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In the Matter of the Applications of  
CROSSROADS VENTURES, LLC,  
For the Belleayre Project at Catskill Park  
for permits to construct and operate pursuant  
to the Environmental Conservation Law

-----  
Margaretville Fire House  
Margaretville, New York  
July 12, 2004

B E F O R E:

HON. RICHARD WISSLER,  
Administrative Law Judge

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1 (GROWTH/CHARACTER ISSUE) 2800

2

3 THE COURT: Let's begin.

4

5 MR. RUZOW: Your Honor, we have  
6 premarked a number of exhibits. The first set  
7 in the listing, we have four exhibits which are  
8 a follow-up from prior days of hearings and we  
9 have provided a list to all the parties and they  
10 have been numbered in accordance with the  
11 reporter's last number for the Applicant's  
exhibits. They would start with 59.

12 (Whereupon, Applicant's Exhibits 59  
13 through 85 were marked and received.)

14 THE COURT: Correct.

15 MR. RUZOW: And that is a March 23rd  
16 comment letter from US EPA Walter Mugdan to  
17 Alexander Ciesluk.

18 THE COURT: Have all these exhibits  
19 been distributed all right?

20 MS. BAKNER: Yes.

21 MR. RUZOW: Exhibit 60 a resume from  
22 Scott Manchester; 61 a resume of Gregory Sovas;  
23 62 is the National Forest Landscape Management  
24 that was referenced, a visual the LA Group's  
25 witnesses had offered.

1 (GROWTH/CHARACTER ISSUE) 2801

2 The second set of exhibits are the  
3 resumes of, Exhibit 63 a resume of Eric  
4 Wedemeyer who will be our first witness this  
5 morning; 64 the resume of George Raymond; and  
6 Exhibit 65 the resume of Walter Elander.

7 Then there are a series of exhibits,

8                   66 Ward Todd's statement; 67 is the Ward Todd  
9                   family post cards that he had shown us when he  
10                  was here; 68 is photos of the Grand Hotel from  
11                  the Catskill Archive website; 69 is a paragraph  
12                  from the Watershed Memorandum of Agreement,  
13                  paragraphs 134 and paragraph 135, it's in regard  
14                  to the West of Hudson Economic Development  
15                  Study; Exhibit 70 is the West of Hudson Economic  
16                  Development Study Report 2 which was the Market  
17                  Sector Assessment. CPC had previously put in  
18                  Report 1 which was a baseline study. Exhibit 71  
19                  is a West of Hudson Economic Development Study,  
20                  a draft report entitled Blueprint for the CWC,  
21                  it's a December 1998 draft, one of the ones that  
22                  preceded the final. Exhibit 72 is the West of  
23                  Hudson Economic Development Study, the Final  
24                  Study issued in July of 1999, the complete  
25                  study. Exhibit 73 is the Shandaken Zoning Code,

1                                           (GROWTH/CHARACTER ISSUE)                   2802  
2                   the June 1998 the last official document.  
3                   Exhibit 74 is Shandaken Local Law Number 1 of

4 1999 containing a number of amendments. Exhibit  
5 75 is a comment letter from Herbert Blish who  
6 submitted it for the record, one of the written  
7 comments. Exhibit 76 is an excerpt from the  
8 Ulster & Delaware Railroad Through the Catskills  
9 1972 by Gerald Best. Exhibit 77 is an excerpt  
10 from the New York State Conservationist, the  
11 Catskill Centennial Issue of June 1974. Exhibit  
12 78 is a Crossroads Foundation Grant Summary,  
13 that's in connection with the DEIS, refers to  
14 the Crossroads Foundation, I believe it's on  
15 page 1-23 of the DEIS. This is a summary of the  
16 grants they have given to date. Exhibit 79 is a  
17 Catskill Watershed Corporation press release  
18 dated June 1st, 2004 indicating the last round  
19 of Catskill Fun for the Future Grants. Ward  
20 Todd in his testimony mentioned that grant  
21 program was going to be put on hold because of  
22 reduced interest rates for the fund, but that  
23 was the last round that was granted. Exhibit 80  
24 they have put a green spacer there, is Route 28  
25 hamlet photos taken in June 2004 showing other

1  
2 photographs. Witnesses from AKRF will talk  
3 about that. Exhibit 81 is the Final Belleayre  
4 Mountain Ski Center UMP from July of 1985. That  
5 was the first UMP. Exhibit 82 is the final UMP  
6 Belleayre Mountain Ski Center May 1998, that's  
7 the last plan, UMP plan that's been adopted by  
8 the Department. Exhibit 83 is the full complete  
9 section, in the sense we have a complete  
10 section, of the resource protection and economic  
11 development strategy for the Route 28 Corridor  
12 March of 1994, I believe the CPC exhibit was an  
13 excerpt of that. Exhibit 84 is a binder  
14 containing the hard copy of the presentation you  
15 will hear a little later today from AKRF and  
16 their witnesses. And 85 is a CD containing that  
17 power point presentation which is in the back of  
18 the binder. I think for the moment that's our  
19 list.

20 THE COURT: Okay. Got it. I  
21 appreciate the fact that you marked all these  
22 things in advance. It saves a lot of time.  
23 This is a folder for me to put it in.



24 MR. RUZOW: Your Honor, the issue of  
25 community character we have heard --

1 (GROWTH/CHARACTER ISSUE) 2804

2 THE COURT: Before we begin, let me  
3 get appearances of counsel for the record.

4 MR. RUZOW: Dan Ruzow and Terresa  
5 Bakner for the Applicant.

6 MR. ALTIERI: Vincent Altieri for  
7 Staff.

8 MR. GERSTMAN: Mark Gerstman and  
9 Cheryl Roberts for the Catskill Preservation  
10 Coalition.

11 MR. BURGER: Michael Burger for the  
12 New York State Law Department representing DEP.

13 THE COURT: Okay. Mr. Ruzow.

14 MR. RUZOW: The DEIS contains an  
15 enormous amount of information regarding  
16 community character in a number of different  
17 places. For the record and to facilitate your  
18 review later on, section, I draw your attention  
19 to the following sections: Section 1.3 of the

20 DEIS, Project Purpose Need and Benefits, page  
21 1-5 through 1-25. Section 2.2.2 Catskill  
22 Architecture pages 2-14 to 2-19. Section 3.8  
23 Land Use and Community Character pages 3-133 to  
24 3-140. Section 3.9.8 Recreation Facilities,  
25 pages 3-183 to 3-185. Section 3.10

1 (GROWTH/CHARACTER ISSUE) 2805  
2 Socio-economic setting pages 3-185 to 3-221.  
3 There is also a set of tables in the DEIS  
4 concerning that section in particular, section  
5 3-75 to 3-82 and section 7, Growth Inducing  
6 Secondary and Cumulative Impacts, pages 7-1 to  
7 7-16.

8 In addition, there are several  
9 appendixes that contain additional important  
10 information and a fuller explanation of some of  
11 these issues, Appendixes 3 and 4 which address  
12 the recreational amenities plan for the project  
13 and its inter-relationship to the community at  
14 large as well as the Wildacres plan. Appendix 5  
15 which is a study of Catskill architecture. We

16 saw some of the that architecture, some but not  
17 all of that architecture when Ward Todd spoke  
18 and we had a blow-up of that. Appendix 6,  
19 letters of record. Appendix 26 which is the  
20 Economic Benefits and Growth Inducing Effects  
21 report by Allie, King of Rosen and Flemming, and  
22 Appendix 29, the Shandaken Town Board  
23 Resolutions.

24 In addition Applicant's Exhibit 8  
25 which was the Tourism Development Plan for the

1 (GROWTH/CHARACTER ISSUE) 2806

2 Central Catskills already admitted addresses  
3 these issues.

4 I am going to start, however, this  
5 morning by introducing Eric Wedemeyer who is  
6 here with us today. Eric's resume has been  
7 introduced as Applicant's Exhibit 63.

8 Mr. Wedemeyer, would you tell us  
9 what your position, your present position is and  
10 some background on your affiliations you have  
11 had here in the Catskills.

12 MR. WEDEMEYER: I am now president

13 principal broker with Coldwell Banker Prime  
14 Properties. We are the leading real estate  
15 management development throughout the  
16 three-county region.

17 MR. RUZOW: And you have offices  
18 where?

19 MR. WEDEMEYER: In Margaretville and  
20 Delhi.

21 MR. RUZOW: How long have you been  
22 in the Catskills?

23 MR. WEDEMEYER: Since I was eight;  
24 50-something years now.

25 MR. RUZOW: You have served in a

1 (GROWTH/CHARACTER ISSUE) 2807  
2 number of capacities here in the region. You  
3 have been active in the Delaware County Chamber  
4 of Commerce?

5 MR. WEDEMEYER: President for  
6 several years, yes.

7 MR. RUZOW: And if I recall  
8 correctly during the Watershed negotiations you

9 served as a representative --

10 MR. WEDEMEYER: For Delaware County.

11 I was part of the Governor's Conference for the  
12 Watershed, yes.

13 MR. RUZOW: You were one of the  
14 business representatives of the Governor?

15 MR. WEDEMEYER: Yes.

16 MR. RUZOW: You have, how long have  
17 you been in the real estate business?

18 MR. WEDEMEYER: Thirty-six years.

19 MR. RUZOW: We are here talking  
20 about community character in relationship of  
21 both economics and the effects of Belleayre  
22 Resort on local community character. We have  
23 discussed this a number of times. You spoke at  
24 the public hearing, did you not?

25 MR. WEDEMEYER: Yes.

1 (GROWTH/CHARACTER ISSUE) 2808

2 MR. RUZOW: In January?

3 MR. WEDEMEYER: Yes.

4 MR. RUZOW: You have some pretty  
5 strong views regarding the needs of this area in

6 terms of the community and the hamlet areas and  
7 we have heard offers of proof from  
8 representatives of the CPC, Catskill  
9 Preservation Coalition, representing the  
10 Catskill Center, among others, that the hamlet  
11 areas are making their way back in efforts to  
12 revitalize the hamlet areas and I am interested  
13 in your views with respect to those efforts and  
14 also how the Belleayre Resort might impact those  
15 efforts?

16 MR. WEDEMEYER: Everything has its  
17 cycles in real estate and I have been through  
18 three recessions. I have been very community  
19 involved, started many community programs here  
20 and been part of helping to revitalize various  
21 communities such as Margaretville, Andes and  
22 Delhi. We have had a real estate resurgence  
23 here. Our residential homes have gone up. It's  
24 been a very healthy few years but people are not  
25 coming up here to do business. They are coming

2 up here for a lifestyle. Mainly from Manhattan,  
3 Long Island, northern New Jersey. They are  
4 bringing their money with them. While nice  
5 homes are going up, we need people in order to  
6 keep the infrastructure of these communities  
7 going. I have been a long time member. Tom is  
8 over there for the Catskill Center for  
9 Development. I don't agree with their stance  
10 right now if I am reading it correctly.

11 During the '80s when Tom Miter, who  
12 I was good friends with, the director of the  
13 Catskill Center for Conservation and  
14 Development, big supporter of his came out  
15 against Patten Real Estate who was developing  
16 here, I was a big supporter of that because they  
17 were going all over really ruining the Catskill  
18 Mountains.

19 MR. RUZOW: Would you just take a  
20 second in terms of what Patten Development, what  
21 was the nature of the subdivisions and activity?

22 MR. WEDEMEYER: They were going  
23 around buying various properties.

24 MR. RUZOW: Farms, part of the older

25

farms?

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(GROWTH/CHARACTER ISSUE)

2810

2

MR. WEDEMEYER: Farms, and I

3

thought, so did the Catskill Center,

4

indiscriminating developing, going into other

5

areas and I thought the impact was not a good

6

one for the pristine nature of the Catskill

7

Mountains and the Catskill Center to its credit

8

was the main mover in stopping Patten and

9

Properties of America from indiscriminately

10

developing this area, which is why I remain a

11

member of the Catskill Center for Conservation

12

and Development.

13

What I am confused at is I went to

14

the Governor's Conference and my understanding

15

of the Watershed agreement is that in exchange

16

for limiting development and growth in this area

17

for the good quality of the water and the

18

environment --

19

MR. RUZOW: That's using, employment

20

of the Watershed regulations?



21 MR. WEDEMEYER: Exactly. That we  
22 were going to be allowed to have quality  
23 economic growth. To my knowledge, there might  
24 be an exception here and there but I know these  
25 counties pretty well, we have not had any

1 (GROWTH/CHARACTER ISSUE) 2811  
2 meaningful subdivision in this area for almost  
3 18 years. I don't know of one. By meaningful I  
4 don't mean somebody coming in and dividing their  
5 property in one piece or three pieces, but any  
6 size meaningful approved development in the  
7 Shandaken, Middletown, eastern Delaware County  
8 areas, parts of Greene in almost 18 years. I  
9 have done many subdivisions myself.

10 With the issues of the '80s where  
11 indiscriminate growth was one thing. Now I am  
12 more concerned about the infrastructure of these  
13 communities. While we are having large homes go  
14 up, many of these people shop in the city. They  
15 do not do their shopping here. We have lost our  
16 farms. We used to be an agricultural area. I  
17 grew up with many of the farmers, although

18 originally from Long Island. They are gone or  
19 almost gone. We need something to replace them.  
20 Having people build big homes at the moment,  
21 while interest rates are very low is nice,  
22 young people are leaving the area because there  
23 are no jobs to sustain them here.

24 The taxes continue to go up which  
25 actually helps push the people here out. I

1 (GROWTH/CHARACTER ISSUE) 2812  
2 think the Belleayre Resort will help with our  
3 tax structure. I think it's an environmental  
4 extreme, quite honestly, to have a Belleayre  
5 Resort. I look around and I know the  
6 regulations because I know people who wanted to  
7 do subdivisions and they are being enforced.

8 You look at all these beautiful  
9 mountains and thank Goodness in my opinion they  
10 will never be developed because you need a 15  
11 percent grade when you put in a septic, a 10  
12 percent grade when you put in a road and you  
13 look at all these pristine mountains and they

14 are not going to have houses all over them.

15 That leaves you all with the valleys.

16 New York City has come in and been  
17 purchasing ten of thousands of acres of the best  
18 developable land; that was part of the agreement  
19 voluntarily, that's fine. But if you are going  
20 to restrict all this growth, how are these  
21 communities and the infrastructure going to  
22 survive? I know Pine Hill, I know Fleischmanns  
23 when it was crowded with people. I was in the  
24 Grand Hotel. Some of this is rough for me  
25 because it's dating myself, but I was in it

1 (GROWTH/CHARACTER ISSUE) 2813

2 before it burned down. I remember the palace, I  
3 remember all the large hotels that used to  
4 attract people here. If you go to Fleischmann's  
5 now, and we have all been there, it's sad. It's  
6 sad. Somebody has just purchased the movie  
7 theatre. I hope they can survive with what they  
8 have paid when they have 10 people, five people,  
9 15 people going into that movie theatre. I hope

10 their commitment to this area they are able to  
11 survive.

12 I hear people say, gee, there is  
13 going to be more traffic on route 28. It took  
14 me less than an hour 20 years ago to go to  
15 Kingston, takes me less than an hour now to go  
16 to Kingson. On Friday and Sunday nights there  
17 is more traffic. If it takes an extra 10  
18 minutes, so what? Vermont had the same problem  
19 with route 100 where the resort areas is. There  
20 was tremendous pressure to widen the roads.  
21 Vermont said, we are not going to widen the  
22 roads. If it's going to take you a few minutes  
23 longer, don't buy here. That's Vermont. We  
24 have the same situation. They talk about a  
25 pristine quality of life. Almost 75 percent of

1 (GROWTH/CHARACTER ISSUE) 2814

2 Shandaken is owned by the city and the state,  
3 anyway. Most of those people do not live on 28,  
4 they live off 28, so their lives are not going  
5 to be affected by some more traffic that's going  
6 to take an extra 10 minutes.



3                   brokers and the attorneys and the builders are  
4                   doing fine for this moment while interest rates  
5                   are low. But what happens when they go up  
6                   again? Because I have been there and done that.  
7                   I love the Catskills. I am an environmentalist.  
8                   If we are really going to have quality growth  
9                   and we want to help this area sustain itself,  
10                  all these nice wealthy people coming up like  
11                  nice, quality towns. These towns are hurting.  
12                  The local people are hurting. The average  
13                  income in Delaware County for a family of four  
14                  is in the mid 20s. I hear, my Goodness, the low  
15                  wages they are going to get at Belleayre. My  
16                  Goodness, a lot of these people would love these  
17                  low wages, that they say are low. They are much  
18                  higher than the average wage here.

19                                 When I didn't come up here I didn't  
20                                 come up here to make a fortune. I am doing  
21                                 well. I am in real estate. I came up for  
22                                 lifestyle. Many of these younger people want to  
23                                 have the option, the option to stay here. I  
24                                 guess you see some emotions because I see an  
25                                 elitist tendency. Bothers me. I see people not

1  
2 caring about how these communities are going to  
3 survive. You are seeing some passion here  
4 because I put my heart and soul in these  
5 Catskill Mountains and for the first time I see  
6 some hope where we are going to be coming up  
7 from poverty. Decade after decade maybe  
8 surviving, not having rampant subdivisions,  
9 that's obvious with all the regulations. Part  
10 of this Watershed Agreement, I feel a little  
11 betrayed quite honestly, is we are going to have  
12 quality economic growth. This is a sustained  
13 subdivision, high end where people will be  
14 coming up. I go to a lot of nice resorts. I  
15 don't stay there. I go out and see what's  
16 around them. I spend money in the communities.  
17 I don't just hole up in my own little room and  
18 play God and play golf, but that's not all I do.  
19 Many of these people, even if it's only half or  
20 a third leaving that resort will help these  
21 communities sustain themselves.

22 MR. RUZOW: One thing that you  
23 mentioned to me was you represent commercial  
24 real estate as well as residential real estate?

25 MR. WEDEMEYER: Uh-huh.

1 (GROWTH/CHARACTER ISSUE) 2817

2 MR. RUZOW: You see a turnover in  
3 the sense of the commercial. We saw a lot of  
4 great improvements in the Catskill Center. On  
5 the tour that we had of the hamlets, a little of  
6 the revitalization, particularly Margaretville,  
7 success there, some efforts in Phoenicia, people  
8 fixing up the fronts. How do the businesses  
9 fare though because we have also experienced  
10 nothing is open during the week or few are open  
11 during the week?

12 MR. WEDEMEYER: We don't have the  
13 people to sustain the infrastructure of these  
14 communities. We have restaurants and there are  
15 waitresses employed and we have antique center  
16 after antique center, but we don't have the  
17 necessary businesses to keep these communities  
18 going. Somebody wants to open a movie theater,



19 don't have the people to do it. There were  
20 47,000 people decades ago in Delaware County,  
21 there are 47 now not including some of the  
22 influx. If you are going to have sustainable  
23 infrastructure in these towns, you need to  
24 employ people and have the people to keep real  
25 businesses going. A local business shop just

1 (GROWTH/CHARACTER ISSUE) 2818

2 closed up that tried to survive. I don't want  
3 to get in particulars but I can give you  
4 instance over instance with commercials having  
5 problems.

6 MR. RUZOW: The community, take  
7 Margaretville for example, how many businesses  
8 at least in your judgment are there, year-round  
9 businesses in Margaretville, that operate five  
10 days a week or more?

11 MR. WEDEMEYER: The restaurants.  
12 Some close down more in the winter. The  
13 attorneys, surveyors, brokers, the real estate  
14 people that must love what is going on. I know

15 I do, but I was here for the long run, that's  
16 why I came up here and that's why I started a  
17 lot of the community organizations.

18 We need the Belleayre Resort project  
19 because it's self contained, assuming it's going  
20 to be environmentally sound because nobody wants  
21 to have a resort not environmentally sound, it  
22 will help with the tax structure, it will help  
23 employ many young people, give them an  
24 opportunity to stay here. And I just don't  
25 understand the zealotness of some of the people,

1 (GROWTH/CHARACTER ISSUE) 2819

2 many I think are well meaning, but I think maybe  
3 just looking after their little enclave than  
4 what's best for the community and best for the  
5 area.

6 THE COURT: Let me ask a question.  
7 On of the site visits we saw a lot of empty  
8 store fronts and businesses. You use terms like  
9 the resort will be self intact. You express a  
10 concern that people who come up here don't shop  
11 up here. You tell me that the brokers and the

12 lawyers are doing well now. The question that I  
13 have is, name me a business, a group of  
14 business, a type of industry that is going under  
15 now that won't go under if this resort is built  
16 and this resort is a success.

17 MR. WEDEMEYER: I think Vermont is a  
18 good example.

19 THE COURT: Vermont.

20 MR. WEDEMEYER: You have resorts.  
21 That's really our competitor here is Vermont,  
22 it's more like the Green Mountains of Vermont.  
23 I'm sure you have been in possibly Vermont. You  
24 go to Stowe, Manchester, cute little towns, like  
25 some really nice -- I can't remember all the

1 (GROWTH/CHARACTER ISSUE) 2820

2 names -- that have sustained themselves from  
3 cute shops where people go to. We have a  
4 clothing business here that many city people do  
5 go to.

6 MR. RUZOW: G. Wilikers?

7 MR. WEDEMEYER: G. Wilikers, that

8 appeals to them. I can't say they are doing  
9 fine in their business here local and city, but  
10 again it's a volume.

11 When I hear there is more traffic on  
12 route 28 I cheer because we need more traffic;  
13 means more people. I think that many of these  
14 businesses would sustain themselves if we had  
15 more of a population coming up here to go into  
16 the communities to do the little shopping. You  
17 can go to many recreation areas from New Hope to  
18 Aspen, to Telluride, there are similarities, but  
19 you need the population to do it. The  
20 difference is we have had such restrained growth  
21 here and it will continue and that's the whole  
22 idea of the Watershed Agreement, that we don't  
23 have rampant growth. Believe me, we don't have  
24 rampant growth up here and all indications are  
25 we will not. Wealthy people are coming up

1 (GROWTH/CHARACTER ISSUE) 2821  
2 buying larger lands. People that are here are  
3 consolidating their properties, buying what's  
4 around them because they have the money now.

5 Far from having too much growth as I was worried  
6 about in the '80s, as was the Catskill Center,  
7 we are having too little subdivision now, which  
8 is fine with me, as long as there is something  
9 here to offset it. Farmers are not here.  
10 Subdivisions are not going in. New York City is  
11 buying all this land which they are buying more  
12 and more of and the best properties that can be  
13 subdivided. If we don't have something like  
14 this, how are we going to continue to sustain  
15 Margaretville, which I have investments in, and  
16 Fleischmanns, which is hurting, and Pine Hill,  
17 Andes, which looks good now, but many of those  
18 people came up with money and are doing this as  
19 a kind of lark and supplement. I know the  
20 people. The best commercial properties in  
21 Roxbury we have listed, it's been on the market  
22 for years, the main cornerpiece that should have  
23 gone, five units, could be seven or eight,  
24 \$220,000-something sitting there. Commercial,  
25 main business in Delhi, Main Street, McCalls

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years on the market, nobody wants it. I have a building here in Margaretville the center hub, Margaretville, Margaretville, languishing to rent. Health club finally came in that is not having enough people to sustain. Health clubs is another one would help sustain.

MR. RUZOW: Resort may not help in that regard.

MR. WEDEMEYER: It's people coming up, it's generating the income, it's coming into town, shopping to make it a nice quality of life, putting in paths here, that will help.

MR. RUZOW: Does the fact that weekend people who come up buying a place are largely weekenders, people who may spend some time in the summer as opposed to all year-round, does the fact that the resort is bringing people year-round, goal to is to bring in mid-week conference and other activity, does that help sustain it?

MR. WEDEMEYER: Tremendously. Our biggest problem is we have an influx in the

24 summer and the fall and then it dies off  
25 tremendously because this is not known as the

1 (GROWTH/CHARACTER ISSUE) 2823

2 ski capital of the world. You buy here with  
3 skiing as an adjunct which is nice, but people  
4 don't buy here really to ski. So things really  
5 drop off in the winter. We need something more  
6 year-round. You have the skiing, you have the  
7 resort complex. We need that influx in the  
8 winter months of people coming in. I think more  
9 people coming into the communities, more types  
10 of business would automatically be generated,  
11 more people would be employed including at the  
12 resort itself.

13 THE COURT: Let me ask you this.  
14 The communities that you mentioned are all along  
15 the route 28 corridor?

16 MR. WEDEMEYER: Except Roxbury.

17 MR. RUZOW: Roxbury is on 30.

18 MR. WEDEMEYER: And Grand Gorge.

19 THE COURT: There seems to be a

20 position that's taken in some of the economic  
21 studies that were done that development along  
22 the route 28 corridor should be encouraged.

23 MR. WEDEMEYER: Encouraged?

24 THE COURT: Yes.

25 MR. WEDEMEYER: That's interesting.

1 (GROWTH/CHARACTER ISSUE) 2824

2 THE COURT: In other words, it  
3 should and should in fact and some of the  
4 studies suggest it should be centered in the  
5 hamlets that presently exist.

6 MR. WEDEMEYER: Well, it's going to  
7 need to be because when you come up the route 28  
8 corridor there is very little you can even buy.  
9 Much of it is steep, much of it is along the  
10 Esopus, along the rivers where you can't really  
11 build because of all the restrictions. The  
12 hamlet is where it is going on now. Now you  
13 have hamlet requirements. You have the central  
14 sewage plants and you must develop within those  
15 areas, which is good. That's where New York  
16 City and Margaretville, Andes, Roxbury are



17 building Fleischmanns sewage plants and  
18 Phoenicia to help encourage that development  
19 because there is very little available on the  
20 route 28 corridor. I personally wouldn't want  
21 that anyway and there is hardly anything  
22 available anyway. You need to -- it's good you  
23 can have that expansion because of these sewer  
24 plants and New York City is providing that which  
25 is great, but how can you sustain these

1 (GROWTH/CHARACTER ISSUE) 2825  
2 businesses when there is very little population  
3 coming into these towns. If you go into  
4 Margaretville, Fleischmanns or Andes after  
5 November it's ghost towns on a Friday or  
6 Saturday, or Sunday. Nobody here. How are  
7 businesses going to survive for two days a week,  
8 a Saturday and a Sunday and maybe four or five  
9 months during the winter have almost no  
10 population. Everyone in this room knows I am  
11 telling the truth. This place goes down and  
12 it's sad.

13                               So we have businesses not renting,  
14                               no new businesses coming in. I hear it might  
15                               take another 10 minutes to come up route 28. So  
16                               what? We need, population. Here is a contained  
17                               resort of a couple thousand acres, maybe six  
18                               hundred acres plus or minus, are going to be  
19                               developed, the rest forever wild, and everyone  
20                               is looking over it with a magnifying glass.

21                               Assuming there is not going to be major  
22                               environment problems, nobody wants that, I just  
23                               don't get it. When they are going to help with  
24                               the taxes, infrastructure, employ hundreds of  
25                               people, many young people who want to stay here.

1                               (GROWTH/CHARACTER ISSUE)                               2826

2                               It's not a matter of money whether they make  
3                               fifty thousand or thirty thousand, they want the  
4                               option to stay here and we are taking that away.

5                               It's kind of angering me because  
6                               it's not what I thought the Watershed Agreement  
7                               was all about. I am very disappointed with the  
8                               Catskill Center that they have taken such a

9 strong stand that seems to be against it. I see  
10 Trout Unlimited. These fishing streams are not  
11 going to be affected. We sell to trout people.  
12 We sell to people who want to go hiking. I hike  
13 myself. I go kayaking on these rivers. I'm the  
14 last person wants to ruin these Catskill  
15 Mountains, but I want to make sure we don't have  
16 poverty. And there is a lot of poverty. We are  
17 one of the poorest counties in New York State is  
18 Delaware County. I hear people say, oh, gee, I  
19 want to keep my little piece of the pie. I  
20 don't want anyone else to interfere because it's  
21 going to take me a few minutes to come up 28. I  
22 am looking at the poverty and people in shacks  
23 who need jobs. To me it seems very myopic and  
24 self-centered to not see the broader spectrum of  
25 how a resort like this, self-contained, high end

1 (GROWTH/CHARACTER ISSUE) 2827

2 where people will be spending money that will  
3 filter down into the communities. I feel  
4 strongly it will. I travel too and I have yet  
5 to see where it has not happened, whether it be

6 Vermont, Stowe, Killington, Aspen, it filters  
7 down into the communities. We have in our real  
8 estate listings about half of our properties are  
9 150,000 or less. This is still affordable.

10 MR. RUZOW: You also have rental  
11 listings?

12 MR. WEDEMEYER: We have rental  
13 listings. I mean, this is an area where we want  
14 to keep a lot of the local people. We don't  
15 want to have it happen where they must leave  
16 because they are getting simply displaced  
17 because there's no way to make money, taxes are  
18 going up. I am friends with many of these  
19 people all my life and they have been forced to  
20 leave because there is not enough business to  
21 keep them going. I think that the Belleayre  
22 Resort will help with that too.

23 MR. RUZOW: Thank you.

24 MR. WEDEMEYER: Thank you.

25 Pleasure.

2 THE COURT: Mr. Wedemeyer, let me  
3 just ask you one other question. What is  
4 contemplated here is a world class resort, high  
5 end, high end of the scale. We have heard some  
6 people express concern that maybe that will not  
7 be an economic success and then instead of being  
8 a five star hotel maybe it has to be a three  
9 star hotel. Then maybe if that isn't  
10 successful, maybe it's a one star hotel. The  
11 question that I have for you is, you talked  
12 about staying at the Grand Hotel and you  
13 remember --

14 MR. WEDEMEYER: I didn't stay there,  
15 I visited there before it burned up.

16 THE COURT: All right. Some of the  
17 studies have suggested smaller hotels, bed and  
18 breakfasts and so forth should be encouraged.  
19 While there is an argument seems to me that can  
20 be made for other hotel accommodations, if a  
21 five star hotel succeeds as a five star hotel  
22 and is presumably more expensive than some of  
23 the other accommodations and they exist along  
24 the corridor, if the resort is not economically

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viable and must lower its prices because the

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(GROWTH/CHARACTER ISSUE)

2829

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marketplace demands that it do so in order that

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it succeeds, isn't there a risk with respect to

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the tourist hotel industry along the 28 corridor

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this resort could end up being a Wal Mart in

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effect? Do you understand the point I am

7

making?

