

Marilyn Shanahan, SEQRA Coordination Section, of the New York City Department of Environmental Protection, submitted comments in a letter dated December 2, 2009. Our responses are as follows:

Comment 1:

The GDEIS states that as many as 1,000 additional residential units could be built in the Town. While this may only be an estimate, the GDEIS should provide the fundamental assumptions that were used to calculate this figure. Furthermore, if 1,000 residential units were added in the Town, this would be approximately 50% more residential units than currently exist. If such an increase in development remains a viable option or goal of the community, the DGEIS should clearly identify and quantify the impacts of this increase development on traffic, school population, quality of life, environment, etc.

Response to Comment 1:

The estimate of a 1,000 new units over the next 30 years was developed by the Town Board through a consensus process. The Town Board evaluated the number of new residential units during the past thirty years (1980s, 1990s and 2000s); the various development proposals that have been discussed or identified; the capacity of Windham Ski Mountain; marketing studies evaluating historical trends and demographics; the available land; the nature of the demand; and the capacity of the community to provide the necessary infrastructure. The estimate of 1,000 units is not the community's goal or objective, it is merely a realistic estimate of the number of new units that could be absorbed into the community over the next 20 to 30 years driven by market forces. The Town Board anticipates that the overwhelming majority of the homes will be second homes for winter and summer recreation. While the Town Board does not have a specific goal or objective with respect to the number of units, the Town Board realizes that the continued development of second homes is critical to having a flourishing community. Based upon the baseline assessment with the GEIS, the Town does not anticipate that 1,000 new residential units over the next 20 or 30 years will have a significant adverse impact on traffic, school population and/or quality of life.

In the New York City Department of Environmental Protection, *Extended New York City Watershed Land Acquisition Program DEIS*, excerpt from Chapter 4: Town Level Assessments, Town of Windham, the DEP stated as follows:

“For purposes of constructing a “reasonable worst-case scenario,” future residential development has nevertheless been based on the rate of development during the past two decades. Assuming the pace of new development in Windham (as measured by new residential units) remains the same as it was between 1990 and 2008, we can estimate that the land required to support new development through 2022 would total approximately 888 acres – including 540 acres of land characterized as developable.” [footnotes excluded]

The 888 acres accounts for 444 new residential units on two acre lots during the 12 year period of 2010 to 2022 (37 units per year). Using that rate of development, the total number of new residential units during the 20 to 30 year planning horizon is between 740 to 1,110.

Comment 2:

Section 1.6 NYCDEP Watershed and Planning

The GDEIS claims that the *Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources* (Watershed Regulations) are more stringent than the rest of the State. This statement should be omitted as there are municipalities with more stringent regulations than the Watershed Regulation.

The use of the SEQRA process to fully evaluate projects takes place statewide and is not unique to the NYC watershed.

Several rural areas have been in decline in NY and elsewhere for decades whether or not they were part of a watershed for drinking water supply. Moreover, on the contrary, the economic development funds provided by NYC and a wide range of NYCDEP-funded environmental infrastructure programs have contributed to the watershed economy.

Response to Comment 2:

Comments have been noted and/or incorporated into the DGEIS.

Comment 3:

Section 1.9 Topics Addressed in the GEIS

According to item 4.a., topics to be addressed by the GEIS include a description of the conditions and locations of open spaces and sensitive lands, including wetlands. While Map 7 shows the location of New York State Department Environmental Conservation (NYSDEC) and National Wetland Inventory (NWI) wetlands, the report does not summarize the extent, types, or conditions of wetlands within the Town of Windham. At a minimum, the document should include an acreage summary of NYSDEC and NWI wetlands. NYSDEC wetlands could be further broken down by class, and NWI wetlands by cover type.

Response to Comment 3:

Wetland information is summarized on Map 7 and discussed in Section 5.3.1.1, Wetlands. This information is sufficient to quantify the baseline condition and to support future planning and land use decisions.

