (Gainer): 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?*

**This comment has been addressed.**

9. *Response 2.93 (Gainer): 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.*
10. *Response 2.101 (AKRF): 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.*

**Reference to the “alternate road layout” has been removed from the FEIS.***Water Resources*

11. *Response 3A.1 to 3A.4 (Gainer): 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.*

**Comment noted.**

12. *Response 3A.10 (AKRF): 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.*
13. *Response 3A.15 (HHLT): The additional sentence recommended was included, however the overall response still contains issues related to voice.*

**To resolve unaddressed issues of voice, the 2nd and 3rd paragraphs of this response should be re-written as follows:**

**“The Project Sponsor and the commenter have differing opinions on what page 33/Figure 2B of the referenced 1998 Lathrop paper concludes regarding buffers from surface waters. Specifically, the Project Sponsor does not agree with the statement “anything within 300 feet of surface waters will have a severe adverse environmental impact.” According to the Project Sponsor, the referenced Figure 2B from the Lathrop paper illustrates that the potential for non-point source pollution is severe with buffers ranging from 50 to 150 meters, but the Lathrop paper continues by saying “However, the translation of this general principle into an appropriate buffer weighting scheme (e.g., the expected impact of development with specific buffer distance) is highly problematic (Muscutt et al., 1993; Zampella et al., 1994). Further, depending on their design and implementation, storm water management systems can either enhance the role of riparian buffers or greatly negate their effectiveness by short-circuiting the natural flow of storm runoff. The site-specific field studies coupled with appropriate hydrological modeling needed to more conclusively define appropriate buffer zones was beyond the scope of this study.” Thus, guidance was considered specifically for the geographic area in which HHR resides.**

**The measures being proposed by the Project Sponsor are intended to enhance the effectiveness of the proposed buffer. The Project Sponsor believes these practices will help mitigate adverse effects to the maximum extent practicable. The following Low Impact Development (LID) stormwater management concepts are proposed during construction:”**

14. *Response 3A.24 (AKRF): 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.*

**This comment has been addressed.**

**The new text should be revised as follows:**

**The wetland delineation, which does not include the seeps, was reviewed and confirmed by the Town on June 13, 2017. As the proposed project was designed to avoid impacts to wetlands, including the area of the seeps, coordination with the U.S. Army Corps of Engineers was not pursued.**

#### *Vegetation and Wildlife*

15. *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.*

**The Applicant should present a complete record of the recent database searches noted and the corresponding results indicated in this comment, which was first provided in AKRF's original FEIS comment memo dated September 15, 2021. As such, this general comment should be added to the FEIS as the first comment under Section B. Vegetation and Wildlife. The response should indicate when each of the online resources was accessed and the results of the database queries. It should also include the date on which the NYNHP request was submitted, the date a response is expected, and that the response from the State will be provided to the Planning Board upon receipt.**

16. *Response 3B.8 (AKRF): 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.*

**To address issues of voice, the following sentence should be revised as follows:**

**"With this in mind, the Project Sponsor indicates that the proposed development has been placed within areas that have been impacted by invasive species."**

17. *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 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 SEQOR 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.*

**The following sentence should be deleted from this response:**

**“The Project Sponsor believes that given the low probability of even a single rattlesnake being present on the property during construction, there is no need for mitigation as suggested.”**

**The following sentences should be revised as indicated:**

**Given there is the chance for timber rattlesnake use of the project site, the Project Sponsor will implement mitigation recommendations of NYSDEC's “Guidelines for Reviewing Projects for Potential Impacts to the Timber Rattlesnake” for the protection of timber rattlesnakes during construction should it be required by the Department. Following approval, the Project Sponsor will initiate coordination with the NYSDEC to determine if the Department will require that the protection measures be implemented. All correspondence and communication with the NYSDEC will be shared with the Town.**

18. *Response 3B.19 (AKRF): 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.*

**This comment has been addressed.**

19. *Response 3B.21 (Conservation Board): 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.”*

**This comment has been addressed.**

20. *Response 3B.23 (HHLT): 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.”*

**This comment has been addressed.**

21. *Response 3B.24 (HHLT): 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.*

**This comment has been partially addressed.**

**Related to issues of voice, the second and third sentences of the response should be revised as follows:**

**“The proposed Conservation Easement includes all onsite wetlands, all watercourses, Ulmar Pond, all floodplain, and upland areas/slopes surrounding these features beyond legally required buffers.**

22. *Response 3B.25 (HHLT): 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.”*