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MR. WEDEMEYER: It's a very good

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question, a very good point. We live in a

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different world. And I think we have to

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recognize that. We have had 9/11 which even

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hurt this area. We are the closest year-round

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unspoiled recreation area to New York City. We

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are within two to three hours. People want a

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safe haven for their families. I have them walk

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in all the time. We are close. They want a

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place to leave and get to conveniently. They

18

don't need to travel all over the world because

19

there is more fear. Our major increase, as far

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as an area that has gone up when we sell to is

21 Manhattan. That has replaced Long Island as our  
22 major influx of home buyers. People are  
23 plugging in with technology. We are getting  
24 some younger people besides post war baby  
25 boomers retirees. They are no longer second

1 (GROWTH/CHARACTER ISSUE) 2830  
2 homes. I call them co residences. After 9/11  
3 people came up here sadly enough and kissed the  
4 ground. I guess what I am saying in answer to  
5 your question, if I thought the Belleayre Resort  
6 had a good chance of failing I wouldn't be  
7 sitting here with Dan because nobody wants that.  
8 So much has changed. There is so  
9 much greater need to have places such as this.  
10 We are now with Coldwell Banker that is  
11 international. There are if you look on a North  
12 American map, there are places such as this  
13 which are within easy commute almost, two to  
14 three hours, not a commute but easy distance  
15 from well to do metropolitan areas such as  
16 Chicago, San Francisco, New York, Los Angeles,  
17 are those areas that will better sustain

18 themselves because of all the technological  
19 revolution, the post war baby boom, retirees,  
20 safe havens, fresh air, clean water, pollution  
21 that is going on. These areas, not that many,  
22 will actually be healthier with these type  
23 resorts than most other areas. When there is  
24 the next real estate adjustment I will call it  
25 these type of areas will actually fare better

1 (GROWTH/CHARACTER ISSUE) 2831  
2 than parts of California, Florida, Manhattan  
3 because of all the reasons I just mentioned, but  
4 you need a draw, you need a magnet. We are not  
5 going to be having subdivisions all around,  
6 which separates us. That's our biggest selling  
7 point. When people come up from Long Island,  
8 New Jersey, our biggest selling point is, don't  
9 worry, it's not going to be like Long Island,  
10 Bergen County all over again. They smile from  
11 ear to ear. I understand well that many people  
12 who already have their piece of the pie want it  
13 to stay exactly the way it is. I look at them



14 in all sincerity and say, it's going to stay the  
15 way it is because we are not going to have  
16 massive subdivisions because New York City is  
17 buying so much, the development constraints are  
18 extreme, even to get a septic in now is so  
19 different from three or four years ago you have  
20 to go through hoops, much more expensive. We  
21 don't have to worry about that. That's not my  
22 concern as it was in the '80s with the Catskill  
23 Center's help. My concern now, let's get these  
24 communities healthy and keep them healthy. You  
25 go through them, I live in Andes, my office is

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2832

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in Margaretville, it's kind of a misleading

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thing to see some of these new shops, so forth,

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because again if you check into the owners of

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those shops, with some exceptions possibly, they

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brought a lot of their money in, they love

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living up here, you know what I am saying, they

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are doing a nice job, maybe making some money at

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them, it's very seasonal, but we could use a lot

10 more to have smaller bed and breakfasts. There  
11 is one opening in Roxbury here, there, with or  
12 without a Belleayre Resort that's going to  
13 happen. There's no doubt about it. With a  
14 Belleayre Resort there will be more of a magnet,  
15 more people spreading out, this place will  
16 become better known, you will be able to keep  
17 the younger people here. I strongly believe  
18 this and I am a big backer of having this a  
19 healthy area. A lot of the people buying if you  
20 have a poverty stricken Margaretville, Andes,  
21 they would be the first ones out of here, quite  
22 honestly, because they want a nice place to go,  
23 they want a nice place to shop. I think that  
24 will happen and it's happening in the rest of  
25 the country and I think that will happen here

1 (GROWTH/CHARACTER ISSUE) 2833

2 with a magnet such as Belleayre Resort,  
3 otherwise I wouldn't be for it. I have no  
4 connection with it. I wouldn't care. Thank  
5 you.

6 MR. RUZOW: Your Honor, I would like

7 to introduce Eric Griesser --out of order -- I'm  
8 sorry.

9 THE COURT: Need a minute?

10 MR. RUZOW: I do. Just a minute.

11 Your Honor, I would like to  
12 introduce Lowell Smith.

13 Lowell, tell us where you live,  
14 Lowell.

15 MR. SMITH: I live in Mill Street in  
16 Pine Hill. I was born on Birch Creek Road in  
17 Pine Hill, I lived there all my life.

18 MR. RUZOW: You have lived in Pine  
19 Hill your whole life?

20 MR. SMITH: Yes, sir.

21 MR. RUZOW: And Lowell, where did  
22 you -- you are retired now?

23 MR. SMITH: That's correct.

24 MR. RUZOW: You worked -- You got to  
25 speak a little louder.

1 (GROWTH/CHARACTER ISSUE) 2834

2 MR. SMITH: I worked for the New

3 York State Thruway Authority.

4 MR. RUZOW: How old are you now?

5 MR. SMITH: I am 64.

6 MR. RUZOW: And you have lived in  
7 Pine Hill all that time?

8 MR. SMITH: Right.

9 MR. RUZOW: Can you describe for us  
10 what Pine Hill was like when you were going up?

11 MR. SMITH: Well, when I was real  
12 young it was completely a summer resort. It was  
13 10, 12 hotels in the village, more in the  
14 surrounding area. In the winter we were pretty  
15 quiet before the ski center was built. It was  
16 year-round people or through the week people  
17 come the wives and children come up and spend  
18 the summer at the hotels and the husbands would  
19 come up Friday night, go back Sunday night.  
20 When I was real young most of the travel was on  
21 the train, then it begin to be buses and cars.  
22 We was a thriving village in Pine Hill. The  
23 grocery store, there was three and four gas  
24 stations, soda fountain year-round with little  
25 groceries and another soda fountain for summers.

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There was a big gas business that sold appliances. It was a hub of a community which is gone now.

MR. RUZOW: But you nevertheless remained living there throughout this time?

MR. SMITH: That's correct.

MR. RUZOW: You went to school in Pine Hill?

MR. SMITH: First six years I went to one-room school in Pine Hill, then I went to Onteora down in Boiceville the next six years.

MR. RUZOW: In terms of the summer season it was very active you said during the summer season, a number of people, and where did people work?

MR. SMITH: Mostly in the hotels. There was more, in the evening there was more bus boys, waiters and waitresses on the street than there are people now. It was thriving with young people that come there for jobs as well as our own kids.

23 MR. RUZOW: You are familiar with  
24 the Grand Hotel?

25 MR. SMITH: Yes.

1 (GROWTH/CHARACTER ISSUE) 2836

2 MR. RUZOW: Was that operating?

3 MR. SMITH: That was operating, yes.

4 MR. RUZOW: You were actually in  
5 there while it was operating?

6 MR. SMITH: Yeah, that was the elite  
7 at the time.

8 MR. RUZOW: That was different, the  
9 Grand Hotel was different from the rest of the  
10 Pine Hill hotels?

11 MR. SMITH: It was a class above  
12 everything else that was there. They, of  
13 course, had their own golf course.

14 MR. RUZOW: What did people do at  
15 night, what did they do for entertainment  
16 besides walk around I guess?

17 MR. SMITH: A lot of them did that  
18 too, but a lot of the hotels had some kind of

19 entertainment. There was the lake down there  
20 for evenings, a lot of them would go to the  
21 lake, Pine Crest Lake was open. There was  
22 hotels had tennis courts most of them, and  
23 pools, they would have lighted pools, people  
24 would be out there in the evening. Was a  
25 theater in Fleischmanns, people would go to

1 (GROWTH/CHARACTER ISSUE) 2837

2 those for movies.

3 MR. RUZOW: The Pine Hill was a  
4 village, a formal incorporated village when you  
5 were growing up?

6 MR. SMITH: Right, I believe it was  
7 in 1988 we dis-incorporated.

8 MR. RUZOW: Do you know some of the  
9 reasons for that?

10 MR. SMITH: We got so small we just  
11 didn't need another layer of government. Tax  
12 base wasn't big enough to do anything. We was  
13 just there so we dis-incorporated, became a  
14 hamlet Town of Shandaken.

15 MR. RUZOW: When Belleayre Ski

16 Center was open in the early '50s, how did that  
17 change things for clientele in the area?

18 MR. SMITH: Begin to revive the  
19 winters, begin to get some people coming up.  
20 The sad part was most of the old hotels didn't  
21 have heat in them, there was only a couple that  
22 could operate year-round. People still didn't  
23 have a place to stay, but we did have people  
24 come in which brought some business and employed  
25 some of the local people with jobs for the

1 (GROWTH/CHARACTER ISSUE) 2838

2 winter.

3 MR. RUZOW: Did you work at the ski  
4 center?

5 MR. SMITH: For a few years I did.

6 MR. RUZOW: You said you worked for  
7 the Thruway Authority. Did you commute?

8 MR. SMITH: Oh, did I commute. I  
9 started in Kingston. I took civil service  
10 tests, got to be a foreman. I drove to Albany



11 for three years, then the next test I took to  
12 become supervisor next opening was in Newburgh  
13 so I drove there for three years.

14 THE COURT: But you didn't have to  
15 pay any tolls, right?

16 MR. SMITH: No. And finally opening  
17 came back, I retired supervisor in Kingston  
18 actually.

19 MR. RUZOW: So you had to travel  
20 some distance to still live in Pine Hill?

21 MR. SMITH: Right.

22 MR. RUZOW: Is that unusual for  
23 people to do that?

24 MR. SMITH: No. Other than  
25 Belleayre there isn't a lot of jobs where you

1 (GROWTH/CHARACTER ISSUE) 2839  
2 have benefits. There is jobs around but if you  
3 want to get a good retirement system, health  
4 insurance, so forth, you have got to go to the  
5 state or town and county highway departments or  
6 county jobs. Pretty much government jobs that  
7 has a good set of benefits.

8

THE COURT: I know.

9

MR. RUZOW: I have noticed in Pine

10

Hill over the last couple of years and it's true

11

in some other places restaurants have opened up,

12

some newer places?

13

MR. SMITH: We have one building

14

there that's probably had a half dozen over the

15

years, they open, close, open. We have an

16

Indian restaurant that seems to be doing all

17

right right now. The little restaurant on Main

18

Street has tried everything and hopefully it

19

just opened again. It's a Mexican restaurant

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now. I wish them luck.

21

MR. RUZOW: But are they open five

22

days a week or six days a week the restaurants?

23

MR. SMITH: I think it's going to be

24

six. Most of them are five and six days a week.

25

MR. RUZOW: Is that your round they

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(GROWTH/CHARACTER ISSUE)

2840

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draw the business?

3

MR. SMITH: Yes.

4 MR. RUZOW: The businesses you also  
5 mentioned to me that there were a number of  
6 other hotels in Pine Hill, I know we passed the  
7 Colonial Inn on our tour. What else is open  
8 today?

9 MR. SMITH: The Colonial Inn and  
10 Pine Hill Arms, about all that's left.

11 MR. RUZOW: That's all that is left?

12 MR. SMITH: Right. There was the  
13 Orchard Park House where the firehouse is, was a  
14 Paradise, there was Fun Crest down at the lake,  
15 Pine Hill Country Club down by the lake, Tyrell  
16 Hotel on Elm Street.

17 MR. RUZOW: Much more vibrant place?

18 MR. SMITH: Oh, yes.

19 MR. RUZOW: You have children?

20 MR. SMITH: Just one.

21 MR. RUZOW: Does he live in the  
22 area?

23 MR. SMITH: Yes, he does, and he is  
24 employed by Titan Grill here in Margaretville.

25 MR. RUZOW: In some of our earlier

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discussions we were talking about the community or sort of the shape of the community changes that have occurred. You mentioned when you were growing up Pine Hill had a number of active churches and a lot more kids were around. You noticed the change?

MR. SMITH: Certainly. We supported a Methodist Church, Presbyterian Church, Catholic Church was only open summers because they had no heat, in the summer Lon Stevens boarding house had a room they used for a synagogue. There is no church in Pine Hill anymore.

MR. RUZOW: So were there other churches in other communities that people would go to or is that they have suffered the same sort of situation?

MR. SMITH: The Methodists go to Shandaken, Catholics go to Shandaken or Phoenicia. I don't know where Presbyterians, maybe here Margaretville Presbyterian church.

MR. RUZOW: Are there fewer families

24 living here now, children to your knowledge?

25 MR. SMITH: There seems to be fewer

1 (GROWTH/CHARACTER ISSUE) 2842

2 children. We are getting to be a bedroom  
3 community. Retirees or somebody that's got a  
4 computer business that they run from their home,  
5 don't employ anybody.

6 MR. RUZOW: You live right in Pine

7 Hill your whole life. How do you see the  
8 Belleayre Resort impacting your community?

9 MR. SMITH: I don't see where it can  
10 do anything much but good. Maybe the class of  
11 people that's coming to it are not going to be  
12 our big business. They will come to some of the  
13 shops and hopefully the business itself is going  
14 to buy things locally. There has got to be a  
15 lot of people working there. They are going to  
16 be younger people. They are going to buy  
17 locally because they are not going to travel.  
18 My own point of view, I am fire chief, I need  
19 some young people that's going to be joining the

20 fire department. These people come up now, want  
21 services, but they don't want to give, to  
22 volunteer. It's quite a job to get volunteers  
23 for anything like that where your life might be  
24 on the line.

25 MR. RUZOW: There is also I know

1 (GROWTH/CHARACTER ISSUE) 2843

2 some concerns expressed regarding the  
3 Margaretville Hospital and how, whether the  
4 service would be available there. You have some  
5 experience with the Margaretville Hospital in  
6 terms of why it was having problems?

7 MR. SMITH: They went through a real  
8 hard time for a while. I don't know just what  
9 their problems was internally, but doctors would  
10 come and go and people didn't want to go there  
11 because doctors were changing so they started  
12 traveling farther. Now that they are associated  
13 with Kingston it seems to be coming back up and  
14 it's a vital part of the community. If you have  
15 to travel 35, 40 miles to a hospital in a

16 serious condition, it may be too late. It's  
17 very vital for the community to have a hospital  
18 that close. I was operated on in Margaretville  
19 and I wouldn't say anything against it.

20 THE COURT: You are still here.

21 MR. SMITH: I had cancer, knock on  
22 wood.

23 MR. RUZOW: Thank you, Lowell. Your  
24 Honor.

25 THE COURT: Mr. Smith, a few

1 (GROWTH/CHARACTER ISSUE) 2844

2 questions. Let me take you back to the Grand  
3 Hotel. You indicated that they had  
4 entertainment there and were there other hotels  
5 in Pine Hill, or Colonial Arms was open, would  
6 they have had entertainment there too?

7 MR. SMITH: The Fun Crest where the  
8 Pine Lake Hill is now had entertainment and Pine  
9 Hill Country Club was right at the entrance  
10 where you go over into the lake, they had  
11 ballroom dancing and dance shows there.

12 THE COURT: Shows like comedians,  
13 vaudeville, that kind of stuff?

14 MR. SMITH: Right.

15 THE COURT: Was that entertainment  
16 open to the public?

17 MR. SMITH: Yes, that was.

18 THE COURT: So that was not  
19 exclusive just to hotel guests?

20 MR. SMITH: No.

21 THE COURT: There was a golf course  
22 at the Grand Hotel?

23 MR. SMITH: At the Grand Hotel, one  
24 in Shandaken this side of the railroad tracks  
25 where Golf Course Road is.

1 (GROWTH/CHARACTER ISSUE) 2845

2 MR. RUZOW: That's what Lower Golf  
3 Course Road is.

4 MR. SMITH: One at Fleischmanns.

5 THE COURT: Those were public  
6 courses?

7 MR. SMITH: Right.

8 THE COURT: But the Grand Hotel had



9 a course?

10 MR. SMITH: Yes.

11 THE COURT: Was that just for hotel  
12 guests, that course?

13 MR. SMITH: No, people could go  
14 there. My two brothers started out caddying up  
15 there.

16 THE COURT: Tennis courts at the  
17 hotel too?

18 MR. SMITH: I think probably five or  
19 six hotels had tennis courts.

20 THE COURT: Were those kinds of  
21 amenities available to the community too, if you  
22 recall?

23 MR. SMITH: I don't recall them  
24 being. They were pretty much for their patrons.  
25 The lake belonged to the Fun Crest Hotel and

1 (GROWTH/CHARACTER ISSUE) 2846

2 that was open for public swimming and boating.

3 THE COURT: You indicated you are  
4 the fire chief of Pine Hill?

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MR. SMITH: Right.

THE COURT: Congratulations. That's a heck of a job.

MR. SMITH: Nobody else will take it.

THE COURT: Let me ask you, Pine Hill is an unincorporated hamlet?

MR. SMITH: That's correct.

THE COURT: Is the fire department, is there a separate fire district for Pine Hill?

MR. SMITH: Yeah, we have Pine Hill Highmount Fire Protection District. We are a little different than most of the departments around. We're privately owned and we contract with the town to cover it for fire protection. Everything belongs to the department itself.

THE COURT: So it's not like a separate fire district, separate tax entity, it comes under the town's budget?

MR. SMITH: The town would collect as a fire district same as the water district,

2                   they collect taxes to pay the contract. Most  
3                   department's equipment and buildings belong to  
4                   the town, to the district.

5                   THE COURT: Right. How much  
6                   equipment do you have currently at that fire  
7                   department?

8                   MR. SMITH: We have three pumpers,  
9                   one is an antique but it pumps.

10                  THE COURT: Still pumps.

11                  MR. SMITH: We have a rescue truck  
12                  with Jaws and air bags and spill control onto  
13                  it. And we have just bought a trailer, we got a  
14                  John Deere Gator with portable tank for forest  
15                  fires. It also has a stretcher unit that goes  
16                  on it for rescues in off road areas.

17                  THE COURT: You have obviously  
18                  looked at the proposed resort here, right. In  
19                  terms of your ability and speaking now as chief,  
20                  in terms of your ability to deliver emergency  
21                  fire service to that resort, do you have enough  
22                  equipment?

23                  MR. SMITH: When it first started we  
24                  didn't because it was looking at seven-story

25

hotels, that would have meant a ladder truck.

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(GROWTH/CHARACTER ISSUE)

2848

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THE COURT: Or a cherry picker or

3

something like that.

4

MR. RUZOW: He is talking about the

5

earliest design of the hotel.

6

MR. SMITH: Now that it's down to

7

three stories which don't require a ladder truck

8

from the plans I looked at, it's a good water

9

system, good hydrant system, which is more than

10

we have in our own district, water supply is not

11

a problem.

12

THE COURT: So you are saying the

13

equipment you have on hand is adequate to meet

14

any emergency you foresee at this resort?

15

MR. SMITH: Anything that I foresee

16

of.

17

THE COURT: You spoke about you have

18

an ambulance here?

19

MR. SMITH: No, the Town of

20

Shandaken runs the ambulance service.

21 THE COURT: So they are the  
22 ambulance of the first resort but you have an  
23 EMS vehicle of some kind?

24 MR. SMITH: We have a rescue truck,  
25 AD, first aid equipment onto it.

1 (GROWTH/CHARACTER ISSUE) 2849

2 THE COURT: Are you then second  
3 response if the town's ambulances or county  
4 ambulances are tied up? How does that work?  
5 When do they bring you guys out for an emergency  
6 like that?

7 MR. SMITH: We will go because we  
8 can get there quicker. The ambulance comes out  
9 of Shandaken or Phoenicia. They know if there  
10 is a heart attack or something we have AID, we  
11 have oxygen, they will dispatch us at the same  
12 time.

13 THE COURT: So there is a county  
14 dispatch, everything goes through the county  
15 dispatch?

16 MR. SMITH: There is a 911 center  
17 out of Kingston. If their ambulance is out they

18 have a mutual aid agreement same as fire  
19 departments, another ambulance will cover.

20 THE COURT: So I am clear, how many  
21 emergency vehicles do you have to respond to  
22 such calls as a heart attack?

23 MR. SMITH: Just the one. Not for  
24 transport.

25 THE COURT: Knowing the proposed

1 (GROWTH/CHARACTER ISSUE) 2850

2 resort, is that emergency equipment that you  
3 have adequate?

4 MR. SMITH: We may have to add to  
5 it. We may need double to some things.

6 THE COURT: During the ski season do  
7 you respond to Belleayre Mountain Ski Center at  
8 all?

9 MR. SMITH: Only time we respond up  
10 there is when they bring the helicopter in. We  
11 have to be there for helicopter landing, we have  
12 to set up the landing zone.

13 THE COURT: How often does that

14                   happen in the course of a year?

15                                 MR. SMITH:  Probably three times  
16                   during the season.  We have just changed that.  
17                   We bring the chopper into our station now  
18                   because of the parking problem up there in the  
19                   winter there is no place to land a chopper so  
20                   they transport them by ambulance down to Pine  
21                   Hill and we land at the fire station.

22                                 THE COURT:  Okay.  Thank you,  
23                   Mr. Smith.

24                                 MS. BAKNER:  If we can have just a  
25                   second.

1                                         (GROWTH/CHARACTER ISSUE)                   2851

2                                         THE COURT:  Absolutely.

3                                         MS. BAKNER:  We are ready.

4                                         Lowell, one other quick question.  
5                   You mentioned you look forward to seeing the  
6                   employees come in the context of volunteerism  
7                   for the fire district.  And can you just talk  
8                   about that a little more and what accommodation  
9                   has been worked out in terms of volunteers?

10 MR. SMITH: It's a new idea they are  
11 trying at YMCA camp on Slide Mountain. They  
12 give the employees incentive to join the  
13 volunteer fire department. They will give them  
14 an extra day vacation.

15 MR. RUZOW: Is that at Frost Valley?

16 MR. SMITH: Frost Valley, right.  
17 Make sure that they get paid if they leave to go  
18 to a call, which is a problem with a lot of  
19 places now. They tell them they can't leave or  
20 they lose their pay if they leave for a fire.  
21 Crossroads has said they would encourage their  
22 people to belong to the volunteer departments  
23 and they would support them as members. That  
24 was going to be a big plus for us. It's not  
25 just Pine Hill, all the volunteer fire

1 (GROWTH/CHARACTER ISSUE) 2852

2 departments around.

3 MR. RUZOW: Has the experience with  
4 Frost Valley using that type of incentive  
5 program helped?

6 MR. SMITH: They ask for a special



7 class for basics this spring they had so many  
8 new people up there. We went on a rescue on  
9 Slide Mountain. Us and Big Indian go out  
10 together all the time because of manpower  
11 shortages.

12 MR. RUZOW: Big Indian is a separate  
13 district?

14 MR. SMITH: Right. And it was a  
15 complicated rescue. She was five and a half  
16 miles in, had to be carried out all the way. We  
17 were running out of the manpower. We said,  
18 let's try Frost Valley down the road. They come  
19 with 16 people. If I had 16 people that  
20 responded to something I would think I was in  
21 heaven.

22 THE COURT: How many calls do you  
23 respond to a year, does your department respond  
24 to?

25 MR. SMITH: We are up this year to

1 (GROWTH/CHARACTER ISSUE) 2853

2 32. Usually run 30 to 35 calls but we have had

3 35 so far this year.

4 THE COURT: 35 a year, now as of the  
5 end of July or middle of July you have 32  
6 already. What do you attribute that to?

7 MR. SMITH: We don't have many  
8 fires, it's mostly car accidents, rescues.  
9 Being we do have some decent equipment and some  
10 manpower, we answer a lot of mutual aid calls to  
11 help other departments. We have been to  
12 Fleischmanns several times, Big Indian we go on  
13 every call they go to.

14 THE COURT: Chief, we have heard  
15 some concerns raised about traffic on route 28.  
16 If there is an increase in traffic, what affect,  
17 if at all, do you think that will have on your  
18 company's ability to respond to an emergency?

19 MR. SMITH: It's going to be very  
20 little because traffic isn't going to be like  
21 the burst of traffic we have now with the ski  
22 center Friday night, Saturday morning everybody  
23 comes. Sunday night everybody goes. There is  
24 lines of traffic. This kind of resort people  
25 are going to come, they are not going to come a

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thousand people to play golf at one time. They are coming in threes and fours. There will be traffic in and out but it won't be that one big burst of wall to wall traffic that I can see.

THE COURT: Let me ask you this.

You said there are times when there are lines of traffic on 28. Have you had to make emergency responses during those conditions?

MR. SMITH: Yes, we have.

THE COURT: To what extent has your ability to respond been impeded by traffic conditions that bad?

MR. SMITH: Responding isn't bad.

We can get there because the traffic is moving. We can pull them over on the shoulder and get through. The main problem is directing traffic around an incident when you got that much traffic. Again, we don't have many people, set up a good traffic flow pattern, that's more of a problem than it is responding. We will send

22 fire police out on 28, stop traffic, let the  
23 trucks out, we can get going. But if you get an  
24 accident at high peak time, then it's hard to  
25 control the traffic around it.

1 (GROWTH/CHARACTER ISSUE) 2855

2 MR. RUZOW: How often does the high  
3 peak experience in terms of traffic occur in  
4 your experience?

5 MR. SMITH: There is generally  
6 Friday night, Saturday morning, and Sunday  
7 nights when everybody --

8 MR. RUZOW: Is that during the  
9 wintertime?

10 MR. SMITH: During the wintertime.

11 MR. RUZOW: Do you see the same sort  
12 of problem in the summertime, the same levels of  
13 traffic as the peak in the winter?

14 MR. SMITH: Peak in the summer is  
15 nowhere near what it is in the winter because of  
16 the type of business they are coming, they come  
17 all at once and leave all at once. When the  
18 lifts close down, let's go home.

19 MS. BAKNER: Your problem in terms  
20 of directing people away from traffic accidents  
21 is that you don't have enough volunteers to do  
22 it effectively?

23 MR. SMITH: That's a big, big part  
24 of it. We are usually lucky local police or  
25 State Police will get there and give us a hand

1 (GROWTH/CHARACTER ISSUE) 2856

2 with it within a short time.

3 THE COURT: You don't have any  
4 auxiliary police or anything like that in the  
5 area?

6 MR. SMITH: No.

7 THE COURT: Chief, thanks very much.

8 MR. RUZOW: Your Honor, the AKRF  
9 team will put up, they have two different parts  
10 to what they are going to do.

11 THE COURT: So you want five  
12 minutes. Okay, five minutes.

13 (A recess was taken.)

14 MR. RUZOW: Your Honor, I want to

15 introduce the team from Allee, King, Rosen and  
16 Fleming, or AKRF as we refer to them. The  
17 presentation is broken into two parts. The  
18 first part let me just introduce the team first  
19 so you have that. Peter Liebowitz, Graham  
20 Trelstad, John Feingold and John Neill.

21 Peter, would you start off with  
22 some of your background and experience in  
23 performing the analysis that you performed here  
24 but also your ties to this region.

25 MR. LIEBOWITZ: Well, I am a vice

1 (GROWTH/CHARACTER ISSUE) 2857

2 president with AKRF. I just finished my  
3 twentieth year with the company so I have had  
4 sort of a long term status with the company.

5 And over the years I have worked on  
6 or managed or directed a good many, many  
7 hundreds of planning and economic studies, large  
8 scale comprehensive environment impact  
9 statements. And within the region I sort of  
10 pushed, did a lot of work up into the Hudson  
11 Valley, into the Catskills. I have done things

12 specifically in the Catskills such as Graham and  
13 I worked on the Watershed Corporation economic  
14 plan done by John Alshuler and I have done some  
15 work over on the other side in the southern tier  
16 where we helped Broom County develop it's called  
17 a sustainable economic development policy. We  
18 helped them think about land use issues and  
19 development issues there.

20 I am definitely a user of the  
21 Catskills. I come here frequently for  
22 activities, mostly in the winter for skiing and  
23 grew up in the Hudson Valley so I kind of know  
24 this area quite well.

25 MR. RUZOW: John Feingold.

1 (GROWTH/CHARACTER ISSUE) 2858

2 MR. FEINGOLD: I am John Feingold.  
3 I am also a vice president of the firm AKRF. I  
4 have been with AKRF about four and a half years  
5 now. My specialty in the firm is environmental  
6 and economic impact analysis.

7 Like Peter, I have worked on a

8 fairly large number of large scale projects in  
9 and around the Mid Hudson, lower Hudson region.  
10 I am a planner by trade. Undergraduate work has  
11 been environmental planning. My graduate work  
12 is in public administration. And I have been  
13 working in the field for just almost exactly 29  
14 years this month.

15 Half of my career has been with  
16 state natural resource agencies and private  
17 sector consultants mainly consulting to  
18 government and state municipal agencies. The  
19 other half of my work has been in the non profit  
20 environmental sector working with organizations  
21 such as public land and nature conservancy.

22 Some of my history here in the  
23 Catskills on some of the issues we are talking  
24 about today go back to the early '90s when DEP  
25 first rolled out Watershed regulations and

1 (GROWTH/CHARACTER ISSUE) 2859  
2 community reaction to it. I was with Regional  
3 Planning Association, a non profit, and we were  
4 retained by DEP to work with them and



5 municipalities in the Catskill Delaware  
6 Watershed smoothing through the transition of  
7 the regulations into a workable solution.

8 MR. RUZOW: Graham.

9 MR. TRALSTAD: I am Graham Trelstad.  
10 I am technical director with AKRF. I have been  
11 with the firm for approximately nine years now.

12 My background and my specialty is in  
13 land use, community and environmental planning.  
14 I have a background in planning from Columbia  
15 University. I have a master's degree in  
16 environmental studies from Yale University in  
17 forestry, I'm sorry, in watershed and hydrology.

18 My practice is principally in  
19 community and regional planning. I work with  
20 many communities mostly in the lower Hudson  
21 Valley and Westchester County, Putnam County,  
22 several communities in Orange County doing  
23 comprehensive plans, local zoning and planning  
24 issues.

25 As Peter indicated, I have assisted

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Peter and the project team with Catskill Watershed Corporation's West of Hudson Economic Plan. I have done work in Sullivan County on demographics and transportation issues.

Personally I am connected to this area through 20 years of coming up here. My parents owned some land in Sullivan County. I have hiked many of these hills. I don't fish but I would love to. I have come here to Margaretville to shop every now and then so I know this area pretty well.

MR. RUZOW: John.

MR. NEILL: I am John Neill. I have been with AKRF since 2000, so it's about four years now. I am a senior economist and senior planner with the company. I work both in our New York City office as well as in White Plains so I do both New York City work and work in the upstate New York area.

In terms of my background, my undergraduate work is in public policy, my graduate work was in environmental studies and

24 business at Yale.

25 MR. RUZOW: Peter, would you just

1 (GROWTH/CHARACTER ISSUE) 2861

2 before you begin, would you talk a little about  
3 AKRF's role in preparing the EISs and studies  
4 both in New York City and throughout New York.

5 MR. LIEBOWITZ: Sure. Probably we  
6 are the state's leading EIS preparer. We have  
7 been doing it basically since the regulations  
8 started rolling out. In New York City we handle  
9 most of the big EISs either for public sector  
10 projects or for private sector projects which is  
11 a slightly different spin because it's the city  
12 environmental quality review act, which is with  
13 a "C" as opposed to the state environmental  
14 quality review act with an "S." Similar  
15 processes, slightly different technical analyses  
16 and really what is notable there is we have done  
17 work for almost all the city agencies and their  
18 work when they take big infrastructure projects  
19 such as DEP or for city planning on major  
20 re-zoning actions. We are very often the firm

21 that they use to write their EIS.

22 MR. RUZOW: Why don't you lead off.

23 MR. LIEBOWITZ: We have a lot to go

24 through. Rather than hear one of us drone on,

25 that's why we are all going to talk to try to

1 (GROWTH/CHARACTER ISSUE) 2862

2 cover as many bases as possible.

3 What I want to try to do is start by

4 going over what I think are common grounds. A

5 lot of the testimony we heard when we were here

6 back in June sounds a lot like things we have

7 been saying and thinking. I think that's

8 important to stress. I will use that as a

9 jumping off point of some of the themes I think

10 came out of our studies in the DEIS.

11 What I thought we would do next is

12 provide an overview of what we actually did do

13 in the EIS because a fair amount of work was

14 undertaken for the project in the EIS. Then I

15 think we will go through and try to be as

16 responsive as we can and the things we went

17 through in all the comments that were made on  
18 the DEIS and what we sort of were hearing when  
19 we were here hearing people testify to you last  
20 month. So go on to the next slide, some of  
21 these common grounds and themes.