Further detail and presentation on wetlands is beyond the scope of this DGEIS. The DGEIS does explain that wetlands are protected and should not be disturbed. The DGEIS explains the existing tools to protect wetlands including: (i) Article 24 of the New York State Environmental Conservation Law, (ii) the Federal Regulation of Wetlands by both the Army Corp and the United States Environmental Protection Agency, and (iii) the protection of wetlands provided by New York City Department of Environmental Protection. The Town Board finds that the existing regulatory programs (state, federal and New York City) are sufficient to protect wetland resources and that the Town does not need to adopt any additional controls relating to the protection of wetlands.

Comment 4:

Section 2.4 Cumulative Impacts

This section should be expanded to discuss cumulative impacts not only as they relate to individual projects but also to assess cumulative impacts for the Town of Windham as a whole over the span of the planning horizon. If not viewed in this way, multiple projects within a small geographic area are far more likely to have negative outcomes to water quality, wildlife habitat and other environmental concerns.

Response to Comment 4:

At the present time, continuing second home development is critical to the sustainability of the community. The economic driving force behind the community is Windham Ski Mountain and the summer recreational facilities. As a resort community, Windham has to compete against other ski communities within driving distance of the New York City Metropolitan Area. Families looking for a summer or winter second home want and need a choice of amenities (i.e., restaurants, movie theaters, entertainment, cell coverage, night life, arts). The construction and maintenance of the second homes provides jobs for many local residents. The ski mountain, the restaurants, the golf courses, bike shops, summer camps, camp grounds and hotels provide employment to local residents.

Since continuation of the second home market is critical to the sustainability of the community, the Town Board is responsible for ensuring that the local laws and policies will allow for and facilitate that development.

Similarly, with respect to endangered species, there are three levels of protection that currently exists. If a project is going to have a negative impact on a rare and endangered species, under Section 11-0535 of the New York State Environmental Conservation Law, the DEC has the authority to require a taking permit. In order to obtain a taking permit, the applicant must demonstrate that it will, in fact, make the species whole (or actually have a net benefit to the species.) DEC has recently increased enforcement of ECL §11-0535 and has proposed new regulations to clarify the scope and obligations under that statute. Similarly, State law has been held to preempt local regulations in this area (See Attachment 1, State v. Trustee of the Freeholders & Commonality of Southampton, 99 A.D.2d 804 (2nd Dept. 1984). The Town

Board has attached a copy of the proposed regulations the DEC has published to enhance the protection of wildlife (including rare and endangered species) and instructs the Planning Board to review those regulatory restrictions when and if adopted and to give due considerations to those policies in reviewing applications for the site plan approval.

Comment 5:

Section 3.1 Primary Limitation Analysis

Discrepancies in steep slope threshold limits should be resolved and the reasoning why some regulatory thresholds are considered primary and others secondary should be clarified. Section 3.1 refers to slopes exceeding 20% as steep while section 3.2 indicates that steep slopes are those 15% and greater.

Response to Comment 5:

In the future, the Town will compete with other ski resort communities in the Northeast for the second home market. Those consumers are more likely to want homes in close proximity to the Ski Mountain with good views. As a result, the Town anticipates that a significant portion of future development will occur on steep slopes. As a result, the Town must plan for such development and ensure that the engineering controls are in place to protect water quality and the view shed.

The source information compiled within the DGEIS characterizes topography and slope differently. Ground slope requires careful consideration as stormwater management, erosion control, septic system design/operation and development in general require greater attention with increasing ground slope.

For future decision making, broad consideration of ground slope is appropriate at lesser thresholds. This was the rationale in preparing Map 5B, which identifies areas of the Town with slopes exceeding 15%. In such areas, future decisions must carefully consider slope. The maps with a more refined breakdown of slope conditions are also important to making decisions on specific issues such as the feasibility of septic systems. The classification of slope was one key factor utilized in preparing Map 14, Soil Suitability for Septic Systems.