**This comment has been partially addressed.**

**Related to issues of voice, the following edits should be made:**

**“The September 2014 Coleman letter discusses the importance of maintaining wildlife corridors to Ulmar Pond, however, it does not identify a corridor along the west side of the pond. The letter makes reference to “Creek wetlands”, a name Mr. Coleman applies to the braided wetland system east of Ulmar Pond, not Clove Creek, where he advises consideration in designing the project layout to maintain a wildlife corridor between the wetlands and the pond;...”**

**“The proposed project design developed since 2014 follows this guidance, preserving the “Creek” wetlands – Ulmar Pond corridor in its entirety.”**

**“As noted, no mention is made of the houses around Ulmar Pond, or a corridor over the steep slope from the pond’s western side. In the Applicant’s opinion, the steep slope (approximately 76%) between the Clove Creek and Ulmar Pond does not constitute a wildlife corridor.”**

**“They do not generally cross areas with a 76% slope, which may be considered a barrier to wildlife movement.”**

**“The existing wildlife corridor between Ulmar Pond and the Clove Creek, which is the stream and wetland system connecting these features, will be maintained in its entirety.**

**While it is not accurate to state that wildlife would never be found utilizing the area on the 76% slope, it can be concluded that this slope would not constitute a preferred route of passage for wildlife between the two features. To further reduce potential impacts, the number of proposed houses has been reduced in this area from five to three. These will be situated with substantial spacing between them, such that, in the Applicant's opinion, the movement of any wildlife that does occur in that area will not be significantly impeded. The current design also includes a much shorter cul-de-sac for these homes that, with low vehicular use, would provide little barrier to wildlife movement."**

**"Additionally, the project engineer concluded that previous roadway construction activity on the east side of the road has compacted the soils, also making them unsuitable for citing of a septic system in that location."**

23. *Response 3B.29 (HHLT): This response should be revised to address voice issues – "While it is not disputed..." "...far removed..." etc.*

To further address issues of voice, the following revisions should be made:

"Evidence of box turtles on the project site was found in the upper elevations of the area proposed to be preserved, away from the area proposed for development." The Applicant could replace "away" with the distance between the development and the area where evidence of box turtles was found.

"With the exception of lot #25 and the steep slope area that must be crossed by the entrance road, none of the "medium conservation value" area will be disturbed by the proposed project."

**This comment has been addressed.**

24. *Response 3B.30 (HHLT): 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."*

**This comment has been addressed.**

25. *Response 3B.31 (HHLT): 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...."*

To further address issues of voice, the following edits should be made:

**"The commenter is correct regarding the potential mortality associated with relocating box turtles.**

**The carapace of a box turtle was found on an upland hillside adjacent to a watercourse that was surveyed during a wetland delineation, within the area proposed to be preserved under a Conservation Easement. In the Applicant's opinion, wildlife access to Ulmar Pond will not be reduced since existing access to the pond will be preserved through the establishment of a 140-foot buffer on the northern side of the pond, and the preservation of all of the area to the south, which includes the stream entering and draining Ulmar Pond. The entirety of this area will be part of the land protected under a Conservation Easement. The only wetlands near the pond are associated with the watercourse feeding Ulmar Pond, and the watercourse draining Ulmar Pond, which will also be preserved under the Conservation Easement. The watercourse next to which the turtle carapace was found is the watercourse that eventually feeds into Ulmar Pond, but at a considerable distance downhill. The access between the two points is completely preserved under the Conservation Easement."**

**"The elimination of wildlife habitat is an unavoidable impact of any development that takes place on raw land, and given the wide ranging use of a variety of habitat types by box turtles, some portion of its habitat may be unavoidably eliminated as a result of the proposed project. However, setting aside the areas noted under a Conservation Easement constitutes the**

**permanent preservation of known box turtle habitat, and, in the Applicant's opinion, mitigates, to the maximum extent practicable, potential impacts to box turtles."**

26. *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.*

**To further address issues of voice, the following edits should be made:**

**"The habitat types being set aside, inclusive of the upland-wetland linkages, in the Applicant's opinion, mitigates, to the maximum extent practicable, the potential impacts to these species and toads as their food source."**

27. *Response 3B.34 (HHLT): The following previous comment was not addressed within this response: "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.*

**To further address issues of voice, the following edits should be made:**

**"Since Mr. Coleman's assessment, additional land was purchased to the east for the purpose of preserving forested land as undisturbed wildlife habitat, and providing an area for north-south movement of wildlife."**