22 The fundamental ones we hear from  
23 everyone and just makes obvious sense that  
24 tourism and recreation is the business of the  
25 route 28 corridor. I think one of the things we

1 (GROWTH/CHARACTER ISSUE) 2863  
2 were hearing loud and clear from participants,  
3 whether people we met along the tour, people we  
4 spoke to as we are were putting our studies  
5 together, is lodging at all price points is  
6 becoming increasingly important in the economic  
7 mix of what's happening in the corridor and we  
8 totally agree that the community character of  
9 the corridor is defined by the hamlets and the  
10 village combined with the natural setting and we  
11 think that is fairly well expressed in a broad  
12 range of public policy, which is what Graham is

13 going to talk about after we are done with the  
14 core work on the EIS studies.

15 In terms of tourist and recreation  
16 along the route 28 corridor, I think the things  
17 that we are hearing is that it's a big mix.  
18 Everyone is together in this pot of the economic  
19 activity in the corridor, includes the  
20 weekenders and the second homeowners, the hotel  
21 and B & B patrons, lots of day trippers. We  
22 particularly hear about that in terms of the ski  
23 season.

24 There is active and passive  
25 recreational users. There is a large amenity

1 (GROWTH/CHARACTER ISSUE) 2864

2 mix you have to have to sustain a resort  
3 economy. We agree that basically we know that  
4 this customer base is strongly influenced by the  
5 seasonal homeowners and visitors from the  
6 metropolitan area, which actually obviously all  
7 the consultants at the table have agreed with  
8 similar thoughts.

9 So in terms of looking at the

10 lodging at all the price points and why we think  
11 it's increasingly important, it clearly is part  
12 of the historical basis for the tourism economy  
13 here. Things that we were trying to get at as  
14 we were going through is that the decline of the  
15 hotels clearly precipitated the decline of  
16 economic opportunity and prosperity in the  
17 hamlets.

18 The second home market which we have  
19 talked a fair amount while we have been here is  
20 clearly growing and it's stronger and it  
21 continues to bolster the economic base of the  
22 area, but it's clearly not bringing it back to a  
23 level seen when the hotels were kind of in full  
24 bloom. I think that the demand for hotel space,  
25 and we certainly touched on this, you were

1 (GROWTH/CHARACTER ISSUE) 2865

2 questioning the first witness about price points  
3 and some of those issues. There clearly is  
4 demand and it seems to be coming from every  
5 range of the spectrum in that we were talking to

6 the fellow from the Margaretville Motel, that's  
7 one certain price point. We know that this  
8 hotel, we heard about a hotel being proposed in  
9 Pine Hill the day we went on the site tour and  
10 of course there is the Emerson on the eastern  
11 flank that already has established a five star  
12 business going and it seems to indicate there is  
13 growth everywhere.

14 The thing I think important to  
15 stress these responses to the marketplace are  
16 not speculating on the future whether there be a  
17 Belleayre Resort or not. They are seeing demand  
18 and opportunity now. You don't invest the kind  
19 of money that people are investing in just to  
20 anticipate what might happen down the road with  
21 a proposed hotel.

22 I think it's important to stress  
23 that this tourist economy relies on this amenity  
24 mix I mentioned earlier. Right now we have  
25 abundant amenities that bring people here.





24 witnesses how much of that did exist already.  
25 There were golf courses in the corridor, tennis

1 (GROWTH/CHARACTER ISSUE) 2867

2 courts and swimming facilities, and things like  
3 that.

4 The thing I think is important to  
5 note here before we go on to the next slide is,  
6 a lot of the amenity, there is a difference in  
7 the amenity mix we have here, which is what is  
8 here now is important and that they attract  
9 visitors, but they are not economic generators  
10 in and of themselves. In fact, in terms of  
11 employment or sales or tax generation, in fact a  
12 lot of these amenities are drawers of resources.  
13 Ski facility now is a state facility. Things  
14 like the railroad or small attractions like  
15 museums or libraries they actually need the  
16 resources to stay in business to then serve a  
17 new customer base. I think the things that are  
18 coming into the area and hopefully with this  
19 project as well is those things that turn into a  
20 much more of an economic generator of activity.

21                               So in the hamlets and the villages,  
22                               the first thing before I say anything else is we  
23                               think Helen's work at the Catskill Center is  
24                               really top notch from what we have seen around  
25                               New York State. She is really on the cutting

1                               (GROWTH/CHARACTER ISSUE)                               2868  
2                               edge of what is happening in downtown and Main  
3                               Street planning and you guys are doing a great  
4                               job wherever you are. So they clearly do define  
5                               the community character of the corridor. The  
6                               hamlet revitalization efforts require public  
7                               outreach and education, which seems to be  
8                               happening, public seed money which we know is  
9                               pretty scarce, and global leadership which seems  
10                               to be falling into place. What the hamlets have  
11                               clearly struggled with is vacancy and under  
12                               utilization, high store turn over at key  
13                               locations and I think there is a gap now that is  
14                               showing itself which is there is a difference  
15                               between seed money which is primarily public,  
16                               but private investment doesn't seem to be coming

17 in line behind it. That seems to be lagging. I  
18 think that is because the market demand hasn't  
19 developed sufficiently to push this transition  
20 to private capital.

21 We think the big difference between  
22 what they have presented and what we are saying  
23 and seeing, we think this resort is a logical  
24 way to get the capital into the hamlets.

25 Basically the bottom line is these

1 (GROWTH/CHARACTER ISSUE) 2869  
2 hamlets need customers. You heard that pretty  
3 well this morning from the first witness.  
4 Basically for sustainability the businesses need  
5 to access more and more stable customer base. I  
6 think just thinking about the amount of activity  
7 generated by us being here every week is  
8 generating activity in Margaretville. Project  
9 construction alone I think will generate new  
10 customers throughout all of the hamlet  
11 businesses. And as we met with merchants over  
12 the several years we have been working on this  
13 project they talk about that difficulty in

14                   sustaining their businesses, making sure there  
15                   is enough customers to stay open enough days of  
16                   the week.

17                                 What we think is that resort  
18                   visitors, and I think is somewhat different than  
19                   the second home owners as you were trying to get  
20                   at this morning, there is a bit of a difference  
21                   and their off-site spending patterns I think are  
22                   very complimentary to hamlet revitalization.  
23                   These visitors in particular to a resort that is  
24                   kind of going to taut itself as a luxury resort  
25                   within this rich metropolitan area, it just

1                                 (GROWTH/CHARACTER ISSUE)                   2870  
2                   makes sense they are the type of people who want  
3                   sort of, what's the word I used, quaint but  
4                   vibrant and cool villages. They are the people  
5                   that are going to the Stowes and Rhinebecks and  
6                   Woodstocks, even the Hamptons. If you think  
7                   where people are spending their money, they are  
8                   trying to spend it in interesting places. I  
9                   think the people who are going to come in are

10 not the strip shopping crowd. They are looking  
11 for something different, something more  
12 authentic.

13 Where I think we totally and  
14 everyone seems to agree on this is the first  
15 line of this slide, which is that smart growth  
16 planning is important to revitalize the hamlets.  
17 Mary spoke about it in her presentation. Helen  
18 is sort of making it her job, that's her job to  
19 try to integrate this kind of concept.

20 Where we differ is we think the  
21 project itself compliments smart growth  
22 planning. I think this is because it's sort of  
23 a mutually beneficial relationship between the  
24 resort and the hamlets and that there are key  
25 elements to smart growth and key planning within

1 (GROWTH/CHARACTER ISSUE) 2871  
2 the project itself in that it clusters active  
3 amenities around the intensive use area of the  
4 Belleayre area. It's going to bring new  
5 customers to the area and this seems to be  
6 something we were trying to toggle the meaning

7 of self containment, whether this hotel, and I  
8 think the thing is that from our look and what  
9 we are hearing from everyone else it's going to  
10 bring customers there but not necessarily going  
11 to overwhelm them and start this unleashed  
12 development program that will totally change the  
13 character, but it will bring customers and their  
14 spending and employees and their spending to the  
15 area and that's what is most missing right now  
16 in the mix. I think the program and design  
17 complements but does not replicate village  
18 functions.

19 I don't know if you know ski resorts  
20 but intrawest concept which is Whistler and  
21 Mount Tremblant and Stratton Mountain in  
22 Vermont --

23 THE COURT: No relation.

24 MR. LIEBOWITZ: -- they have a whole  
25 different mix. They try to actually replicate

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2 what people do in an entire hybrid of activities

3 and they create these villages that are very  
4 self contained. I don't think that's going to  
5 be happening here. There is already sort of  
6 kind of an amenity mix they are adding to but  
7 they are not sort of replacing or trying to hide  
8 from their customers which is sort of how a lot  
9 of these big intrawest styles are developed. I  
10 think one of the things is that in Appendix 3 of  
11 the DEIS under the recreational amenity plan it  
12 actually goes through and talks about how the  
13 hotel can be a conduit to set up, tee up, and  
14 get its customers out into using the facilities  
15 in and around the region.

16 MR. RUZOW: Peter, let me stop you  
17 for a second. You may recall in one of the  
18 earlier reiterations of the concept for the  
19 resort there was a Wildacres context, a hundred  
20 thousand square feet of retail in effect a  
21 village like set up and in response to comments  
22 that were received on the DEIS the preliminary  
23 drafts and floating that out there was  
24 expression by local businessmen that would be a  
25 bad thing because you would capture everyone, so



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there was a change.

MR. LIEBOWITZ: I think it came out of some of the studies we were doing that was showing there isn't a tremendous new economic spending, that they had to share that wealth essentially, and that seems to be what sort of came out of that and I agree with you.

Just some of the other points I had made is that the facility provides the resources to build environmentally sensitive architecture and site plans. That's something that happens when you have a larger, large scale, kind of high investment resort is they have the resources to make sure that it stays green, it's consistent with modern site plan design and that seems to be the case what we have seen as the site plan develops.

In terms of going to sort of move now to what we did in the EIS. Basically just as a preamble, we worked on a lot of large EISes, huge EISes of a scale much larger than

23 this. While these are big projects, they are  
24 not super big in terms of hotel room count and a  
25 lot of things. There has been a lot bigger

1 (GROWTH/CHARACTER ISSUE) 2874

2 projects we worked on and one thing consistently  
3 we see. We did a lot more work on induced  
4 growth here than we do in most of our EISes that  
5 typically have one or two page, almost like  
6 summary chapters to the overall EIS. They  
7 rarely take up an entire appendix of the  
8 document. But what we did, we tried to take  
9 those socio-economic analyses that might  
10 typically be associated with a project review  
11 and kind of carried them forward in a lot more  
12 detail which is in Appendix 26 and it's  
13 summarized in section 310, section 7 of the main  
14 document. And we provided a sort of in-depth  
15 assessment.

16 The key components, starting with  
17 existing conditions, was to look at the  
18 demographics, the population, the household, the

19 income, work force characteristics, we looked at  
20 business inventories and corridor spending. I  
21 think just the important thing to note here is a  
22 lot of this is stage setting and descriptive. A  
23 lot of this data sets the stage, it's not  
24 necessarily the basis for -- it's very I don't  
25 think any of it actually becomes inputs for the

1 (GROWTH/CHARACTER ISSUE) 2875

2 model that we used, for instance. It basically  
3 sets the stage and describes the area we are  
4 working in.

5 In terms of the observations of the  
6 existing conditions, I think as our tour  
7 indicated when we were out last month and the  
8 photographs that were submitted this morning I  
9 don't remember the exhibit number, if you want  
10 to make sure that's in there.

11 MR. RUZOW: That's Exhibit 80.

12 MR. LIEBOWITZ: It's sort of evident  
13 I think that within the demographics that we  
14 looked at and what we see in the corridor this  
15 is an area that has not totally shared in the

16 economic growth, prospered in terms of the  
17 metropolitan area. It has had some growth in  
18 population, it's obviously that growth in second  
19 homes and some of the increased housing values  
20 associated, but it's essentially a pretty flat  
21 economy. As we heard from the merchant  
22 community, it's a pretty difficult business  
23 environment and it has a labor market that  
24 covers a large area. It's kind of a complex  
25 labor market in that it's had job losses, it's

1 (GROWTH/CHARACTER ISSUE) 2876

2 had people that seem to be in a kind of  
3 underemployed category, they don't sort of show  
4 up in the typical levels of how we go at looking  
5 at unemployment for instance.

6 We then sort of took a stab at  
7 looking at what happened and the economic  
8 effects during the construction period, which  
9 was about a two hundred forty million dollar  
10 construction effort. We looked at employment,  
11 wages and salary, the total economic effect that

12 includes the multiplier or ripple effect that we  
13 spoke about with these different econometric  
14 models and the fiscal benefits generated from  
15 the construction project.

16 MR. RUZOW: Peter, stop for a  
17 minute. In terms of your choice on the  
18 selection of a model.

19 MR. LIEBOWITZ: The RIMI versus  
20 REMI?

21 MR. RUZOW: Yeah.

22 MR. LIEBOWITZ: We will get into  
23 that when John speaks, essentially that is the  
24 standard model that we have used for a variety  
25 of reasons but pretty much every EIS we have

1 (GROWTH/CHARACTER ISSUE) 2877  
2 written uses REMIs as the basis for  
3 socio-economic analyses partly because it's the  
4 most nationally, it's created by a government  
5 entity for kind of public purposes and it seems  
6 to have, gets you to a point where you then  
7 evaluate the impacts of what it's telling you.  
8 You are not sort of using, relying on it to tell

9                   you what the impacts are. I don't know if that  
10                   explains it but John will get into that in a few  
11                   minutes.

12                                 In terms of the key components  
13                   during the operation of the facility we looked  
14                   at generally when the facility was up and  
15                   running, that's the future snap shot, we looked  
16                   at what employment on site would be as well as  
17                   indirect or generated through the econometric  
18                   modeling. We looked at wages and salaries,  
19                   fiscal impacts starting with sales taxes that  
20                   goes to state and county entities and not to  
21                   local municipalities. And we looked at property  
22                   taxes to the municipality and school districts  
23                   and counties.

24                                 What we did, we presented a very  
25                   conservative estimate in the EIS because we

1                                                 (GROWTH/CHARACTER ISSUE)                   2878

2                   basically gave the number at build out but  
3                   really didn't try to speculate beyond the  
4                   initial assessment in terms of the phase-in of

5 the business tax exemptions that start so we  
6 kind of left the property taxes at a starting  
7 point of around 15 percent of the total assessed  
8 value that could be generated because it's  
9 unclear how long it would take to phase that in  
10 and it was sort of showing there was clearly  
11 sufficient revenue being produced to the  
12 municipality, so I will leave it at that  
13 conservative estimate.

14 At the time of the EIS publication I  
15 think it's important to note we heard a little  
16 about that from some of the people you heard  
17 from today like the fire chief that the key  
18 service providers were contacted and there was  
19 letter records going back and forth I think it  
20 was submitted today as well where they indicated  
21 basically they could provide coverage with no  
22 increased cost to municipal services. Since the  
23 EIS has been published that communication I  
24 think has stepped up and gotten more rigorous in  
25 terms of the back and forth. Some needs have

1  
2 been identified in terms of municipal costs.

3 Some of the things during construction  
4 concerning some of the service providers have  
5 been analyzed and worked on with Crossroads.

6 I think it is important to note that  
7 is very typical in the EIS process where things  
8 get started and by the time you get to approvals  
9 you start to work out what has to happen to  
10 bring things forward. But I didn't see anything  
11 unusual about how that progressed, seemed quite  
12 typical.

13 Then the last piece of that looking  
14 at the effects during operations was really the  
15 most unusual part of this assignment for us, was  
16 to dig into the off site spending by guests and  
17 visitors. We provided a detailed breakdown by  
18 the guest type, by the market segment they were  
19 in, whether they were hotel guests or time share  
20 guests, wherever they sort of broke down. We  
21 gave a detailed estimate of on and off spending  
22 by this segment and the volume of tourists  
23 coming through. We also provided it by taking



24 an assumption of a certain part of employee  
25 spending that would happen in the corridor. And

1 (GROWTH/CHARACTER ISSUE) 2880

2 we kind of tried to put that together in terms  
3 of a good picture of what the economic activity  
4 in the corridor might actually be with the hotel  
5 in operation and I think I was sort of pleased  
6 when we were here on June 9th that the folks  
7 from RKG and the City side basically thought  
8 that was a pretty sound approach we had taken  
9 and the numbers looked good.

10 The next piece of our growth study  
11 was to look at the land supply analysis. The  
12 key components of this were to look at came from  
13 the initial scoping a concern about the  
14 project's effect on other land uses in the  
15 corridor and the resort's relationship to  
16 surrounding land. And recognizing that  
17 development in the corridor is constrained by a  
18 number of factors we look at sort of a GIS  
19 analysis to identify constrained lands within  
20 the corridor. What we did is we located where

21 the most probable place for development might  
22 occur, what was constrained, what was  
23 developable. We looked at the following  
24 factors. We looked at what was owned publicly,  
25 by forest preserve, DEP and other protected

1 (GROWTH/CHARACTER ISSUE) 2881

2 land. The hydrography in terms of DEP's  
3 100-foot stream buffers, topography, slope,  
4 soils, sewer availability and zoning. Basically  
5 when you sort of widdle that down this is just a  
6 little piece from the composite map we had in  
7 the EIS we showed of the one hundred seven --.

8 MR. GERSTMAN: Excuse me. This is  
9 all in the slide?

10 MR. LIEBOWITZ: It's also in the CD.  
11 -- of the one hundred seven thousand  
12 acres in the primary corridor only about  
13 thirty-nine hundred acres would be available for  
14 new development based on all these constraints.

15 The City in their comments on the  
16 EIS did their own inventory. They seemed to

17           rely a little bit more on vacant parcel analysis  
18           and their inventory found some forty-three  
19           thousand acres that be could developed but the  
20           analysis didn't include limitations from steep  
21           slopes access, hydrography, and that seems to be  
22           the key difference why the numbers were so  
23           different.

24                           In terms of some of the  
25           observations, I think we have seen the

1                           (GROWTH/CHARACTER ISSUE)           2882  
2           constraints on development are such that really  
3           wholesale change and open-ended development in  
4           the corridor is pretty unlikely. Graham will  
5           touch on that also in his presentations.

6                           MR. RUZOW: Peter, you heard this  
7           morning Eric Wedemeyer speak a little bit about  
8           it from the less theoretical, more  
9           practicable --

10                          MR. LIEBOWITZ: More interesting.

11                          MR. RUZOW: -- end of it. Is what  
12           Eric described to us in terms of the limitations  
13           on development, the steep slopes, absence of

14 subdivision coming forward, is that reflected?

15 MR. LIEBOWITZ: Sort of what we are  
16 getting at. If you think of the corridor and  
17 the segments between the hamlets, at the hamlets  
18 they kind of extend to 28, there is usually  
19 little bits of commercial highway zoning where  
20 the hamlet meets the 28 corridor, then there is  
21 generally large stretches of either rural  
22 residential zoned lands or lands clearly  
23 unbuildable in term of who owns it, park land,  
24 or steep slopes that come down to the road or  
25 the river being right next to the road, that is

1 (GROWTH/CHARACTER ISSUE) 2883

2 sort of what we are getting at.

3 The things that we also came out of  
4 this as we sort of take the lands of constraint  
5 analysis and sort of matched it with survey work  
6 that had been done either by us going through  
7 the corridor or the business surveys that had  
8 been done prior, is that there is a fair amount  
9 of existing under-utilization of commercial and

10 residential property and that provides a lot of  
11 infill opportunities. One of the things that  
12 happens on land that is constrained or the cost  
13 of access or development is high on those types  
14 of undeveloped land, that infill starts to have  
15 some more appeal. You are seeing examples of  
16 that up and down the corridor. When you come in  
17 from Kingston there is the Ashokan Plaza --  
18 Phoenicia Plaza. Which when we first started  
19 working on the job was completely empty. Now  
20 it's been renovated and it's still mostly empty,  
21 but you can see how some of the stores are  
22 trying to figure out how to take some of the  
23 things that are here now.

24 MR. RUZOW: There is a pizza parlor  
25 there now.

1 (GROWTH/CHARACTER ISSUE) 2884

2 MR. LIEBOWITZ: I think there is a  
3 pizza parlor and we heard there may be a ski  
4 shop coming, not sure.

5 I think the other thing that, the  
6 other evidence of that I thought was a little

7 interesting was when we met the Margaretville  
8 hotel owner on our site tour, which is clearly a  
9 case of kind of infill development happening in  
10 a generally urbanized area and commercially  
11 zoned area of the hamlet extension.

12 The next thing we worked on was case  
13 studies in our basic economic analysis. These  
14 sites, we picked three case studies -- actually  
15 we didn't pick them, they came from scoping, so  
16 they were done in coordination with DEC and DEP  
17 in kind of a public scoping process. What came  
18 out of that we are looking at comparing  
19 Belleayre with Windham to the north of us, Gore  
20 in the Adirondacks, and Mount Greylock which is  
21 sort of joint public/private initiative in  
22 Massachusetts which has been trying to get off  
23 the ground for a number of years. I think the  
24 important things that came out of this in terms  
25 of scoping was these were qualitative lessons

1 (GROWTH/CHARACTER ISSUE) 2885

2 learned trying to pick on the trends and

3 activities in other locations to see how they  
4 could paint a picture of what might happen here  
5 or to corroborate the findings we were coming up  
6 with in our analysis.

7                   What we did, we went there, looked  
8 at all these places, we interviewed realtors,  
9 town, county, state officials about how these  
10 economies were operating, whether changes  
11 whether it be ski based or four season amenity  
12 around a ski facility, how those sort of worked  
13 together, what kind of development pressures  
14 were being generated as that balance may change  
15 or change over time. That is sort of how we  
16 based the case study analysis.

17                   The observations that came out of  
18 that came very consistent with the things we  
19 were finding when we looked at the numbers being  
20 generated in the economic model and talking to  
21 people in this corridor. There did not seem to  
22 be a strong evidence of explosive or sprawling  
23 growth when you have sort of four season  
24 development in and around ski centers. The  
25 thing that was interesting to us was labor

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2 markets seem to be fairly elastic and that jobs  
3 get filled without major changes to the  
4 demographic base or local housing markets.  
5 That's what we were hearing both in Windham and  
6 in Gore. Greylock hadn't yet hired its first  
7 employee so they weren't able to tell us.

8 In a tough economic climate public  
9 incentives are often needed to get  
10 amenity-driven projects off the ground. We  
11 heard that a lot at Gore where the state and the  
12 county have been investing a fair amount to try  
13 to get things, to try to get that facility to be  
14 primed to generate more activity and to generate  
15 more skiers in the winter and more summer  
16 activity and shoulder activities in the other  
17 seasons.

18 It was particularly notable in Mount  
19 Greylock which is really as much a publicly  
20 driven and sponsored project as private  
21 development interest which has some bearing here  
22 in that the public subsidy and the public



23 investment has happened already with the ski  
24 area so it seems to be the case of coming up  
25 with a kind of joint initiative to create a

1 (GROWTH/CHARACTER ISSUE) 2887

2 better whole in terms of four season amenities.

3 The thing about Windham that's  
4 important to note, is that basically it sort of  
5 has been at in a relatively stable way where  
6 with this resort in place it seems to be heading  
7 in that it has a ski area with about double the  
8 ski area visits Belleayre has, it has golf  
9 courses and hotels adjacent but off mountain so  
10 it has sort of a longer history of second home  
11 and condo development.

12 I guess you guys are still planning  
13 to go tour around there.

14 MR. RUZOW: We are trying to work  
15 out the logistics.

16 MR. LIEBOWITZ: I think that you  
17 will see that it is similar to what we are  
18 describing. There is some new development in

19 and around the ski slopes. The town basically  
20 looks terrible right now because they are  
21 re-doing the sewers, but it has a kind of a mix  
22 of stores, small hotels, and B & Bs, and then  
23 there is a few larger hotels that kind of flank  
24 in and around either end of town. What is  
25 different is that they have a lot of on mountain

1 (GROWTH/CHARACTER ISSUE) 2888

2 real estate at Windham.

3 MR. RUZOW: That's different from  
4 here because Belleayre is private.

5 MR. LIEBOWITZ: Right, exactly. And  
6 you will see that, the funny thing when you see  
7 that it's very apparent when you are at the ski  
8 area you don't really notice it from the  
9 corridor which I think is somewhat interesting.

10 Let's see. Then we tried to take  
11 all those pieces we were working on, existing  
12 conditions, the construction period, operation  
13 period, case studies and tried to blend that  
14 into what we thought was a growth inducement

15 assessment for the project. First we estimated  
16 the corridor spending in terms of visitor and  
17 employee spending. We related that new spending  
18 to what was happening in the corridor currently  
19 and correlated that spending in terms of  
20 commercial square footage. I think it's  
21 important from our perspective that, contrary to  
22 the comments that were coming in on the DEIS, I  
23 would like to peg that number in a number of  
24 different ways. Sometimes it's wholly new  
25 development, sometimes we said totally

1 (GROWTH/CHARACTER ISSUE) 2889  
2 reoccupancy only and there wouldn't be any type  
3 of new development. I think if you go through  
4 what we have wrote and said what is really going  
5 to happen is probably a little bit of  
6 everything. There is going to be a market  
7 response. We don't know how it will come out  
8 but in general this is a modest amount of new  
9 commercial demand that will be generated by the  
10 spending in that there is a lot of capacity in  
11 the system as we have heard from the restaurants

12 that are not open full time or businesses not  
13 open full time. There seems to be between the  
14 seasons and the operations of the current  
15 business there's a lot of capacity that can get  
16 filled in before you see sort of a change to  
17 having to build new facilities to meet the new  
18 demand.

19 I think the other important thing  
20 was when we looked at labor force issues and  
21 where people might be working, where they might  
22 be coming from, what type of people might be  
23 attracted to work here, we just don't see there  
24 would be a likely and major shift in where  
25 people lived. They are going to figure out how

1 (GROWTH/CHARACTER ISSUE) 2890

2 to work here from where they are currently  
3 living. That's a very important premises  
4 because it then sort of takes away some of the  
5 issues in terms of why didn't the EIS do a more  
6 thorough housing analysis or why didn't it do  
7 this. It's because it really wasn't warranted

8                   when you looked at what was going to happen at  
9                   the facility as the labor pool started to fill  
10                  in the jobs.  So that's basically what we found.

11                   THE COURT:  Did you do a comparison  
12                  of the labor pools like at Windham, Greylock,  
13                  these other areas and compared with the labor  
14                  pool here?

15                   MR. LIEBOWITZ:  Yes.  When we sort  
16                  of set up each town we kind of did some  
17                  demographic comparison side by side and looked  
18                  at where people were working or what employment  
19                  was generated at the ski facilities versus some  
20                  of the hotels but pretty much anecdotally or by  
21                  interviews we spoke to people who operate the  
22                  ski facilities, we spoke to the supervisor in  
23                  Windham and got some sense of how people are  
24                  hiring people, where they are coming from, has  
25                  it been a particular issue for them.  This is

1                   (GROWTH/CHARACTER ISSUE)                   2891  
2                  sort of an issue that affects resorts all over  
3                  the place.  We have been doing work in the  
4                  Adirondecks where we have other labor force

5 issues but we hear similar things in terms of  
6 people make their housing choices and their work  
7 choices, they don't often in work places in  
8 rural economies like this they don't often  
9 change their housing choice to match their work  
10 choice, they kind of make them both work  
11 together.

12 THE COURT: I guess my question is,  
13 there has been some concern raised here that the  
14 number of jobs that will be needed at the resort  
15 and the labor pool, there is a real serious  
16 disconnect. You need maybe 750 jobs, maybe you  
17 have 200 folks in the labor pool. Was there a  
18 similar disparity at any of the other sites you  
19 looked at, like at Windham?

20 MR. LIEBOWITZ: Trying to remember.  
21 Windham has a relatively similar population and  
22 work force base so I think it was sort of a  
23 similar draw.

24 THE COURT: Explain that to me. If  
25 they needed 500 jobs there were 500 people in

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the labor pool unemployed?

MR. LIEBOWITZ: Right. But the labor pool, and this is something John Neill will get into later in a few minutes, is the labor pool is a lot bigger than unemployed people. There is roughly, I'm not sure what the labor market was, but something in the 10-, 20,000 was the population so there would be well over 10,000 workers in this labor market area that would draw most of the employment to this resort. Only a portion of them are recorded as unemployed so but you can't use that number because there is a lot of other factors that go into people's job decision-making.

THE COURT: Somebody who is employed in one job may change.

MR. LIEBOWITZ: Right. I don't want to steal John's presentation, but within this labor market area drawn around here there is over a thousand workers now who commute more than an hour to jobs. So some of those people may be attracted to working here if it's five

24 minutes or 10 minutes or half an hour with  
25 similar salary or benefits. There is a lot of

1 (GROWTH/CHARACTER ISSUE) 2893  
2 choices that are going to happen in the labor  
3 marketplace to come here. It's not looking just  
4 for those people who have reported to the  
5 Department of Labor and trying to get  
6 unemployment benefits, which is the only  
7 recorded unemployment numbers that you have.  
8 There is a whole underemployment, seasonal  
9 employment, we will let John go through that if  
10 that's okay.

11 THE COURT: That's fine.

12 MR. LIEBOWITZ: So now we can start  
13 looking at the specific comments we have gotten  
14 from everyone in the room and what I would like  
15 to do, I organized it by capsulizing what I  
16 thought were the key notes from the petitions.  
17 Talk a little about the case studies, induced  
18 growth studies and the demographic analyses. I  
19 get to talk about petitions a little bit.

20 When you look at the DEP petition,



21 and it kind of faults the DEIS for inadequate  
22 analyses of induced growth and relies on three  
23 points expressed in pages 33 through 37 of the  
24 petition. They start with case studies in that  
25 they were deficient. They question the use of

1 (GROWTH/CHARACTER ISSUE) 2894  
2 RIMI versus REMI, which is an alternate  
3 econometric model and they say the two above  
4 creates an underestimate of the economic and  
5 environmental impact of the project in terms of  
6 new population leading to new housing demand and  
7 corridor commercial development. The CPC  
8 petition focuses more of the criticism basically  
9 by wrapping it under the umbrella of community  
10 character and the community character issues  
11 they identified include open space, visual  
12 impact, noise. The economic impacts they sort  
13 of agreed with what DEP was saying and they are  
14 sort of focused heavily on some of the data  
15 inaccuracy they uncovered. Then there was sort  
16 of changes in the social character of the

17 corridor and its cultural attributes.

18 What we are going to do is respond  
19 to the case studies on induced growth and  
20 demographics and let Graham talk about community  
21 character right after us or in sequence, we are  
22 not sure.

23 So there are a couple of overview  
24 things I think are important to keep in mind as  
25 we go through all of these responses to

1 (GROWTH/CHARACTER ISSUE) 2895  
2 comments. That is that these economic  
3 projections are not hard science. They result  
4 from the application of analytical techniques.  
5 We have a variety of modeling methodologies but  
6 a lot comes from reasoned judgment and knowledge  
7 of what's happening in an area, trends and what  
8 we are seeing and observing. When you go to the  
9 next step and we looked at the things these guys  
10 were asking us to fix or look at or how they  
11 look at it differently there really doesn't seem  
12 to be a substantive difference from our

13 perspective. Particularly I don't think they  
14 come to the level of significance that's  
15 adjudicatory kind of element. We are used to  
16 writing very detailed final Environmental Impact  
17 Statements that spend a lot of time and really  
18 respond to substantive comments that go back  
19 through and make sure analyses are up-to-date or  
20 still corroborate the impact findings and that  
21 seems to be where these comments generally want  
22 to fall into, where they naturally lie. They  
23 are good comments on the EIS, we can write good,  
24 good, comprehensive responses that satisfies and  
25 answers them without really changing the impact

1 (GROWTH/CHARACTER ISSUE) 2896

2 assessment, that's where we are coming from.

