



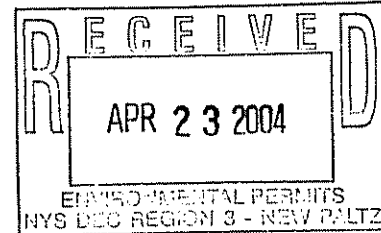
FRIENDS of CATSKILL PARK

Box 556 Phoenicia NY 12464 845-334-2420

Friends of Catskill Park is a project of the Open Space Institute, Inc.

April 23, 2004

Mr. Alec Ciesluk
Deputy Regional Permit Administrator
NYSDEC
21 South Putt Corners Road
New Paltz, New York 12561-1620



Re: Proposed Belleayre Resort at Catskill Park

Dear Mr. Ciesluk:

Thank you for the opportunity to submit comments on the proposed Belleayre Resort at Catskill Park, the largest single development ever proposed for the Central Catskills.

We have many concerns which we have listed in our comment section. We have also enclosed a report by Peter J. Smith and Company, Inc discussing the Community Character Impacts of the Belleayre Resort.

Please feel free to call with any questions about the material.

Sincerely,

Judith Wyman
Chair, Friends of Catskill Park
PO Box 556
Phoenicia, NY 12464
845-688-7312



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COMMENTS OF FRIENDS OF CATSKILL PARK ON THE BELLEAYRE RESORT PROPOSAL:

Catskill Park encompasses one of the most uniquely beautiful areas in the world and serves many purposes. It is refuge for those who wish to be replenished by nature and come to Catskill Park and the Forest Preserve for relief from the traffic, sprawl, noise and crowds of urban and suburban areas; it contains a major part of the watershed that supplies water to half the population of New York State; it's rural villages are home for those of us who are fortunate enough to live here; and it's wilderness, the second largest wilderness area in New York State, provides habitat for a multitude of plant and animal life.

Catskill Park, the New York State Forest Preserve, the New York City Watershed and the existing village communities currently co-exist harmoniously and this harmony serves a wide range of needs throughout the state. It is a working balance that can and must be preserved.

We believe the Belleayre Resort would disrupt the existing balance in profound ways and have negative impacts in, but not limited to, the following areas for which there is insufficient or no mitigation:

1. Catskill Park is the second largest park in New York and people from all over the state and beyond come to enjoy it's unparalleled natural beauty. Millions appreciate that a wilderness experience exists just 2 hours from one of the largest cities in the world. The Park is a refuge where people can slow down, reconnect with nature and enjoy the small town experience. The Belleayre Resort, or any resort of this magnitude, would dominate the area and be out of character with what is most valuable about the Park. Hundreds of additional cars and trucks per hour would create congestion, noise and pollution along the only main artery through the park (scenic Route 28). Commercial activity along roadways would increase and intensive growth pressures would inevitably degrade the environment and lead to an undermining of the 'forever wild' intention of the Park.
2. The proposed development would straddle the Ashokan and Pepacton watersheds that supply millions of people in New York State with unfiltered drinking water. A mountaintop development of this magnitude, requiring massive deforestation to make way for hundreds of acres of buildings, roads, parking lots and golf courses, removes the natural 'water filter' that a forest provides. Stormwater run-off from deforested land and 84 acres of impermeable surfaces (roofs, roads, parking lots) would open the way for potential pollutants (silt, chemical nutrients, pesticides, herbicides, road and parking lot residue) to enter the waterways that empty into the two reservoirs. In addition, the induced growth and secondary development pressures that the resort would bring about would lead to more disturbed land, more

building activity, more traffic and consequently more polluted run-off from non-point sources. Such conditions are deadly for a watershed. New York City has just been granted a filtration waiver by the EPA for 5 more years. A development of this scope and magnitude could undermine current efforts to maintain the present quality of the water supply and contribute to the need to filter NYC's water at an anticipated cost of 6-8 billion dollars.

3. According to the DEIS, 529 mountaintop and mountainside acres would be clear-cut, and a substantial amount blasted, for buildings, roads, detention ponds, utilities, parking lots, lawns and golf courses. Such massive deforestation of high-elevation land leads to visual degradation, the potential for erosion and sedimentation of waterways (risk 1000-2000 times greater during construction), elimination and/or degradation of wildlife and wildlife habitat, and potential for flooding homes and roads below. The slopes are very steep in many places and much of the soil is shallow and has a high clay content. Once disturbed, such soil is very difficult to keep on the mountain, even with multiple layers of stormwater controls, making the risk of erosion and siltation of streams very high.

4. Pesticides, herbicides, fungicides, and fertilizers used on golf courses and lawns and the chemical (chitosan acetate) proposed for the stormwater management plan would introduce chemicals into what is currently a pristine ecosystem. These chemicals contain active and inert ingredients that are highly toxic and variables such as wind and unexpected rain showers contribute to the risk of residue being carried into surface and groundwater. This creates a potential threat to water quality and consequently to the people and wildlife in the area. Trout habitat is extremely sensitive to contamination and the Esopus Creek is one of the most prized trout streams in the world. Pesticides are also a major source of bird mortality since birds cannot be prevented from entering an application area or eating insects, dead or dying from pesticides.

5. The resort would create a huge demand on local water resources. The developers have not proven that there is enough water to service and sustain the current and future needs of the existing villages, the Belleayre Ski Center (which is planning an expansion) as well as a huge resort complex with full amenities including two 18-hole golf courses. Water demands would be heavy during the most drought-prone months of the year which could lead to a water crisis. Moreover, use of water from local villages, as the resort developers propose, would limit the future growth of those villages. Growth in the villages and hamlets rather than on mountaintops or along Route 28 is the most desirable type of growth for this area according to most studies and plans. (West of Hudson Economic Development Study, Catskill Forest Preserve Public access Plan).

6. The developer's Environmental Assessment Form claims the resort would generate up to 500 vehicular trips per hour although the DEIS claims up to 347 during peak periods. It does not appear that the DEIS covers delivery trucks, supply trucks, service trucks and busses that the resort would generate so perhaps that omission accounts for the shortfall in the numbers. There would also be thousands of trucks bringing in construction materials during the 8 year construction phase and Route 28, a 2-lane scenic highway through the Catskill Park, is the only main artery through the area. This spike in the traffic load would degrade the travel experience and increase the risk of travel for all, increase air pollution from emissions (The American Lung Association recently gave the Route 28 Corridor a 'D' rating for air quality) and increase polluted runoff to watershed streams. (A new complication: apparently the Catskill Mountain Railroad has recently been given clearance by the

NYS DOT to cross Route 28 in Mt Tremper, near Dean Gitter's Catskill Corners, 8 to 18 times per day.)

7. The development would be visible from several sections along Route 28, several hiking trails, Hog Mountain, Rose Mountain, Monka Hill, Fleischmanns, Pine Hill Village, Belleayre Ski Center, Big Indian and many other locations. It would be the only mountaintop in the area with major development including multiple buildings, roads, parking lots, all using artificial light at night. Although Belleayre Ski Center is lighted during snowmaking, this occurs only during ski season. The Belleayre Resort would create year round night sky glow which could be seen for miles around. It would be a major visual impact since one of the treasures of the Catskills is a truly dark night sky.

8. The developers misstated the economic conditions in the area so as to make it appear economically depressed when in fact it is one of the most vital and fastest growing areas in the region. The developers understated income levels, population growth level, skill level of the labor force, number of available workers, vitality of area businesses and more. This subject has been thoroughly covered by the firm Peter J. Smith & Company, Inc for Friends of Catskill Park and their report is being submitted with this letter.

9. The towns for which the resort is proposed (Shandaken and Middletown) encompass a wide radius around the resort and have a combined population of just over 7000 people. According to the 2000 census figures, the combined total of unemployed people in both towns is just over 200. The developers are claiming the resort would require a total of 872 full- and part-time workers, mostly in service positions. They also say the resort would generate 211 off-site positions through secondary or indirect impact. The DEIS claims that the local construction sector is "not oriented" toward the needed specialties of resort construction and that "economic effects...would, to a large degree, not be localized"--this despite the projection that the eight years of construction would require 2,114 person-years of employees. It is evident that the towns do not have an adequate labor supply to service either the construction phase or the resort in operation. Employees would have to be imported and those who became new residents would need housing, services and education for their children. A development of this size would overwhelm the area and put it on fast-track growth which the local towns are not prepared to handle.