**"In the collective opinion of the wildlife and natural resource experts who contributed to the FEIS, while amphibians and reptiles may negotiate steep slopes, it is unlikely that wildlife, including turtles and amphibians, would climb 120 feet of elevational difference (about equivalent to a 12-story building) on a 76% slope (the maximum grade allowed by Town Code for a road is 10%), and this would therefore not represent a wildlife corridor needing protection. (See Response 3B.25.) The proposed plan also preserves a minimum of 140 feet around the pond in its natural state as critical wildlife habitat, and involves no stream crossings and no disturbance of wetlands or regulated wetland buffers."**

28. *Response 3B.36 (Klemens): 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]."*

**This comment has been addressed.**

29. *Response 3B.37 (Klemens): This 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 edited to remove commentary and to state facts only.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be made:**

**"All the data collected, and analysis prepared by the Applicant's Consultant Team were included in their entirety in the Conservation Analysis and the DEIS. All available materials from previous studies by Coleman and Ruhe are provided, in their entirety, in the appendices of the DEIS? FEIS?. No additional data or reports have been prepared for the proposed project."**

**It is suggested that the following be removed from the response:**

**“HHEC does not operate under a typical corporate structure. Each of the investigators listed are independent contractors, and have 40 to 50+ years of experience each. Much like Mr. Klemens, they have devoted a significant portion of their careers to critiquing development projects throughout the Hudson Valley, in the New Jersey Meadowlands, and beyond. Also like Mr. Klemens, they have done much of this working with or for government agencies. Mr. Stechert serves as a frequent consultant to the NYSDEC on timber rattlesnakes, and is personally responsible for having located approximately 81% of the known timber rattlesnake dens recorded by the NYSDEC across the state. Mr. Smith spent years critiquing proposed development projects in the Hackensack Meadowlands, and was then asked by the Hackensack Meadowlands Development Commission (now the Meadowlands Commission), a NJ State agency in the early 1970s, to serve as their Chief Naturalist in order to provide those critiques in an official capacity. He still serves as a consultant to that agency today. Mr. Gross has represented several community groups including the NY/NJ Trail Conference, the Sterling Forest Partnership, Stewart Preserve and Reserve Coalition, among others, in critiquing projects ranging from casinos to a 124-mile long gas pipeline, and also served five years on the Village of Warwick Planning Board.”**

**“SEQR related Public hearings in New York State are intended to provide the public an opportunity to present their comments and concerns related to a proposed action and to allow the lead agency, project sponsor and those in attendance the ability to receive the public’s input. Experts may be in attendance to listen so that they can respond to expressed concerns and questions in writing subsequent to the hearing, but are not required to provide responses or testimony at the public hearing”.**

30. *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 within the body of the response. If this topic is covered elsewhere in the FEIS, then indicate the response number(s) where the language can be found. If it has not been addressed elsewhere, then language should be added to this response.**

**To further address issues of voice, the following edits should be made:**

**“In the 2013 “2013 Bulletin No. 41: Trap Rock Ridges of Connecticut: Natural History and Land Use” published by the Connecticut College Arboretum, is the following statement:**

**“At West Rock in New Haven, box turtles were observed crawling through talus at the edges of steep cliffs. Some of the turtles showed damage to their outer shells, presumably incurred from falls down the escarpments (Klemens, 1993).”**

**It is the Project Sponsor’s understanding that this citation, describes box turtles crawling through talus at the edges of steep cliffs and suggests that the turtles have difficulty with negotiating the slopes, noting evidence of falls experienced by the turtles. It is the Project Sponsor’s opinion that under the noted conditions in the citation, it is possible that the turtles may find benefits from crawling into and through the spaces in talus, such as shelter from predators or use the talus slope for other factors that might not directly apply to the HHR project site. As surrounding conditions at the two sites may differ significantly, the use of the**

talus slope may not necessarily show preference for a 76% slope as a corridor, vs. following the more shallow grade of a stream bed that connects the Clove Creek to Ulmar Pond as is present on the HHR project site.

The Project Sponsor's position regarding wildlife use of the 76% slope is best stated in Response 25 which reads, "While it is not accurate to state that wildlife would never be found utilizing the area on the 76% slope, it can be concluded that this slope would not constitute a preferred route of passage for wildlife between the two features."

With a conservation subdivision, the objective is to allow development to occur while avoiding environmental constraints and preserving important environmental features and wildlife habitat. One of the goals is to preserve identifiable wildlife corridors. It is the Project Sponsor's opinion that, under normal circumstances turtles would not prefer a corridor with a 76% slope.