Comment 6:

Section 5.1 Geology

This section should include and describe what geologic and soil types and characteristics favor or limit certain types of development or activity.

Response to Comment 6:

Section 5.1 is intended to provide sufficient information on soil and geology to describe the baseline condition. How soil conditions and geology affect development and land use activities is described in the relevant sections. For example, soil and geology are very important considerations in assessing the feasibility of onsite septic system and this is discussed in detail in Section 6.3. The quality of this soil also effects the location of agriculture which is discussed in Section 5.6. The type of soil makes it more difficult (or less difficult) to perform construction and to control stormwater improvements. Both construction concerns and stormwater concerns will be addressed on a site-by-site basis based by the constraints posed by the soils. The DGEIS is intended to provide an overall evaluation of environmental impacts. The DGEIS identifies that development can have a localized adverse impact on water quality and that engineering controls will be implemented to mitigate those impacts. Such measures are currently required by the various regulatory programs referred to in Table 29. Assuming the regulatory controls remain in effect and are enforced in a reasonable manner, the level of future development anticipated in the DGEIS (1,000 homes over 20 to 30 years) or in the New York City Department of Environmental Protection, *Extended New York City Watershed Land Acquisition Program DEIS* (444 units over 12 years) should have no measureable impact on the water quality in the Batavia Kill and/or Schoharie Reservoir. The Town supports the implementation of those measures that are practicable and reasonable to protect water quality on a site-by-site basis.

Comment 7:

Section 5.3.1.1 Wetlands

The statement that NYSDEC maps are more thorough than NWI maps due to field verification is not true and that statement should be deleted or corrected. Production of both NWI and NYSDEC maps relied primarily on interpretation of aerial photography with limited field verification due to resource constraints. In addition, the NWI maps were updated for the west of Hudson portions of the New York City Watershed in 2005 (including the Town of Windham) using 2003 imagery, while the Freshwater Wetland Maps for Greene County are largely based on 1980's photography and methodology. The limitations of the New York State Freshwater Wetlands maps can also be demonstrated by the revision that was undertaken between 2004 and 2006 for the portion of the New York City Watershed east of the Hudson River. This revision identified, largely through the use of NWI maps, an additional 7000 acres of wetlands that were missing from the original NYSDEC maps in this 400 square-mile area. The majority of this amended acreage was from reinterpreting the boundaries of previously mapped NYSDEC wetlands, and identifying additional 12.4 acre wetlands that were not included in the original Freshwater Wetland Maps.

Section 5.3.1.1 should also stress that, given the limitations of remote sensing, wetlands may be present in an area even though none are indicated in the NWI or NYSDEC wetland maps and that field verification is therefore required for any proposed project areas.

The statement in chapter 5.3.1.1 that the Watershed Rules and Regulations prohibit 'certain activities from taking place within 100 feet of a watercourse or prohibit direct discharge to a wetland' should be corrected to state that certain activities are also prohibited within 100 feet of a watercourse or NYS-regulated wetland and of the wetlands covered by the Watershed Regulations, it includes those wetlands shown on NYSDEC's Freshwater Wetlands Maps.

Response to Comment 7:

Comments have been noted and/or incorporated into the DGEIS.

Comment 8:

Section 5.3.2.2 Wetlands

The DGEIS should clarify that the hydric soil indicators listed are only a partial list of possible indicators, and that not all of the indicators need to be present to demonstrate the presence of hydric soils.

Response to Comment 8:

Comments have been noted and/or incorporated into the DGEIS.

Sections 5.3.1.1 and 5.3.2.2 describe that vegetation, soil characteristics and hydrology are factors used to determine and classify wetlands.

Comment 9:

Section 5.4.1.1 Water Quality and Quantity

The discussions of point and non-point sources of impacts to water quality and quantity should include those commonly associated with land development, including changes related to removal of forest cover and replacement with cover with lower interception, infiltration, and evapotranspiration rates; increased use of fertilizers and pesticides on lawns, road de-icing chemicals, etc.