10. The local communities need and support small, sustainable, environmentally friendly businesses that pay at least a living wage which is not what the Belleayre Resort is offering. By the developers' own admission in the DEIS, "mid and upper-management jobs would probably be filled by non-resident personnel who relocate to the resort area", which leaves literally hundreds of lower paying jobs as an offering to local people. This would not fill any local need. Employers in local communities are currently having difficulty finding workers to fill low-paying jobs. There are constant 'help-wanted' signs in the local convenience store and gas station, the supermarket and a small bread-making company. A small embroidery factory brings in workers in vans from outside the area. The Emerson, built by the developer of the proposed Belleayre Resort, employs people from other countries here on work visas. There is no need in the area for hundreds of jobs, especially of the type being offered.

11. We do not believe that when tax breaks, which the developers plan to take advantage of, and costs to the community are taken into full account, that the

resort would pay for itself. Fiscal impacts to local communities would be substantial. The importation of perhaps hundreds of new workers would be a costly proposition for the taxpayers when you add up the need for services, housing and education for their children. There would be expenses associated with increased visitation and residency such as police and fire protection, road-building and maintenance, and supplying services and housing. In addition, there are nearly always unforeseen needs and accompanying costs. Induced rapid growth destabilizes communities and when remediation is required, it falls to the taxpayers and the local communities.

12. The developers unfounded claim in their DEIS that there would be no impacts on community character has been thoroughly covered by Peter J. Smith & Company, Inc. in their report for Friends of Catskill Park which will be submitted with this letter. We believe there would be very serious negative impacts and some of them include: creating a significant jump in population; importing hundreds of workers; increasing the traffic load and adding traffic lights; altering a treasured viewshed; deforesting over 500 acres of high-elevation land; inserting a separate and exclusive 'gated community' (such as the Belleayre Ridge portion of the development) into a rural community; imposing 8 years of construction noise, dust and traffic on local communities and businesses; risking local trout fisheries which are world-renown and a substantial source of local income; competing 'head-on' with local businesses; bringing about negative socio-economic impacts (see Ferrandino report done for the town of Shandaken); inflating property values making it more difficult for local residents to buy and maintain property in their own community; placing a resort on a mountain so massive that it would dwarf nearby villages and potentially hold more people than there are residents in the entire town of Shandaken; and more.

13. We do not feel that the project would serve the needs of the area for many of the previously mentioned reasons. We believe it would cost the environment and the community in both quality of life and taxes. There have also been several articles and news stories (NY Times, Wall ST Journal, Business Weekly, National Public Radio) reporting that golf course resorts and accompanying housing developments are being built at an unsustainable rate and the number of new golfers is decreasing. The 2000 census figures show that our area is growing organically. Per capita income in Shandaken almost doubled, the median household income is up substantially and unemployment is very low. As the developer's DEIS makes clear, during the years 1990 to 1999, the services sector in our tri-county region experienced a 19.6% increase in job growth, higher than the state's 16.8%; jobs in retail trade grew at 8.6%, far higher than the state's 3.1% increase. Manufacturing and public administration, the other major economic sectors in the region, had employment rates that were also higher than the state percentages. We could always benefit from quality jobs that are desirable to local people and pay at least a living wage, but we do not need a development that would cost so much and offer so little to the majority of residents.

We would like to make comment in four additional areas.

1. The planned Belleayre Ski Center expansion should be reviewed in conjunction with the Belleayre Resort project. Clearly it is on the table, since there have been newspaper articles about it and at least 2 public meetings. After one article, I (Judith Wyman) and 2 others (Mary Herrmann and Adam Nagy) met with Tony Lanza in his office to discuss the plan. He showed us the plan on paper and willingly discussed it with us. Since it would impact the same area in so many ways

(traffic, labor, water resources, etc), there appears to be a segmentation of issues which is contrary to SEQRA requirements. The DEIS should reflect the impacts of the Belleayre Expansion project and should not go further until it complies.

2. The survey of area businesses referred to in the DEIS was flawed for several reasons. First, the survey was conducted early in the process before any information from objective experts was available to the public. Only the developer's assessment of beneficial impacts on local businesses was available. Since then, experts (Ferrandino and Associates, Inc, Konheim and Ketcham, Peter J. Smith & Company, Inc, and others) are calling the developer's claim of only positive impacts on local businesses into question and seeing the development as a potential negative impact on local businesses. Even the DEIS states that the resort would compete 'head on' with local businesses. Second, the survey was not conducted by an objective party. It was coordinated by Joan L. Bauer, who at the time was the publicist for the developer, and the survey made use of inexperienced hired help to deliver and explain the surveys. Many businesses were told the survey was for the DEC and they were unclear about their obligation to participate.

A survey of this type is only valid if it is conducted by objective parties and those surveyed have enough information to make a valid assessment. Neither was the case in this situation.

3. The Marist College Poll was conducted by objective parties, although the developers composed the questions. We believe the results give an inaccurate impression of the sentiments of the area. First, the survey covers Middletown and Shandaken together which we believe gives an inaccurate result. Shandaken contains the greater percent of the resort site (85%). Consequently, all impacts will be much greater in Shandaken and it should have been polled separately. Second, the poll was conducted before objective experts had completed reports. To accurately assess public sentiment, another poll should be conducted after more objective expert information has been made available to the public.

4. The DEIS is an awkward, cumbersome document and extremely difficult to navigate. The electronic version should have been searchable and hard copies should have been readily available for those who do not use computers. All had difficulty navigating the DEIS and much of the public was left out of the process as a result. This goes against the intent of SEQRA which requires documents to be accessible.

In closing, Friends of Catskill Park believes the Belleayre Resort would create devastating impacts on what is one of the most unique areas not only in the state, but in the world. As we stated at the beginning of this letter, Catskill Park, the New York State Forest Preserve, the New York City Watershed and the existing village communities currently co-exist harmoniously and this harmony serves a wide range of needs throughout the state. It is working and it is a balance that can and must be preserved.

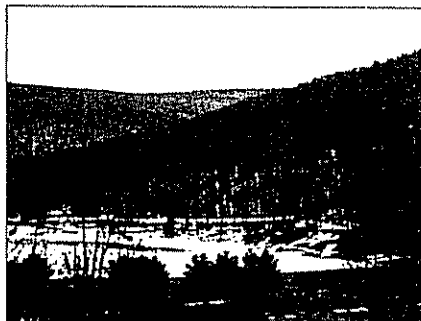
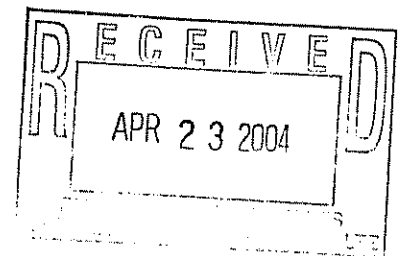
Community Character - DEIS Evaluation Belleayre Resort at Catskill Park



Submitted:

April 23, 2004

New York State Department of Environmental Conservation



Prepared for Friends of Catskill Park by peter j. smith & company, inc.

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Community Character Analysis

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1.0 Executive Summary

The Belleayre Resort at Catskill Park is proposed in the Catskill Region, specifically, the Towns of Shandaken and Middletown. The project's community character impacts are vast and essentially, unconsidered, in the DEIS prepared for the project. The following summarizes the community character impacts and the deficiencies of the DEIS in addressing these issues:

1.1 Visual Impacts

Visual impacts resulting from construction of the Belleayre Resort will be significant and will adversely affect community character. The DEIS materially underestimates these impacts. The methodology used by the DEIS does not fully comply with the DEC Visual Impact Assessment Policy in that "line-of-sight" profiles are not included; at a minimum, these should have been completed for several of the points along Route 28 that were identified in the DEIS as "potentially visible areas along roadways" and from the Village of Pine Hill. As such, the method used in the DEIS Visual Impact Study (Appendix 21) does not include the minimum required by the DEC Policy System Program Policy on Assessing and Mitigating Visual Impacts.