The Project designers have taken measures to ensure that the stream/wetland corridor feeding into Ulmar Pond from the eastern slopes and the stream/wetland corridor exiting Ulmar Pond that leads to the Clove Creek, thereby preserving a corridor as recommended by Mr. Coleman. The Project Sponsor does not believe it is necessary to avoid placing homes to the west of Ulmar Pond above the 76% west-facing slope, as this would not be a preferred wildlife corridor. It is acknowledged that wildlife may continue to utilize the forested slope as they do currently. Should an amphibian or reptile climb the slope from Clove Creek, passage between the proposed homes to Ulmar Pond is possible."

31. *Response 3B.40 (Klemens): This response should be revised to address the issue of voice. 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.*

**This comment has been partially addressed. Language addressing the following portion of the comment should be included in the response.**

***"Regarding the new language added, the Applicant should indicate for which species suitable breeding habitat may be provided."***

**To further address issues of voice, the following edits should be made:**

**"This study, conducted by David Griggs of ERS Consultants, confirmed the absence of vernal pools on the property is attached as Appendix D. Details of this study are discussed elsewhere in these responses. While not vernal pools, and though not observed during site investigations, suitable breeding habitat may be provided within areas of the braided stream/wetland system, the NYSDEC wetlands on and offsite, and fringe areas of Ulmar Pond. None of these will be disturbed.**

32. *Response 3B.41 (Klemens): Ensure the fourth edition of the Handbook (2020) is referenced. Voice issues remain in the overall response.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be made:**

***"As stated in SEQR at 6 NYCRR Section 617.9(b)(1), ..."***

33. *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 been partially addressed.**

**To further address issues of voice, the following edits should be made:**

**“As noted in the previous response, EISs are not intended to be encyclopedic.”**

34. *Response 3B.43 and 44 (Audubon): 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.”*

**This comment has been addressed.**

**Regarding the new language, the following revisions should be made:**

**“Plant species diversity consists of two components – richness and evenness. (Discussions of plant species diversity are available in Ecology and Field Biology by Smith and Smith (2000) or Ecology from Individuals to Ecosystems by Begon, Townsend and Harper (2021) or Ecology by Krebs (2008).)”**

**“As plant diversity increases, habitat diversity increases since plants provide habitat, for birds and their prey species in particular.”**

**“By increasing the native plant cover and reducing invasive plant cover, there will be more habitat for native insects. Many native insects are a food source for year-round and migratory bird species that use the forests of New York. Therefore, a positive change in insect populations that would benefit birds is expected.”**

35. *Response 3B.45 (Audubon): 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.*

**This comment has been addressed.**

36. *Response 3B.46 (Audubon): 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.*

**This comment has been partially addressed.**

**Language should be included in the response to address the portion of the comment noted below:**

**“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.”**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“There is no evidence of a population of New England Cottontails on the project site, including within the proposed Conservation Easement Area.”**

**Delete the following sentence:**

**“It is therefore presumed that the commenter is referring to a known population outside the project site.”**

**Reference to the “NYNHP Environmental Resource Mapper” should be changed to “NYSDEC Environmental Resource Mapper” throughout the FEIS.**

37. *Response 3B.47 (Audubon): 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.*

**This comment has been addressed.**

**Regarding the new text, the following sentence should be revised as follows:**

**“As the proposed project was designed to avoid impacts to wetlands, coordination with the U.S. Army Corps of Engineers was not pursued.”**

38. *Response 3B.50 (Chester): 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.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“The proposed “wall” referenced in the DEIS is a low marker defining the boundary between the proposed residential properties and the buffer surrounding Ulmar Pond.”**

**“The wall is not intended keep small animals from entering the residential lots or taking advantage of the voids in the wall, and, in the Project Sponsor’s opinion, is not anticipated to impede wildlife movement across the project site or result in significant change in wildlife access to Ulmar Pond. It is intended to make certain that homeowners are aware of the location of their property lines and that the area on the pond side of the wall is to be respected and protected. In the area where homes, roads, septic and other development is proposed outside of the 140 foot buffer around the pond, the existing natural habitat will be altered and in some areas eliminated.”**

39. *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.*

*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.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“The threat to Northern Long Eared bat populations is not associated with the reduction of summer habitat.”**

**“Tree clearing will be limited to the period between November 1 to March 31 in accordance with the guidelines to avoid impacts to Northern Long Eared Bats.”**

40. *Response 3B.54 (AKRF): Issues with voice remain. 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.*

**This comment has been partially addressed.**

**To further address issues of voice and to provide clarity, the following edits should be incorporated into the FEIS:**

**The proposed development of the property would reduce the closed-canopy forest on the project site resulting in habitat loss. Additionally, with this proposed development, there will be an increase in edge habitat on the property over the existing condition. This new edge habitat will extend farther into the project site from NYS Route 9. Potential impacts associated with increased edge habitat include the potential for increased mammalian and avian predators (Smith and Smith, 2001). Refer to Response 3B.55 for additional information on predation.”**