Response to Comment 9:

The DGEIS provides a summary of the impacts which arise from development. However, not every impact is discussed in every subsection of the DGEIS.

The DGEIS summarizes how future development may impact the environment and/or infrastructure, and whether specific consideration needs to be provided to individual issues. Section 5.4.1.1 is intended to summarize the baseline condition in a qualitative manner.

Comment 10:

Section 5.4.3 Recommended Mitigation Measures

The DGEIS recommends that the existing septic rehabilitation program be expanded to include all “systems that need to be upgraded to meet the requirements of applicable to new systems.” Please be advised that NYCDEP currently has no plans to modify the program rules to expand the geographic extent of the program or allow funding for systems that are not failing.

Response to Comment 10:

Comments have been noted and/or incorporated into the DGEIS.

Comment 11:

Section 5.5.1.1 Wetlands

Please change 'decreasing' to 'decrease' in the following phrase "...wetlands remove excess nutrients and decreasing the velocity and erosive powers of runoff..."

Response to Comment 11:

Comments have been noted and/or incorporated into the DGEIS.

Comment 12:

Section 5.5.2 Detailed Description of Wildlife, Plants and Habitats

This section could be greatly enhanced by the inclusion of additional information on the occurrence of threatened, endangered and species of special concern within the Town of Windham limits. Numerous protected bird species apparently occur in the area and their habitat protection cannot be considered without some knowledge of the species present. Spotted turtle habitat requirements should be provided within the document so that individual projects can be assessed in light of the potential impacts to turtle habitat. While rare plants and plant communities are, generally, not afforded the same protection as animals in development on private lands, each proposed project should be checked against the Environmental Resource Mapper to determine if impacts are likely to occur. These impacts should be considered as part of the cumulative impacts to wildlife within the Town of Windham boundaries.

Response to Comment 12:

Endangered and threatened species are protected by State and Federal Law. Additionally, certain species of concern such as migratory birds, are similarly protected. The DGEIS acknowledges the appropriate statutes and regulations. The Town of Windham has no separate jurisdiction or powers in regard to protecting endangered or threatened species, however the Town can, in the context of individual development projects and approvals, assure the project sponsor is cognizant of applicable State and Federal law. This will be accomplished through the submission of an Environmental Assessment Form (EAF) for individual projects and coordination with appropriate involved agencies. Note, the Town does not anticipate a significant loss in open space over the next 30 years. In particular, the Town does not anticipate significant new farms, shopping malls, office complexes and large urban style subdivisions. The Town anticipates that the existing regulatory controls (including the protection of rare and endangered species/habitats) and natural market forces will prevent a significant loss of open space. Because of the generally poor soils, significant new development is most likely to occur where there is access to public sewers (i.e., in or around the existing hamlets).

The New York City Department of Environmental Protection, *Extended New York City Watershed Land Acquisition Program DEIS* reports that since 2000, new residential construction in Windham absorbed .8 acres per residential

unit. If that figure is extrapolated to the 1000 units discussed herein, approximately 800 acres would be absorbed in the next 20 to 30 years for new residential development.

Comment 13:

Section 6.3.2.1 Regulation of Septic Systems

It should also be noted in this section that NYSDEC is also a primary regulator for septic systems with a design flow over 1,000 gpd.

Many of the septic system technologies described in the DGEIS as not being allowed within the NYC Watershed boundaries are allowed and have been approved under the Watershed Regulations. Although these technologies are prohibited for new construction, these technologies are often employed in septic system repairs or as part of a variance application. Furthermore, NYSDOH in their proposed revisions to Appendix 75-A will be prohibiting evaporation-transpiration systems and/or further restricting the standards for these systems.

The DGEIS states that the inclusion of some form of mechanical pretreatment results in the system being regulated as a wastewater treatment system under section 18-36. Proposed revisions to the Watershed Regulations will allow mechanical pretreatment for septic systems without changing the treatment requirements.