The DEIS Visual Impact Study for Belleayre Resort does not comply with the DEC Program Policy on Assessing and Mitigating Visual Impacts because of the following reasons:

- DEC requires that the worst-case scenario for visual impacts be explored, which was not done. This would likely be from hilltops directly adjacent to the proposed resort
- The minimum requirements of a Visual Impact Analysis include "line of sight" profiles, which were also not done.

Based on a review of the surrounding topography, a worst-case scenario for visual impacts should be completed from across the valley, namely Rose Mountain, Monka Hill and Hog Mountain. The visual impacts from the Village of Pine Hill and Route 28 would be the most frequently observed due to the development there and would have the greatest impact on community character, as identified on figure 3-25A of the DEIS, however these views have not been included in the DEIS. Impacts to both Pine Hill and Route 28 were dismissed without any visual simulations or line-of-sight drawings being completed to illustrate how clear-cutting the mountain and the introduction of mowed fairways would change the forested character of the mountain.

The visual impacts that have not been adequately evaluated in the DEIS would include:

- Visual impact analysis within five miles of the project, specifically from Pine Hill and Route 28 are not adequate
- Visual impacts of blasting the top of a currently forested and undisturbed mountain with no consideration to the changes in topography
- Visual impacts and potential erosion of stockpile areas and the lack of a stockpile management plan
- Visual impacts of clear-cutting over 500 acres and turning much of the area into lawned golf courses and buildings
- Loss of forest land that includes the destruction of over 278,000 trees
- Light pollution, including night glow, lighting visible from an elevation perspective and glare from lighting during the winter (snow glare), on an historically "dark" region
- Impacts on panoramic views and vistas along Route 28 and from other places within a five mile radius of the project site

1.2 Noise Impacts

The Sound Impact Study (SIS) for the DEIS assumes that increases in existing sound levels of 9 dBA or less are: "insignificant, temporary construction noise"¹; there is no clear indication of how they will mitigate the noise impacts because the DEIS offers an evaluation of noise, not a mitigation plan for the noise that will result. To call these levels "insignificant" downplays the level that DEC calls intrusive and may cause complaints. These impacts are dismissed in the DEIS and further consideration is needed.

The DEIS states that typical blasting noise levels range between 93 to 94 dBA at a distance of 50 feet. The DEIS also states that blasting noise levels will be only 46 dBA for the proposed project which is 4 dBA below the existing ambient daytime average sound level. The existing daytime sounds, as documented in the DEIS, range from 41 to 50 dBA and are characterized by "wind rustling through the trees" and the sound of a "nearby creek."² The DEIS is implying that, through noise attenuation, they will not increase the current noise levels in the area. The determination by the DEIS is that: "blasting for this project is not to significantly contribute to overall Project construction noise." Blasting the mountaintop will create an amphitheater effect and the noise levels will be in excess of existing, ambient wind and creek levels.

Increased noise levels will impact local neighborhoods during construction of the proposed Belleayre Resort at Catskill Park. The cumulative effects of blasting and construction will increase the noise levels from a rural community to that equal to an urban industrial area. Additionally, the noise levels will exceed ambient levels of a rural setting and will have significant impacts on residents. Finally, the noise mitigation plans are not clearly defined and do not state how noise will be regulated to control the impacts.

The community character noise impacts that have not been adequately evaluated in the DEIS would include:

- Duration of noise, especially in the summer months when most residents are outside and windows are open
- Noise impacts from trucks hauling fill (over 230,000 cubic yards) and construction materials throughout construction
- Noise impacts from trucks and vehicles to service the Resort once it opens
- Increased traffic noise from Resort users
- Increased traffic noise from Belleayre Ski Center users

¹ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. Appendix 22 - Sound Impact Study. p. 4-2.

² Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. Appendix 22 Sound Impact Study. p. 3-10.

1.3 Open Space Impacts

One of the most important characteristics of the Catskills is the presence of a vast amount of open space. Approximately 500 acres of forested, open space will be forever altered upon approval of the proposed project. The Catskill Mountains have been recognized as a significant natural resource in New York State. The Catskill Forest Preserve Public Access Plan recognizes that the Catskill Forest Preserve is an invaluable asset to the quality of life and economic vitality of the Catskill region and management of the Preserve is imperative.

The open space impacts that have not been evaluated in the DEIS would include:

- Source of topsoil has not been identified impacts the loss of agricultural land
- Cumulative impacts and secondary growth impacts
- The intensive use of the Forest Preserve
- Loss of the wilderness and forest character of the area
- Land use changes from forested land to more intensive development that will result in more impervious materials and a loss of the open space on the mountain top
- Potential loss of an additional 1,387 acres with no guarantees from the applicant on specific ways the remainder of the property is to be protected
- Impact on Route 28 as a scenic drive— and potentially as a State designated Scenic byway
- The scale and design of the hotels is out of context with the immediate area and the evolution and development of the Catskills

1.4 Land Use, Neighborhood and Economic Impacts

The economic impacts of the proposed project could have the biggest impact on the existing community character as they will impact the number and type of jobs available, future surrounding land uses and the need for additional housing. These economic impacts are assessed in the DEIS, yet much of the analysis contains inconsistencies and errors with data sources. The economic analysis must be clear, concise and accurate to paint a true picture of the existing and projected economy. This is the only way that the economic benefits and costs can be assessed for the proposed project.

The economic impacts that have not been evaluated in the DEIS would include:

- Source for topsoil has not been identified and the impacts of loss of agricultural land
- Land use changes from forested land to more intensive development
- Problematical methodologies used in the economic analysis of the DEIS (boundaries, assessment of economic benefits, use of "average household income")
- The use of all of New York State (including the New York State Metropolitan Area) rather than eliminating this area that skews the economic analysis
- Characterization of the local economy and labor force is inaccurate and the area is, in fact, a growing and vibrant portion of the State
- Overstatement of the number of jobs and potential salary impacts that the proposed project will have on the region
- Overstatement of existing unemployment rates and the need for this project as a "catalyst" for new development
- Understatement of average household incomes to make the area appear to be in a depressed state when, in fact, the area has experienced economic improvement over the past ten years and especially since 9/11
- Lack of Per Capita Income analysis to illustrate the economic condition of the region when compared to the rest of the State
- No recognition of the changing tourism industry and, in particular, the local movement away from large scale, all inclusive resorts to niche market providers
- The potential impacts on hamlets by creating one "large-scale" development that would be self-contained and compete "head-on" with existing businesses
- Secondary growth impacts (second/vacation homes, new housing construction, impacts on Route 28, economic impacts on the hamlets, cumulative impacts with the expansion of Belleayre Ski Center and overall fiscal impacts) are not considered

1.5 Social Impacts

Social impacts of the proposed project are tied to the probable population growth that can be expected from the project, yet this population growth is ignored in the DEIS. This population growth will impact the social aspects of the region and, in particular, the Towns of Shandaken and Middletown. The DEIS states that because the project is "self-contained", there are no community character impacts. This statement ignores the social costs of the proposed project.