**“Based on input through the SEQR process, the proposed project design presented in the DEIS was refined to minimize the adverse impacts of development and maximize beneficial measures such as the improvement in the water quality of Ulmar Pond, and the removal of invasive species and the planting of native species. Given the concerns raised during the review of the DEIS, the Project Sponsor further refined the project design to reduce the extent of development, the associated limit of disturbance, the number and location of structures, and the area of impervious surfaces.”**

**“Most of the previously proposed cul-de-sac and homes in the center of the property have been removed, reducing the level of forest perforation that was associated with the DEIS plan (see Response 3B.71 for additional information on forest perforation).”**

**“As all of the various parcels that comprise the project site are now under the same ownership, and all parcels will be combined under one homeowners covenant and managed in the same manner, it is the Project Sponsor’s opinion that there is no longer the need for assessment at the parcel scale.”**

41. *Response 3B.55 (AKRF): 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.*

**This comment has been partially addressed.**

**To further address issues of voice and to provide clarity, the following edits to old and new text should be incorporated into the FEIS:**

**"Nest parasitism is often increased along forest edges where a forest canopy meets an open area and where new development introduces pets into an area. "Edge effects may increase species diversity, but can also create ecological problems. Edges, especially abrupt ones, attract mammalian and avian predators." (Smith and Smith, 2001). The edge introduced by the HHR development will not be abrupt because where forest is to be removed, native plants will be installed along the new forest edge. Since some nest parasitism is related to a lack of forest canopy, it is the Project Sponsor's opinion that introducing a planted forest edge may mitigate some of the potential increase in nest parasitism that may result from the development of the proposed project. It is possible that nest parasitism will increase even with the measures proposed."**

**"Though inadvertent introduction of invasives is possible if invasive seeds are brought to the property during construction, HHR is taking care to minimize this possibility, such as specifying the use of strawbales over haybales, which, in the Project Sponsor's opinion will reduce the potential spread of invasive species. The percent of invasive plant cover is expected to decline with the invasive species management measures documented in Response 3B.8."**

**"While it is hoped that homeowners will comply with the Humane Society's suggestion of keeping cats indoors unless on a leash, it is possible that future residents of the Proposed Project would bring a pet cat(s), which, if allowed outside without a leash, is likely to result in an increase in predation of bird and mammals in the area. The Project Sponsor notes that cats from neighboring properties would continue to cause predation, as the HHR property is surrounded on all sides by residential and commercial development."**

**"It is acknowledged that with each development/encroachment/reduction of the blocks that make up this regional forest, the potential spread of invasive plants and animals increases in the remaining (unaffected) forested land. To help offset these impacts, through a Conservation Easement, the proposed project will permanently arrest the possibility of any further development in this block of forest, which includes approximately 50 acres that was purchased by the Project Sponsor specifically for the purpose of preserving it."**

42. Response 3B.56 (AKRF): *The Applicant should cite a definition of "compromised forest".*

*To address issues of voice, at a minimum, the first sentence should be deleted/revise, 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.*

**This comment has been partially addressed.**

**To further address issues of voice and to provide clarity, the following edits to old and new text should be incorporated into the FEIS:**

**"At a local level, the commenter asserts that "(t)he proposed project will widen the suburban land use cover type along Route 9 substantially, furthering the reduction in the block of local-scale largely contiguous forest that extends from the project site eastwards into these adjacent forested lands, including Fahnestock State Park." The proposed project will add low-density development (23 new residences clustered together on a 210 acre parcel) but, in the Project Sponsor's opinion, this does not constitute a substantial increase in suburban land use given the surrounding land is currently fragmented by roads and development. While the proposed project will increase this level of existing fragmentation, the type and scale considered is consistent with existing development along Route 9. The east side of Route 9 to the south of the project site includes a dense suburban development, Glassbury Court at Cold Spring, and a less dense suburban area off Horton Road. To the north of the property is a suburban area off East Mountain Road North. Adjacent residential uses on both Horton Road and East Mountain Road extend out approximately the same distance from Route 9 as what is proposed by the Project Sponsor. Several commercial properties including several retail stores, a Concrete Products center and a Landscape Material sales business are along the east side of Route 9 adjacent to the property. Along the West side of Route 9 there is a motel, an auto services facility, other retail and residential structures as well as a sand or gravel storage area."**

**"Rather, it will fill in and continue a similar type of land use and at a similar distance from the east side of Route 9."**