3 MR. RUZOW: If I may, they don't at  
4 least in our judgment, lead one to conclude that  
5 there will be material changes to the project,  
6 that there is significant conditions that will  
7 have a material effect on the project that would  
8 be imposed in order to deal with, to address  
9 those issues, they don't rise to that level.

10 But having said that, as Peter acknowledges,  
11 they are certainly important and need to be  
12 taken into account and reflected and as applied  
13 to community character they are the kinds of  
14 issues that need to be clarified for purposes of  
15 local judgments.

16 THE COURT: Substantive but not  
17 significant.

18 MR. RUZOW: Substantive but not  
19 significant. Important though in the context of  
20 working through the community issues with the  
21 localities involved to make sure those aspects  
22 come into play in their decision-making in  
23 reliance on a FEIS in response to comments.  
24 They play an important role there but not in the  
25 context of normally the Department's permitting

1 (GROWTH/CHARACTER ISSUE) 2897  
2 decision.

3 MR. LIEBOWITZ: Thank you. You said  
4 that much better than I.

5 Moving on to the case studies, first

6 of all I think we were somewhat I guess  
7 surprised at the relevance of front and center  
8 case studies as a core weakness of the DEIS  
9 because from scoping and from the text basically  
10 we know they are inherently qualitative, they  
11 provide add-on information, they aren't the  
12 basis of decision-making. That's stated right  
13 in the text of our documents and in the scoping  
14 document.

15 What happened in the comments that  
16 were coming in on the EIS is basically the DEP  
17 and the RKG comments sort of redefine the  
18 context of the scope of work and pick a whole  
19 new set of case studies that weren't scoped.  
20 These case studies we don't think are very good  
21 comparables either. Maybe they didn't like the  
22 comparability of what was chosen in the public  
23 scoping process, but they haven't actually come  
24 up with things that are better examples. That  
25 mainly stems from the fact they focused on

1 (GROWTH/CHARACTER ISSUE) 2898

2 resorts or resort settings that were either in

3 areas with a lot more built-up tourist  
4 infrastructure like Lake Tahoe with tens of  
5 thousands of hotel rooms and basically a local  
6 population in the tens of thousands of people  
7 already or like a Lake Placid were some of the  
8 resorts they were looking at are right in a  
9 downtown setting in a built-up urbanized  
10 infrastructure or they looked at places that  
11 were either, the word I used was a glomeration,  
12 I guess it was a hyper vocabulary day, but  
13 places like Colorado and Vermont where they have  
14 millions of visitors streaming past locations  
15 and it's not comparable to pick something that's  
16 right off interstate 70 that goes from Denver to  
17 all the ski areas in Colorado, or they looked at  
18 developments significantly larger in area or  
19 density. The funny thing is the two they picked  
20 to focus on more thoroughly, when I read them I  
21 didn't see a lot more, a real difference of  
22 outcome than what we were actually saying would  
23 likely happen from the Belleayre study.

24 The first one they looked at was  
25 Snowshoe, West Virginia which is comparable in

1  
2 terms of it being in a rural county. There are  
3 some differences, though. It's not a -- it's at  
4 least five hours from the closest metropolitan  
5 area which is a much smaller area metropolitan  
6 area.

7 MR. RUZOW: What is that?

8 MR. LIEBOWITZ: Washington, DC would  
9 be the metropolitan area. It has a high degree  
10 of destination resort and visitors and  
11 weekenders. Basically it serves as the, almost  
12 the entire southeast states, from Florida,  
13 Georgia. All those people are using Snowshoe as  
14 the first shot at a large mountain resort  
15 particularly in winter because it's one of the  
16 few ski areas south of Virginia in the south.  
17 It's size is significantly larger. It  
18 encompasses 11,000 acres. At present there is  
19 almost 2,000 existing condo units and there is a  
20 master plan that calls for many thousand more.  
21 But given that size and some of the things they

22 say are happening in and around Snowshoe, they  
23 have talked about 12,000 square feet of new  
24 retail which is a gas station, a ski shop and a  
25 convenience food store, one of which I believe

1 (GROWTH/CHARACTER ISSUE) 2900

2 had been move, was actually relocation of  
3 existing facility, which basically is not so  
4 different than things that might happen here.  
5 It's things that maybe already exist at the base  
6 of the Belleayre Ski Center where there is a  
7 small store, a deli and a little bit of  
8 development right at the base. They talked a  
9 little about the new housing that's being  
10 developed around the mountain, which is 150  
11 units over I'm not sure the time period, in and  
12 around this 11,000-acre place with thousands of  
13 units. In the scale of things I don't think  
14 that's significantly different than what's  
15 happening here now or in Windham or sort of  
16 doesn't seem to be an indicator of a large  
17 amount of secondary development. They made sort



18 of an issue of how they had to significantly  
19 improve roadway conditions, but when you read  
20 really through the case study it's because the  
21 road leading to this 2,000 condo units and  
22 10-lift ski facility was a dirt road, had never  
23 been upgraded. And that I don't think, and this  
24 is something that we see everywhere, is that  
25 land, housing and pricing escalation is a

1 (GROWTH/CHARACTER ISSUE) 2901  
2 universal issue in second house markets and  
3 resort communities, it's not just tied to this  
4 corridor, it's part of the fabric how people are  
5 choosing their second homes.  
6 On Mountain Creek, Vernon, New  
7 Jersey, this also I think was an inappropriate  
8 case study because it looked at a place that was  
9 really a different setting. Essentially  
10 Mountain Creek is in the northwestern corner of  
11 New Jersey, kind of tucked up near the Orange  
12 County line near Warwick, New York basically  
13 it's within the commutershed of the city. As  
14 noted in the RKG report, a significant portion

15 of the town residents commute to New York City  
16 which is 50 miles away or other Jersey counties  
17 such as Bergen or Essex. Surrounding  
18 communities are growing really as outer edge  
19 suburbs as much as anything to do with resort  
20 development. When I was out there sometime last  
21 month the things that were reflected and what  
22 are happening are subdivisions, single family  
23 homes, primarily residences, supermarkets,  
24 things that aren't driven by the development of  
25 a ski area or resort, they are driven by the

1 (GROWTH/CHARACTER ISSUE) 2902

2 fact this area is changing considerably. It has  
3 a lot of people. It has a much higher density,  
4 about 25,000 residents in 68 square miles where  
5 Shandaken and Middletown about 7,500 over 200  
6 square miles, so it's sort of a different  
7 critter and I don't think it makes a very good  
8 case study for that reason.

9 But within that the things that are  
10 happening is large scale reinvestment and new

11 development is still focussing on infill and on  
12 the existing resort facilities other than the  
13 one or two specific intrawest developments. I  
14 think it's inappropriate to say something that  
15 is previously planned and approved that maybe is  
16 happening now because they see some new  
17 investment in the area is a reflection of  
18 induced growth. It basically is growth that has  
19 been planned and approved and likely to happen.  
20 And this, the example that was given in the case  
21 study analysis, was for a new hotel, but that  
22 new hotel is actually on the ski area facility  
23 itself. It's part of the mineral spa. It's  
24 sort of the middle piece of Mountain Creek  
25 Resort, has three gateways; this is in the

1 (GROWTH/CHARACTER ISSUE) 2903

2 middle.

3 There are other examples of things  
4 happening in terms of reinvestment and existing  
5 resources downtown and it sort of gets back to

6 that infill notion that seems to be a first  
7 response to new investment, but if you look at  
8 94, the road that service this area is New  
9 Jersey route 94, there really wasn't a lot  
10 happening once you get out of the built-up town  
11 area.

12 If you look at the next slide, some  
13 of the other things kind of interesting in terms  
14 of the transportation constraints that are  
15 talked about in the case study analysis, this  
16 road is much more limited capacity than the  
17 route 28 corridor. It really looks if you  
18 remember when we were on site tour sometimes  
19 coming in and out of the hamlets we were on old  
20 28 versus the main highway. That's essentially  
21 what their main road looks like, a lot smaller,  
22 narrower, smaller shoulders, tighter turns, so  
23 it's not unexpected things are changing there  
24 where they have to do roadway improvements.

25 The other thing in terms of housing,

1 (GROWTH/CHARACTER ISSUE) 2904

2 I like this picture because one of things when

3                   you are in that area there seems to be a blurry  
4                   distinction between seasonal and full year round  
5                   home ownership. At Mountain Creek and Hidden  
6                   Valley right near it, it looks like a lot of the  
7                   condos and slopes facilities are year-round  
8                   residential uses. They even have a school bus  
9                   stop at the main condo development at Mountain  
10                  Creek.

11                                 MR. RUZOW: Peter, what I would like  
12                   to do now is to ask George Raymond to present.  
13                   This is sort of a good breaking point.

14                                 MR. LIEBOWITZ: It is a good  
15                   breaking point. I was about to turn it over to  
16                   John Feingold.

17                                 MR. RUZOW: Then we will get back on  
18                   to that.

19                                 THE COURT: We will take five  
20                   minutes, folks.

21                                 (A recess was taken.).

22                                 THE COURT: If we can go back on the  
23                   record, just a couple of quick matters.

24                                 (Whereupon, CPC Exhibits 67A and 77  
25                   were received in evidence.)

1  
2 MR. GERSTMAN: Judge, we have  
3 distributed to the parties and presented you a  
4 copy with Doctor Hall's final presentation on  
5 power points, a disk, and it's 67A. We will  
6 withdraw the former 67A which has now been  
7 amended to formulate this new model.

8 I have also introduced Exhibit CPC  
9 77 which are several pages from the Belleayre  
10 website, both a description of hiking at  
11 Belleayre and several maps. I believe there are  
12 three maps attached which show the hiking trail  
13 from the Belleayre Day Use Area that we have  
14 been previously referring to on our last Issues  
15 Conference meeting and it basically talks about  
16 this new trail from the summit of Belleayre down  
17 to the Belleayre Beach at Pine Hill Lake. If  
18 you recall, there was some discussion about  
19 that, whether there was a temporary trail or  
20 not. It has now shown up on Exhibit 76 which is  
21 Belleayre Mountain brochure and Belleayre

22 website as a new hiking experience just to  
23 clarify the record in case we go do our hike  
24 tomorrow.

25 At some point we have an additional

1 (GROWTH/CHARACTER ISSUE) 2906  
2 presentation regarding community character and  
3 noise in response to questions, but we will  
4 defer to a little later.

5 MR. RUZOW: Your Honor, with respect  
6 to the issue of the hiking at Belleayre, we  
7 have, we are in the process of seeking a copy of  
8 the agreement between Belleayre Ski Center and  
9 Crossroads Ventures for that access.

10 THE COURT: The easement?

11 MR. RUZOW: It's not an easement. I  
12 believe it's a license or temporary revokable  
13 type agreement. We don't have a copy of a  
14 signed one. However, we understand, we have  
15 been told an agreement drafted by the Department  
16 was signed several years ago. It provides for  
17 termination unilaterally at any time. If

18 Mr. Gerstman feels compelled to pursue this  
19 point with respect to public access on that as  
20 through our land as being a potential adverse  
21 impact on the trail system, then we will have no  
22 choice but to withdraw that right that has been  
23 granted. We are reluctant to do that because it  
24 will disadvantage the ski center. We don't want  
25 to do that, but to be hoisted on a co-operative

1 (GROWTH/CHARACTER ISSUE) 2907  
2 agreement between the ski center and a property  
3 owner, then to have that used against you in a  
4 claim that because you choose to do something  
5 with your land you will be adversely impacting  
6 those who will be given temporary permission to  
7 walk on your land, is sort of a fundamental  
8 problem in what the state describes as  
9 partnerships it seeks with neighboring property  
10 owners. If CPC and Catskill Center is insistent  
11 on pushing this issue, we will have no choice  
12 but to confirm that permission has been  
13 withdrawn. We are reluctant to do that but it



14 appears they are pursuing that.

15 MR. GERSTMAN: I'm not sure  
16 Mr. Ruzow's characterization that the reason for  
17 us introducing this information is accurate. I  
18 don't believe if you look in the transcripts you  
19 will find any representation at this point as to  
20 what the offer of proof is intended to  
21 establish. At this point we have established  
22 contrary to representation made by Mr. Frisenda  
23 there is a temporary revokable permit of some  
24 sort or temporary license which has now been  
25 memorialized in two brochures, two public

1 (GROWTH/CHARACTER ISSUE) 2908  
2 issuances from Belleayre indicating there is  
3 hiking across this property. At this point  
4 that's all we have established, we haven't gone  
5 beyond that. If Crossroads wants to hold up  
6 CPC's request for this information as a reason  
7 to withdraw that license, that's Crossroads  
8 responsibility and Crossroads determination  
9 solely and exclusively.

10 MR. RUZOW: But for CPC's assertion  
11 that there is a right-of-way and other arguments  
12 regarding impacts and seeing what can be seen,  
13 Crossroads would not do that, but we will leave  
14 it at that.

15 THE COURT: Thank you, gentlemen.  
16 Mr. Ruzow.

17 MR. RUZOW: Your Honor I have the  
18 pleasure of introducing George M. Raymond. His  
19 resume is included as Applicant's Exhibit 64  
20 produced earlier.

21 Mr. Raymond, can you give me, share  
22 with us a little of your background and  
23 experience in the area of planning? Let me  
24 preface that by saying we have asked Mr. Raymond  
25 to review Volume I of the DEIS and a variety of

1 (GROWTH/CHARACTER ISSUE) 2909  
2 documents that have been referenced regarding  
3 both planning, comprehensive planning and  
4 community planning, state activities associated  
5 with this area, in order to help respond to  
6 concerns being expressed regarding impacts on

7 community character.

8 With that, Mr. Raymond, give us a  
9 little of your background.

10 MR. RAYMOND: I graduated in School  
11 of Architecture, Columbia University 1949 and  
12 got into planning -- sorry, 1946, and got into  
13 planning in 1949 by joining a firm in New York  
14 City Hasom, Ballard and Howland, (sic) a well  
15 known housing related firm that was engaged at  
16 that time in urban redevelopment activities  
17 mostly in the south and in the State of New York  
18 and in Connecticut. And for five years I worked  
19 in planning in this field including a  
20 comprehensive --.

21 MR. RUZOW: Speak up a little more  
22 if you can.

23 MR. RAYMOND: I will try. I have  
24 been engaged in the planning in this field  
25 including the comprehensive plans that were

1 (GROWTH/CHARACTER ISSUE) 2910

2 required by the federal government as a preclude

3 to federal financing of urban renewal  
4 activities. In 1954 I started my own firm in  
5 Westchester County. The firm went through  
6 various incarnations, first George Raymond  
7 Associates, Raymond & May Associates, Raymond,  
8 May, Parish & Pine, Raymond, May, Parish, Pine &  
9 Weiner and in 1982 it became George Raymond  
10 Associates again having spawned four firms in  
11 different places in the metropolitan area. I  
12 have prepared comprehensive plans or the firm  
13 has prepared comprehensive plans in dozens of  
14 communities in Long Island and Westchester and  
15 Dutchess and a lot of it in New Jersey.

16 MR. RUZOW: In Exhibit 64, the  
17 resume, there are the last two pages listings of  
18 communities in which the firm has prepared  
19 studies various studies. There is little bullet  
20 next to ones in which Mr. Raymond was personally  
21 involved in overseeing.

22 THE COURT: I think the record  
23 should reflect the firm of Raymond, Parish &  
24 Pine has done work for the Village of Freeport  
25 on Long Island.

1

2

MR. RAYMOND: We did a general urban  
renewal plan and a comprehensive plan backs in  
'66.

3

4

5

THE COURT: Okay. 1993 I was on the  
Board of Trustees Village of Freeport. '95 to  
'97 I was Mayor of the Village of Freeport.  
Raymond, Parish & Pine did no work for the  
village during that period of time?

6

7

8

9

10

MR. RAYMOND: I was no longer with  
the firm after 1982.

11

12

THE COURT: I want the record to  
reflect that I as Mayor or trustee never  
contracted for the services of Raymond, Parish &  
Pine.

13

14

15

16

MR. RUZOW: Too bad.

17

THE COURT: A long time ago.

18

MR. RUZOW: Mr. Raymond, you also  
served as professor of planning?

19

20

MR. RAYMOND: 1959 I was asked to  
assume the chairmanship of a department of state  
and regional planning Pratt Institute which had

21

22

23                   been founded, formed a year previously and I  
24                   served as chairman of the department of planning  
25                   until 1975 and I became a tenured professor of

1                                           (GROWTH/CHARACTER ISSUE)                   2912

2                   planning sometime between those two dates.

3                                           MR. RUZOW: Your role also your life  
4                   has also included planning responsibilities as  
5                   special master to courts in New Jersey?

6                                           MR. RAYMOND: Yes. In 1980 I was  
7                   appointed special master in litigation which was  
8                   known as Alan-Deane versus the Town of  
9                   Bedminster. My role was that of helping to  
10                  implement a Court decision against the town  
11                  which was found to have an ether exclusionary  
12                  zoning ordinance and the developer which was  
13                  Orshand of Johns Manville (sic) which had  
14                  purchased the site in order to build its  
15                  headquarters. Before moving to Denver they  
16                  decided they wanted to make some money on the  
17                  site and proposed a large scale residential  
18                  development which was resisted for nine years in

19 the courts until this decision ordered the town,  
20 the town to let the development proceed. I  
21 served as court appointed master in connection  
22 with that particular project for about six or  
23 seven years. And after the Mount Laurel II  
24 decision which was handed down in 1983 I was  
25 appointed and served as court appointed master

1 (GROWTH/CHARACTER ISSUE) 2913  
2 in 13 additional municipalities around New  
3 Jersey.

4 MR. RUZOW: I would like to also  
5 note your involvement as a consultant to the New  
6 York State Legislative Commission on Rural  
7 Resources Land Use Advisory Committee work. Can  
8 you explain a little what that role entailed?

9 MR. RAYMOND: Well, the Commission  
10 on Rural Resources embarked on the revision and  
11 updating of New York State's planning statutes  
12 sometime in the 1980s and I became a member of  
13 the Land Use Advisory Committee to the  
14 Commission of Rural Resources and all of the  
15 legislation that the Commission of Rural

16 Resources proposed and had enacted came through  
17 the Land Use Advisory Committee. So that while  
18 I was a member of the advisory committee, I also  
19 brought my professional contribution, if you  
20 will, to the deliberations of the committee. I  
21 was involved in influencing the course of that  
22 process including the development and eventual  
23 adoption of the comprehensive plan amendment to  
24 section 272 A of the town law.

25 MR. RUZOW: The recodification, your

1 (GROWTH/CHARACTER ISSUE) 2914

2 Honor, of the planning laws in New York State  
3 which the Rural Resource Commission undertook in  
4 the 1990s is what we are talking about. There  
5 is a whole series of planning statutes both for  
6 New York town law, New York City law and New  
7 York village law and Mr. Raymond was part of  
8 that advisory.

9 THE COURT: Gave comprehensive  
10 planning -- took it from the planning board,  
11 gave it to the village boards and village law,



12 right?

13 MR. RAYMOND: Right, the governing  
14 body.

15 MR. RUZOW: Mr. Raymond, you are  
16 also Past Presentident of the American Society  
17 of Consulting Planners and Past President of the  
18 Association of Collegiate Schools of Planning  
19 and Past President of the Metropolitan Committee  
20 for Planning and a Fellow of the America  
21 Institute of Certified Planners of the APA.  
22 Resume also notes you received 1998 APA  
23 Distinguished Leadership Award for Professional  
24 Planning. There are a number of other positions  
25 you have held. You have been practicing as a

1 (GROWTH/CHARACTER ISSUE) 2915  
2 professional planning in representing primarily  
3 communities, is that true?

4 MR. RAYMOND: Primarily until '80s  
5 when private development took off we did  
6 practically nothing but municipal work.

7 MR. RUZOW: So that's some 50 years  
8 in doing this work. I have asked as indicated,

9 Mr. Raymond, if he would share the results of  
10 his review of the DEIS and the various studies  
11 in the context of how a project like this  
12 proposed for where it is might affect the  
13 community's character, but also to touch upon  
14 the role of community planning and the role of  
15 the local governments in examining a project  
16 like this.

17 MR. RAYMOND: Yes. I prepared a  
18 statement which I will read if I may.

19 For many decades the Catskill  
20 Mountains area was one of the preferred tourist  
21 destination in the northeast. Since the advent  
22 of superhighways and cheap air transport, the  
23 advantage it enjoyed due to its proximity to and  
24 ready accessibility from the residents of the  
25 New York metropolitan region and New York

1 (GROWTH/CHARACTER ISSUE) 2916  
2 State's Capital District gradually eroded.  
3 Tourist accommodations became obsolete due to  
4 lack of reinvestment to address modern

5 expectations concerning resort accommodations;  
6 many were demolished. The area went into a long  
7 period of hibernation and progressive decay.

8 As part of my work on the Belleayre  
9 Resort proposal, I have reviewed the first  
10 volume of the Draft Environmental Impact  
11 Statement and a series of state regional and  
12 local plans which sought to identify the most  
13 promising ways of economic stimulus. Included  
14 in chronological order are the 1963 Vollmer  
15 Associates feasibility study of developing the  
16 Belleayre Ski Center for year-round use; the  
17 1994 Route 28 Corridor Committee Resource  
18 Protection and Economic Strategy for the  
19 corridor; the 1988 Belleayre Mountain  
20 Comprehensive Management Study by  
21 Sno-Engineering for the Department of  
22 Environmental Conservation; a part of the West  
23 of Hudson Economic Development Study was a  
24 Market Sector Assessment and Program Issues  
25 Analysis Report done for the Catskill Watershed

1 Corporation in 1998. Another 1998 study The  
2 Tourism Development Plan for the Central  
3 Catskills Planning Alliance, and finally the  
4 1999 Final Economic Study for the Catskill Fund  
5 for the Future.  
6

7 I also reviewed the zoning  
8 ordinances of the Town of Middletown and  
9 Shandaken and the Town of Middletown Master Plan  
10 of 1998--1988 and a comprehensive plan developed  
11 the date uncertain sometime before. On field  
12 trips through the area I rode along route 28 the  
13 35 miles between Kingston and Margaretville,  
14 visited several hamlets along the route, studied  
15 the maps showing the proposed project and its  
16 access roads and viewed the developments through  
17 the developer's three-dimensional model.

18 MR. RUZOW: Your Honor, the models  
19 were the ones at the hearing in January.

20 MR. RAYMOND: All of the economic  
21 development studies agreed that the region's  
22 economy can be stimulated most effectively by  
23 encouraging a revival of its attraction to

24 tourists. In 1997 pursuant to the New York City  
25 Watershed Memorandum of Agreement the Catskill

1 (GROWTH/CHARACTER ISSUE) 2918  
2 Watershed area received an allocation of \$60  
3 million, the Catskill Fund for the Future, from  
4 New York City. An economic study to guide the  
5 use of this money prepared for the Catskill  
6 Watershed Corporation years later suggested that  
7 the area had been presented with an  
8 unprecedented opportunity to achieve its most  
9 critically necessary goal, namely to create  
10 jobs, increase the tax base, retain and expand  
11 existing businesses and attract new ones and  
12 raise local incomes. Having determined the  
13 principal means for the revitalization of the  
14 area's economy is a potential for attracting  
15 tourists, the study found that many of its  
16 tourist centers are obsolete and badly located  
17 and that there are virtually no luxury or large  
18 scale lodging facilities that would increase the  
19 number of visitors to the region, the duration

20 of their visits and the average visitor's  
21 spending.

22 These findings confirmed the vision  
23 of the future set forth four years earlier by  
24 the Route 28 Corridor Committee and approved by  
25 both the towns of Shandaken and Middletown.

1 (GROWTH/CHARACTER ISSUE) 2919  
2 Since the economic development opportunities of  
3 the area are severely limited by physical  
4 constraints, land ownership patterns and  
5 regulatory controls, the report determined that  
6 tourism is the key opportunity upon which to  
7 build the area's economic future. The Committee  
8 went on to say the Belleayre Ski Center, the  
9 major tourism asset of the central Catskills  
10 should be expanded to its maximum winter  
11 potential and supported by year-round sports and  
12 cultural facilities connected to lodging,  
13 restaurant and entertainment facilities to serve  
14 as a magnet for tourists visits. The report  
15 also recommended that four season long-term  
16 tourist visitation be encouraged by stimulation

17 of a diversity of activities to serve a broad  
18 cross section of the family tourist market and  
19 acknowledged the need to locate those major  
20 tourist facilities which require large sites in  
21 scenic locations outside the villages and  
22 hamlets subject to necessary measures to protect  
23 the sensitive environment.

24 The management study for Belleayre  
25 Mountain by Sno-Engineering commissioned by the

1 (GROWTH/CHARACTER ISSUE) 2920  
2 New York State Department of Environmental  
3 Conservation found that Belleayre Ski Center can  
4 be expanded considerably on site and suggested  
5 that the development of a well balanced resort  
6 community would be greatly aided if the ski  
7 center were to be supplemented on adjoining  
8 lands by a variety of facilities that would  
9 serve as a four season tourist traction.

10 My own impression of the hamlets I  
11 visited last Wednesday, July 7th, was first, the  
12 almost complete absence of traffic on their

13 streets or people within sight even though this  
14 is the beginning of the post July 4th height of  
15 the summer tourism season. Second, the absence  
16 of destinations of any significance in the  
17 hamlets likely on their own to cause tourists to  
18 turn off of route 28. Third, despite obvious  
19 evidence at rehabilitation of individual  
20 structures, I noted the frequent presence of  
21 weather beaten and deteriorated buildings. And  
22 due to the narrowness of the valley floor which  
23 accommodated route 28, land suitable for  
24 expansion is extremely limited and even on such  
25 land as may be available, new land is inhibited

1 (GROWTH/CHARACTER ISSUE) 2921

2 by environmental regulations.

3 The Belleayre Resort at Catskill  
4 Park development proposal would consist of two  
5 resorts located on both sides of the Belleayre  
6 Ski Center. To the east on 331 acres out of  
7 1,242 would be located a 150-room hotel with two  
8 restaurants, 95 lodging units in 55 buildings  
9 and an 18-hole golf course. To the west on 242



10 acres out of 718 would be located a 250-room  
11 hotel with two restaurants, 168 lodging units  
12 and 21 buildings and a second 18-hole golf  
13 course. Both complexes would also include  
14 additional amenities such as a spa, shops and  
15 others. Clearly the two resorts would hold  
16 considerable appeal for and would attract  
17 sophisticated and reasonably affluent tourists  
18 to the region. It would be a development of the  
19 type that requires large tracts of land in  
20 scenic locations outside the villages and  
21 hamlets that was contemplated by the route 28  
22 committee. It proposes to use the land in a way  
23 that will differ from the pattern established  
24 long ago in response to the practices and tastes  
25 of a different era.

1 (GROWTH/CHARACTER ISSUE) 2922

2 The hotels and other elements of the  
3 Catskill flourishing original tourist industry  
4 predated the automobile age and were designed to  
5 be used only during the summer season. They

6 provided an opportunity for vacationers to  
7 escape the oppressive heat of the cities and  
8 were used in considerably more passive way than  
9 current day visitors. The Belleayre Resort can  
10 be viewed as an evolutionary response to present  
11 day demand but departing only in details from  
12 the region's preceding tourist scheme best  
13 illustrated by the now gone 1,000-foot or so  
14 long Grand Hotel in the early years of the last  
15 century.

16                               Despite my advanced age, your Honor,  
17 I have not been a patron of the Grand Hotel.

18                               Pursuant to the state's home rule  
19 principles, land use regulation is the exclusive  
20 prerogative of the local government and is  
21 exercised primarily by means of its zoning  
22 ordinance. The ordinances of both towns permit  
23 use of the land in the manner proposed by the  
24 developer of the Belleayre Resort which also  
25 conforms with the Route 28 Corridor Committee's

1                               (GROWTH/CHARACTER ISSUE)                               2923  
2 recommendations which had been approved by the

3 two towns a decade earlier. The Town of  
4 Shandaken ordinance allows by special permit  
5 hotels, vacation resorts and golf courses  
6 subject to a special permit in both its R-3 and  
7 R-5 zones. Similarly, the Town of Middletown  
8 also allows by special permit hotels and  
9 commercial recreation, which includes golf  
10 courses, in both districts. The Shandaken  
11 ordinance requires a minimum lot area equal to  
12 three or five acres, respectively, for each  
13 eight units in a hotel or other resort type  
14 accommodation. Both sites contain an area  
15 considerably greater than the minimum required.  
16 Thus, the development would comply barring its  
17 inability to comply with any conditions the  
18 towns may attach to their special permits.

19 Pursuant to section 272-a of the  
20 town law, which was added by New York State  
21 legislature in 1993 and became effective July  
22 1st, 1994, a town board may, but is not required  
23 to, adopt a comprehensive plan. If such a plan  
24 is adopted by a town board, all land use  
25 regulations must conform therewith. Neither

1 Shandaken nor Middletown have adopted  
2 comprehensive plans pursuant to town law section  
3 272-a. The Town of Shandaken is in the process  
4 of developing such a plan. As for the Town of  
5 Middletown, its planning board appears to have  
6 adopted a comprehensive plan sometime in the  
7 '80s. That document does not contain a land use  
8 plan. In 1988 the town board adopted a document  
9 identified as a master plan which consists of  
10 the results of a survey of resident attitudes to  
11 land use issues and which concludes that it is  
12 advisable at this time to formulate a set of  
13 community guidelines and goals for future  
14 development. I am not aware of the adoption by  
15 the Town of any other document embodying such  
16 guidelines and goals.

17  
18 Only local comprehensive plans  
19 officially adopted by local governing bodies are  
20 determinative of land use policy by reason of  
21 the statutory requirement that following their

22 adoption all local land use regulations must  
23 conform therewith. In the absence of  
24 comprehensive plans the only official documents  
25 which express the local land use policies of

1 (GROWTH/CHARACTER ISSUE) 2925

2 both towns are their respective zoning  
3 ordinances. As I already stated, the proposed  
4 use is in full compliance in both communities.  
5 County plans and plans by some regional agencies  
6 or special interest non-governmental  
7 organizations serve only as advisory guidelines  
8 to local governments in the development of their  
9 own plans.

10 Since the proposed development  
11 represents a major step to the fulfillment of  
12 the tourism stimulation program agreed to by  
13 both local governments, it be deemed they gave  
14 conceptual approval to the provision of key  
15 up-to-date year-round resort facilities as  
16 advanced in all the relevant studies and plans.  
17 To prevent its realization, any objectors would  
18 be required to demonstrate it would exert an

19 unacceptably significant unmitigated adverse  
20 impact on the environment. However, the  
21 regulations implementing the State Environmental  
22 Quality Review Act do not require that all  
23 environmental impacts be fully mitigated. The  
24 standard which must be met requires only that,  
25 significant adverse environmental effects be

1 (GROWTH/CHARACTER ISSUE) 2926  
2 minimized or avoided to the maximum extent  
3 practicable consistent with social, economic and  
4 other essential considerations. Therefore, any  
5 evaluations leading to a finding in that regard  
6 must weigh the project-generated benefits in  
7 both local and regional against the severity of  
8 such adverse residual environmental impacts as  
9 may not be fully mitigated. In an area  
10 afflicted by a scarcity of jobs and especially  
11 full time well paying jobs, by weak tax bases  
12 marginally successful businesses and comparably  
13 low incomes, the projected benefits to the two  
14 towns are very significant. Moreover, in

15 addition to the direct benefits to them and  
16 their respective counties, the indirect positive  
17 effect of the project's contribution to the  
18 regional intensification of tourism will also  
19 result in considerable economic benefits  
20 throughout the region of which they are a part.