The social impacts that have not been evaluated in the DEIS would include:

- Increased truck traffic and traffic generated by the project
- Increased cost for road maintenance (Route 28) because of increased truck use in hauling fill, construction materials, landscape materials and traffic generated by the project
- Inclusion of "gated communities" to create exclusive enclaves in an area historically known as open and inclusive
- No consideration given for population growth and the need for additional housing for lower paid employees
- Meeting the broad definition of "in harmony" from either zoning code as the standard for special use permit requirement
- The community vision as outlined in the community survey and workshops
- Population growth potentials are not considered and are likely to have impacts on schools, fire, police and other services

2.0 Community Character Assessment

2.1 Proposed Project and Purpose of this Report

Crossroads Ventures, LLC has proposed a large-scale resort development in the Catskill region and specifically, the Towns of Shandaken and Middletown. The Belleayre Resort at Catskill Park development is proposed for the mountaintop area on both sides of Belleayre Ski Center. According to the DEIS, this large-scale development, over 500+ acres of disturbed mountaintop, generally includes:

- Two 18-hole golf courses
- Two hotels (150 rooms and 250 rooms)
- Clubhouses
- Four restaurants in new buildings (75, 150, 150 and 300 seats)
- Restaurant in existing Marlow Mansion (150 seats)
- Various Recreational Facilities – tennis courts, pools, driving range
- Two full service spas
- Conference Center (500-seat ballrooms, meeting rooms)
- Children's Center
- 88 units in 22 quad buildings (2 bedroom)
- 60 units in 20 triplex buildings (3 bedroom)
- 168 units in 21 octoplex buildings (2 bedroom)
- 35 units (4 bedroom)
- 21 lot subdivision – single family

The scale of this development will forever impact the entire Catskill region. The impacts on these communities must be carefully assessed and evaluated as part of the DEIS presented to the NYS Department of Conservation during the review and approval process. The DEIS fails to address the community character impacts in an appropriate way.

This report includes a general description of community character and how it is defined. By researching various sources, a general definition of community character is developed. From this, a description of community character, as it specifically relates to the Catskill region was determined; for the purposes of the community character analysis, the Catskill Region will include, but not be limited to the Town of Kingston, Town of Hurley, Town of Olive, Town of Shandaken, Town of Hardenburgh, Town of Middletown and all hamlets and villages within these communities. The Re-Assessment of the DEIS evaluates the document from the perspective of community character, and how the proposed development may impact the Catskill region, and specifically, the Towns of Shandaken and Middletown; closer scrutiny is given to these communities because the project is located within their municipal boundary. The impacts identified are correlated to the Long Form EAF and are discussed as they relate to the two communities.

2.2 Defining Community Character

The Catskills are one of God's better creations and we are blessed to live in the heart of it. And what we savor and respect in this treasured landscape has had a birth of relevance among the people who live and labor in the great metropolitan areas around us.³

Consideration of the "community character" of the Catskill region and Towns of Shandaken (Ulster County) and Middletown (Delaware County) is essential when considering the proposed development of Belleayre Resort at Catskill Park. Unlike so many other aspects of the DEIS prepared for Crossroads Ventures, LLC, defining community character is not a "science" with a specific answer. *Community character is something that is experienced, seen, felt and cherished by people that live in a community and those that visit.* We all know what the community character is when we experience it and we know when it has been impacted by changes.

The Merriam-Webster Dictionary defines "community" as:

- The people with common interests living in a particular area
- An interacting population of various kinds of individuals in a common location
- A group of people with a common characteristic or interest living together
- A group linked by a common policy
- A body of persons or nations having a common history or common social, economic, and political interests

"Character" is defined as:

- One of the attributes or features that make up and distinguish an individual
- A feature used to separate distinguishable things into categories
- Main or essential nature especially as strongly marked and serving to distinguish

Based on these definitions, community character can be defined as the traits or attributes, both tangible and intangible, of a region that are identifiable and bind residents and visitors together. These include both physical and psychological bonds within the historic, cultural, natural, built, political and economic environments. Community character is often referred to as a "sense of place". "Geographers have...examined both the character intrinsic to a place as a localized, bounded and material geographical entity, and the sentiments of attachment and detachment that human beings experience, express and context in relation to specific places."⁴ The Catskills Mountains are what defines the community character of the Catskill region.

³ Route 28 Corridor Committee Transmittal Letter – March 1994.

⁴ The Dictionary of Human Geography. "Sense of Place". p. 731.

3.0 SEQRA and Community Character

The State Environmental Quality Review Act (SEQRA) process requires that impacts on community character be considered for all proposed developments. SEQRA and its regulations define "environment" as "the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic and aesthetic significance, existing patterns of population concentration, distribution or growth and existing community or neighborhood character."⁵ In the SEQRA regulations, §617.7(viii) includes impacts that must be addressed, such as those that include a substantial change in the use or intensity of use of land, including agricultural, open space or recreational resources.

The courts of New York and NYS DEC have explicitly held that neighborhood character is a "physical condition of the environment under SEQRA."⁶ For example:

- The Appellate Division (New York State's intermediate appellate court) upheld a decision to deny a hard rock mine permit based on adverse impacts to the historical and scenic character of the community including visual and other community impacts that could be sufficiently mitigated.⁷
- The Appellate Division found that the examination of adverse economic impacts from a proposal to build a new Wal-Mart was proper "in the context of assessing the probability and extent of the change it would work on the overall character of the community, as a result of an increased vacancy rate among commercial properties in the downtown area – an entirely proper avenue of inquiry, even within SEQRA."⁸
- In an Interim Decision agreeing that community character was an issue for adjudication, the NYS DEC Commissioner made the following observation regarding community character: At times, the issue of community character may intertwine and overlap with issues such as noise, aesthetics, traffic and cultural resources, and a commissioner's final determination may "necessarily involve a judgment that integrates all the relevant facts with respect to all those issues."⁹

⁵ ECL §8-0105 and 6 NYCRR 617.2.

⁶ *Chinese Staff Workers v NYC*, 68 NY2d 359, (1986).

⁷ *Land Construction Company v Cahill*.

⁸ *Wal-Mart v North Elba*.

⁹ *In the Matter of Palumbo Block Company*

3.1 Existing Community Character of Catskill Region

The Catskill Mountains have been recognized as a significant natural resource in New York State. Over 100 years ago, New York State recognized the uniqueness and beauty of the Catskill region, which has been an attraction to visitors for over a century. New York State describes the area in the following way:

The Catskill Park is a **mountainous region** of public and private lands in Ulster, Greene, Delaware and Sullivan Counties – “the forest preserve” counties. Ninety-eight peaks over 3,000 feet high form an impressive skyline. Its blend of public and private lands is typical of large parks in Europe, where people and unique lands have coexisted for centuries. The Catskill **Forest Preserve** is the state land within the Catskill Park. Since its creation in 1885, it has grown from 34,000 to almost **300,000 acres**.¹⁰

The Catskill Forest Preserve Public Access Plan completed in August 1999 by the NYS DEC and NYS DOT recognizes the importance of the Catskill region for all of New York when it states:

The quality and character of the lives of people of New York depend upon the quality and **character of the natural resources**, which support our lives. The Catskill Forest Preserve is one of New York's great natural resources...The biological and economic value of the forest preserve is rooted in the quality of its **natural resources** – clean water, land and air – and the inestimable beauty of the **landscape**.

Tourism groups have long recognized the value of the Catskills within New York State. This statement by the Hudson Valley Network is how many would describe the Catskill region and, specifically, the Towns of Shandaken and Middletown.

Quaint, historic towns, from Phoenicia and Pine Hill to Fleischmanns, Margaretville, and Andes, offer unique flavors of relaxed, comfortable living along gurgling streams, beneath **imposing peaks**, and bathed in crisp mountain air. Outstanding, one-of-a-kind restaurants offer all flavors (no chains here) present palate-pleasing fare, and charming cabins, motels, B&Bs, and lodges offer weary travelers snug sleeping in **serene settings** at the end of the day... **Small villages and towns**, Phoenicia, Margaretville, Pine Hill are home to shops offering charming gifts, local crafts, specialty foods...We are the guardians of a well-kept secret.¹¹

¹⁰ <http://www.dec.state.ny.us/website/dlf/publands/cats/index.html#SpecialAreas>.

¹¹ <http://catskills.hvnet.com/route28.htm>.

Officials and residents in the Catskills also understand the uniqueness and beauty of the Catskills. The Route 28 Corridor Study completed for the Town of Shandaken recognizes the character of the Catskill region, and the desire to direct development to existing nodes and "developed" areas.