**"As such, this area between the HHR property and Fahnestock State Park, while it does provide valuable wildlife habitat, should be considered fragmented forest when compared to the unfragmented areas within Fahnestock."**

**"It is also acknowledged that Route 9 has had moderately high traffic volume since before 1995. It is the Project Sponsor's opinion that the traffic volume is high enough to cause wildlife mortalities and/or repel wildlife. The Project Sponsor also believes that species or individuals which are not tolerant of proximity to human occupation would likely be repelled by either the road or the adjacent and surrounding development and human occupation."**

**"While the development of the HHR will decrease the forest habitat on the property, it should be noted that the area between HHR and Fahnestock is currently occupied by buildings and roads, and the area on which the new houses will be built is currently utilized primarily by wildlife species tolerant of human activity. "**

**“With the development of HHR comes the permanent conservation of 159.5 acres of the highest value forested area of the property (76% of the total property). The Project Sponsor notes that, without the HHR development, those areas would be open to future development.**

**Note, the edits to the last sentence above should be duplicated in the last sentence in Response 3B.57**

43. *Response 3B.57 (AKRF): The Applicant should include specific reference to the two Significant Natural Communities (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.*

**This comment has been addressed.**

**To address issues of voice, the edit noted at the end of comment 3B.56 should be incorporated into the last sentence of this response.**

44. *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.*

*Regarding the new language provided, 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.*

**This comment has been partially addressed.**

**It does not appear that the first paragraph of the comment has been addressed.**

**For example, section IV.A.1.c of the DEIS addresses floodplains but it does not include language related to development limitations due to soil conditions or steep slopes as noted in the following sentence taken from this response:**

**“The first parameter, which recommends avoiding development limitations due to soil conditions/steep slopes/flooding is addressed in the DEIS IV A 1c.”**

**To address issues of voice, the following revisions should be made:**

**“There has been refinement of mapping methodology, which Lathrop and other scientists have worked on, and which the Project Sponsor’s analysts follow.”**

**“HHR based decisions on the advice of its hired professional experts, who took into account more recent research since 1998 and site-specific characteristics.”**

**“A partial list of references, that have contributed to this analysis is attached as Appendix G.”**

45. *Response 3B.60 (HHLT): 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.*

*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 reference to the commenter.*

**This comment has been partially addressed.**

**Consistent use of fragmentation and perforation is needed throughout the document. It is suggested that these terms be defined at their first use.**

**To address issues of voice the following edits should be made:**

**“The focus of the Beier 2018 article is setting a rule of thumb for corridor width that a corridor should be at least 2km wide except at unavoidable bottlenecks such as highway crossing structures. The article also notes that edge effects from artificial night lighting, noise, chemical pollution, nest predation, nest parasitism, invasive species and other disturbances are biologically significant at distance of up to 300m. The end of the article mentions that for smaller habitat blocks a narrower corridor may be appropriate and that a corridor longer than 80km may need to include one or more large habitat patches. It is the Project Sponsor’s opinion that the macro scale of the discussion and the focus on 2km wide corridors in the article does not directly apply to the proposed project.”**

46. *Response 3B.61 (HHLT): 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.”*

**This comment has been partially addressed.**

**For clarity, the following revisions should be made:**

**“With the management of the area under the Conservation Easement and the occupation of the property by new homeowners under a HOA, off-road vehicles will be prohibited from use on the project site and the prohibition enforced by the HOA, which will also benefit the red-shouldered hawk.”**

47. *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 has been addressed.**

48. *Response 3B.63 (HHLT): 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.*

**This comment has been addressed.**

49. *Response 3B.65 (Klemens): The response requires additional revisions to address the issue of voice including removing the sentence “Obviously, that would be an extreme position.”*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“It is the Project Sponsor’s opinion that, by allowing any level of development, it can be argued the Philipstown code may become a driver of habitat loss and potentially fragmentation, if lands that are not already considered fragmented are involved.”**

50. *Response 3B.66 (Klemens): This response should be revised to address the issue of voice.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“The commenter requests that the environmental review address the meso-scale that examines the placement of the built environment as it impacts, or protects, the through site connection for the dispersal and maintenance of biodiversity. To address the concern expressed that “the proposed development eliminates connections through the ‘medium conservation value’ area” and in particular that “the current design...will irretrievably sever the connectivity between Clove Creek and the forested slopes.”, refer to Figure 4, which shows that, with the exception of the entrance road, very little of the medium conservation value area will be impacted by the proposed project.”**