The DGEIS states that outside of the NYC Watershed it is recommended that an additional area of 50% be set aside for future replacement or expansion. Please note that septic systems outside of the NYC watershed are under the jurisdiction of NYSDEC and NYSDOH and must have a 100% expansion or reserve area.

The DGEIS discussion on grandfathering of septic systems and alteration and modifications as defined by the Watershed Regulations should also describe Statewide restrictions which in many cases are nearly the same.

The DGEIS states that under the Watershed Regulations a wastewater treatment plant is essentially any treatment system that requires a SPDES permit. Please revise accordingly as many new and existing septic systems with SPDES permits are not considered wastewater treatments plants under the Watershed Regulations.

The DGEIS states that the cost of operating a WWTP after upgrade increases between 100% and 300%. Since NYCDEP pays for upgrade costs of existing and public WWTPs and O&M, this claim may mislead the reader that wastewater users in the watershed face fees above those found elsewhere in the State. This statement should be revised accordingly.

Response to Comment 13:

Comments have been noted and/or incorporated into the DGEIS.

Comment 14:

Section 6.3.2.2 NYSDOH Policies and Approval Procedures

This discussion is oversimplified as NYSDOH has different requirements for residential septic systems and permitted facilities. Consultation with NYSDOH is recommended.

Response to Comment 14:

The discussion is adequate for purposes of the GEIS.

Comment 15:

Section 6.3.2.3 Catskill Watershed Corporation (CWC) Programs

This section has an emphasis on NYCDEP required maintenance and rehabilitation. A discussion of statewide requirements for septic system maintenance and replacement should be included in the DGEIS.

Response to Comment 15:

The NYCDEP's required maintenance and rehabilitation program is more stringent than the State requirements. The two principle purposes of this section are to determine whether there is a need for additional regulatory controls to protect groundwater resources and to identify development constraints. The poor soils and stringent regulations is a significant limiting factor that will deter dense residential development, cluster development or commercial development. Within the Town of Windham, it will be difficult to find a large track of land with soils suitable for a community septic system. It will be cost prohibitive to build a stand-alone wastewater treatment plant with a surface discharge. Prior to the adoption of the New York City Watershed Rules and Regulations, the Windham community existed on septic systems and small wastewater treatment plants. Despite that 416 new housing units were reportedly constructed within Windham between 2000 and 2008, the Town Board is not aware of any new private wastewater treatment plant or community septic system being constructed within the Town in the 13 years since the promulgation of the Watershed Rules and Regulations. In planning for the future, it is critical that the DGEIS identify where and what type of development could practically and feasibly occur.

Comment 16:

Section 6.4.5 Recommended Mitigation Measures

This section should also include non NYCDEP requirements as well. As noted in previous sections, NYSDOH and NYSDEC both regulate septic systems and the vast majority of the standards are similar.

Response to Comment 16:

The NYCDEP's required maintenance and rehabilitation program incorporates the State requirements and adds some additional protective measures. The State and City standards for existing and new septic systems are one of the limiting factors in determining which properties have development potential. Given the poor soils and steep slopes, the siting of a new individual septic system under NYSDOH regulations or a new community septic system under NYSDEC regulations is a significant impediment to new development.

NYSDOH regulates household and commercial septic systems that have a daily flow less than 1,000 gallons per day. NYSDOH also regulates septic systems that have a design capacity greater than 1,000 gallons per day at certain types of facilities (e.g., trailer parks, children camps, etc.). NYSDEC regulates septic systems that have a design capacity greater than 1,000 gallons per day. For systems between 1,000 gallons to 10,000 gallons per day, NYSDEC has issued a general SPDES permit (i.e., an applicant registers with NYSDEC under the general permit rather than obtaining an individual permit). NYCDEP regulates all sizes of septic systems and requires individual permit approvals for all sizes. Within the NYC Watershed, NYSDEC and NYCDEP have entered into a Memorandum of Agreement which provides DEP with primary design review and approval authority over septic systems with a flow greater than 1,000 gallons per day. Although NYCDEP's regulations are modeled on and incorporate the NYSDOH and NYSDEC standards, there are various areas where NYCDEP is more stringent.