The **various hamlets** along the [Route 28] corridor provide services to the visitor and should serve as the **hubs for future concentrated development**, other than that which requires a location with specific physical features. Development in the two communities has tended to **respect the topography and unique natural feature** – the mountains – by nestling small clusters in the villages and hamlets that exist. Private lands are almost exclusively confined to the narrow **stream valleys** and hollows below the **higher peaks**.¹²

Local, not-for-profit organizations have been working for decades to protect the Catskills. The Catskill Center remains committed to protecting the outstanding natural, cultural and historic resources of the Catskill Mountain region.¹³ They describe the Catskills as:

Encompassing greater than six counties and over 6,000 square miles of **mountains, forests, rivers, and farmland**, the Catskills are often referred to as America's First Wilderness because scholars trace the beginnings of the **environmental conservation** movement to this beautiful area. With almost three dozen mountain peaks over 3,500 feet in elevation and six major river systems, the Catskills are an **ecological resource of significant importance**. Pure air and water, rich farmland, parks and forests, clear-flowing streams, cascading waterfalls, grand panoramic views, and historic villages characterize the Catskills. Long renowned as a prime vacation destination, the Catskills offer a variety of recreational opportunities including hiking, skiing, snowmobiling, camping, biking, rock and ice climbing, canoeing, fishing, hunting, bird-watching, or just plain rubber-necking.

¹² Route 28 Corridor Study. p. 8.

¹³ <http://www.catskillcenter.org/center.html>.

While each group or individual will define specific aspects of community character that impact them directly, there are several obvious aspects of the communities that bind them together and that all can agree upon. For the Catskills region and, specifically, the Towns of Shandaken and Middletown, these would include:

- **Peaks and Valleys** – The Catskill region is characterized by peaks and valleys and includes some of the most spectacular mountains in New York State. In much of the Catskills, the mountaintops have remained virtually undeveloped while the valleys, including the Route 28 corridor, have experienced small-scale residential, commercial and tourist-related development. The mountains are covered with forests that blanket the mountaintops with green in the summer, vibrant reds, orange and yellows in the fall and white snow caps in the winter.
- **Scenery** – The mountains in the Catskill region are generally second growth forests. Local, County and State residents and officials recognize these forests as a significant resource. The clear flowing streams, crisp mountain air, grand panoramic views and waterfalls all add to the natural experience that characterizes the Catskill region. The natural state enhances the scenery of the entire Catskill region.
- **Rural** – Driving through Shandaken and Middletown along Route 28 in the valleys of the Catskill mountains, the experience includes a winding, valley road that follows the natural topography of the region. In most of the Catskill region, there are no large-scale, high-density developments located on the mountaintops in the region, but rather sparsely populated areas with small-scale commercial and large-lot residential development located in the valleys. Open space characterizes the rural character of the Catskill region and impacts the quality of life for all residents.
- **Small Villages and Hamlets** – The Catskill region has had a history as a “resort destination”; this included small-scale developments centered in and around the villages and hamlets that are located in the valleys. These population centers have been important to the social and economic well-being of residents and have also served the visitors to the region. The villages and hamlets have evolved through a history that has helped define the community character. Much of history of the Catskill region can be found in many of these small villages and hamlets as they evolved over many years.

These characteristics must be considered in assessing the proposed Belleayre Resort at Catskill Park and its community impacts. The project will impact the Catskills region, and because of its location in Shandaken and Middletown, the two Towns specifically. An assessment of these impacts will help determine if the development is appropriate in the location and at the scale it is proposed.

3.2 Community Character Impacts Defined in SEQRA

The NYS DEC's Full Environmental Assessment Form lists many potential impacts that a project could have; these include impacts on land, water, air, agricultural resources, aesthetic resources and community character to name a few. As each impact is addressed, several issues or topics must be evaluated as they relate to the proposed project. The following issues identified in the Full EAF, relate to community character the Catskill region and are considered in further detail as part of this report:

- Will the Proposed Action result in a physical change to the project site?
 - Construction that will continue for more than 1 year or involve more than one phase or stage
- Will Proposed Action affect aesthetic resources?
 - Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, man-made or natural
 - Proposed land uses, or project components visible to users of aesthetic resources, which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource
 - Project components that will result in the elimination or significant screening of scenic views known to be important to the area
- Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?
 - A major reduction of an open space important to the community
- Will Proposed Action affect the character of the existing community?
 - The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%
 - Proposed Action will conflict with officially adopted plans or goals
 - Proposed Action will cause a change in the density of land use
 - Development will create a demand for additional community services (e.g. schools, police and fire, etc.)

"The proposed project will involve development of approximately 29% of the assemblage, or only approximately 573 acres. The project will provide for most of the needs of its guests, including lodging, dining, recreation, spa facilities, etc. Because the Resort will be fairly self-contained, there will not be an affect on community character."¹⁴ Statements such as this in the DEIS for the Belleayre Resort at Catskill Park clearly indicate that there is a lack of understanding of what community character is, specifically in the Catskills region and Towns of Shandaken and Middletown, and what this community character means to residents and visitors.

¹⁴ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p. xvi.

The project has significant external impacts - aesthetic, physical and social - that will impact the two communities. The impacts considered involve the community character, as it exists today and the potential impacts this type of development would forever have on these two municipalities and the Catskill region.

4.0 Specific Community Character Impacts

4.1 Physical Changes to the Project Site

4.1.1 Construction that will continue for more than 1 year or involve more than one phase or stage

The DEIS states that the project would be completed over an 8 year period. The duration of the construction schedule could have several impacts on the rural community character in the Catskill region and, in particular, the Towns of Shandaken and Middletown.

A) DEIS Noise Impact Assessment

According to NYS DEC sound pressure level (SPL) impact is a significant issue based on two aspects; these include the sound pressure level and the increase in the sound pressure level (noise). The sound pressure level is the measurement of noise above the ambient sound pressure level. By comparison "a quiet seemingly serene setting such as rural farm land will be at the lower end of the scale at about 45 dBA"¹⁵ while urban industrial noise levels will be on the scale approximately 79 dBA. The increase in the sound pressure level is the variation between ambient and the produced sound. According to the NYS DEC¹⁶:

- Most humans find a sound level of 60–70 dBA as beginning to create a condition of significant noise effect.
- In non-industrial settings the SPL should probably not exceed ambient noise by more than 6 dBA at the receptor.
- Increases in SPL between 5–10 dBA is considered "Intrusive"

The above are used in evaluating the DEIS prepared for the Belleayre Resort at Catskill Park. The Sound Impact Study (SIS) for the DEIS assumes that increases in existing sound levels of 9 dBA or less are: "insignificant, temporary construction noise"¹⁷. There is no clear indication of how the noise impacts will be mitigated because the DEIS offers an evaluation of noise, not a mitigation plan for the noise that will result. To call these levels "insignificant" downplays the level that DEC also calls intrusive and may cause complaints. These impacts are dismissed in the DEIS and further consideration is needed.

¹⁵ Assessing and Mitigating Noise Impacts. NYS DEC Program Policy. p.20.

¹⁶ Ibid. p.14.

¹⁷ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. Appendix 22 Sound Impact Study. p. 4-2.

This evaluation does not challenge the science of the DEIS Sound Impact Study, but the assumptions and logic that lead to the conclusion that noise level increases will not have a significant impact on the Catskill region, and specifically, the Towns of Shandaken (and Pine Hill in particular) and Middletown. These impacts will occur over a period of eight years during construction and will directly impact on the quality of life of the local residents.

Noise Impacts From Blasting

One issue in the construction of Belleayre Resort at Catskill Park will be the impact of noise from blasting. The blasting will cause the mountain face to form a single sided quarry wall and therefore accentuate the sound levels by forming an amphitheater effect. The DEC states: "At a hard rock mine, curved quarry walls may have the potential to cause an amphitheater effect while straight cliffs and quarry walls may cause an echo".¹⁸ No consideration has been given to this impact on the quality of life for the residents within the blast area.