**“To minimize impacts to the connection between Clove Creek and the forested slopes, the high conservation value Clove Creek floodplain and bordering medium conservation value steep slope above it, are not proposed for development.”**

**“In further response to the comment on the meso-scale analysis of through site connections for wildlife populations, it is unavoidable that development will harm those areas on which actual construction occurs. However, the preservation of 159.5 acres of the 210.1 acre property will provide substantial undisturbed habitat that allows for wildlife movement across the project site.”**

51. *Response 3B.67 (Klemens): 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.*

**This comment has been partially addressed.**

**To further address issues of voice, the following edits should be incorporated into the FEIS:**

**“As indicated on Figure 1, all preserved areas will be connected to each other and to adjacent habitats, which is why the impact from the proposed project would be considered perforation. (Please see Response 3B.71 for a discussion on perforation vs. fragmentation.) In addition, the road system, which will serve the proposed 25 homes, will experience relatively light usage, and, as such, is not expected to pose a significant barrier to wildlife crossing the project site.”**

**“To avoid creation of “a hardscape” across the central low-lying portion of the site, the majority of that particular area (31.5 acres out of the 38.5 acres of existing vegetation slated for removal) will be landscaped with native plants including the trees left on site.”**

52. *Response 3B.67 (Klemens): 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.*

**This comment has been partially addressed.**

**To address issues related to the use of perforation and voice, the following edits should be incorporated into the FEIS:**

**“As indicated on Figure 1, all preserved areas will be connected to each other and to adjacent habitats, which is why, in the opinion of the Project Sponsor, the impact from the proposed project would be considered perforation. (Please see Response 3B.71 for a discussion on perforation vs. fragmentation.)**

53. *Response 3B.68 (Klemens): Language has been 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.*

**This comment has been addressed.**

54. *Response 3B.69 (Audubon): Issues of voice remain and should be addressed.*

**This comment has been partially addressed.**

**To further address issues of voice, the first sentence of this response (copied below) should be deleted.**

**“The work done by Putnam Highlands Audubon, Constitution Marsh Audubon, Hudson Highlands Land Trust, Scenic Hudson, and New York State Parks to preserve lands for a “green corridor” and promote survival of native flora and fauna is to be applauded.”**

55. *Response 3B.70 (Scenic Hudson): Issues of voice remain and should be addressed.*

*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.*

**This comment has been addressed.**

56. *Response 3B.71 (Gordon): 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).*

**This comment has been partially addressed.**

**There are still inconsistencies with the use of fragmentation, and perforation throughout the FEIS. To further clarify the use of perforation and fragmentation, the Applicant should include a quoted definition of each term when they are first used in the FEIS.**

**It should be noted that according to UCONN's Center for Land Use Education and Research, forest fragmentation model, perforations are relatively small clearings in contiguous core forests and per Riitters, Kurt and Coulston, John, 2005/05/01, Hot Spots of Perforated Forest in the Eastern United States, "Perforations create a forest edge near the interior of forest patches and thereby eliminate core forest. Perforations are an eco-logically important type of fragmentation because they introduce potential edge effects deeper into intact forests, in comparison to the erosion of forest patch perimeters."**

**Each use of perforation and fragmentation should be reviewed and consistent language should be used throughout the FEIS.**

**The following sentence should be deleted: "Perforation is used like the word is used in general English."**

**The following portion of the comment was not addressed in the response and it should be:**

*"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)"*

57. Response 3B.72 (Hammond): Issues of voice remain and should be addressed. 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 SEQOR process.*

**This comment has been partially addressed.**

**For issues related to perforation and fragmentation refer to comments on Response 3B.**

**It is noted that the 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 was not included in the revised response 3B.72.**

#### *Community Character*

58. *Response 3D.5 (Osborn, NY/NJ Trail Conference): 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.*

**To resolve unaddressed issues of voice, the entirety of Response 3D.5 should be simplified and re-written as suggested below. Similar language can be applied to the entirety of Response 3D.7, after the two references to scoping outline found in Response 3D.9, and the entirety of Response 3D.10:**

**“The impact of the view from Scofield Ridge is discussed on page 135 of the DEIS and depicted graphically in DEIS Figure 36. The existing conditions assessment in the DEIS found that no views to the proposed subdivision would be provided from Fahnestock State Park. In addition, a supplemental visual assessment from Scofield Ridge was conducted by the Project engineer in April 2021 and included as FEIS Appendix E. It is anticipated that only the entrance road from Route 9 will be visible from Scofield Ridge. In order to mitigate potential visual impacts of HHR when viewed from points to the west, including Scofield Ridge, the sponsor will require that the following measures be taken.**