Comment 17:

Section 8.7 Specific Mitigation Strategies

This section should be expanded to provide guidance for assessing and mitigating impacts to a wide variety of resources. Section 8.7.g covers some reasonable mitigation measures for vegetation impacts but does not address how to assess forest fragmentation, habitat loss, etc. The potential for introduction of invasive exotic plants into the area during construction, both from undertaking specific landscaping projects and inadvertently through transport from other areas is not mentioned and no mitigative measures are proposed. More consideration should be given to this since Greene County currently suffers from somewhat less invasive species pressure than counties south and east of there and prevention is far less costly than eradication. The wording of the section regarding forest fragmentation resulting from forestry operations likely refers more to forest clearing that precedes development construction rather than forest management and should be restated to reflect that difference.

In part 8.7.c., third paragraph, change to *waters* of the US and indicate that this term also includes wetlands.

Table 29 should also note that a NYS Freshwater Wetlands Permit is also needed for the listed activities for designated wetland and their 100 foot adjacent area. It should also be noted that many activities are considered ‘incompatible’ with wetlands and may not be permitted.

The DGEIS should indicate the Watershed Regulations regulates certain activities within 100 feet of watercourses and NYS-regulated wetlands. The mitigation strategies presented in this section should include that wetlands are field-verified in proposed project areas, and that preference is given to avoid or minimize potential wetland impacts, even for those wetlands that are not regulated by the US Army Corps, NYSDEC, or NYCDEP. Mitigation should be provided for all unavoidable impacts.

Response to Comment 17:

Table 29 does not list the NYSDEC Wetland Permit. Table 29 will be revised to add NYSDEC to the 100-foot buffer entry at the bottom of the Table.

The permit programs speak for themselves in terms of allowable and permissible activities. These are discussed in prior sections of the DGEIS.

Comments have been noted and/or incorporated into the DGEIS. The Town acknowledges the need to mitigate impacts to critical environmental resources. The analyses in the DGEIS indicates that over the next thirty (30) years, the Town will remain a rural community with vast amounts of open space. As a result, the foreseeable development within the Town is unlikely to have a significant cumulative adverse impact on wetlands, rare and endangered species and forest fragmentation. With respect to invasive species, the Town Board has been tracking DEC's efforts to regulate and/or control invasive species. On June 10, 2010, DEC published, "Final Report - A Regulatory System for Non-Native Species," which outlines its recommendations for controlling invasive species. As part of the Final GEIS, the Town Board is instructing the Planning Board to educate itself on DEC's policies and to incorporate those policies into its SEQRA evaluation on individual projects.

Comment 18:

Section 9.0 Cumulative Impact Analysis

The DGEIS suggests that the Cumulative Impact Analysis would be done as new projects are proposed. A document such as the DGEIS that is intended to assess the development capacities of the Town of Windham is the appropriate time to review community-wide goals and impacts.

The Severe Limitations analysis shown on Map 11 does not include NWI wetlands, while page 22 indicates that both NWI and DEC wetlands are to be part of this analysis.

Response to Comment 18:

The biggest threat to the Windham community would be the closure of the ski mountain and the cessation of second home development. In order to maintain its community character and quality of life, Windham needs the revenues, visitors and second homes generated by the ski mountain. Given its location (i.e., on top of a mountain and forty-five minutes to the NYS Thruway), its steep slopes, harsh winters, the regulatory environment, the below average per household income (median household income in 2008 is estimated at \$44,952), low paying service jobs, New York State taxes, and other factors, the Town does not anticipate a large influx of permanent residents. The trend is in the opposite direction. At the same time, the community needs a steady supply of full time residents to survive and to have access to basic services. Given these factors, the Town does not anticipate a significant adverse cumulative impact on open space, wildlife, surface water quality, groundwater quality and/or quantity, wetlands, forests, cultural and historical resources and traffic (other than limited traffic congestion on winter weekends in the vicinity of the ski mountain) from the anticipated development over the next 30 years.