The DEIS states that typical blasting noise levels range between 93 to 94 dBA at a distance of 50 feet. The DEIS states that blasting noise levels will be only 46 dBA for the proposed project at the location of their designated receptor, located at a distance greater than 50 feet, which is 4 dBA below the existing ambient daytime average sound level. The existing daytime sounds, as documented in the DEIS, range from 41 to 50 dBA and are characterized by "wind rustling through the trees" and the sound of a "nearby creek."¹⁹ The DEIS is implying that, through noise attenuation, they will not increase the current noise levels in the area. The determination by the DEIS is that: "blasting for this project is not to significantly contribute to overall project construction noise." Blasting the mountaintop will create an amphitheater effect and that the noise levels will increase and be in excess of existing, ambient wind and creek levels

Duration of Noise

Another issue in the construction of Belleayre Resort at Catskill Park is the duration of noise during construction. The DEIS states: outdoor construction...is expected to occur during the construction season of April to November, six days per week, 10 hours per day (daytime hours only). "Due to the nature of construction in New York State most of the outdoor construction will occur in the summer months. This increases the noise during the time when people tend to spend more time outdoors and have their windows open". The DEC states: "Summer time noises have the greatest potential for causing annoyance because of open windows, outside activities, etc. ... Building walls [combined] with the window open [during the summer months] allow for only a 5 dB reduction in SPL."²⁰

¹⁸ Assessing and Mitigating Noise Impacts; NYS DEC Program Policy. p. 10.

¹⁹ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. Appendix 22 Sound Impact Study. p. 3-10.

²⁰ Ibid. p. 10.

Increased Noise Levels

In addition to the duration of the noise, the level of noise during construction is also an issue. Table 4-2 of Appendix 22 of the DEIS outlines the construction sound levels for the Project. The construction of hotels and major facilities ranges from 78-89 dBA and the construction of Residences and Small Buildings ranges from 81-88 dBA. Both construction activities exceed the NYSDEC standard for "a condition of significant noise effect" and exceed the level of urban industrial noise.

The Sound Impact Study (SIS) for the DEIS states that at Big Indian Plateau "...other construction is estimated to result in temporary increases in sound level of 9 dBA or less; this would indicate an intrusive noise level change (between 5-10 dBA). At Wildacres Resort, the SIS states temporary increases in sound level of 9 dBA or less which indicates, according to the DEIS, an acceptable level of noise impacts. However, based on DEC standards, this increase would be considered intrusive as the noise level changes (between 5-10 dBA).

The DEIS states the actual construction of the earthen berms, which are constructed to mitigate the noise of blasting and construction, "may temporarily exceed significance criteria" and could impact the existing rural community character in the Region. In addition, "... construction noise at each receptor may temporarily exceed significance criteria" which would also impact the rural community character. The DEIS also states that an increase in: "ambient sound by more than 10 dBA significance level is possible" from the construction of the Highmount Estates lodging units. The Sound Impact Study (SIS) for the DEIS states: "maximum sound levels, if all activities are conducted simultaneously and assuming the mitigation previously specified is estimated to increase ambient sound levels by 10 dBA which slightly exceeds noise significance limits." All of these impacts, individually and combined, could be significantly higher than the NYS DEC standards of "Intrusive" and according to the DEC's human reactions to SPL's would be "Very Noticeable" and possibly "Objectionable".

Increased noise levels will impact local neighborhoods during construction of the proposed Belleayre Resort at Catskill Park. The impacts of construction on noise levels in the region surrounding the proposed Belleayre Resort at Catskill Park would include:

- The cumulative effects of blasting and construction will increase the noise levels from a rural community to that equal to an urban industrial area
- Noise levels will exceed ambient levels of a rural setting and will have significant impacts on residents
- That noise mitigation plans are not clearly defined and do not state how noise will be regulated to control the impacts

B) Visual Impacts from Blasting

The DEIS states that the depth to bedrock is only 12 to 22 inches throughout the proposed development area; there are some places on the project site where the landscape is bare ledge. Water lines are generally installed 48 inches below grade and sewer is generally installed 24 inches below grade to avoid freezing. In addition to blasting for services, the DEIS states that blasting will be necessary for the retention ponds and building foundations.

The existing depth to bedrock is obviously shallow for these services and to accommodate the ponds and foundations. Blasting and filling would be required for all portions of the project development. Blasting and regrading the mountaintop would have visual impacts on the Catskills region that have not been adequately considered. The visual impacts to accommodate the proposed Resort and golf courses will be evident as the existing contours and vegetation on the mountain will be changed; the DEIS visual simulations clearly show these impacts even from 1-2 miles away. The mountain contours would be changed to accommodate the proposed project and no consideration is given to these visual impacts from locations close to the project site and specifically, from Route 28. The DEIS fails to illustrate the visual impacts from this vantage point.

Increased Traffic – Hauling Fill

The DEIS indicates that at Wildacres Resort, the net fill will be 39,317 cubic yards. But the DEIS also states that these raw earthwork values do not include the topsoil that "will be imported when constructing the two golf courses and for landscaped areas around buildings. Approximately 108,000 cubic yards of topsoil will be used on each golf course and 11,000 cubic yards will be used at each Big Indian Plateau and the landscaped areas at the Wildacres Resort."²¹ This would, in all likelihood, require trucking the topsoil along Route 28 to the site. The number of trucks could exceed 15,100 (assuming 15 cubic yards of top soil per truck) during this part of the project construction. The traffic and noise impacts on the two communities, and all communities along Route 28, will be adverse and the DEIS does not adequately address these traffic and related noise impacts.

Once the project is completed, there will be an increase in the number of vehicles along Route 28; this includes guests at the Resort and trucks/vehicles that service the site. The DEIS does not include or address the vehicles that will be required to serve the site (garbage trucks, maintenance vehicles, supply trucks, etc) in terms of the volume of traffic on Route 28.

²¹ Ibid. p. 2-38.

Noise Impacts

"Noise from the motors and exhaust systems of large trucks provides the major portion of highway noise impact."²² The following outlines samples of various decibel levels to illustrate the impacts the truck traffic from the proposed Resort will have on the Catskill region:

Table 4-1 Noise Levels

Decibel Level	Example
40 (Very Quiet)	Quiet Rural Area
70 (Annoying)	Freeway Traffic
90 (Loud)	Diesel Truck
100 (Very Loud)	Garbage Truck

Source: Sound and Noise: Generation, Propagation and Reduction – Kevin Surace, March 2004. Quiet Solution

The decibel level of a diesel truck is approximately 90 decibels; this is more than double the decibel level of a quiet rural area, which would characterize the Catskill region. The area would go from a "very quiet" decibel level to a "loud" decibel level as over 15,000 trucks roll along Route 28.

Additional Road Maintenance

There is no consideration for the fiscal impacts associated with the cumulative presence of construction traffic over the 8-year period; this would include truck hauling fill, equipment and materials to the site, as well as worker traffic. In addition to the noise and traffic increases, there would likely be road degradation as topsoil is imported and construction equipment is brought to the site. This could result in an increased need for road maintenance and repaving and should be considered in the DEIS.

Once the project is completed, the volume of traffic on Route 28 will always be greater than what it is today. This will require on-going maintenance of the corridor because degradation will occur at a faster rate.

C) Source of Topsoil

A related issue associated with the topsoil required for the project is the source of the topsoil. Generally, topsoil is harvested from agricultural lands within an area proximate to the project site; the cost of trucking imported topsoil usually dictates this. This would result in the loss of local agricultural lands, which are a non-renewable resource. Almost 250,000 cubic yards of topsoil are expected to be imported to the site, as outlined in the DEIS. The impacts on the loss of agricultural lands is an important impact on the local, regional and state economy that should be addressed in the DEIS.

²² <http://www.nonoise.org/library/suter/suter.htm>

D) Visual Impacts and Potential Erosion from Stockpile Areas

There are many references to identifying "suitable stockpile locations" for the excess cut generated in Phase 1. Not only would these areas be susceptible to erosion because a forested mountain covered with thick organic matter has a better capacity for stabilizing soils than a mowed fairway, but also they would be visually intrusive for a period of 8 years. While erosion control measures are being proposed, there is always a potential for negative impacts. The removal of vegetation deprives the soil of the stabilizing function of roots as well as the moderating effects on wind and water erosion. A stockpile management plan for all stockpile areas that illustrate the location of the proposed areas, the visual impact mitigation measures and the erosion control mechanisms that will be used, should be prepared.