21 Recognizing that the subject area  
22 relies on its scenic opportunities and small  
23 town character for most of its tourism appeal,  
24 the impact thereon also must be carefully  
25 weighed against the project's benefits. As a

1 (GROWTH/CHARACTER ISSUE) 2927  
2 starting point it must be acknowledged a new  
3 designation resort of a size and scope with the  
4 power to attract tourists with many other  
5 choices cannot be hidden completely out of  
6 sight. From critical viewpoints, the proposed  
7 project will be perceived mostly at great  
8 distances in the context of an extensive scenic  
9 panorama. From many other viewpoints it will be  
10 partially screened by intervening vegetation.  
11 Moreover points it will not be necessarily

12 correct to assume that the presence of a few  
13 well designed man-made elements in the vast tree  
14 covered landscape would be jarring of the  
15 senses.

16 Nor would it be fair to assume that  
17 any other development of the subject site under  
18 current zoning including necessary access roads  
19 would be invisible. In fact, the proposed  
20 development would cover only some 29 percent of  
21 the aggregate area of the site and would carry  
22 with it the guaranteed preservation of the  
23 remaining 79 percent. Also, the project would  
24 be almost invisible from 28 which would preserve  
25 its scenic drive character.

1 (GROWTH/CHARACTER ISSUE) 2928

2 The character of any community  
3 defined as a closely inter-independent built-up  
4 area will be only marginally affected by the  
5 presence of the proposed project. Its indirect  
6 effects resulting from the retention and  
7 expansion of existing businesses, the attraction



8 of new businesses, more jobs and an enhanced tax  
9 base would implement the universally agreed upon  
10 goals of the Central Catskill economic  
11 development programs. Successful efforts to  
12 increase the area's appeal to tourists,  
13 including ski and golf vacationers seeking a  
14 high level of amenity and convenience, will  
15 undoubtedly justify some development in and in  
16 the vicinity of the existing hamlets. If the  
17 region's policy objective is to enhance tourism,  
18 it must be recognized that its realization will  
19 bring tourists in its wake. Assurance that any  
20 development designed to justify their having  
21 come will respect and conform with the positive  
22 elements, with the positive elements of each  
23 community's character, can be provided by  
24 careful regulation thereof by each concerned  
25 local government.

1 (GROWTH/CHARACTER ISSUE) 2929

2 The character of the broader area  
3 defined as the Central Catskill region will be  
4 affected in relatively insignificant ways. The

5 specific most intimately affected portion of the  
6 area in question, namely the route 28 corridor,  
7 including the vistas therefrom, will remain  
8 scenically attractive and inspiring. For  
9 travelers along that route the perceived  
10 elements of the proposed development will  
11 constitute a minor fleeting intrusion, if any,  
12 in a 35-mile visual and emotional experience of  
13 the highest quality.

14 Nor will the proposed project become  
15 an irresistible precedent for future projects.  
16 All the studies and policy reports dealing with  
17 the Central Catskill tourism development issue  
18 identify the Belleayre Ski Center as its only  
19 major focal feature and advocate that it be  
20 bolstered by a high quality all season resort  
21 facility. Once this goal is fulfilled, which  
22 can be deemed to have been accomplished by the  
23 realization of the proposed project, the two  
24 municipalities will be under no legal compulsion  
25 to approve any future proposals simply because

1  
2 of their prior action. Furthermore, the tourism  
3 development plan of the Central Catskill  
4 Planning Alliance also stresses the need for  
5 just one destination resort complete with golf  
6 course, conference center and other recreation  
7 facilities. And it points out also that  
8 suitable sites that are large enough to  
9 accommodate such facilities are few due to both  
10 physical limitations and land availability. The  
11 uniqueness of the proposed Belleayre Resort is  
12 further emphasized by the fact it will flank the  
13 ski center on both sides. This will preclude  
14 any future claim that some other project matches  
15 the circumstances that led to its approval.

16 In conclusion I believe that given  
17 an appropriate balance between the potential  
18 adverse impacts of the project such as may not  
19 be mitigated with its economic benefits, the  
20 Belleayre Resort project would enable the region  
21 to take a major step in the future advocated and  
22 supported by the recent studies of region and

23                   conceptually by the municipalities that would be  
24                   directly affected.

25                   MR. RUZOW: Mr. Raymond, you have

1                   (GROWTH/CHARACTER ISSUE)                   2931

2                   had an opportunity to review several exhibits  
3                   that were introduced by the Catskill  
4                   Preservation Coalition, specifically Exhibits  
5                   44, 45, 46 and 47. I believe they were prepared  
6                   by Brian Ketcham. You have been involved in  
7                   SEQRA reviews for how long?

8                   MR. RAYMOND: Since SEQRA.

9                   MR. RUZOW: Since 1978 or  
10                  thereabouts. And in reviewing EISes on behalf  
11                  of localities you have been involved in the  
12                  review of big projects, small projects, a  
13                  variety of different projects?

14                  MR. RAYMOND: Yes.

15                  MR. RUZOW: You were involved in the  
16                  review of a shopping center, fairly large  
17                  shopping center in Rockland County, if I recall,  
18                  for about 10 years?

19                  MR. RAYMOND: Then I was not

20 reviewing it. I was working for the town to  
21 help the town overcome difficulties of a new  
22 process.

23 MR. RUZOW: That was the Palisades  
24 Center in West Nyack, your Honor.

25 Interested in your observations

1 (GROWTH/CHARACTER ISSUE) 2932  
2 regarding the method of analysis that is being  
3 suggested by Mr. Ketcham's work, comments in  
4 terms of your experience in seeing comparable  
5 analyses in your experience in the SEQRA  
6 process?

7 MR. RAYMOND: No, I have never seen  
8 anything like this.

9 MR. RUZOW: Do you have any other  
10 views you would share with us regarding that?

11 MR. RAYMOND: I had these documents  
12 only for a few days but there are a lot of  
13 things I think jump out of them worthy of  
14 comment. The basic premise of the methodology  
15 used in these studies is that every mile

16 traveled by a vehicle whose engine is powered by  
17 gasoline entails costs and the methodology was  
18 directed at the formulation of basically  
19 national policy, even includes not being  
20 dependent on Middle Eastern oil, so on, so  
21 forth, because of some of the costs the use of  
22 automobiles brings about.

23 Applied to a particular project as  
24 in this case and using the specifics that were  
25 used by the proponents of this methodology

1 (GROWTH/CHARACTER ISSUE) 2933  
2 brings out a number of deficiencies in my  
3 opinion which they are considerations. They  
4 figured the total cost of that would be, that  
5 would be generated by the Belleayre Resort would  
6 be involved with some private costs but mostly  
7 public costs and that they would amount to just  
8 a little bit over the 16 million sum that the  
9 developers of the Belleayre project claimed the  
10 money spent by the people using the resorts in  
11 the area. Now, 45 percent of the 16  
12 million-plus that they claim would be the cost

13 induced by the Belleayre project are what they  
14 call other major societal costs, 45 percent.  
15 They are not itemized. They involve in other  
16 words, 1.98 million would be, would be of that  
17 character, of the costs would be of that  
18 character.

19 Now, these costs include the noise  
20 impact. The noise impact -- I beg your pardon,  
21 those are specified costs. These costs are the  
22 loss of taxes because some land is used for  
23 roads. The project does not propose to build  
24 any roads that are going to lose anybody taxes  
25 because the roads going to be used are private

1 (GROWTH/CHARACTER ISSUE) 2934  
2 roads on the project property. Besides even as  
3 a general matter in terms of methodology in  
4 order to give value to land you have to build a  
5 highway to reach it. So that a highway does not  
6 necessarily reduce taxes by virtue of the land  
7 it uses. It may enhance the tax revenue many  
8 times over by virtue of the value of the land





6 never seen this type of study applied to the  
7 evaluation of costs of a project?

8 MR. RAYMOND: I dare say it's  
9 probably for good reason because it's simply not  
10 applicable and makes no sense. Storage and  
11 refinement of oil products, that's a major cost  
12 because the defense of oil sources like the Iraq  
13 war they say is something that is going to be a  
14 cost incurred by the Belleayre project.

15 There are also some specific costs  
16 that they say are going to produce costs. Now,  
17 45 percent of the 16 million were attributed to  
18 what I just discussed. The other 55 percent are  
19 divided among such things as vehicular noise.  
20 Now they say that it's very hard for New Yorkers  
21 to find a place you cannot hear cars and trucks  
22 roaring by especially along route 28. Result is  
23 loss of sleep, inability to concentrate, reduced  
24 activity and general irritability. I suggest  
25 between the hours of 10 when people go to bed

2 and six in the morning when they may get up I  
3 don't think there is going to be hardly any  
4 traffic generated by the Belleayre Resort  
5 because people are going to be very active  
6 during the day and also sleeping during the  
7 night.

8 Another cost is air pollution. The  
9 health costs, asthma, so on, incurred by people  
10 who are affected by air pollution. Air  
11 pollution is very bad, but unless the area is a  
12 non containment area, in other words, unless air  
13 is already polluted to the extent of justifying  
14 special measures or denial of projects that  
15 might make it additional pollution. If the area  
16 is a containment area, there is no problem so  
17 there will be no costs. Now there may be some  
18 unpleasant backfires from some trucks but there  
19 will be no costs involved in health remediation.

20 So with all of that as part of their  
21 basic methodology, I think that the thing is not  
22 applicable. I don't think it merits any  
23 attention.

24 MR. RUZOW: Thank you, Mr. Raymond.

25

THE COURT: Back to the study?

1

(GROWTH/CHARACTER ISSUE)

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2

MR. RUZOW: Back to the study.

3

THE COURT: How much longer do you

4

have?

5

MR. LIEBOWITZ: Hour and a half.

6

THE COURT: Why don't we break for

7

lunch, it's 1:00. 1:45? 1:30?

8

MR. GERSTMAN: We can go off the

9

record for scheduling.

10

THE COURT: We will take a lunch

11

break now until 1:45.

12

(A recess was taken.)

13

MR. RUZOW: John Feingold.

14

MR. FEINGOLD: I am John Feingold,

15

as I mentioned earlier, vice president with

16

AKRF. I am here to talk a bit about the induced

17

growth aspects of the proposed Belleayre Resort

18

project and some of the work we did and some of

19

the comments that have been issued in regard to

20

our work. Can you see okay? Good. Next slide,

21

please.

22                                   The critique in here really has been  
23                                   proposed as a RIMS model versus a REMI model.  
24                                   These are econometric models that are used in a  
25                                   planning context and an economic projection

1                                   (GROWTH/CHARACTER ISSUE)                                   2938  
2                                   context to get some idea of what might happen in  
3                                   the future based on certain activities in a  
4                                   local economy. RIMS which stands for Regional  
5                                   Input-output Modeling System, was developed by  
6                                   the US Department of Commerce Bureau of Economic  
7                                   Analysis, and as Peter mentioned earlier is one  
8                                   of the national standards for this kind of  
9                                   analysis. It's the one AKRF has been almost  
10                                   exclusively using for years. REMI, which stands  
11                                   for the company that developed and maintains it,  
12                                   Regional Economic Models, Inc., is based  
13                                   essentially on the same Bureau of Economic  
14                                   Analysis multiplier tables and data sources and  
15                                   it's a proprietary software system available on  
16                                   a contractual basis available and maintained by  
17                                   Regional Economic Models Inc. of Amhurst,

18 Massachusetts. Both of these are models that  
19 are in common use and a number of other models  
20 are used as well. For example, the New York  
21 State Attorney General's New York City Office of  
22 Watershed Inspector General used the IMPLAN  
23 model in its review of the DEIS. It's very  
24 unusual and in fact it's very interesting and I  
25 think beneficial to us as representing the

1 (GROWTH/CHARACTER ISSUE) 2939  
2 project Applicant to have this extent of peer  
3 review. You usually don't get these different  
4 models being applied to the same project other  
5 than in a purely academic setting. So I think  
6 we in representing the Applicant consider  
7 ourselves lucky in having this many models and  
8 these many smart people actually thinking about  
9 and applying these tools and techniques in  
10 thinking about the effects of this project.

11 Again, I wanted to reiterate the  
12 RIMS model has been used by AKRF for years for  
13 now for hundreds of SEQRA and CEQRA with the C,  
14 state and city quality environmental review

15 socio-economic analyses including numerous  
16 studies for New York State. We do a lot of work  
17 for New York State DOT, as well as the ESPC, as  
18 well as many city environmental quality review  
19 analyses we have done including many for DEP.  
20 Most recently we have completed the  
21 Environmental Impact Statement on the Catskill  
22 Delaware UV water filtration plant DEIS using  
23 the RIMS model. We have also recently completed  
24 the DEIS using the same model for the Croton  
25 filtration plant DEIS.

1 (GROWTH/CHARACTER ISSUE) 2940

2 The use of these models to a certain  
3 extent is one of preference by the user.  
4 Neither is right or wrong and it's what the user  
5 quite often prefers to use. They can do  
6 different things, though.

7 The models are not, as Peter  
8 mentioned, hard science, but used to make  
9 predictions and estimates about what might  
10 happen. The models, whether it's RIMS, REMI or

11 IMPLAN, all make estimates about the effects of  
12 a project in terms of new economic demand which  
13 is expressed as new dollars in an economy.  
14 These new dollars can be further modeled to  
15 describe how this spending in an economy  
16 resulting from a project might affect an area  
17 and, case in point, how this new spending by the  
18 Belleayre Resort in terms of its operations, its  
19 construction, its visitor spending, might be  
20 expressed in terms of demand for new commercial  
21 space or demand for new housing opportunities.

22 The modeling is done through an  
23 application of reasoned and informed judgment or  
24 by applying additional equations or calculations  
25 or a combination of both. I think one of the

1 (GROWTH/CHARACTER ISSUE) 2941  
2 distinctions in the way we have seen RIMS used  
3 here in the DEIS and REMI used by New York City  
4 in its review of the DEIS is that RIMS gives  
5 outputs that are used to draw conclusions and  
6 this is a process that AKRF in developing its  
7 socio-economic analysis in the DEIS spun out

8 over several years of work using RIMS and using  
9 real world experience and knowledge and  
10 interviews and visits to the affected region in  
11 order to draw conclusions from the model versus  
12 the approach that we have seen with REMI in New  
13 York City's review in that it's a model that was  
14 used that told the conclusions in a very short  
15 time. From my notes I think it was on the 9th  
16 of July when Peter and I were last here a  
17 Mr. Donahue from RKG mentioned he had not been  
18 here on a weekend so he didn't know what it was  
19 like. That is an indication to me there was a  
20 heavy reliance on the model and the calculations  
21 that the model makes through applying layers of  
22 assumptions that allowed conclusions to be drawn  
23 versus a very hands-on experiential approach  
24 that was used in the DEIS of using both on the  
25 ground experience and knowledge of the area as

1 (GROWTH/CHARACTER ISSUE) 2942

2 well as the model itself. I think in part it's  
3 summed up by the statement that the REMI model



4 consists of thousands of simultaneous equations.

5 Next slide, please.

6 But looking at them side by side  
7 it's been very interesting. The RKG analysis  
8 used by the City used the same inputs as the  
9 DEIS. It also added to that a variety of other  
10 assumptions regarding regional projects and  
11 inflation trends because the REMI model  
12 attempted to take the economic effects and break  
13 them down by year and project them further out  
14 into the future.

15 In addition, the RKG model included  
16 some other factors that were not included in the  
17 DEIS analysis, particularly what the indirect  
18 effects on the economy of visitor spending might  
19 be. We specifically excluded those due to the  
20 anticipated marginal effects and because of the  
21 non local effects. However, what we see is that  
22 even though the REMI analysis did include the  
23 indirect effects of visitor spending, the  
24 results are remarkably the same. Again I refer  
25 to my notes from earlier in July when we were

1  
2 here and heard the preparation by RKG, I believe  
3 Mr. Seymour, who said he agrees with our  
4 methodology and the results of it.

5 I would also like to mention,  
6 although I am not going to dwell on it, the work  
7 that was done by New York City Watershed  
8 Inspector General's Office and their comments  
9 which I believe were entered as CPC Exhibit 56.

10 I would like to read from that if I may on page  
11 22 of that. With respect to the secondary  
12 growth impact assessment contained in the DEIS,  
13 Doctor Knapp, which was the consultant used by  
14 the AG's office, found numerous specific  
15 disagreements but largely concurred in the DEIS  
16 basic conclusion that the project standing alone  
17 is not likely to cause extensive levels of new  
18 impervious services and construction  
19 disturbances in off site areas. Doctor Knapp's  
20 projections of new construction are higher than  
21 those contained in the DEIS but not of the  
22 magnitude we would characterize as significant.  
23 Further reading of Doctor Knapp's study again

24 concurs with much of what the DEIS concluded.  
25 So my point being while several different models

1 (GROWTH/CHARACTER ISSUE) 2944  
2 were applied, the RIMS model, the REMI model,  
3 the IMPLAN model, the differences were not all  
4 that different in the conclusions although there  
5 are plenty of nits to pick so to speak as  
6 everybody looks over each other's shoulder.  
7 Next slide, please.

8 In looking at the results and  
9 conclusions of the analyses side by side again I  
10 would like to illustrate the closeness of them.  
11 In the DEIS during the construction period we  
12 estimated that there would be about 485 jobs  
13 created on an annual basis. These are temporary  
14 jobs. The REMI analysis estimated that there  
15 would be approximately 356, again on an  
16 annualized basis. What really struck us as  
17 remarkable was in looking at the operational  
18 period the RIMS model came up with 876 jobs  
19 direct and indirect and the REMI model came up

20 with 859. Now, the RIMS model is presented in  
21 the DEIS was looking at 655 jobs which was later  
22 revised to 747 direct jobs which would --

23 MR. RUZOW: That was full time  
24 equivalent?

25 MR. FEINGOLD: Full time equivalent

1 (GROWTH/CHARACTER ISSUE) 2945  
2 jobs, which would increase this number slightly  
3 but again the closeness of these two within the  
4 larger realm and the amount of variables that  
5 goes into these sorts of analysis is relatively  
6 close. But I think the important point is that  
7 the DEIS in coming up with higher numbers in  
8 this particular analysis results in a more  
9 conservative view for environmental assessment  
10 purposes. That, if anything, we overestimate  
11 the effects of employment rather than  
12 underestimate. Next slide.

13 In looking at commercial growth that  
14 would be spurred by the development  
15 prospectively, that's been touched on by a

16 number of people earlier today. The REMI  
17 analysis and the RIMS analysis conducted by New  
18 York City and by the Applicant respectively came  
19 out remarkably close. What these numbers equate  
20 to is by taking the dollar expression of new  
21 demand for commerce in the study area resulting  
22 from the resort and converting that into a  
23 demand for new square feet or for square feet of  
24 commercial floor area, the REMI analysis came up  
25 with approximately 79,678 feet. The RIMS

1 (GROWTH/CHARACTER ISSUE) 2946  
2 analysis in the DEIS came out with 76,722.  
3 Again I think this is remarkably close. We have  
4 got two different models looking at the same  
5 thing coming up with a very, very similar  
6 conclusion. And my notes from earlier in July  
7 when we were here listening to the RKG  
8 presentation, I believe Mr. Seymour noted the  
9 DEIS and the New York City analysis result in  
10 the same conclusion with respect to demand for  
11 commercial space. So I think we have seen a

12                   corroboration of our work by the City. Next  
13                   slide, please.

14                                 The thing I would like to really  
15                   talk about next for commercial is how the demand  
16                   for new space is satisfied and talk a little  
17                   about how that is folded into the critique of  
18                   our work. RKG reports, and I quote from their  
19                   report, approximately 80,000 square feet is  
20                   approximately equal to the existing amount of  
21                   vacant commercial space in the study area. That  
22                   there is an demand for approximately 80,000  
23                   square feet and there is approximately 80,000  
24                   square feet of commercial space available in the  
25                   area. We feel that supports the DEIS conclusion

1                                 (GROWTH/CHARACTER ISSUE)                   2947

2                   that much of the new growth would be  
3                   accommodated within existing areas especially as  
4                   reoccupancy of existing structures. I think  
5                   it's important to understand that these models  
6                   when they express demand for something, whether  
7                   it's a demand for new commercial space or demand

8 for new housing, doesn't necessarily mean that  
9 people have to go out and build 80,000 square  
10 feet of new space to accommodate gas stations,  
11 souvenir stores, so forth, that the demand  
12 that's expressed through these models can be met  
13 in a variety of different ways through the  
14 reoccupancy of vacant buildings and store fronts  
15 of which we have heard many exist and RKG finds  
16 through business inventory 80,000 square feet  
17 exists. By the extending of hours of operation  
18 and by the extension of services offered in  
19 existing businesses. We see I am driving up  
20 route 28 today, Margo's Hungarian Restaurant  
21 open Friday through Sunday. If there is a  
22 demand other nights they will help meet that  
23 demand by being open other nights. That's what  
24 we mean by satisfying otherwise. More volume of  
25 sales in existing areas is another way to meet

1 (GROWTH/CHARACTER ISSUE) 2948

2 the kind of demand expressed in the models. We  
3 don't deny there is a possibility on an  
4 entrepreneurial basis there might not be the

5 development of new floor space here in the  
6 Catskills.

7 MR. RUZOW: John, stop you for a  
8 second. In terms of where one is likely to see  
9 commercial growth, this project is not proposed  
10 to be up and running for at least four years, at  
11 least the hotel stage, from whenever permits are  
12 finally granted. So we have a number of years  
13 ahead of us in that regard. The hamlets of  
14 Fleischmanns and Phoenicia are currently  
15 undergoing infrastructure improvement  
16 opportunities funded by New York City for sewage  
17 treatment. Margaretville already, as does Pine  
18 Hill, state-of-the-art tertiary treatment  
19 infrastructure is already in place. There is  
20 some opportunity for expansion outside those two  
21 specific areas for sewage extension if and when  
22 approved by New York City. But the competitive  
23 advantage for communities that will have sewer,  
24 can you characterize that versus someplace else  
25 along route 28?



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MR. FEINGOLD: The term you use is a great term to use. Those places that do have sewage infrastructure will have a very powerful competitive advantage over those sites that do not have it and will need to be permitted for on site septic, for example.

MR. RUZOW: To the extent the Catskill Watershed Corporation's loan program, the grant program being at least for the moment held up but provides incentives within the hamlet areas, which is indeed part of their charge under their rules, that's another advantage that the hamlet areas would have over someplace else along 28?

MR. FEINGOLD: Absolutely and I think to a large extent you will want, entrepreneurs and people wanting to expand their business will want to be where other commerce already is, especially if you got incentives through the corporation and if you have infrastructure I see that being where it's going to be happening. Next slide, please.

24 THE COURT: Let me go back to that  
25 the 80,000 square feet. In order to get at that

1 (GROWTH/CHARACTER ISSUE) 2950  
2 number there was a level of economic activity  
3 that was predicted for consumers, then you apply  
4 that to figure out how many square feet of  
5 space, commercial space you need to meet the  
6 demand of those consumers?

7 MR. FEINGOLD: Right.

8 THE COURT: First of all, is that  
9 demand broken out any more specifically in terms  
10 of the kinds of services they will need? Number  
11 one, and number two, if I understood you  
12 correctly using the Hungarian Restaurant, say  
13 part of that is more eateries, restaurants, are  
14 you suggesting that 80,000 square foot number  
15 could be reduced if people extend their hours of  
16 operation?

17 MR. FEINGOLD: Yes. For your first  
18 question, in chapter seven of Appendix 26 of the  
19 DEIS, there is a full description of arriving at  
20 the 76,000 square feet of commercial space being

21 demanded through a variety of different types of  
22 spending that are also described there.

23 MR. RUZOW: It's broken down into  
24 spending categories.

25 MR. FEINGOLD: Right. Restaurants,

1 (GROWTH/CHARACTER ISSUE) 2951  
2 souvenirs, general merchandise, gas and oil,  
3 people stopping to fill up their gas tank as  
4 traversing route 28 corridor being some of the  
5 categories. There is a table that breaks that  
6 down into the different spending categories and  
7 totals it up to approximately the 80,000 square  
8 feet.

9 And again, that is a demand figure  
10 that, as I said earlier, can be met in a variety  
11 of different ways. It can be met through the  
12 expansion of existing businesses, through the  
13 sale of more merchandise to meet that need,  
14 thereby reducing the 80,000 square feet number  
15 by being open for more hours. If there is  
16 demand for restaurant meals, that demand could

17 be met by a new restaurant or existing  
18 restaurants turning more tables.

19 THE COURT: To use the example of a  
20 restaurant, does this analysis assume that there  
21 will be a level of development at the resorts  
22 that remains constant? In other words, if there  
23 is a demand for more restaurants conceivably the  
24 hotel could put in a cafe. What I am trying to  
25 understand is, what can the local communities

1 (GROWTH/CHARACTER ISSUE) 2952

2 expect will be the impact to them? So in other  
3 words, we could say probably it's not likely the  
4 hotel is going to put in a gas station, so those  
5 kinds of consumer demands would only be met by  
6 the communities in the 28 corridor. Do you  
7 understand what I am saying?

8 MR. FEINGOLD: Exactly. The 80,000  
9 square feet is completely separate from what is  
10 being provided on site. We broke out the  
11 spending in terms of visitor spending on site  
12 and very specific about the kinds of venues that  
13 will exist on site and the visitor spending off

14 site. Whether they are coming and going or  
15 cruising around checking out the villages and  
16 hamlets, so the 80,000 square feet is entirely  
17 exclusive of what happens on site.

18 THE COURT: But what is happening on  
19 site for the sake of the analysis is being fixed  
20 at whatever it is?

21 MR. FEINGOLD: Yes. And I would  
22 speculate to say there is probably really no  
23 room in the program nor do I believe there is  
24 any desire on the part of the Applicant to  
25 satisfy that demand that is external to the

1 (GROWTH/CHARACTER ISSUE) 2953

2 actual project site.

3 MR. RUZOW: Your Honor, the project  
4 for a whole variety of reasons has everything  
5 that is proposed, short term, long-term,  
6 whatever has been put forth as the project.  
7 Remaining lands will be subject of conservation  
8 easement, no further development, et cetera.  
9 So organically in effect it's fixed. The

10 number of restaurants have been identified, the  
11 number of seats for purposes of water supply as  
12 well as sewage, all that has been set forth  
13 and --

14 THE COURT: It is what it is.

15 MR. RUZOW: It is what it is and  
16 it's again in part driven out of at least the  
17 conceptual design for what the resort would need  
18 to do but with then a further conscious decision  
19 not to offer certain types of amenities or  
20 supplies, et cetera, because a decision made in  
21 the commentary back and forth from the local  
22 businesses of what ought to be found in the  
23 hamlets and the villages.

24 THE COURT: Is that broken out  
25 somewhere for me?

1 (GROWTH/CHARACTER ISSUE) 2954

2 MR. RUZOW: Yes. I will check where  
3 we will get you where in the DEIS in some  
4 nauseating detail.

5 THE COURT: We like to be nauseated

6 sometimes.

7 MR. RUZOW: We will get you the  
8 details.

9 MR. FEINGOLD: Okay. That's the end  
10 of my initial discussion about the commercial.  
11 I would like to talk a little about the housing  
12 discussion as it came out of the REMI analysis.

13 And we feel that the conclusions  
14 that the REMI analysis conducted on behalf of  
15 the City was flawed and I think it's  
16 illustrative of how relying on increasing  
17 numbers of calculations can result in inaccurate  
18 conclusions. The REMI analysis estimated a  
19 housing demand referred to as an increase in  
20 residential capital stock of approximately  
21 \$15.76 million dollars. We find this to be a  
22 reasonable finding. What that means is  
23 generated within the study area, within the  
24 project area, by the employees of the resort, by  
25 the visitors to the resort, during the

1 (GROWTH/CHARACTER ISSUE) 2955

2 construction of the resort, would be a demand

3 for housing \$15.76 million and we find that to  
4 be reasonable. However, the City's analysis  
5 through RKG goes on to use an equation to  
6 convert that dollar amount into a number of  
7 housing units that would be expected to result  
8 on the landscape through the investment of that  
9 \$15.76 million of residential capital stock.

10 The table I show here is reflected in the RKG  
11 study concluding that there would be 158 new  
12 units of housing created as a result of this new  
13 influx of capital in the local economy. And RKG  
14 bases this calculation on the assumption new  
15 homes will be 1,250 square feet in size and cost  
16 \$80 per square foot to build, or \$100,000 per  
17 house to build. So if you do the math, 15.76  
18 divided by \$100,000 you come up with  
19 approximately 158 new houses. We believe that  
20 calculation overestimates somewhat grossly the  
21 number of new houses demanded from the project.

22 THE COURT: Let me stop you there.  
23 That \$100,000 per housing unit, that assumes a  
24 single family house? If in other words, if I



25

build a four or five family house, that's per

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(GROWTH/CHARACTER ISSUE)

2956

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housing unit?

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MR. FEINGOLD: Our read of the

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report from RKG is exactly that. That is per

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housing unit that's how much it costs to build a

6

house in the affected area.

7

THE COURT: So a 20-apartment

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building would be 20 times 100,000?

9

MR. FEINGOLD: I would not make that

10

conclusion and I don't think RKG is either, but

11

the implication in the way that housing unit is

12

used throughout this and other studies, and I

13

will refer to, seems to imply these are single

14

family houses on individual lots.

15

MR. RUZOW: It was then used, your

16

Honor, by the EA engineering assuming it is a

17

single family house, cleared two acres of lot,

18

driveway and for the impervious service

19

calculations in there attached to the petition

20

so our working assumption has been it's a single

21

family house calculation they then used in other

22 calculations to project the phosphorous  
23 calculation and the impervious calculations.

24 THE COURT: And that's a number in  
25 addition to existing housing?

1 (GROWTH/CHARACTER ISSUE) 2957

2 MR. FEINGOLD: That's in RKG's  
3 analysis. That's an entirely new demand for  
4 housing.

5 In arriving at that again the issue  
6 we take is we believe that arriving at the 158  
7 number was based on flawed assumptions, the  
8 primary one being current Catskill market and  
9 local industry data indicate to us the cost of  
10 building housing in the Catskills is  
11 considerably more than \$100,000 per house and  
12 the size of houses being build is larger than  
13 the 1,250 square feet they used.

14 In the past month we have made a  
15 number of phone calls and consultations with  
16 Catskill area builders and developers and  
17 realtors indicates that homes being built in



15 correct and that brings up a good point, Dan,  
16 because if we are projecting it out over 10  
17 years, that completely ignores the potential  
18 inflation costs of building a house. If they  
19 are saying it costs \$80 per square foot to build  
20 a house now, chances are in five years, seven  
21 year, 10 years, it will cost considerably more  
22 than that.