Comment 1:

Slope Limitations: The DGEIS uses conflicting language on the topic of slope limitations which ought to be revised to provide consistent guidance related to slopes. Moreover, any such guidance should be consistent with existing NYSDEC and NYCDEP requirements, as well as the Greene County Soil Survey (USDA SCS, 1993) so as not to lead to conflicts.

Specifically, May 11, “Extremely Severe Limitations Analysis” lists Slopes >20%, which Map 5A, “Soil Slope Constraints,” lists 16-25% as severe and >25% as extremely severe. Similarly, mitigation measures in regard to slopes are contradictory. Table 1, “Potential Project Mitigation Techniques by Land Use Activity,” lists Limitations of Building on Slopes >15%, while Section 5.1.4, “Recommended Mitigation Measures” states special design or construction techniques should be taken into consideration for building construction slopes >20%.

We recommend that the DGEIS be revised to provide consistent guidance related to slopes in excess of 15 percent which ought to require the application of good engineering and design practices on parcels where slopes exceed 15 percent.

Response to Comment 1:

The source information compiled within the DGEIS characterizes topography and slope differently. Ground slope requires careful consideration as stormwater management, erosion control, septic system design/operation and development in general require greater attention with increasing ground slope.

For future decision making, broad consideration of ground slope is appropriate at lesser thresholds. This was the rationale in preparing Map 5B which identifies areas of the Town with slopes exceeding 15%. In such areas, future decisions must carefully consider slope. The maps with a more refined breakdown of slope conditions are also important to making decisions on specific issues such as the feasibility of septic systems. The classification of slope was one key factor utilized in preparing Map 14, Soil Suitability for Septic Systems.

The DEIS and Findings make clear that ground slope be considered in determining when additional engineering controls are appropriate. In order to have a sustainable community, Windham needs year round residents with the ability to earn a good living. At the present time, Windham Ski Mountain is the unique factor that attracts both part-time and full-time residents. Windham Ski Mountain has generated a significant second home housing market. The second home ski market provides construction jobs, maintenance jobs, real estate fees, real property taxes, school taxes, sales taxes and brings activity to our retail and food establishments. At the present time, the Town Board believes that the second home market will be a critical component to the long term sustainability of the community. The parcels most desirable for the second home ski market are typically on steep slopes next to the ski mountain. The Town anticipates that in the future the majority of the demand for new homes will be on the slopes surrounding the ski mountain. As such, the Town does not discourage such development; rather, as noted in the DGEIS, engineering controls must be taken to ensure that the slopes can be developed without significant impact on water quality and/or view scape.

Comment 2:

Windham Mountain Expansion Potential: DGEIS Section 7.2.6 states, in part, “The location within the Forest Preserve limits the potential for expansion at Windham Mountain.” Windham Mountain, which located within the Catskill Park “blue line,” is not located on Forest Preserve lands. Forest Preserve lands are lands owned by the State of New York and are subject to constitutional limits on their alteration. By contrast, Windham Mountain is located on privately-owned land. Further, as a privately-owned facility, there is no comparable limitation on the expansion potential because of any Catskill Park of Forest Preserve issues. Only State-run Ski Areas on Forest Preserve lands (Belleayre, Gore and Whiteface) have limitations on ski trail length and widths established by the New York State Constitution.

Response to Comment 2:

The Town Board assumes that in order for a ski mountain like Windham Mountain to be successful, it must constantly improve and expand the opportunities offered to its customers (i.e., skiers and snowboarders). Over the past 30 years, the ski mountains that did not continue to improve and expand closed. The Town Board believes that it is important to the entire community that Windham Ski Mountain have the flexibility to expand and/or upgrade to address the needs of its market. – Comment Noted.