The visual impact on the undisturbed mountaintop will be noticeable when combined with the tree removal and bare soils on the development site. "Degradation of hillsides also destroys a community's character. The surrounding hills are an aesthetic resource which gives the community its distinctive setting."²³ These visual impacts, as well as the clear cutting of 500+ acres, are not adequately addressed as they relate to the peaks/valley and scenic community character in the Catskill region. The impacts of clear cutting are dismissed by simply stating the site will be revegetated.

²³ Land Use Plan for Ulster County. p. 14.

4.2 Impacts on Aesthetic Resources

4.2.1 Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural

A) Land Use Changes Impact Catskill Experience

The DEIS quotes a 1955 brochure from the archives of the Skene Library in Fleischmanns showing a year-round resort climate offering skiing, hunting, golfing and summer fun. The website goes on to state: "The brochure mentions that the chair lift on Belleayre is operated not only for skiers but also in summer and fall to facilitate sightseeing."²⁴ Even when this area of New York State was in it's heyday as a destination and resort area, people that visited the central Catskills were attracted to the region, and made this their vacation destination, because they recognized the pristine environment and magnificent views of the mountains.

B) Gated Communities

People that purchase time-shares and stay at the Resort will be the primary users of the proposed project. The DEIS states that a "gate house is proposed on the main access road above Friendship Road."²⁵ Although gated communities are developing throughout the United States, especially around golf and ski communities, the concept of a gated community in the Catskill region, and specifically, the Towns of Shandaken and Middletown, is in direct contrast to the hamlet community character that creates communities. While residents will not expect access to any private lands without permission or an invitation, the concept of gating portions of the two Towns is foreign to this region. The exclusive enclaves built on top of the mountain will, in all likelihood, create a divide between long-term residents and those that frequent the proposed project. "Outsiders" will be viewed as coming into the Catskill region and isolating themselves in this gated community rather than integrating themselves in to the existing culture.

The American Planning Association has adopted a "Smart Growth Policy Guide" that states "efficiency is enhanced when there are consistent and adequate street connections that allow people and goods to move with as few impediments as possible. Gated communities, private road systems, and the introduction of disconnected cul-de-sac systems promote disconnections."²⁶ This is true in both a physical and psychological sense for those that live, work and recreate in the Catskill region.

²⁴ <http://www.skenelib.org/dpq/hotel.php>.

²⁵ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p. 2-43.

²⁶ <http://www.planning.org/policyguides/smartgrowth.htm>.

In addition, the NYS Qualities Communities Initiative has developed several policies that statewide, demonstrate "New York State's commitment to working with local government leaders and community organizers to find smart, innovative solutions to strengthen our economy and environment and improve the quality of the place we call "home"."²⁷ Two specific policies adopted by the State include:

- The protection and enhancement of our air, land and water resources are important to the stability and diversity of ecological systems while also contributing to the health and well being of all New Yorkers. **Appreciation for our natural landscapes, such as mountains, forests, lakes, rivers, and coastlines, adds beauty and value to our lives.**
- The architectural variety, history and unique characteristics of our cities and downtown areas provide a **special sense of place** — and of home — for all of us. New York communities also see their **downtowns as an opportunity for future growth**. Keeping existing developed areas economically vibrant and environmentally healthy and breathing life into abandoned downtown areas are critically important to the quality of life of New Yorkers

The Belleayre Resort at Catskill Park, and the introduction of gated communities into the Towns of Shandaken and Middletown, would be in conflict with these two goals. The impact of transforming a mountain top by clear cutting and blasting shows little appreciation for the natural landscape – mountains – that add beauty and value to the residents and visitors in the Catskill region. Additionally, the special sense of place that characterizes the Catskills – mountains, scenery, rural and hamlets – would be greatly impacted by the development that has no relationship to any of these characteristics. The hamlet downtowns could be economically impacted by a large-scale development that has no physical or visual links with these historic areas. In addition, the gated communities would discourage people from visiting by placing gates at the entrances of the proposal and would become exclusive enclaves that are not linked to the rest of the community.

²⁷ www.dos.state.ny.us/qc/home.shtml.

4.2.2 Proposed land uses, or project components visible to users of aesthetic resources, which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource

"Today, the concern over view protection is being rediscovered and reawakened with a vengeance. Polls show that protection of viewsheds, view corridors and scenic roadways enjoys widespread political support."²⁸ The DEIS does not adequately address the aesthetic impacts of the proposed development on the peak/valley, scenic or rural community character of the Towns of Shandaken and Middletown. The Statewide Comprehensive Outdoor Recreation Plan (SCORP) recognizes the importance of scenic resources, and is referenced in the following section.

A) DEIS Visual Impact Assessment Methodology

The DEIS Visual Impact Study for Belleayre Resort does not comply with the DEC Program Policy on Assessing and Mitigating Visual Impacts because of the following reasons:

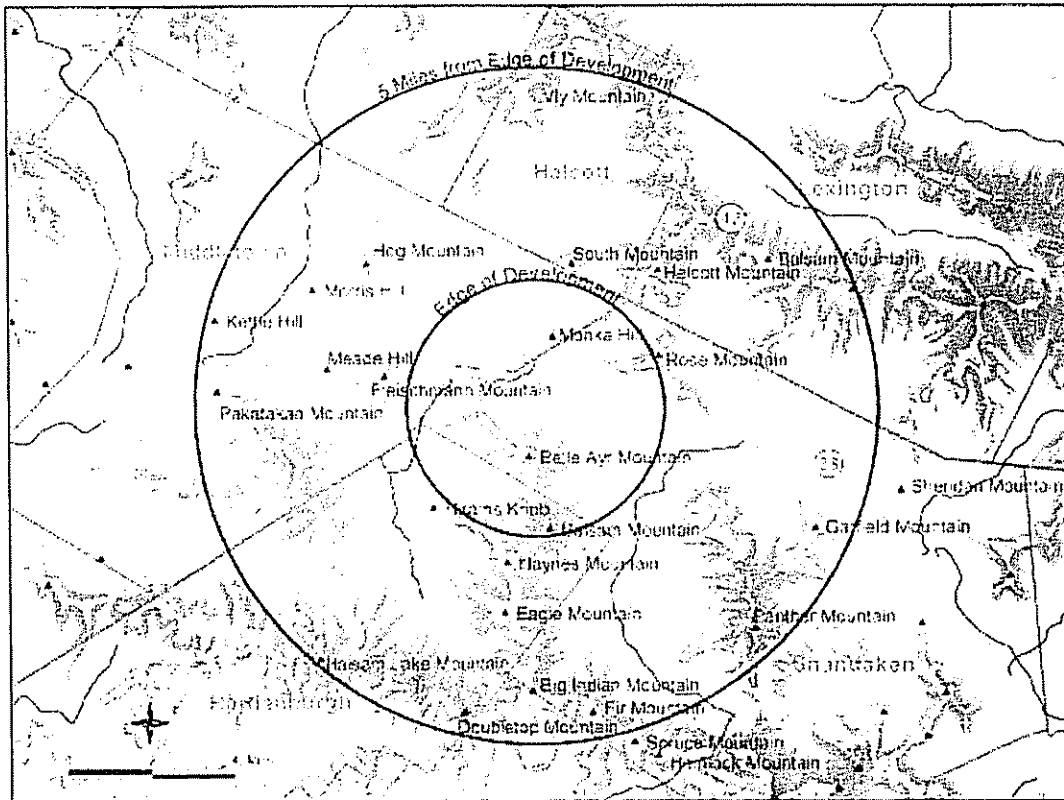
- DEC requires that the worst-case scenario for visual impacts be explored, which was not done. This would likely be from hilltops directly adjacent to the proposed resort.
- The minimum requirements of a Visual Impact Analysis include "line of sight" profiles, which were also not done.