23 MR. RUZOW: They have also made an  
24 assumption that the start of this buying frenzy  
25 or generation would be a couple years after

1 (GROWTH/CHARACTER ISSUE) 2959  
2 completion. They used the projection of a  
3 different start year than I guess we would have  
4 looked at for running the calculation.  
5 Your Honor, what I think is  
6 important in this is simply that the assumption  
7 of economic generation for whatever the  
8 estimation everyone is doing is premised on an  
9 economic reaching an economic maturity for the  
10 project within a particular selected point in

11 time. Everyone had to be arbitrary in terms of  
12 when we would have the model run. We have  
13 projected for purposes of our analysis that the  
14 hotel will be open and operating by the fourth  
15 year, hotels and golf courses, and with good  
16 luck by the year eight from the start of  
17 construction, that in theory the club shares,  
18 time shares would all be sold. That's the  
19 economic condition that these numbers are being  
20 run on. So to the extent that the hotels and  
21 the resorts success takes longer to achieve that  
22 high level of success, all of these projections  
23 go out and the timing further in time. So you  
24 spread out in effect the number of houses that  
25 might have to be built over a longer period of

1 (GROWTH/CHARACTER ISSUE) 2960

2 time. And we are talking in terms of the area  
3 where this benefit or detriment, whatever you  
4 characterize the homes are, is geographically  
5 how many square miles?

6 MR. FEINGOLD: Spread out over  
7 107,000 acre area.

8 MR. RUZOW: You will get into the  
9 primary at some point, primary market areas  
10 because it's a very large geographical area.  
11 It's not Shandaken and Middletown, it's spread  
12 over at least four townships, four or five  
13 townships.

14 MR. FEINGOLD: I think the bottom  
15 line is we are not necessarily disagreeing with  
16 the methodology. It's interesting to see others  
17 do the same thing as we did and look at it in  
18 different ways. But some of the assumptions  
19 applied I think exaggerate some of the  
20 conclusions.

21 So in applying what we believe to be  
22 more accurate assumptions, housing costs for  
23 example, we come up with much lower numbers of  
24 houses by magnitude than what RKG did come up  
25 with.

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2 Why is this important? Because as  
3 Dan mentioned, the exaggerated number of homes

4                   calculated by RKG is used as the basis for  
5                   further critical analysis of the DEIS. I would  
6                   like to cite in particular several Appendixes to  
7                   New York City's petition, exhibit 7, deliverable  
8                   C-5, one of the appendixes, the analysis of  
9                   water impacts relies on this number 158 to  
10                  calculate impervious surface area, erosion and  
11                  sedimentation, waste water and nutrient loading.  
12                  Another one of the appendixes deliverable, B-4,  
13                  the evaluation of potential long term regional  
14                  land use change, and C-4, the analysis of  
15                  impacts associated with water source management  
16                  with all use this 158 house number and in those  
17                  studies it's very specifically referred to as  
18                  houses. The calculations are based on these  
19                  being single family houses on lots of a certain  
20                  size. So we have a cascade effect of the REMI  
21                  model using some inaccurate assumptions that  
22                  then ripples through the entire series of  
23                  studies being cited and entered here before us.  
24                  We believe recalculating these analysis using  
25                  accurate market data would arrive at very

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different conclusions.

What I would like to close on is another weakness with the residential findings similar to those we discussed a few minutes ago in regard to commercial demand.

RKG's findings assume that the residential housing demand for 158 housing units will result in 158 new housing starts. Again it fails to recognize that housing demand, and this is only a demand figure, whether it's 58, 73, or 158, that the housing demand can be met by means other than new construction and housing demand can be met by any and all of what I list here: Through the existing housing stock where people actually buy new houses; conversion of seasonal housing into year-round housing; and of course, by the construction of new homes including infill development being rebuilding on existing lots.

In regard to the existing housing stock, just a few days ago I looked at the



23 website Timberland Properties.com and went down  
24 through their listings. There were 49 homes in  
25 the area priced at less than \$150,000 another 26

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2 home for sale right now in the \$150- to \$200,000  
3 range. I believe on the first day I was here  
4 earlier in July a CPC witness --

5 MR. RUZOW: It was in June.

6 MR. FEINGOLD: June, I'm sorry,  
7 cited that there were 55 houses for sale in  
8 Shandaken with an average sale price of  
9 \$144,000. I cite this not as scientific data  
10 but as a quick snapshot sampling of housing  
11 stock out there ready for people to buy.

12 In regard to the conversion of  
13 seasonal housing to year-round housing census  
14 data and this is also shown in the appendixes to  
15 New York City Petition B-1, Table 1, in  
16 Shandaken in the years 1990 through the 2000 the  
17 number of seasonal homes declined by 23 percent  
18 or 569 actual units. The population at the same  
19 time grew by 13 and a half percent and the

20 number of housing units grew only by two and a  
21 half percent. So here you got a substantial  
22 decline in the number of seasonal units,  
23 relatively slow growing population and a  
24 relatively flat number of housing units, which  
25 to us supports the conclusion seasonal homes in

1 (GROWTH/CHARACTER ISSUE) 2964

2 Shandaken are being converted to year-round  
3 homes. So supply is being met by the conversion  
4 of homes, by the existing occupancy of  
5 unoccupied homes, and certainly perhaps by the  
6 construction of new homes.

7 MR. RUZOW: But consistent with what  
8 you were here for Eric Wedemeyer's comments this  
9 morning, we are not seeing a large number of new  
10 subdivisions and activities going on to generate  
11 the new home sites. Again the pressure from the  
12 City's Watershed regs and the pressure on in  
13 effect available developable land is high so you  
14 see this conversion process going on.

15 MR. FEINGOLD: And again in the DEIS

16 analysis, when we looked at the new employment  
17 and when we looked at the labor pool and when we  
18 looked at the employees who probably would have  
19 to come in from outside the area beyond a  
20 commuting zone to work at the resort we  
21 identified in the neighborhood of 16 to 20  
22 specialized highway journeying jobs at the  
23 resort as the employees most likely to build a  
24 new house within the commuting zone. Of these  
25 16 and 20 will all actually build a new home?

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2 Whatever the number is, it's substantial smaller  
3 than 158.

4 Finally, I would like to conclude by  
5 noting any new residential or commercial  
6 development will have to meet the stringent  
7 requirements of local codes and certainly of the  
8 City's Watershed regulations.

9 MS. BAKNER: Your Honor, the quarter  
10 spending analysis that breaks it down is figure  
11 7-1, pages 7-5 and 7-6.

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THE COURT: Appendix 7?

MS. BAKNER: Section 7-5 and 7-6.

THE COURT: Of Appendix 26.

MR. RUZOW: It's in the DEIS. The figure is in the DEIS, figure 7, volume 1. There is more detail in Appendix 26, Chapter 4. John.

MR. NEILL: My name is John Neill.

I am also with AKRF. I was involved in the development of the demographic analysis Appendix 26, really chapters 1 through 4. I am speaking specifically to the demographic analysis that were contained primarily in chapters 2 and partially some of the operational of chapter 4.

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What I would like to really focus on is the response to specific comments that were raised by commenters regarding this demographic analysis and kind of flush out a little bit some of the methodologies behind that analysis.

Based on the comments we received I

8 kind of grouped some of the issue areas that  
9 were raised through comments into these five  
10 areas. We have concerns regarding the  
11 delineation of the study area; some concerns  
12 regarding data inaccuracy and deficiencies in  
13 data; there were questions raised there would be  
14 sufficient labor supply in the area to  
15 accommodate the resort; also concerns about the  
16 wages and salaries presented in the document and  
17 whether those were realistic; and there was  
18 finally issues that John spoke to a little bit  
19 about housing demand and whether that housing  
20 demand could be met by the current market.

21 There is a few kind of big picture  
22 items I want everyone to keep in mind when we  
23 are going through all these areas. Perhaps the  
24 most important is the demographic presentation  
25 in Appendix 26 really try to set a context for

1 (GROWTH/CHARACTER ISSUE) 2967  
2 the route 28 corridor in this area and in doing  
3 so it really did not establish any kind of data  
4 or inputs into the induced modeling through the

5 RIMS analysis that John discussed. I would also  
6 like to mention the demographic analysis was  
7 prepared at a time when not all of the census  
8 2000 data was available and at the later stages  
9 of development of the document were the full  
10 survey data, called summary tape file one  
11 information available, and summary tape file  
12 three, which is survey information which  
13 provides more detail on incomes and things of  
14 that nature were not available by the time of  
15 publication. So we really had to kind of gather  
16 information from a variety of sources in order  
17 to accommodate the needs for the presentation of  
18 the demographics of the area.

19 The DEIS in doing this kind of  
20 disclosed the resource constraints and how we  
21 went about obtaining the data we did. And now  
22 having access to this updated data through the  
23 census information we are realizing that in fact  
24 there were some inaccuracies with the initial  
25 data presented, but we feel these inaccuracies

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2 can be covered in the typical manner which is  
3 updating them through the final EIS, and as  
4 Peter mentioned previously, there is nothing so  
5 significant or substantive that would require  
6 any kind of really new analysis, it's really  
7 just updating and correcting for some of these  
8 inaccuracies.

9 In response to the specific comments  
10 on the delineation of the study area, RKG and  
11 Peter J. Smith argue that the DEIS study area  
12 which was based on a 15 zip code delineation  
13 which we will show in another slide was  
14 inappropriate because it's not based on  
15 municipalities or census districts you typically  
16 see in the IS analysis. While it is more  
17 typical to show in the census format, as I will  
18 explain the methodologies RKG developed in  
19 establishing their own study area was really  
20 very similar to what we did based on the  
21 information that we had available. At the end  
22 of the day there is really little substantive  
23 difference between how RKG suggested the

24 material be repackaged and how we in fact did  
25 the analysis.

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2 The DEIS zip code study area was  
3 established by estimating an area we felt would  
4 likely capture most commuters that work at the  
5 Belleayre Resort. Most, we figured about 80  
6 percent. This was done by looking at 1990  
7 journey to work data which was only available in  
8 terms of journey to work census data available  
9 at the time. We examined driving distances in  
10 this area, just how far people drive to get to  
11 work. What we found was that a majority would  
12 drive about 40, 45 minutes tops; that's about 80  
13 percent of your employment base in this area.  
14 We then established our kind of what we call the  
15 commuter shed by looking at that driver distance  
16 and applying it to the roads and topography in  
17 this area to kind of establish our outer  
18 boundary. As it turned out that outer boundary  
19 conformed more to the zip code boundary that we  
20 decided upon in our analysis than did the larger



21 census tracks or the municipalities that were  
22 suggested by RKG. And in addition to that we  
23 did not have the detailed summary tape file  
24 three census data at that point anyway and the  
25 purchase data we went about getting through

1 (GROWTH/CHARACTER ISSUE) 2970

2 Claritas did provide information on the zip code  
3 level. So we felt there was enough information  
4 there to move forward with the zip code  
5 boundaries.

6 As you see from this map in  
7 overlaying the zip code area with the labor  
8 market that was defined by RKG, you will see  
9 RKG's is larger. It captures Roxbury to the  
10 north, larger area of Olive and some of  
11 Rochester to the south as well as Andes and I  
12 think Hardenburgh to the south, so it is in fact  
13 a larger area capturing more of an employment  
14 base than our study area did capture. As you  
15 will see the breakdowns, I'm not going through  
16 all the numbers, but importantly the civilian

17 labor force in the DEIS study area is somewhere  
18 around 7,600, whereas the labor market  
19 identified by RKG is closer to 11,400. So the  
20 reasons for this disparity really lie in the  
21 difference between travel patterns between the  
22 1990 and 2000 census. When RKG developed their  
23 study area, their labor market area, they also  
24 looked at journey to work data to try to arrive  
25 at how far people would drive to get to a resort

1 (GROWTH/CHARACTER ISSUE) 2971  
2 job. And there was a trend from 1990 to 2000 of  
3 longer commutes. People just drive farther to  
4 get to jobs than they did in 1990. So if we  
5 were to have had available at the time of our  
6 analysis the 2000 journey to work data that was  
7 available to RKG, we could very well, it would  
8 have been a larger study area much more similar  
9 to the RKG labor market area. In revising  
10 analysis and in hindsight, in doing FEIS it  
11 would appear with we would apply a larger area  
12 much more similar to the RKG.

13 But in conclusion, the smaller study

14 area we did use is actually more conservative in  
15 considering labor impacts because it draws from  
16 a potentially smaller labor pool.

17 RKG also defined what they identify  
18 as a primarily economic impact area which they  
19 estimated would capture a majority of the  
20 economic benefits associated with spending by  
21 the visitors to the resort. As shown in this  
22 slide, the RKG primarily economic impact area is  
23 not very clear, but it's outlined in green and  
24 the study area used in the DEIS is again the  
25 multi colored area. This shows again this is a

1 (GROWTH/CHARACTER ISSUE) 2972

2 pretty comparable area. If you go to the next  
3 slide in terms of population and other  
4 demographic variables in this case it is quite  
5 similar.

6 Moving on to responding to specific  
7 issues related to the data inaccuracies that  
8 were called out.

9 As I mentioned already, the original

10 study used a combination what was available from  
11 the census 2000 New York State Department of  
12 Labor Data and also purchase data. The reason  
13 for the purchase data was to make up for the  
14 fact the summary tape file three, the detailed  
15 data from census 2000, was not yet available at  
16 the time. Based on all the comments we received  
17 identifying data inaccuracies we wanted to look  
18 back at the analysis and see how the new census  
19 data might affect our analysis and in fact there  
20 were some inaccuracies we found. The Claritas  
21 data that was purchased as I said due to the  
22 unavailability of the 2000 census data tended to  
23 under report growth in the study area. I speak  
24 of growth both in terms of population and  
25 incomes in the area. Then in some cases as we

1 (GROWTH/CHARACTER ISSUE) 2973

2 went through the analysis in preparing the DEIS,  
3 and this is really specific to table 2.1 which  
4 was brought up in the RKG analysis in  
5 particular, there were some miscalculations in  
6 that in trying to update the information to

7 reflect instead of purchase data the 2000 data  
8 that was available on housing and basic housing  
9 information there were a couple columns that  
10 were not updated which resulted in some minor  
11 inaccuracies in terms of reporting, which is the  
12 type of thing we regret doing but can easily be  
13 fixed in terms of an FEIS.

14                   Everybody has these tables so you  
15 can look at more detail in your leisure, but to  
16 show you some of the efforts we have made to  
17 update this information I will highlight some of  
18 the key points. This is table 2-1 as presented  
19 in Chapter 2 of Appendix 26. We have made an  
20 effort to reflect updated purchase Claritas data  
21 to compare apples to apples with what was in the  
22 DEIS, but then we also took a look at the study  
23 area as well at the request of commenters in  
24 Middletown and Shandaken based on the census  
25 data that is available now.

1                   (GROWTH/CHARACTER ISSUE)                   2974

2                   MR. RUZOW: John, let me just

3 interrupt for a minute. There are full size  
4 versions in the back to those who are visually  
5 challenged by small scales.

6 MR. NEILL: What this data does show  
7 and updates show, the study area did in fact  
8 grow versus being flat as presented in the DEIS  
9 in terms of population and households.

10 In addition, in looking at the  
11 Middletown and Shandaken information you can  
12 also see that growth did occur there. We also  
13 again at the request of commenters took a look  
14 in more detail at housing unit counts. As John  
15 Feingold mentioned housing units really grew at  
16 a slower rate compared to the overall population  
17 which is reflective of the transition from  
18 seasonal housing to year-round homes. It also  
19 shows an increase in the population over a  
20 decade or any given year is not necessarily  
21 directly proportion al to an increase you would  
22 want to predict in terms of housing units for a  
23 given area. Again at the request of comments we  
24 took a more detailed look at housing unit  
25 occupancy status and vacancies. Really again

1  
2 just on this one looking at the percentage  
3 change over the decade of 1990 to 2000 for the  
4 study area there was a large increase in  
5 occupied housing units versus vacant, if you go  
6 to the next slide you would see the conversion  
7 of seasonal housing again to full year-round  
8 housing.

9 MR. RUZOW: John, would you just  
10 take a moment more to point out where our eyes  
11 ought to be looking.

12 MR. NEILL: In this one this is a  
13 detailed breakdown of vacancy status, census  
14 breakdown vacancies--.

15 THE COURT: Slide 64.

16 MR. NEILL: Into a number of  
17 categories which includes housing for seasonal  
18 recreational and occasional use. The bottom  
19 sheet shows 1990 to 2000 change for the study  
20 area. You will see the percentage in terms of  
21 seasonal homes is a reduction of 15 percent.  
22 There is actually larger percentage reductions

23 in Middletown and Shandaken.

24 We also took a more in-depth look at  
25 per capita income as one of the comparables and

1 (GROWTH/CHARACTER ISSUE) 2976

2 we also looked at again we updated the  
3 information that was presented originally in the  
4 DEIS including the average household income  
5 although we agree with commenters this was  
6 perhaps not the really appropriate statistic in  
7 terms of income to present. The Claritas  
8 information that was purchased made available  
9 projections on average incomes so that was kind  
10 of the reason behind why that was presented but  
11 we agree with the comments that were received  
12 that average household income does tend to skew  
13 a sense of the incomes in an area upwards when  
14 there is, particularly when there is an influx  
15 of high income wage earners into an area. And  
16 you will see in the next slide when you compare  
17 that to the median household income you will see  
18 there was in fact a growth in the median



19 household income in the study area over the  
20 decade, but this is not nearly as high as you  
21 would see the average income delta from the last  
22 slide which showed a much higher percentage  
23 increase. As you can see the median household  
24 income for the study area while increasing is  
25 still below that of the tri-county area and

1 (GROWTH/CHARACTER ISSUE) 2977

2 state as a whole. Go ahead to the next slide.

3 The 1989, if you look over the  
4 course of the decade, one phenomena you do see  
5 is a large increase in the percentages of very  
6 high wage earners in the study area. In 1999  
7 there was 10 percent that were earning 100,000  
8 or more in the study area versus about three  
9 percent in 1989. There is still a similar  
10 percentage in terms of the very poor that are  
11 less than 10,000 both in 1989 and 1999.

12 MR. RUZOW: Go back to slide 68.  
13 Those earning less than 10,000 the percentages  
14 are about the same.

15 MR. NEILL: Yes, they are.

16 MR. RUZOW: So if one were concerned  
17 with -- never mind.

18 MR. NEILL: So in terms of the data  
19 inaccuracy and kind of conclusion, the PJS  
20 report was critical of how the information was  
21 presented in a couple ways. It questioned why  
22 we used larger geographical areas. That really  
23 is a standard way of benchmarking information.  
24 If you don't do that there is really no way to  
25 compare. There was also the claim it was

1 (GROWTH/CHARACTER ISSUE) 2978  
2 misleading to contrast with all of New York  
3 State versus just the upstate area without the  
4 metro area and that the New York City metro area  
5 was skewing the data upwards. There clearly is  
6 a distinction there in some demographic  
7 variables but in terms of meaningful relevance  
8 that's pretty minor. Also one does have to  
9 consider, using the upstate economy without the  
10 New York metro area as a benchmark isn't all  
11 that great in that the upstate economy is not

12 doing so great as a whole, so to compare it  
13 doing better or at least something that's not  
14 doing well you can argue that's not a valuable  
15 comparison anyway.

16 Moving on to the comments that were  
17 raised regarding the labor supply in the area.  
18 The RKG report presented a labor supply and  
19 employment characteristics in a manner we felt  
20 inaccurately portrayed the supply as  
21 insufficient they claim to support the proposed  
22 Belleayre Resort employment base. I feel the  
23 most misleading assertion is the project will  
24 only draw workers from unemployment in the area.  
25 We started to get into this with Peter's

1 (GROWTH/CHARACTER ISSUE) 2979  
2 discussion earlier. It's really the fact  
3 Belleayre would draw from a number of different  
4 labor pools and different resources in coming up  
5 with the estimated 747 full time equivalent  
6 employees. I am going to mention briefly the  
7 five we think they would really draw from.

8 The first is existing employees in

9 the labor market area. There are many workers  
10 that would choose to change jobs for a variety  
11 of reasons. Some may choose, may opt for a  
12 shorter commute. As I mentioned there are  
13 substantial numbers commuting long distances in  
14 this area. For some this job might be right  
15 around the corner and that would influence a  
16 decision to change jobs.

17 MR. RUZOW: John, this morning we  
18 heard from Lowell Smith who related his view  
19 that working for the state and being able to get  
20 the benefits both retirement and health is  
21 certainly a driving force in his judgment. Also  
22 when we met along route 28 with the  
23 Margaretville motel owner he pointed out by  
24 offering day care benefits to his employees he  
25 was able to attract employees to his

1 (GROWTH/CHARACTER ISSUE) 2980  
2 establishment simply because of the benefits is  
3 a major draw. And the hotel, the Belleayre  
4 Resort as we have envisioned would supply the

5 kinds of benefits one needs to attract a high  
6 quality and stable work force. So the  
7 opportunities because of its size, it's not just  
8 a mom and pop operation and sometimes bed and  
9 breakfasts can provide this, sometimes they  
10 can't, but the smaller the operation the harder  
11 it is to provide benefits which are expensive in  
12 today's world. As a small business employer  
13 ourselves as a law firm being able to maintain  
14 and provide health care benefits and retirement  
15 funds, it's true of all scale size entities in  
16 today's world and when you can do it it's a  
17 major decision factor for many employees.

18 MR. NEILL: The existing seasonal  
19 and underemployed in the area would also be  
20 another resource pool to draw from in terms of  
21 employment. It's a common practice in many  
22 rural areas to have multiple seasonal jobs over  
23 the course of a year and this phenomena  
24 understates the labor force availability when  
25 you strictly look at the numbers. Many

2 residents are attracted to either seasonal or  
3 part-time work. I believe that we saw it was  
4 through the field trips I wasn't available for  
5 but there were some, I guess the Margaretville  
6 motel owner that indicated that were day care  
7 available they would be able to find an adequate  
8 employment base in a second and this is  
9 something that Crossroads has indicated they  
10 would be interested in providing.

11 Another employment base would be  
12 employed residents outside the labor market  
13 area. Both the RKG and the AKRF, DEIS analysis  
14 both realize there are people who will continue  
15 to drive long distances to get to work and the  
16 RKG and the AKRF analysis both had study market  
17 areas and labor areas respectively that were  
18 estimated to capture 80 percent of the  
19 employment. Some of the arguments made in the  
20 RKG analysis seem to forget that fact when  
21 talking about 747 employees, they speak where  
22 are we going to get all these employees within  
23 the labor market area? It's not going to be  
24 just the labor market area. Some percentage is

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going to be from outside that area from people

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(GROWTH/CHARACTER ISSUE)

2982

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willing to drive long distances for whatever

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reasons. There would also be existing residents

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that might otherwise leave the area because of

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the lack of job opportunities and we have heard

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earlier testimony from Eric and Lowell speaking

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to this. There is an outflow, an out-migration

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of young workers in this area. The Belleayre

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Resort would provide another opportunity. These

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people are not coming from unemployment lines,

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they are choosing to leave because there is no

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employment for them area.

13

Finally from unemployed residents in

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and outside of the labor market area, that's

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obviously a recognized area for attracting

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employment.

17

Moving on to concerns that were

18

raised concerning the wages and salary

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information in the document. There were some

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questions about where the wages came from. The

21 information was provided to AKRF by Crossroads  
22 and that was derived from a nationwide survey  
23 that was conducted in 2000 by the Hospitality  
24 Compensation Exchange which is the industry's  
25 kind of most comprehensive guide to compensation

1 (GROWTH/CHARACTER ISSUE) 2983  
2 benefits and includes data from 2,800 properties  
3 nationwide. AKRF took this information and I  
4 will explain in a minute, examined regional  
5 salaries in comparable occupational sectors to  
6 corroborate this information and we agree these  
7 were valid numbers to be using. RKG's analysis  
8 argued proposed wages for the resort are well  
9 above the wages for different industry sectors  
10 within which these jobs would occur. They  
11 presented a number of average wages by sector  
12 both within Ulster and Delaware Counties to  
13 support their argument. RKG's comparison of the  
14 Belleayre's proposed wages to the average wages  
15 in these broad industry sectors is a bit of an  
16 apples and oranges comparison because these  
17 broad industry categories they captured for



18 Ulster and Delaware County don't reflect the  
19 nature of the work that would be occurring  
20 within what they captured as an industry sector.

21 The best example I can give you  
22 would be for their estimates of golf and the  
23 averages wages from employment that would occur  
24 involving golf. They used the amusement,  
25 gambling and recreation sector generically in

1 (GROWTH/CHARACTER ISSUE) 2984  
2 coming up with an average wage. That's a little  
3 like comparing what's going on in Ulster County  
4 right now in these sectors which would include  
5 the folks that are taking money for inflatable  
6 raft trips or something like that to a golf pro  
7 or somebody that works on maintenance at a golf  
8 course. We felt it was more appropriate to look  
9 specifically at the categories that would fall  
10 within the Belleayre Resort instead of taking  
11 generic large categories. The problem with  
12 taking that one finer step of analysis is the  
13 information is not provided at the county level

14 per se, it's only provided in regions and they  
15 do this for reasons of protecting individual  
16 businesses. But on the regional level and you  
17 will see from --

18 MR. RUZOW: We don't have a copy of  
19 this enlarged scale that I can see in the  
20 handout.

21 MR. NEILL: Should definitely be on  
22 the CD.

23 MR. TRALSTAD: The CD does contain  
24 the power point.

25 MR. NEILL: I apologize for that.

1 (GROWTH/CHARACTER ISSUE) 2985  
2 This is too small for all of us to see. As an  
3 example, the average wage using DEIS for golf  
4 was 27,000. The RKG average wage presented was  
5 14,000. If you look at some of the types of  
6 jobs that would occur in these areas including  
7 operations, managers, landscaping,  
8 groundskeeping workers and recreation workers  
9 you have salaries that are well above the  
10 average wage that was presented also a little

11 bit below and you can see it more closely  
12 reflects the average wages used in the DEIS.  
13 You can do this across the board for all the  
14 different categories of business. Really what  
15 it is doing, instead of using one number to  
16 capture an entire industry, it looks  
17 specifically at the different types of workers  
18 in this industry and equates the numbers you  
19 find both in the Hudson Valley region and the  
20 southern tier region. The Hudson Valley region  
21 captures Ulster County while the southern tier  
22 captures Delaware County.

23 Finally in terms of the concerns  
24 raised on housing demand, John Feingold spoke to  
25 this as well, the basic conclusions in the DEIS

1 (GROWTH/CHARACTER ISSUE) 2986  
2 are that with the types of jobs generated and  
3 some of the labor force elasticity and general  
4 availability in this region and locally the  
5 project is unlikely to create a substantial  
6 amount of change in the housing utilization and

7 new demand. So for that reason there wasn't the  
8 need to go to the great level of detail that was  
9 provided in the RKG analysis in terms of all the  
10 housing studies that were done. They really did  
11 a regional housing study and argued the housing  
12 market is insufficient to support the new  
13 residents that would be employed. But in  
14 drawing that conclusion I think they incorrectly  
15 focused on just vacant housing units in the area  
16 and they said assuming with 747 new employees  
17 you would need 747 new units, there are only X  
18 number of vacant units so you have this large  
19 disparity. There is more than vacant units out  
20 there. There is new construction, resale of  
21 existing occupied housing, there is rental  
22 housing, conversion of seasonal housing, all the  
23 elements John Feingold spoke to you that really  
24 reduce this number. As I mentioned before, 747  
25 new units would not all occur within the labor

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(GROWTH/CHARACTER ISSUE)

2987

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market area or study area that were analyzed,

3           only 80 percent would based on travel patterns  
4           that we see both in the 1990 and 2000 census  
5           data approximately 80 percent would occur in the  
6           delineated study areas for both the RKG and AKRF  
7           analysis.

8                         MR. RUZOW: You don't mean to say  
9           there would be 80 percent of the 747 of new  
10          housing because you have already established  
11          that a variety of five different factors would  
12          lead you to believe there wouldn't be in effect  
13          new employees coming to the area.

14                        MR. NEILL: That's correct. It's  
15          incorrect to assume that to begin with, but  
16          based on that incorrect assumption you can carry  
17          it further to say it would be a lesser number to  
18          work with. Kind of going to that point, in  
19          describing the shortage there is this incorrect  
20          assumption that every new job would require new  
21          housing. That's simply not the case. As we  
22          have gone through there are job changers,  
23          unemployed, there are a number of labor pools  
24          that would be drawn from. It would not be all  
25          new people to the study area.

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Peter, do you mind coming back for conclusion?

MR. LIEBOWITZ: Trying to think of all the stuff you have been hearing, try to come up with what we feel were reasonable overall conclusions.

The first is we don't think from all the evidence and all the things that have been submitted in terms of comments on the EIS there is really anything that would substantially say we mischaracterized either the demographic or economic conditions of the corridor or the project impacts. Many of the comments focused on the descriptive analysis that have little bearing on how you go then through the impact analysis. I think that's particularly true in terms of comments related to the demographics studies, then for the extensive out of scope case study kind of critique that was presented. Moreover, some of the comments did focus on what

22 we did, the model induced study, all seem to be  
23 saying the same thing very consistent. I think  
24 that's an important conclusion.

25 So if they are consistent, we kind

1 (GROWTH/CHARACTER ISSUE) 2989  
2 of came to a conclusion the project as analyzed  
3 doesn't really result in substantially new  
4 secondary development or create significant  
5 labor market changes resulting in new housing.  
6 There is not a warrant for doing this extra  
7 housing analysis. Contrary to what's been  
8 suggested in some of the comments and  
9 presentations to you so far, induced growth  
10 doesn't include things like lands already  
11 available, land already identified for  
12 development like approved site plans or  
13 subdivisions. It doesn't include general  
14 background growth in the future not directly  
15 attributable to the proposed action. It's been  
16 kind of suggested when you read through some of  
17 the comments somehow this EIS was supposed to

18 assess the long-term effects of a build out of  
19 the community. That's not really the job of  
20 this EIS. Basically that's been done in several  
21 instances. There is also sort of land  
22 constraint analysis that we did, that RKG did,  
23 really the City's own Watershed regulations  
24 presented a certain amount of growth to occur  
25 over time in these communities well under the

1 (GROWTH/CHARACTER ISSUE) 2990

2 radar screen of that absolute number.

3 We were talking about you guys came  
4 up with a better definition, the comments we  
5 received were very substantive. We have  
6 basically addressed them, they just don't seem  
7 to be significant and they need to be sort of  
8 cleansed and clarified and presented back to you  
9 and the public but that's really as far as we  
10 think it goes.

11 MR. RUZOW: Questions regarding this  
12 part?

13 THE COURT: No.

14 MR. RUZOW: Mr. Trelstad.



15 THE COURT: Let's take five minutes.

16 MR. RUZOW: Before we go off the  
17 record, section 2.4.1 of the DEIS under building  
18 functions, pages 2-64 to 2-68 are descriptions  
19 of the activities that will occur in each of the  
20 buildings.

21 (A recess was taken.)

22 MR. RUZOW: Graham, ready when you  
23 are.

24 MR. TRELSTAD: Again, I am Graham  
25 Trelstad. I am a technical director at AKRF

1 (GROWTH/CHARACTER ISSUE) 2991  
2 responsible for preparing the land supply  
3 analysis in the EIS growth inducing assessment.

4 This afternoon what I will try to do  
5 is quickly, since you heard a lot of testimony  
6 already, try to wrap up how we approach the  
7 community character issue. We have heard from  
8 several people on community character. I am  
9 going to try to distill those several bits of  
10 information to a summary on that bit.

11                   What we -- you can go ahead to the  
12                   first slide. We set up the argument basically  
13                   to state that community character really it's  
14                   articulated in master plans and a number of  
15                   other policies and those master plans and other  
16                   policies in essence are balancing the past with  
17                   a vision for the future. You can use these two  
18                   images we found on the web are taken here in  
19                   Margaretville of Pine Hill past and  
20                   Margaretville's present and perhaps future. We  
21                   are also looking at community character I think  
22                   as one of the previous presenters Peter J. Smith  
23                   presented, we have no dispute with the  
24                   definition of what community character is. It  
25                   comprises historical and cultural environment,

1                   (GROWTH/CHARACTER ISSUE)                   2992  
2                   natural environment, the political environment  
3                   in this case the zoning or public policy itself  
4                   and the economic environment.