- 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.”**

59. *Response 3D.7 (HHLT): Revisions are necessary to address issues of voice.*

**See above.**

60. *Response 3D.10 (Scenic Hudson): Revisions are necessary to address issues of voice.*

**See above.**

61. *Response 3D.11 (AKRF): 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.*

**This comment has been addressed.**

#### *Alternatives*

62. *Response 4.2 (AKRF): The added table should be revised to read “Distance Between Wetland Buffer and Nearest Proposed.”*

**This comment has been addressed.**

#### *Unavoidable Adverse Impacts*

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

**To resolve unaddressed issues of voice, the 2nd paragraph of Response 5.1 should be deleted and replaced with the following:**

**“Considering the layout as originally proposed in the DEIS, it was calculated that 45.7 acres of existing vegetation would be removed. The Project Sponsor acknowledges that the 34.6 acres of landscaped vegetation is not an equal substitute for the natural vegetation that would**

**be removed, and as such noted within the DEIS that this represents an alteration/degradation of this amount of vegetation as wildlife habitat, which is also a permanent unavoidable impact. The Project Sponsor believes the remainder of the bulleted list from the DEIS represents an accurate summary of the unavoidable adverse impacts that would result from the proposed project. However, since the site plan has changed between the DEIS and FEIS, so have some of the quantified figures from the list. The current list of unavoidable impacts is summarized as follows:"**

#### **ADDITIONAL COMMENTS ON VOICE OF FEIS**

Based on a full review of the revised FEIS text, in addition to the suggested edits addressing voice found above, AKRF/RJG offer the following final suggestions to improve the voice of the document:

1. Response 2.6: Delete the last sentence of the 1st paragraph.
2. Response 2.9: Delete the 1st sentence of the 1st paragraph. Begin the 2nd sentence as "According to the Project Sponsor, the project will be utilizing "LEED for Homes"...."
3. Response 2.10: Begin response with "According to the Project Sponsor,"
4. Response 2.11: Begin the response with "The Project Sponsor's goal is to achieve LEED Platinum."
5. Response 2.40: Revise the last sentence to read: "The Project Sponsor intends to incorporate this suggestion into the bylaws."
6. Response 2.42: Delete the 3rd and 4th sentence of the response. Simply stating the 2,000 sf lawn limit per 1 acre lot is sufficient.
7. Response 2.45: Delete last sentence.
8. Response 2.66: Delete the last sentence and revise the sentence before it to read: "The Project Sponsor sees the inclusion of the road as a benefit to the future management of the easement."
9. Response 2.86: Delete the 1st sentence of the last paragraph.
10. Response 2.101: Delete the last sentence of the 1st paragraph.
11. Response 3B.52: Revise the first two sentences to read: "The proposed plan is a clustered layout and preserves large areas that currently function as wildlife corridors. The current plan for HHR has been modified to propose 25 residential lots with houses, 23 of which would be new construction and 2 of which have existing homes, and no equestrian center."
12. Response 3C.3: Revise this response to read: "The Project Sponsor believes the current design provides interconnections among all conserved areas of the project site. The newly revised plans reduce the number of homes around Ulmar Pond, which according to the Project Sponsor, expands this connection further. The equestrian center has been removed as an element of the proposed project."
13. Response 3C.5: Revise the 2nd sentence to read: "As noted in the DEIS and elsewhere in the FEIS, the proposed lot count was developed by the Project Sponsor and the Town's consultants in conformance with the requirements for a conservation subdivision as outlined in the Zoning Code."
14. 3C.6: Revise the full response to read: "The area of the project site proposed for conservation is not fully restricted from development by current regulation. As

the Project Sponsor has noted, approval was granted for another home to be built within a portion of the proposed conservation area. Some of the area, but not all, falls under wetlands and steep slope regulations, but these regulations still allow development through a permit process. The Project Sponsor's intent is to permanently prevent development of 159.5 acres of this privately held land through a Conservation Easement."

15. Response 3D.2: Delete the 3rd sentence.
16. Response 3D.4: Delete the last sentence of the 2nd paragraph.

#### **ADDITIONAL COMMENTS UNRELATED TO VOICE**

Based on a full review of the revised FEIS text, in addition to the suggested edits addressing content found above, AKRF/RJG offer the following comments:

1. Response 3B.17: Revise dates of tree clearing to be consistent with Response 3B.45 and 3B.53.
2. Response 3B.18: Revise the first sentence to read "The DEIS on p. 106 states that..."
3. Response 3B.58: Revise the last sentence of the response to be consistent with Responses 3B.56 and 3B.57.