Visual impacts resulting from construction of the Belleayre Resort will be significant and will adversely affect community character. The DEIS materially underestimates these impacts. The methodology used by the DEIS does not fully comply with the DEC Visual Impact Assessment Policy in that "line-of-sight" profiles are not included; at a minimum, these should have been completed for several of the points along Route 28 that were identified in the DEIS as "potentially visible areas along roadways" and from the Village of Pine Hill. As such, the method used in the DEIS Visual Impact Study (Appendix 21) does not include the minimum required by the DEC Policy System Program Policy on Assessing and Mitigating Visual Impacts.

²⁸ Aesthetics, Community Character and the Law. APA and Scenic America. p. 40.

The five-miles is stated in DEC policy to be, "largely considered "background", i.e. distances at which most activities are not a point of interest to the casual observer". Logically, the visual impacts seen at distances of five, ten and fifteen miles would be sequentially lessened. The view to the proposed development at a distance of five-miles or greater would largely be considered background and that the more significant visual impacts would be closer to the development within the five-mile radius.

Figure 4-1 Edge of Project and 5 Mile Radius
Illustrating Highpoints surrounding Proposed Project



Source: peter j. smith & company, inc.

Based on a review of the surrounding topography as indicated in the Figure above, the worst case scenario for visual impacts would be from across the valley: namely Rose Mountain, Monka Hill and Hog Mountain. The visual impacts from the Village of Pine Hill would be the most frequently observed due to the development there and would likely have the greatest impact on community character, however these views have not been included in the DEIS. Line-of-site drawing complying with DEC's minimum requirements should be developed from these points, from Route 28 and from Pine Hill to demonstrate visibility and to allow a reasonable review of impacts. It would also then be possible to determine if any mitigation measures are necessary.

B) Visual Impacts of Clear Cutting Over 500 Acres

The DEIS states "this clearing of [529 acres of] forest represents a short-term, local, adverse impact. Once hotels, detached lodging units and other buildings along the associated infrastructure are constructed (covering only 85.16 acres within the project site), natural regrowth and landscaping will occur, returning the vast majority of the cleared area to a vegetated state."²⁹ The DEIS reiterates several times that the "remaining 444 acres of disturbance will be revegetated by tree planting, ornamental planting or golf courses."³⁰ The "vast majority" returning to a vegetated state does not address the loss of forested land on this significant mountaintop. The fairways and greens at the golf course would never be reforested, and would forever be a visible variation and disturbance to the existing natural mountain range.

The views of the Catskills, both short and long distance, are wooded areas with few man-made disturbances. The State Constitution recognizes that importance of protecting the views to the Catskills Mountains in placing limitations on mountaintop development; these findings are reiterated in the Statewide Comprehensive Outdoor Recreation Plan³¹. The Catskill Park, which includes over 700,000 acres of both publicly and privately owned land, is recognized as an important resource in the SCORP.

The New York State Constitution allows for only limited tree cutting on Forest Preserve lands to create ski trails in the vicinity of the proposed project. Belleayre Mountain is limited to up to a total of 25 miles of ski trails with trail widths up to 200 feet; no more than 2 miles of trails in excess of 120 feet wide.³² This is done to protect the peak/valley, scenic and rural character of the communities and the forestland located on the mountaintops. The proposed Resort will include clear cutting over 500 acres surrounding this Ski Center, which will increase the visual impacts. The DEIS visual assessment does not consider the clear cutting impacts of the project or illustrate how the layout of the golf courses, which will be mostly mowed lawns, will visually change the mountain from appropriate high points across the valley, Route 28 or Pine Hill.

²⁹ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p. xii.

³⁰ Ibid. p. 3-86.

³¹ SCORP. p. 4-6

³² Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p 1-6.

C) Loss of Forest Land

According to the USDA, in the Catskills region of New York State, there are approximately 555 trees per acre within the forested lands.³³ This includes almost 400 trees with a diameter at breast height (dbh) of under 5 inches and 155 with a dbh over 5 inches. The DEIS states that 81.5% of the project site is in beech-maple forest and 13.9% is hemlock-northern hardwood forest, for a total of 95% of the 529 acre site. This would mean approximately 502 acres would be clear-cut and approximately 278,915 trees would be eliminated.

The DEIS states that "site plans call for the planting of over 4,100 indigenous trees on the project site plus a substantial amount of ornamental trees and shrubs in the formal landscape."³⁴ The clear-cutting of almost 280,000 trees of various sizes would have a significant visual impact on the landscape of the Towns of Shandaken and Middletown. Planting "over 4,100 indigenous trees" results in less than 8 trees/acre on the 500+ acres. This does not "return the vast majority of the cleared area to a vegetated state" as stated in the DEIS. This has an impact on both the visual and wildlife habitats impacts that are not adequately addressed in the DEIS.

D) Lighting and Light Pollution

Another significant issue, from an aesthetic approach, would be lighting on site. "The Milky Way is dimming, not because the end of the Universe is near, but rather as a result of light pollution: the inadvertent illumination of the atmosphere from street lights, outdoor advertising, homes, schools, airports and other sources."³⁵ This dimming of the stars would result as the project is constructed over the next 8 years. Belleayre Ski Center does not offer night skiing and is lit on a limited basis for making snow and trail grooming. Recently, the Ski Center has cut back on lighting because of complaints received from residents in the community; the lights are not on every evening and this impact occurs only during the ski season.

The proposed development, with internal roads, parking, hotels and time-shares, would require lighting for safety reasons; this is contradictory to the existing conditions within the project site and the surrounding area. This lighting, even if sensitively placed, will create light pollution and would be visible when looking directly at the mountain even if up lighting can be minimized. The DEIS states that "with the use of "metal halide, sharp cut-off fixtures with house shields, to reduce the amount of light pollution beyond the edges of areas intended to be lighted" illustrates that light will not "spill" from one lot to the next, yet some glare from lighting will be visible from Pine Hill and the Route 28 Corridor. This is especially true in winter when the reflection of the light on the snow will increase the glare; the DEIS does not address these specific conditions or the impact that lighting will have on the region.

³³ USDA Forest Service - Forest Inventory and Analysis. USDA Forest Service Forest Inventory and Analysis.

³⁴ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p. xiii.

³⁵ http://science.nasa.gov/headlines/y2001/ast01nov_1.htm.

Any lighting on site will increase light on the mountaintop and impact the “night sky” enjoyed by residents that have chosen this rural area for their home. Lighting in the two Towns now is primarily limited to the valleys – primarily in the villages and hamlets – and along the Route 28 corridor. No lighting simulations have been included in the DEIS to illustrate these lighting impacts.

4.2.3 Project components that will result in the elimination or significant screening of scenic views known to be important to the area

A) Panoramic Views and Vistas Impacted

Clear-cutting for the proposed development negatively impacts the scenic community character that is characterized as wooded, mountainous and rural. The DEIS does not adequately address the loss of vegetation on the local, panoramic views to the mountains in these two and adjacent communities and, in fact, states that “[b]ecause the Resort will be fairly self-contained, there will not be an affect on community character.”³⁶

The DEIS states that the forest stands observed on the site are “secondary growth less than 100 years old”. Yet, for 100 years, residents and visitors to the Catskill Park have come to know and enjoy the views of the mountaintops – in an undeveloped state. To call this impact a “short-term, local, adverse impact”³⁷ understates the peak/valley scenic and rural community character impacts the project will have on the two Towns and, in turn, the Catskill region. The visual experience of visitors to the Catskills, including those at the Belleayre Ski Center, would be significantly impacted. The development, as proposed, would result in a significant loss to forested views that are known to be important to the area and are an attraction to people from throughout the world. Even with tree replacement, the growth of new trees would take another 100 years to reach the maturity of the trees that are going to be cut from the project site.

³⁶ Draft Environmental Impact Statement For Belleayre Resort at Catskill Park. September 2003. p. xvi.

³⁷ Ibid. p. 3-85.