5                   Not to repeat the testimony of  
6                   Mr. Raymond from earlier but to emphasize some  
7                   of the statements he made or implications he

8 made, I am just going to go through some of the  
9 master plans we reviewed as part of the project.  
10 First start with just these two simple  
11 statements about what master plans are.

12 The first statement comes from a  
13 recent article in Environmental Law in New York,  
14 which actually is an article dealing with  
15 protection of the Catskills Forest Preserve and  
16 the Adirondeck Forest Preserve. It states the  
17 master plan serves as a blueprint of general  
18 guidelines for future development, land use and  
19 zoning of an area. I want to emphasize the  
20 words blueprint and general guideline. It's not  
21 a specific course of action but a general policy  
22 statement.

23 Second statement is from Ulster  
24 County Land Use Plan for 1977 which states  
25 comprehensive land use planning is a continuous

1 (GROWTH/CHARACTER ISSUE) 2993  
2 process which involves the recognition of  
3 changing needs and conditions. That having been

4           said, what I would like to lay out in the next  
5           few minutes using the documents that we have  
6           identified here and been discussed previously is  
7           that the proposed Belleayre Resort is  
8           essentially consistent with each and every one  
9           of those comprehensive plans or studies so this  
10          is an embodiment of the community vision that  
11          they want to see in the future and also an  
12          evolution of how communities changed over time  
13          going back to a period when they did have a  
14          great history of resort development here in the  
15          Catskills.

16                                 Just we did look at Belleayre  
17          Mountain Feasible Study from 1963, the Ulster  
18          County Land Use Plan from 1977, the Route 28  
19          Corridor Plan from 1994, the Tourism Plan from  
20          1998, the Catskill Watershed Corporation  
21          Economic Development Plan from 1988 and 1989 and  
22          the Draft Revision to the Catskill Park State  
23          Land Master Plan which was released in 2003 and  
24          we also looked at the Shandaken zoning code and  
25          the Middletown zoning code.  Going through each

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of these documents there are several statements we have replicated on these slides, I would read them to you, which I feel invoke what the proposed resort really is.

From 1963 the statement is, in the Central Catskill area where private resort development has not kept pace with that of the southern Catskills, the establishment of winter facilities at Belleayre has had a significant effect on stabilizing the local economy. That sets the stage for additional development in this area saying that a large tourist development can have a very powerful stabilizing effect on the economy.

That report further states, expansion of the ski center for year-round use is both feasible and desirable. It will make more efficient use of existing facilities, increase park revenues, benefit the local economy and provide another unit in the enlarged park system which will be required to meet the

23 recreational needs of the future. So back in  
24 1963 they were looking for year-round use of the  
25 Belleayre facility.

1 (GROWTH/CHARACTER ISSUE) 2995

2 Finally, in the 1963 plan the  
3 statement made was, the new summer facilities  
4 which we recommend would be concentrated east  
5 and west of the existing lower ski lodge on an  
6 interior road with a new entrance and control  
7 point at the north. This area would include  
8 nine holes of par three golf, a swimming pool,  
9 et cetera. So they were looking at those two  
10 shoulders at the Belleayre facility and looking  
11 at golf specifically to expand the summer  
12 facilities.

13 Moving to the 1977 Ulster County  
14 Plan, that document was more general in its  
15 terms, didn't get into specific recommendations  
16 for the Belleayre area or route 28 in  
17 particular. But several recommendations did  
18 include that the state forest preserve and the

19 city reservoir resources have multiple use  
20 recognizing the very needs of the region so to  
21 develop the wonderful assets the community had  
22 to bring more people in and serve its existing  
23 residents.

24 The Ulster County Plan also  
25 mentioned thoughtful design techniques should be

1 (GROWTH/CHARACTER ISSUE) 2996  
2 used to preserve the valuable environmental  
3 resources and make architectural compatible. I  
4 feel design is half the meal or design is  
5 everything. I think they were getting it right  
6 back in 1977.

7 MS. ROBERTS: Dan, are these  
8 documents listed here, whatever they are, are  
9 they in the record?

10 MR. RUZOW: They are not in the --  
11 the Ulster County Master Plan I know you have  
12 referenced. We didn't put the 1977 plan in.

13 MS. ROBERTS: And the 1963 Master  
14 Plan?

15 MR. RUZOW: The Vollmer Study is  
16 referenced in the DEIS. They are all referenced  
17 in the DEIS. We didn't put that one in either.

18 MS. ROBERTS: The pages you are  
19 referencing here, are the pages at least going  
20 to be copied? Will the pages that you are  
21 referencing, taking quotes from here be  
22 submitted?

23 MR. RUZOW: We can provide them if  
24 you want.

25 THE COURT: This list that was in

1 (GROWTH/CHARACTER ISSUE) 2997  
2 slide number three, they are all public  
3 documents.

4 MR. RUZOW: Some are in because we  
5 are using most of the documents specifically.  
6 The codes are in already. DEC has put in the  
7 draft revision, I think the 2003 document.

8 MS. ROBERTS: I am just wondering  
9 about the '63 document.

10 MR. RUZOW: We can put it in.



11 MR. TRELSTAD: There are references  
12 in the DEIS to some of the studies.

13 MR. RUZOW: Yes, these are all  
14 referenced in the DEIS.

15 MR. TRELSTAD: So many of the same  
16 statements we are using are also in the DEIS.

17 MS. ROBERTS: Thank you.

18 MR. TRELSTAD: Slide seven. Moving  
19 forward to 1994 with the Route 28 Corridor  
20 Study, this document said a number of things  
21 leading to one final recommendation starting  
22 with, no prominent gateway announces to the  
23 visitor his entrance to or exit from the park.  
24 No first class overnight facilities have been  
25 built in decades. Few of the family oriented

1 (GROWTH/CHARACTER ISSUE) 2998  
2 attraction activities necessary to support a  
3 modern tourist area have been provided. There  
4 is no single major destination which warrants an  
5 overnight stay serves as a magnet for the entire  
6 region.

7 MR. RUZOW: That's Applicant's 83,

8 your Honor.

9 MR. TRELSTAD: That document, that  
10 same document also indicates the combined  
11 tourist attraction and facilities of the Central  
12 Catskills must be developed simultaneously to  
13 provide the critical mass necessary to create a  
14 major destination to attract new visitors.  
15 Phase I must be of scale sufficient to garner  
16 significant new tourist appeal and investment  
17 interest. What that statement is saying is the  
18 attributes or the assets of this area have to be  
19 developed in concert. It either can't be put on  
20 one single entity alone but they do indicate  
21 through Phase I a larger scale facility will be  
22 needed to stimulate that coordination.

23 This document also indicates that  
24 development opportunities outside the villages  
25 and hamlets should be limited to those major

1 (GROWTH/CHARACTER ISSUE) 2999  
2 tourist facilities which require large sites and  
3 scenic locations subject to necessary measures

4 to protect the sensitive environment. This  
5 document back in 1994 is looking forward to  
6 development outside the hamlets but in limited  
7 areas.

8 THE COURT: I'm sorry, whose  
9 document is that?

10 MR. TRELSTAD: That's the Route 28  
11 Corridor Study.

12 Again, slide nine. Four season  
13 long-term tourist visitation must be encouraged  
14 by stimulation of a diversity of activities that  
15 serve a broad cross section of the family  
16 tourist market and several sites in the corridor  
17 could support larger resort hotel than presently  
18 exist with magnificent views, attached  
19 recreation facilities and direct access to  
20 hiking trails, skiing trails or horseback riding  
21 and pack train trails.

22 Those are all in the Route 28  
23 Corridor Study. If you look at the actual study  
24 we have cited page one, it's more of a frontlist  
25 piece. The statement made is all in capital

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letters. It is the unanimous recommendation of the Route 28 Corridor Committee that the Town of Shandaken and the neighboring Town of Middletown form an economic development partnership for the master planning, financing and development of a major unified year-round environmental recreation education project designed to restore the area to its former prominence as one of the world's premier vacation destinations.

I think that statement clearly demonstrates Belleayre Resort's consistency with the plan, and some of the earlier statements I read from the other plans really demonstrate back in '94 they were imagining this sort of development occurring in this area.

Finally, it should be noted the '94 Route 28 Corridor Study was adopted by the Town of Shandaken and the Town of Middletown, so it is an adopted policy of theirs.

THE COURT: Adopted as policy or adopted as part of comprehensive plan?

23 MR. TRELSTAD: I would consider it  
24 the same thing. As Mr. Raymond pointed out,  
25 certainly comprehensive plans that are developed

1 (GROWTH/CHARACTER ISSUE) 3001

2 under section 272-a of the Town Law are  
3 considered adopted policy. I think --

4 THE COURT: Because they are part of  
5 the comprehensive plan. Comprehensive plan is  
6 not necessarily a document in itself. It can  
7 comprise plans, studies and various other  
8 projects, correct?

9 MR. TRELSTAD: Correct.

10 MR. RUZOW: Your Honor, with respect  
11 to what 272-a envisions is a document entitled  
12 Comprehensive Plan that has to meet 18 or 19  
13 different technical requirements. It was a new  
14 animal intended to address sort of the history  
15 of the case law, et cetera, that talked about  
16 focussing on a particular set of criteria. It  
17 talks of using a generic EIS for purposes of its  
18 adoption so future actions would be dictated by  
19 that plan. It's a much more action-forcing

20 document than what had previously been known to  
21 be comprehensive plans that a planning board  
22 might adopt. Some of the criticism Mr. Raymond  
23 offered relative to what was found or not found  
24 in Middletown's comprehensive plan for the early  
25 '80s or even master plans from '88, it was not

1 (GROWTH/CHARACTER ISSUE) 3002

2 as complete a document in terms of directing  
3 what future activities ought to be. It was in  
4 effect more policy. You ought to consider these  
5 things.

6 MR. TRELSTAD: Moving on to the '98  
7 Tourism Plan which is a spin-off of the previous  
8 '94 Route 28 Plan, again similar statements from  
9 '94 occur here in the '98 document that the  
10 market analysis and surveys confirm that  
11 Belleayre Mountain should form the focus of  
12 corridor development in terms of improved and  
13 expanded ski trails, support facilities and four  
14 season attractions. And a resort or lodge in a  
15 natural setting with good facilities, well

16 organized outdoor activities would add to the  
17 area's appeal particularly if tied to Belleayre.

18 MR. RUZOW: This is quoting from  
19 Applicant's Exhibit 8 which is Tourism  
20 Development Plan of the Central Catskill  
21 Planning Alliance.

22 MR. TRELSTAD: That document also  
23 states, the market analysis suggests that a  
24 destination resort could be an important  
25 attraction for the Central Catskills. A new

1 (GROWTH/CHARACTER ISSUE) 3003  
2 resort complete with golf course, conference  
3 center and other active recreational facilities  
4 in the Central Catskill would attract a new  
5 category of visitor who would also frequent  
6 other attractions in the region and potentially  
7 make return visits.

8 The document also went on to state  
9 how the resort could be implemented through  
10 zoning law. It has two suggestions. One is a  
11 tourism overlay district in the Central  
12 Catskills could be designed to allow additional

13 uses beyond those permitted in the current  
14 zoning laws in the underlying district which  
15 would provide services to tourists if they  
16 adhere to certain standards including design  
17 guidelines, landscaping, setbacks, removal of  
18 non conforming buildings or signs, et cetera.  
19 Further, instead of an overlay district, a  
20 planned tourist zone provides a flexible  
21 framework in which large scale tourist  
22 developments can be planned as a total unit  
23 without restrictions imposed under lot by lot  
24 development standards.

25 I think this is an important

1 (GROWTH/CHARACTER ISSUE) 3004  
2 statement and we will get to some issues with  
3 zoning later, but many large development  
4 projects like the proposed resort or like  
5 planned unit development projects, or PUDS, rely  
6 on general performance standards or design  
7 guidelines rather than strict bulk and setback  
8 regulations. The standard zoning which



9 separates uses and dictates setback standards or  
10 bulk standards is becoming one that is too rigid  
11 for creative site planning and planning unit  
12 development or design guidelines are now being  
13 preferred throughout planning for residential  
14 and commercial development to try to encourage  
15 better design, and better integrated development  
16 really responds better to the natural  
17 environment and unique conditions on the site.

18 MR. RUZOW: But Graham, that  
19 prerogative is the prerogative of the  
20 legislative body of the local community and  
21 providing direction to the planning board.

22 MR. TRELSTAD: That's correct. This  
23 document merely states that's one option the  
24 towns could undertake in order to allow such a  
25 resort to be implemented. You could follow the

1 (GROWTH/CHARACTER ISSUE) 3005  
2 plan unit concept with this provision of that  
3 plan.

4 Moving on to the CWC or the Catskill  
5 Watershed Corporation Study which I was pleased

6 to be a part of, that study really comprises two  
7 separate studies that have been referenced  
8 before. The first is a Market Sector Assessment  
9 and Program Issues Analysis and the second is a  
10 Final Economic Study for the Catskill Fund for  
11 the Future.

12 There was a preliminary draft study  
13 that appeared in 1988, actually has a date of  
14 December '88 which is odd. It incorporates many  
15 of the market inventory conditions in the market  
16 sector assessment and some of the preliminary  
17 analysis that's in the final economic study. I  
18 will refer to these two studies because the  
19 preliminary draft was essentially a preliminary  
20 draft, it was ultimately changed.

21 MR. RUZOW: Your Honor, we have  
22 marked that as Applicant's Exhibit 71, the  
23 preliminary draft, and I believe it may have  
24 been excerpts, I believe CPC put in the baseline  
25 report which was the first report that was

2 produced and, Graham, maybe I will cover it  
3 later. Your Honor, I would explain in  
4 connection with Exhibits 69 through 72,  
5 Applicant's Exhibits 69 through 72 I will  
6 explain later the evolution of that report.

7 MR. TRELSTAD: The CWC Market Sector  
8 Assessment had several statements to make about  
9 tourism, skiing in the hamlets. I will briefly  
10 go through them. For tourism it indicates that  
11 tourism is extremely important to the Watershed  
12 economy and is likely to play a central role in  
13 the future. Also tourism provides multi  
14 seasonal, environmentally sustainable activity.  
15 Finally, expansion of the tourism economy  
16 demands an adequate supply of high quality  
17 lodging facilities serving a range of target  
18 markets. This is an assessment of existing  
19 conditions or challenges.

20 With respect to hamlets and  
21 villages, the same report says hamlets and  
22 villages provide an anchor for the tourist  
23 economy. This is recognizing that the tourist  
24 economy and the hamlets are integrally webbed as

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I think everybody has seen on many of the site

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(GROWTH/CHARACTER ISSUE)

3007

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visits.

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With respect to skiing, the report

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did state it is critical to the local economy at

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large for the Watershed ski resorts to boost

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their market share. Also Belleayre and Hunter

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must reinvigorate their mountains and ski towns

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to broaden their market share and that the

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economic benefits of increased investment in

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Watershed ski areas include new jobs, more

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affluent tourist base, younger tourist base and

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recreational and entertainment opportunities for

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area residents that rural areas may not

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otherwise have the population to support.

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While the Belleayre proposed resort

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doesn't focus on skiing, I think it's essential

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we look at it with the ski facility because it

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is certainly linked with it and development on

19

the shoulder of the ski center can have the same

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benefits as a ski area or as a revitalized ski

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area would have to the local economy.

22 I think one of the things I have  
23 learned today from the fire chief was the amount  
24 of activity that occurred at the resorts, at the  
25 Grand Hotel that was open to the communities,

1 (GROWTH/CHARACTER ISSUE) 3008

2 that reflects some of the statements here that  
3 rural areas might not otherwise have the chance  
4 to support live music or performance, so it  
5 really does bring opportunities to the  
6 community.

7 The final economic study for the  
8 Catskill Fund for the Future prepared for CWC  
9 which outlines the institutional framework for  
10 implementing the funding and granting mechanism  
11 for the large money indicates a couple things.  
12 Key barriers to economic development in the  
13 watershed include limit supplied of developable  
14 land, shortage of well located and modern  
15 tourist facilities, lack of amenities for  
16 residents and tourists. Inherent strengths of  
17 the watershed include beautiful, plentiful,

18 natural resources and attractive communities. I  
19 think those are readily apparent.

20 The final report also laid out some  
21 goals and objectives for future program areas.  
22 There were four program areas that the final  
23 report looked at: Hamlets and villages,  
24 manufacturing and businesses, tourism, skiing  
25 recreation and the arts and natural resource

1 (GROWTH/CHARACTER ISSUE) 3009

2 based industries.

3 With respect to hamlets and  
4 villages, the CWC report recommended grant  
5 programs for whole hamlet plans to allow these  
6 communities to develop plans for the  
7 rehabilitation and redevelopment of the areas,  
8 marketing strategies, et cetera, for tourism,  
9 skiing and recreation and the arts.

10 The CWC report had the following  
11 things to say. They suggest creating a joint  
12 marketing plan for ski areas, establishing  
13 targeted loans to small business and villages

14 adjacent to ski areas to improve inventory and  
15 aesthetics. Again getting to that integration  
16 of the resort and hamlets, they are tied  
17 together. And recognizing that improving the  
18 inventory of the stores, improving the displays  
19 of the products in the stores, even the  
20 sidewalks within the hamlets would help attract  
21 more business and generate more sustainable  
22 livelihood.

23 The CWC report also recommended  
24 establishing planning grants for large scale  
25 resort development. I understand this

1 (GROWTH/CHARACTER ISSUE) 3010  
2 recommendation was not ultimately adopted as  
3 part of the final recommendation or is not yet  
4 fully implemented, but with money still  
5 remaining in the Catskill Fund for the Future it  
6 could possibly come about.

7 The last report we looked at was  
8 last year's Catskill Park Plan and it had this  
9 to say about the presence of the Catskill Park  
10 and its effect on the economy. Contribution

11 that Catskill Park visitors make to the local  
12 economy is partly due to the existence of the  
13 forest preserve. That's an obvious point.  
14 Visitors who come up, come up for recreational  
15 opportunities but this spins off benefits to  
16 local economy. Also that New York State DEC  
17 will maintain open communication with local  
18 governments and residents in all aspects of  
  
19 forest preserve planning. What DEC does in this  
20 area has a lot to do with what towns like to see  
21 done and vice versa. DEC is stating they are  
22 equal partners in this with long term strength  
23 of the area.

24 MR. RUZOW: I want to note the plan  
25 being referenced is the draft August 2003 draft

1 (GROWTH/CHARACTER ISSUE) 3011  
2 plan which DEC put in the record as one of their  
3 exhibits.

4 MR. TRELSTAD: The next line just  
5 indicates what that draft plan proposes for the  
6 Belleayre Ski Center which is noted to be a DEC



7 intensive use area. Just as a note, all of the  
8 intensive use areas in the forest preserve  
9 account for only two percent of the land.  
10 Should also be noted Belleayre is located at  
11 essentially the western gateway to the Catskill  
12 Park and the forest preserve as you come along  
13 route 28. You almost enter the park  
14 simultaneous with reaching Highmount, so it is a  
15 gateway.

16 The report also indicated the  
17 Belleayre Ski Center should be modernized to the  
18 extent physical resources allow within  
19 constraints of the state constitution and limit  
20 on land use in the forest preservation.

21 And a more interesting statement  
22 here, future development of intensive  
23 recreational facilities is anticipated to take  
24 place primarily on private lands. Demand for  
25 developed recreational opportunities that are

1 (GROWTH/CHARACTER ISSUE) 3012  
2 not present on state lands will need to be made

3 through entrepreneurial ventures. The State  
4 needs to capitalize on the public's expressed  
5 desire for such opportunities. The state is  
6 saying we are not going to provide these  
7 opportunities but it should be provided on  
8 private lands through private funding.

9 With respect to community character,  
10 again we are using that same outline we have  
11 seen earlier from the Peter J. Smith  
12 presentation defining community character as a  
13 composite of the historic and cultural  
14 environment, the natural environment, built  
15 environment, the political environment and the  
16 economic environment. I will go through on each  
17 of those briefly.

18 As mentioned before the Catskills  
19 had a long history of grand hotels, large  
20 resorts dating back to the late 1800s. This  
21 painting is a painting of Thomas Cole's  
22 approaching one of the large resorts in the  
23 Catskills that dates back to 1883, so this has  
24 been a great presence in the Catskills. It's a  
25 door opening to the modern environmental

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movement as people get out in the country and see the woods weren't full of goblins and ghouls and they can enjoy themselves.

THE COURT: Occasionally lawyers out there.

MR. TRELSTAD: Occasional lawyers but usually friendly. But it led to a whole interdependence of the villages and resorts in the Catskill Park and a wide range of year-round recreational activities. Until the '60s a number of golf courses existed close to the project site including the Grand Hotel, the Tachanasee (sic) in Fleischmanns and the Shandaken Inn. The bottom line is the Belleayre resort will add an important cultural element missing for the past 50 years. We heard discussion about the trend from the '50 or '60s as people began to travel farther for their recreation. There were new sites in mind. There was Colorado, there was the Rockies and British Columbia where people could get away,

23 see very grand topography. People were tired of  
24 the Catskill so they moved on. People are now  
25 seeing they can have a wonderful vacation

1 (GROWTH/CHARACTER ISSUE) 3014

2 experience here in the Catskills.

3 So from history to the present time  
4 community character has been defined by tourism.  
5 The tourist demographic is consistent with  
6 proposed development of the resort. Also that  
7 same demographic, the tourist demographic is an  
8 expression of the clientele of the Catskills.

9 A statement by RKG I think we have  
10 referenced before is the customer base is  
11 strongly influenced by seasonal homeowners and  
12 visitors from the metropolitan New York, New  
13 Jersey, Connecticut area. I am a case in point.  
14 I have been coming up for the past 20 years. My  
15 parents live in New Jersey but own a house here  
16 in the Catskills and come to experience the  
17 Catskills that way like many folks have.

18 Finally, the Belleayre Resort infill

19 development in the hamlets show the evolution of  
20 this trend. These two images here show, here is  
21 G. Wilikers down the street here in  
22 Margaretville, new ventures are coming in to  
23 fill in these existing commercial spaces. New  
24 business enterprises like the Emerson Inn  
25 farther out on 28 are also coming in expanding

1 (GROWTH/CHARACTER ISSUE) 3015  
2 the area bringing people back to the Catskills.  
3 Again, community character is also a  
4 function of the natural environment. Natural  
5 environment here is quite dramatic. It is  
6 highly constrained land. We have talked about  
7 the steep slopes, wetlands, streams along the  
8 roadways. The natural environment is also  
9 evidenced by the scenic qualities and open  
10 space. Let me touch on a couple of those points  
11 here. I think as mentioned before the  
12 traditional development pattern is really a  
13 function of that topography, topography that  
14 lines steep valleys off 28 and then where it  
15 opens on 28 to wetlands and flood plane. The

16 opportunities for development largely occurred  
17 in the flatter valley areas and that's where it  
18 remains.

19 With the next line here this is  
20 taken from the DEIS. It's the composite lands  
21 now for the western end of the study area. This  
22 is Margaretville right in here, the project site  
23 resort is outlined in purple and the green is  
24 forest preserve land on other preserve lands  
25 such as New York City DEP properties. The

1 (GROWTH/CHARACTER ISSUE) 3016  
2 lighter pink are steep slopes 50 to 25 percent,  
3 and darker red are steep slopes of 25 percent or  
4 greater. The blue -- I'm sorry, this is  
5 Margaretville. The blue as you can see  
6 prevalent to Margaretville is the flood plane.  
7 Running through that is the stream corridors and  
8 buffers, one hundred foot regulated buffers. On  
9 this grand scale you can't see it as well but  
10 when we did our land supply analysis in the DEIS  
11 we found a large portion of the area is

12 constrained by either state land which prohibits  
13 development or steep slopes or the hydrography.

14 We go to the next slide, this is a  
15 zoom in of Margaretville. Here is the primary  
16 development area. We have overlaid the darker  
17 blue which is the flood plane and there is a  
18 plaque over there by the wall that commemorates  
19 the 1996 flood that shows some very devastating  
20 pictures what can happen in a hamlet like this  
21 overcome by water. Also stream buffer areas.  
22 If you walk back along some of the businesses  
23 you will see the Delaware river runs right  
24 through it. This is route 28 out here. As you  
25 can see on one side of the road you have the

1 (GROWTH/CHARACTER ISSUE) 3017  
2 flood plane and/or stream corridor so that side  
3 of the roadway is really effectively removed  
4 from development. You also have state lands  
5 coming down and the topography as you move away  
6 from the hamlets you quickly get steep  
7 topography.

8 If you go to the next slide, this is

9 a condition in Arkville very much the same.  
10 Route 28 running along the center here, you have  
11 the primary area of the hamlet, on one side of  
12 the road you have a large amount of flood plane,  
13 wetlands, stream corridor and on the other side  
14 very steep slope. So the opportunities for  
15 development outside of the hamlets are very  
16 limited.

17 MR. RUZOW: Graham, even growth  
18 within the hamlets are other than redevelopment  
19 within the hamlets there is lots of opportunity  
20 for that, but are also constrained by those same  
21 physical boundaries.

22 MR. TRELSTAD: Yes, they are  
23 constrained by the same physical boundaries.  
24 There is a distance for business to locate  
25 within the flood plane because of potential loss

1 (GROWTH/CHARACTER ISSUE) 3018

2 of inventories, potential costs for flood  
3 insurance.

4 One of the things the RKG analysis



5 pointed out in the comments raised by DEP was  
6 the amount of developable land available and  
7 looking at their analysis I was struck by the  
8 fact it didn't take into account the constraints  
9 by the hydrology, the locations of wetlands and  
10 streams right by the road precludes access. As  
11 I showed in the slides from Arkville and  
12 Margaretville having the stream and the wetlands  
13 next to the roadway effectively eliminates any  
14 upland across from that that could be developed  
15 because you can't get to it. Building a stream  
16 crossing or building a wetland crossing is  
17 highly difficult regulatory and highly difficult  
18 engineering feat and really a true constraint to  
19 development.

20 As indicated before, the projections  
21 for new commercial activity in both the DEIS and  
22 the RKG were quite similar 76,000 versus  
23 approximately 80,000 square feet. If that were  
24 applied as all new commercial development, and  
25 it would not necessarily result in all new

2 development, it would result in between five to  
3 10 acres or 12 to 15 acres depending. That  
4 acreage is really something that could be  
5 handled quite readily within the study area  
6 given the right set of conditions.

7 With respect to the residential  
8 activity, again I think John touched on this a  
9 little bit in his presentation, assuming that  
10 the 323 new residential units over 20 years that  
11 are projected in the RKG analysis were built  
12 just here in Middletown or Shandaken at five  
13 units -- five acres per unit, if that really is  
14 a trend it's quite comparable to what we have  
15 been seeing in the last 10 years. This chart  
16 down below shows actual growth between 1990 and  
17 2000 the number of dwelling units, which when  
18 you calculate using the same five acres per  
19 dwelling 52 units in Middletown consumed  
20 approximately 260 acres. Same in Shandaken, 96  
21 units consumed 480 acres. When you compare that  
22 to the Watershed GEIS done in 1991 that looked  
23 at development potential under the then proposed  
24 Watershed regulations, they are proposing or

25 projecting that in Middletown almost 8,500 acres

1 (GROWTH/CHARACTER ISSUE) 3020  
2 would be developed and in Shandaken nearly 1,200  
3 acres development. When you back calculated  
4 acres back to units they projected 1,700 units  
5 would occur in Middletown by the year  
6 2020 --sorry by the year 2010 and 240 units in  
7 Shandaken. I think what we have seen is that  
8 the development over the last 10 years if  
9 projected over a 20-year period is essentially  
10 what RKG is saying would occur, the 323 units if  
11 they were all new housing starts, not  
12 reoccupying existing seasonal or rental housing.  
13 So the bottom line here is if the community  
14 character hasn't changed dramatically in the  
15 last 10 years following the same rate of  
16 development, it's not like to have a dramatic  
17 effect either.

18 MR. RUZOW: Just to be clear, we  
19 don't agree with the conclusion of this analysis  
20 in terms that this will occur, but we are simply

21 taking their analysis and expanding the logic  
22 and comparing it.

23 MR. TRELSTAD: Even if it were so,  
24 here is what it would be. They suggested 1,625  
25 acres of disturbance would occur which would be

1 (GROWTH/CHARACTER ISSUE) 3021  
2 four percent of the 42,000 acres they say are  
3 developable. Again I have problems with that I  
4 don't think five acres per unit is disturbed,  
5 it's a lower figure, so even a smaller  
6 percentage, but it's consistent with the growth  
7 we have seen in the last 10 years. We heard  
8 from Mr. Wedemeyer we haven't seen any  
9 significant residential development in the last  
10 10 years. 52 units over 10 years is a very  
11 small number, same with 96 units.

12 I know others have discussed visual  
13 impacts, I just want to throw this in. I do a  
14 number of visual impact assessments for various  
15 purposes and the New York State DEC program  
16 policy entitled Assessing and Mitigating Visual  
17 Impact is very instructive in this regard. It

18 has two definitions on aesthetic impact and  
19 visual impact which I think are informative.  
20 With respect to aesthetic impact it says  
21 aesthetic impact occurs when there is a  
22 detrimental effect on the perceived beauty of a  
23 place or structure. Mere visibility, even  
24 startling visibility of a project proposal  
25 should not be a threshold for decision-making.

1 (GROWTH/CHARACTER ISSUE) 3022  
2 Instead a project by virtue of its visibility  
3 must clearly interfere with or reduce the  
4 public's enjoyment and/or appreciation of the  
5 appearance of an inventoried resource. And in  
6 this program policy an inventoried resource is  
7 lands made available for public use such as a  
8 forest preserve, historic landmark, scenic  
9 resource but not necessarily private property  
10 rights of way. It also states proposed large  
11 facilities by themselves should not be a trigger  
12 for declaration of significance. So big is not  
13 necessarily bad.

14                                   Finally with respect to visual  
15                                   impact, visual impact occurs when the mitigating  
16                                   effects of perspective do not reduce visibility  
17                                   of an object to insignificant levels. Beauty  
18                                   plays no role in this concept.

19                                   With respect to open space, there  
20                                   was some contention the amount of open space  
  
21                                   that would be lost as a result of the proposed  
22                                   project would be devastating. The proposed  
23                                   resort would preserve nearly 1,400 acres of the  
24                                   total site area by clustering the development  
25                                   into 500 acres. It's consistent with plans for

1                                   (GROWTH/CHARACTER ISSUE)                                   3023  
2                                   development of private lands adjacent to the  
3                                   forest preserve as we saw in that statement in  
4                                   the Catskill State Park Land Plan and again it's  
5                                   located at the western gateway to the Catskill  
6                                   Park and adjacent to a DEC intensive use area.  
7                                   If you want to preserve open space you want to  
8                                   improve the integrity of the whole, avoid  
9                                   fragmentation of it by locating it around an

10 intensive use area. So by building around the  
11 intensive use area you are avoiding development  
12 that could occur elsewhere that would reduce  
13 the -- or that would increase the fragmentation  
14 of the forest, that would reduce significant  
15 open space areas. So I think by locating it in  
16 this area it's doing the minimal amount of  
17 damage to the open space, if any damage at all.

18 With respect to the built  
19 environment, we have talked a lot about the  
20 hamlets and I think I will go quickly through  
21 this. Obviously after route 28 was created the  
22 hamlets have grown out toward 28 so now you see  
23 developments like that in Arkville or here  
24 outside Margaretville that has occurred on route  
25 28. So the fear the new strip developments

1 (GROWTH/CHARACTER ISSUE) 3024  
2 resulting from the project would come along 28 I  
3 think is overstating the problem. That strip  
4 development is already there and can be handled  
5 through design guidelines and that is something

6 which I will get to, local planning boards,  
7 legislative bodies in the towns have the ability  
8 to control.

9 In addition, currently as shown in  
10 the next slide -- sorry one slide further. The  
11 zoning all along route 28 corridor is largely  
12 residential, doesn't permit commercial use  
13 except areas like that here outside  
14 Margaretville. Go back one.

15 MR. RUZOW: Go back one. Your  
16 Honor, with respect to the New York City hamlet  
17 extension areas, Graham, were you going to touch  
18 on that?

19 MR. TRELSTAD: Okay. The hamlet  
20 extension areas were developed as part of the  
21 MOA to recognize that the livelihood of these  
22 communities that were being affected by the  
23 regulations did include some developments in  
24 hamlets and in hamlet areas along major  
25 roadways. So the MOA included provision

1 (GROWTH/CHARACTER ISSUE) 3025  
2 according to the towns to designate certain



3 hamlet extension areas within which certain  
4 waivers of the provisions of the regulations  
5 especially with respect to setback distances  
6 between impervious surface areas to streams or  
7 wetlands would be allowed subject to preparation  
8 of storm water pollution prevention plan. So  
9 the towns as we understand, we haven't been able  
10 to obtain the final mapping of these areas, but  
11 we understand they do include portions of 28  
12 especially outside Margaretville.

13 MR. RUZOW: Your Honor, we are  
14 trying to get from the towns copies of the maps  
15 for each of the towns for the extension areas.  
16 They are particularly important. I believe you  
17 might know, Mike, but in the land acquisition  
18 permit they also put off limits for city land  
19 acquisition under the DEC land acquisition  
20 permit lands areas within the hamlet extension  
21 areas. I believe it did two things: For the  
22 land acquisition permit it was an area that  
23 preserved the opportunity for growth outside the  
24 hamlets but within a limited area and then under  
25 the regulations provided in effect waiver of

1  
2 some of the more restrictive impervious surface  
3 requirements in the regs. Again, in narrow  
4 designated areas each community was able to  
5 designate, it was a long deliberative process  
6 between the cities and the towns what areas  
7 could be included, but it was in fact a real  
8 policy judgment made by the legislative bodies  
9 of each town to designate those areas for future  
10 growth opportunities but agreed to by the city  
11 and the state and all parties.

12 MR. TRELSTAD: I think it also  
13 reflects the nature of development opportunities  
14 in the hamlet. As I showed on the previous  
15 slide, many areas even within the hamlets are  
16 constrained from development because of flood  
17 plane considerations or wetland boundaries, et  
18 cetera.

19 Finally on this slide the last  
20 statement route 28 between the hamlets remains  
21 largely undeveloped. So the creep of hamlets

22 along the route 28 corridor is not going to  
23 happen too readily because of public ownership  
24 of lands, the topography, streams and zoning  
25 regulations.

1 (GROWTH/CHARACTER ISSUE) 3027

2 With respect to the political  
3 environment which is mainly implemented through  
4 zoning at this level, which is the town's  
5 determination to make, both the Town of  
6 Middletown and the Town of Shandaken currently  
7 permit a resort or vacation resort or golf  
8 course in the case of Town of Shandaken as a  
9 special permit use. A special permit use is one  
10 which is granted as long as it meets certain  
11 criteria. The criteria within Middletown and  
12 Shandaken are general in terms of in harmony  
13 with community character and land uses. To our  
14 knowledge there are no specific criteria with  
15 respect to a resort or vacation resort that  
16 would that come into play in these cases. As I  
17 mentioned before the majority of route 28 is  
18 zoned for residential which would protect most

19 of the rest of the land which is the image I  
20 showed on the next slide.

21 Finally, the economic environment.  
22 We have heard a lot about this. John and Peter  
23 went through a number of analyses to show  
24 potential effects. I also read some statements  
25 from the master plans that seem to support this

1 (GROWTH/CHARACTER ISSUE) 3028  
2 notion that large resorts can be beneficial to  
3 hamlets because it provides a sustained source  
4 of revenue and visitation. Obviously  
5 revitalization efforts are ongoing. I too  
6 applaud the Catskill Center for Conservation for  
7 their efforts and other private efforts to  
8 upgrade the hamlets. As I have been coming to  
9 this area the last 20 years I have seen  
10 improvements and it is encouraging to see that.  
11 There are still opportunities. As we seen here  
12 even in Margaretville a tour on July 4th I took  
13 here in Margaretville I found two or three empty  
14 shops with signs up For Lease. There is also

15 high store turnover in certain key locations.  
16 Certain businesses can't make it. If they had  
17 more visitation they might find it easier.

18 As Peter indicated before, seed  
19 money right now is primarily public and private  
20 investment is lagging behind that. Hopefully  
21 with more visitation you will see more private  
22 money providing more sustained input of money  
23 into the hamlet areas to sustain them.

24 Again, market demand has not  
25 developed sufficient push toward transition to

1 (GROWTH/CHARACTER ISSUE) 3029

2 mark capital investment. Same statement there,  
3 if you get the money in from private sources you  
4 will see a more sustained cycle in the economic  
5 environment. We heard from Mr. Wedemeyer we  
6 don't have the people to support the businesses.  
7 That's essentially the same statement.

8 Finally I would like to conclude  
9 with two slides to summarize the community  
10 character impact. We feel from a historical and  
11 cultural perspective the proposed resort is

12 consistent with the history and culture of the  
13 Central Catskills dating from the 1880s and more  
14 recently the 1950s.

15 With respect to the natural  
16 environment there aren't any significant impacts  
17 to sensitive receptors from a visual  
18 perspective. I know that's been handled by  
19 others but when you look at the way the resort  
20 is sited into the land it's not going to be a  
21 dominant presence on the horizon.

22 With respect to open space clear  
23 cutting the use of that terms overstates the  
24 impact of the project and 75 percent of the land  
25 is going to be preserved in some form as

1 (GROWTH/CHARACTER ISSUE) 3030

2 forested area.

3 With respect to the built  
4 environment, hamlets lack sustained private  
5 investment and would benefit from resort  
6 activity. The proposed resort is compatible  
7 with local and regional land uses and plans.

8 Others have stated this but there  
9 was a characterization that noise and traffic  
10 also play a part of community character impacts  
11 with respect to built environments and simply  
12 under noise it's a temporary minor impact during  
13 construction period only. With respect to  
14 traffic I think that's been heavily documented  
15 through studies that show there will be no  
16 significant adverse effects along the route 28  
17 corridor.

18 Finally wrapping this all up, I have  
19 these final conclusions. Master plans and  
20 zoning clearly indicate support for resort  
21 development and enhancement of the Belleayre Ski  
22 Center through privately developed year-round  
23 recreational opportunities. We heard that from  
24 several different agencies that the importance  
25 of Belleayre and the economic benefits to the

1 (GROWTH/CHARACTER ISSUE) 3031  
2 hamlets is recognized at both local and regional  
3 levels by a multitude of different publications  
4 whether it's towns or intermunicipal agreements





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THE COURT: No.

MR. RUZOW: Thank you, Graham.

Your Honor, we have one additional exhibit that I would like to bring around. It would be Applicant's Exhibit 86, it's entitled Resort Directory.

(Whereupon, Applicant's Exhibit 86 was marked and received.)

MR. RUZOW: Ready, your Honor?

THE COURT: Yes.

MR. RUZOW: Your Honor, I am pleased to have with us today Eric Griesser.

Mr. Griesser, would you give us a little information about your background.

MR. GRIESSER: I grew up locally, spent my whole life here. I am in the hotel business, country inn. Trying to take, get the third generation of our family to take it over.

MR. RUZOW: What's the name of the inn?

MR. GRIESSER: The Alpine Inn located in Oliveria.

24 MR. RUZOW: When did your family  
25 come to this area?

1 (GROWTH/CHARACTER ISSUE) 3033

2 MR. GRIESSER: They purchased the  
3 property in 1936.

4 MR. RUZOW: You have been in the  
5 hotel business in effect your whole life?

6 MR. GRIESSER: My whole life all my  
7 jobs have been in this business. My education  
8 is in this business.

9 MR. RUZOW: Where did you go to  
10 school?

11 MR. GRIESSER: Cornell School of  
12 Hotel and Restaurant Administration.

13 MR. RUZOW: How big is the Alpine  
14 Inn?

15 MR. GRIESSER: Twenty-five rooms.

16 MR. RUZOW: Do you have a  
17 restaurant?

18 MR. GRIESSER: Yes.

19 MR. RUZOW: Does that serve you and  
20 your guests?

21 MR. GRIESSER: Mainly our guests.

22 MR. RUZOW: Are you open part-time?

23 All year?

24 MR. GRIESSER: All year except for  
25 the month of April.

1 (GROWTH/CHARACTER ISSUE) 3034

2 MR. RUZOW: How many employees do  
3 you have?

4 MR. GRIESSER: Approximately eight  
5 not counting immediate family.

6 MR. RUZOW: You had brought with you  
7 a copy of a Resort Directory which we have  
8 labeled Applicant's 86. Can you tell us  
9 something about this, what it is from, what it  
10 is?

11 MR. GRIESSER: This was something  
12 that was handed down to me from my parents. It  
13 was amongst a bunch of stuff that I went  
14 through. I have had it in my possession I guess  
15 close to 40 years.

16 MR. RUZOW: Your best guess is what

17 age, this was about what age?

18 MR. GRIESSER: If I had to take a  
19 guess it was printed somewhere I would say in  
20 1946, give or take a couple years.

21 MR. RUZOW: And it catalogs all of  
22 the resorts and hotels in the area?

23 MR. GRIESSER: In the Town of  
24 Shandaken. This is strictly Town of Shandaken.

25 MR. RUZOW: Do you have a

1 (GROWTH/CHARACTER ISSUE) 3035

2 calculation of the number of guess  
3 accommodations?

4 MR. GRIESSER: I believe we are  
5 talking close to 2,900; 2,869 beds.

6 MR. RUZOW: In just Shandaken?

7 MR. GRIESSER: In Shandaken.

8 MR. RUZOW: You are active -- I  
9 don't want to underplay your role in the Town of  
10 Shandaken activities over the years. You were  
11 the assessor for Shandaken?

12 MR. GRIESSER: Yes.

13 MR. RUZOW: And for how long?

14 MR. GRIESSER: I first became an  
15 assessor in March of 1971 and I was an assessor  
16 until January 1st, 1974.

17 MR. RUZOW: 1974. Weren't you an  
18 assessor or on the board of assessment for a  
19 longer period, 2003, was it?

20 MR. GRIESSER: I was chairman for 10  
21 years but I was on the board for -- people ask  
22 me how long, I say too long, but whatever that  
23 comes out to, 33 years.

24 MR. RUZOW: You also have been  
25 active in the Lodging and Business Association?

1 (GROWTH/CHARACTER ISSUE) 3036

2 MR. GRIESSER: Yes.

3 MR. RUZOW: What is that  
4 organization?

5 MR. GRIESSER: It's an organization,  
6 its main members are lodging establishments.

7 MR. RUZOW: Located where, in  
8 Shandaken or beyond that?

9 MR. GRIESSER: Roughly encompasses

10 an area from Boiceville up to Andes. One of our  
11 members is the Holiday Inn in Kingston, but they  
12 have joined for other reasons. Boiceville to  
13 Andes. So two counties and actually more than  
14 two towns, but basically two towns, Shandaken  
15 and Middletown.

16 MR. RUZOW: And it represents  
17 organizations similar in size to yours?

18 MR. GRIESSER: Yes. It has members  
19 that have four-bedroom bed and breakfasts, as I  
20 said, all the way up to the Holiday Inn, but the  
21 average is going to be somewhere between 10 and  
22 30 guest rooms.

23 MR. RUZOW: Did that organization  
24 take a position regarding the Belleayre Resort?

25 MR. GRIESSER: At one point it did,

1 (GROWTH/CHARACTER ISSUE) 3037

2 yes.

3 MR. RUZOW: That was in the time of  
4 the scoping comments in 2000?

5 MR. GRIESSER: Yes.

6 MR. RUZOW: Can you share with us do

7 you recall what position they took?

8 MR. GRIESSER: We took a position of  
9 support of the Crossroads project, without  
10 getting into any details.

11 MR. RUZOW: You also served some  
12 other roles in Shandaken as I discovered as I  
13 was reading various policy documents that have  
14 come up in the DEIS.

15 Your Honor, we have been talking  
16 about Applicant's Exhibit 83, the Resource  
17 Protection and Economic Development Strategy for  
18 the Route 28 Corridor that was produced by the  
19 Route 28 Corridor Committee. Did you serve on  
20 that committee?

21 MR. GRIESSER: Yes.

22 MR. RUZOW: We have also referred to  
23 Applicant's 8 which is the Tourist Development  
24 Concept Plan for the Central Catskill Planning  
25 Alliance. What role did you play for the

1 (GROWTH/CHARACTER ISSUE) 3038

2 Planning Alliance?

3 MR. GRIESSER: The Planning Alliance  
4 I was President.

5 MR. RUZOW: So you have been  
6 involved in Shandaken plans for the route 28  
7 corridor. I would say you are an activist  
8 insofar as looking to work with your sister  
9 community in Middletown in a co-operative way to  
10 try to expand opportunities to the corridor?

11 MR. GRIESSER: Yes.

12 MR. RUZOW: And we have heard in the  
13 course of this afternoon's discussions, you may  
14 have caught some of it from Graham Trelstad, one  
15 of our consultants at Allee, King, Rosen and  
16 Fleming, quoting various sections of the tourism  
17 development plan in terms of identifying  
18 destination resorts and what I will characterize  
19 as a number of tourism development initiatives  
20 and opportunities including revitalization of  
21 the hamlets, but it did include very clearly the  
22 attractiveness of a destination resort. Is that  
23 something that was discussed at your planning  
24 committee level over the course of the years?

25 MR. GRIESSER: Yes.



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MR. RUZOW: And why is it that a destination resort was viewed as a potential positive for the region?

MR. GRIESSER: Where do you begin? The first thing is guests asks when he gets out of the car is, what is there to do in this area? The question has been asked for years. Sometimes you actually have to stop and think, what can he do? A destination resort will be self contained. In other words, there will be activities there to keep the tourist occupied. You need to fill out his day. It will also bring other activity, make other activity available to guests not staying at that resort.

MR. RUZOW: So the restaurants. In the case of the Belleayre Resort, there will be golf, in the case of the Wildacres Resort a wilderness activities center. Those are the types of amenities that would be attractive to visitors to the area?

MR. GRIESSER: Yes.

23 MR. RUZOW: Let me ask you a  
24 question. To me it was counter intuitive that  
25 small business owners along route 28 would be

1 (GROWTH/CHARACTER ISSUE) 3040

2 supportive of the Belleayre Resort as sort of  
3 competition taking away opportunities, but you  
4 do not see it that way?

5 MR. GRIESSER: I definitely do not  
6 see it that way.

7 MR. RUZOW: Why is that?

8 MR. GRIESSER: I feel it will bring  
9 more tourists into the area, not just to that  
10 resort. Not everyone will always stay at that  
11 resort. It's going to rain, they are not going  
12 to be able to play golf, they are going to get  
13 in their car and see the rest of the town. But  
14 they may take a hike on Slide Mountain, as they  
15 drive through the valley they will see a sign  
16 for the Alpine Inn, let's go take a look at it,  
17 that's a lovely place we could stay next time.  
18 We are looking for a place to have our family

19 reunion. Do we want to stay at a larger resort?  
20 Wouldn't it be nice to stay at a smaller one.  
21 It works both ways. Someone comes to my place,  
22 they are going to turn around and say, hey, our  
23 company is always looking for a place to go play  
24 golf, we could go to that resort, let's mention  
25 it. Works both ways.

1 (GROWTH/CHARACTER ISSUE) 3041

2 MR. RUZOW: The goal of a conference  
3 center at the resort for mid week activities is  
4 something you see beneficial as well?

5 MR. GRIESSER: Extremely important.  
6 The area is dead in mid week. There is nothing  
7 going on. There are no tourists here. The  
8 occupancy rate mid week is dismal.

9 MR. RUZOW: What's your average  
10 occupancy rate during the course of a year?

11 MR. GRIESSER: Our organization has  
12 started compiling figures, there are about 18 of  
13 us who are sending them in every month. We  
14 started last October or November so we don't  
15 have a long historical record, but when you take

16 a look at it I think the year-to-date averages  
17 and that includes January, February, big months  
18 for skiing and so forth, of course it also  
19 includes March and April and so forth, I am  
20 sorry, I should have checked, but I do believe  
21 we are talking about something approximately 25  
22 percent for the first five months of the year.  
23 It will go up during the summer, it will drop  
24 again with months like November and December.  
25 If these were not family owned businesses, they

1 (GROWTH/CHARACTER ISSUE) 3042

2 would go broke. You can't make a go with those  
3 type of figures. February, which could well be  
4 the best, turn out to be the best month of the  
5 year, I believe we did not break 40.

6 MR. RUZOW: Forty percent occupancy?

7 MR. GRIESSER: Right.

8 MR. RUZOW: So bringing more people  
9 here in your judgment begins to expose you, give  
10 you additional opportunities with a new source  
11 of people coming?

12 MR. GRIESSER: Correct.

13 MR. RUZOW: You had mentioned to me  
14 that competition also sort of makes you reflect  
15 how you might improve your own services you  
16 offer to people?

17 MR. GRIESSER: Yes. I think it  
18 spurs everyone. It sets a new benchmark and  
19 regardless of what you have to offer in your  
20 business, be it a low cost motel, you are going  
21 to try to raise it a notch. If you are  
22 someplace upper middle, you are going to try to  
23 get it up a little bit higher. You will be  
24 forced to do that. The more people that improve  
25 their facilities, the guy next door with his

1 (GROWTH/CHARACTER ISSUE) 3043

2 business has to do the same thing, he has to  
3 keep up with the competition. This could be  
4 anything from a coat of paint to a total  
5 remodeling job.

6 MR. RUZOW: And it's your experience  
7 that the appearance of a business and places

8 along the corridor makes a difference in how  
9 your guests react and feel in wanting to come  
10 back?

11 MR. GRIESSER: Of course. We have  
12 heard all kinds of stories over the years. As a  
13 matter of fact, just mentioned this afternoon at  
14 home, our particular valley, I don't know if you  
15 are familiar with it or who is, but when you  
16 enter it the first quarter of a mile you really  
17 have to pull yourself together. I have had  
18 customers tell me if you hadn't given us  
19 specific directions as to where to go, we never  
20 would have made it here.

21 MR. RUZOW: We didn't drive down the  
22 Oliverea road heading 47 south.

23 THE COURT: Came out 47 from Lost  
24 Clove Road.

25 MR. GRIESSER: Lost Clove goes off

1 (GROWTH/CHARACTER ISSUE) 3044  
2 of that road.

3 MR. RUZOW: So --

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MR. GRIESSER: 47 goes all the way

past Winnasook Lake, Slide Mountain over to  
Liberty.

MR. RUZOW: As assessor you were  
assessor for three decades, you must have seen a  
fair amount of change in the course of the 30  
years in the area.

MR. GRIESSER: Yes. When I first  
became an assessor, a lot of these boarding  
houses, hotels, whatever you want to categorize  
them as, the structures were still around. Many  
of them were not open anymore.

MR. RUZOW: That decline occurred  
when?

MR. GRIESSER: That decline occurred  
probably late '50s, '60s. The clientele that  
all these places depended upon, if you read some  
of them it says excellent Hungarian cooking. In  
other words, each place had its niche. If the  
owner was German, the clientele was German, they  
spoke a common language. Very typical of the  
Catskills, whether small resorts or big resorts,

1  
2 and the clientele they were all immigrants.  
3 They died. They became too old to go away on  
4 vacation, whatever. The owners became old, the  
5 businesses became old, and as assessor I  
6 remember seeing the places, removing the places  
7 from the roll as they fell down, burned down,  
8 were torn down, whatever. There is very few  
9 left.

10 MR. RUZOW: So the commercial base,  
11 we have heard from representatives of  
12 environmental groups, CPC Coalition, that the  
13 economy is doing better, second home sales are  
14 increasing, the dollar for second home sales  
15 have increased. Is that making up for some of  
16 the losses in the commercial side?

17 MR. GRIESSER: I guess second homes,  
18 second home ownership has become an industry.

19 MR. RUZOW: But does that provide,  
20 based on your experience, the same level of  
21 community involvement that when operating  
22 businesses were there, commercial businesses



23 were there?

24 MR. GRIESSER: No because there are  
25 times when these people don't even come up. If

1 (GROWTH/CHARACTER ISSUE) 3046  
2 they don't ski, they are not going to be up all  
3 winter or just holiday weekends. If it rains,  
4 they don't come up, et cetera, et cetera. They  
5 don't have the same type of roots in the  
6 community as someone who owns a business, has to  
7 run a business, so on, if you are comparing  
8 those two things.

9 MR. RUZOW: We heard from Lowell  
10 Smith in terms of the nature of the community  
11 when lots of hotels were active in Pine Hill.  
12 Were there many suppliers, businesses that  
13 supplied services to the hotels in this area?

14 MR. GRIESSER: Yes, everything you  
15 needed was supplied basically locally. Your  
16 large suppliers didn't exist. Maybe a large  
17 let's say meat company, Swift company or  
18 something like that, but the grocery houses  
19 didn't come around the way they do now, et

20 cetera. You were able to get everything be it  
21 laundry, meats, delicatessen, you name it.  
22 There was a period in the '70s where there was a  
23 real problem getting some of the supplies that  
24 we needed to run our business because --

25 MR. RUZOW: Wasn't enough mass to

1 (GROWTH/CHARACTER ISSUE) 3047

2 bring people to make it worthwhile?

3 MR. GRIESSER: It wasn't worthwhile  
4 to send a truck into this area to deliver  
5 whatever that product was.

6 MR. RUZOW: Let me turn for a second  
7 to the Tourism Development Plan, the Catskill  
8 Planning Alliance activities. They talk about  
9 again a mix of lodging units and a mix of  
10 tourism attractions. In your judgment is that  
11 still the right way to go? Is that a worthwhile  
12 plan? The plans you were part of in 1994, 1998  
13 still valid in the sense of supplying a mix of  
14 lodging and tourism?

15 MR. GRIESSER: I think so.

16 MR. RUZOW: How do you see the  
17 Belleayre Resort impacting hamlet areas?  
18 Talking about your business and how your  
19 business might benefit from a spill-over  
20 bringing new people in, but how do you see it  
21 affecting the hamlets which are in these reports  
22 recognized as the cultural centers along the  
23 route 28 corridors?

24 MR. GRIESSER: I personally believe  
25 that the guests staying at something like

1 (GROWTH/CHARACTER ISSUE) 3048  
2 Belleayre Resort are not going to spend 24 hours  
3 there. They are going to go into the local  
4 communities, they are going to drive to  
5 Woodstock because they have all heard of it and  
6 in the process they are going to go through  
7 Phoenicia and, you know, or I am just using that  
8 as an example, and they are going to stop and  
9 they are going to look and they are going to do  
10 something, whatever that is. There are going to  
11 be those that look for a hike. There are going  
12 to be those who say I wouldn't be caught dead in

13 the woods because a bear is going to eat me.

14 THE COURT: Is that right? Going to  
15 cancel it. Lawyers are bad enough.

16 MR. RUZOW: From an assessment point  
17 of view now that you are no longer in an  
18 official role, how do you see the payroll and  
19 the taxes flowing from the Belleayre Resort in  
20 terms of the local economy?

21 MR. GRIESSER: It would be a  
22 tremendous uplift to the economy in the area.  
23 There will be a waitress who had a great  
24 weekend, did very well in tips and she is going  
25 to run to Kingston and buy that washer and dryer

1 (GROWTH/CHARACTER ISSUE) 3049

2 she has been wondering why she didn't get, so  
3 on, so forth, whatever. The money is going to  
4 circulate.

5 As far as assessments are concerned,  
6 yes, everybody says, well, what it's going to  
7 cost us to support the resort and everything  
8 that comes with it is going to cost more than

9                   what they give us in tax dollars. I don't see  
10                   it that way. I'm always reminded of one  
11                   example. When the New York City sewer plant was  
12                   completed in Pine Hill, took about two years to  
13                   build, the Town of Shandaken assessment rolls,  
14                   don't quote me on this, but went up  
15                   approximately 18 million, that's assessed value.  
16                   The total assessed value of the town was  
17                   somewhere between 125 and 130 million.

18                                 MR. RUZOW: Mostly state forest  
19                   land?

20                                 MR. GRIESSER: Lots of state forest  
21                   land, but that includes houses, everything. So  
22                   we got a boost of 18 million on top of the 128  
23                   million we already had. It was a tremendous  
24                   shot in the arm. Did it lower our taxes? No,  
25                   it didn't lower our taxes because those who were

1                                 (GROWTH/CHARACTER ISSUE)                   3050  
2                   in office decided now is the time to buy this,  
3                   and do this, and give a raise here, give more  
4                   money there, and so forth, and they saw to it

5 the taxes only went up slightly so they were  
6 able to tell everyone we were able to keep the  
7 taxes down only that much, almost imperceptible.  
8 Bad news. But it doesn't matter who is in  
9 office, the tendency is to spend it because now  
10 we have got it. Conversely, the entire sewer  
11 plant fell into the Big Indian Oliverea fire  
12 district, unbelievable windfall for them and  
13 when the fire commissioners made their budget  
14 for the next year there were those who said,  
15 well, now we can get that new engine, this, that  
16 and the other thing. Well, there happened to be  
17 some business people on the board of fire  
18 commissioners said, yeah, like hell. We are  
19 going to save a few dollars and pass this on to  
20 the taxpayers. We don't have to spend it.  
21 Where does it say we have to spend it? That's  
22 what this all boils down to. It can be a  
23 tremendous windfall, we can all decide now is  
24 the time to put gold leaf on the roof. It's all  
25 a question of what you do with it, that's all.

2 THE COURT: Some things are the same  
3 all over.

4 MR. RUZOW: Anything else that you  
5 want to say or offer your perspective on things?  
6 Open-ended question. It's up to you.

7 MR. GRIESSER: Nothing that quickly  
8 comes to mind.

9 MR. RUZOW: This has been very  
10 helpful. It gives us another advantage point.  
11 Your Honor.

12 THE COURT: Mr. Griesser, yes, you  
13 have been very, very helpful. The Resort  
14 Directory, Applicant's 86, what year is that?

15 MR. GRIESSER: I can't tell you for  
16 sure, but based on some of the owners there I am  
17 saying it's got to be back into the '40s. It's  
18 not the '50s, which is very wishy-washy, I'm  
19 sorry. I suppose I could talk to some local  
20 people like Lowell Smith, we grew up together,  
21 were classmates in high school, and maybe based  
22 on some of the names in the Pine Hill area he  
23 could pin it down a lot more.

24 MR. RUZOW: This lists the Alpine

25

House?

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(GROWTH/CHARACTER ISSUE)

3052

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MR. GRIESSER: Yes.

3

MR. RUZOW: I take it the rate is

4

not 28 bucks a night anymore?

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MR. GRIESSER: No, it's not \$28

6

anymore. That would be one way to pin it down

7

too.

8

MR. RUZOW: Mr. Griesser, do you

9

have a restaurant with the Alpine Inn?

10

MR. GRIESSER: Yes, basically we

11

serve meals to customers staying there but we do

12

accept reservations from the outside.

13

THE COURT: What percentage of your

14

business would you say at the restaurant comes

15

from folks staying there?

16

MR. GRIESSER: From outside of our

17

guests?

18

THE COURT: Do both, doesn't matter.

19

MR. GRIESSER: Ninety percent or

20

better is from in-house guests. In other words,



21 we don't actively advertise ourselves as a  
22 restaurant. There are people, second homeowners  
23 in the area that know about us and call up and  
24 make reservations, so forth, but our main  
25 business of course is lodging and then offering

1 (GROWTH/CHARACTER ISSUE) 3053

2 meals to those customers saying at our facility.

3 THE COURT: The folks who patronize  
4 the inn lodging, typically who are the clients,  
5 the folks who say there, skiers?

6 MR. RUZOW: People staying at the  
7 Alpine House, where are they coming from? What  
8 is the nature of your customers?

9 MR. GRIESSER: They are coming from  
10 the greater metropolitan area. In the winter  
11 they are there to ski, families, mostly  
12 families. During the summer it varies greatly.  
13 Next weekend, for example, we have a family  
14 reunion that booked last November already.  
15 People coming from far and wide but I would say  
16 a lot of them from the New Jersey area, but they  
17 are also coming in from Texas, Ohio and wherever

18 else.

19 THE COURT: So you have a clientele  
20 of folks who come back every year, that kind of  
21 thing?

22 MR. GRIESSER: The following weekend  
23 we are filled with people going to Camp  
24 Timberlake, it's parents weekend. A lot of the  
25 rest of the summer weekends the bookings are

1 (GROWTH/CHARACTER ISSUE) 3054

2 from people going to weddings in the area.  
3 There is a facility a mile and a half from where  
4 we are located that does weddings every weekend,  
5 they specialize in that and they don't have  
6 enough accommodations.

7 MR. RUZOW: Is there a lot of in  
8 effect shared lodging, exchange agreements  
9 between lodging areas?

10 MR. GRIESSER: Yes, it's something  
11 that we are diligently working on. Our  
12 organization is in the process of purchasing the  
13 necessary software that each member will have a

14 software program that he will put in his  
15 computer where his vacancies will be available  
16 at a central location. For example, Belleayre  
17 at the winter because we have an employee who  
18 works there so he can answer phone calls and  
19 questions and I can go on it and find out what  
20 my next-door neighbor has open so if I have a  
21 customer in front of me or on the phone I can  
22 recommend him, so on, so forth. We are I guess  
23 I would use the word finally getting to the  
24 point where we can get these people to work  
25 together. It's not the easiest thing. I guess

1 (GROWTH/CHARACTER ISSUE) 3055

2 in your business it wouldn't be any easier to  
3 work together. But I think we are succeeding.

4 THE COURT: Mr. Griesser, let me ask  
5 you this. The rates that you charge and the  
6 rates that you believe the Belleayre project  
7 will charge, is it your understanding that their  
8 minimum rate is going to be higher than your  
9 minimum rate?

10 MR. GRIESSER: Yes, their minimum is

11 going to be higher than my maximum, I presume.  
12 I don't know. If we are talking two resorts, I  
13 assume we are talking two different levels of  
14 price structure. I don't know what.

15 THE COURT: Are you confident at  
16 this point no matter what they charge that you  
17 will be able to compete with them?

18 MR. GRIESSER: Yes, I feel there  
19 will be customers of their's that I will pick  
20 up. Because when they go there as a member of a  
21 conference and convention somebody else is  
22 paying. When they go there on their own they  
23 are not going to pay that type of price.

24 THE COURT: They are going to say  
25 where is the Alpine Inn.

1 (GROWTH/CHARACTER ISSUE) 3056

2 MR. GRIESSER: They may not want  
3 something as large or complex or busy.

4 THE COURT: That raises a good point  
5 for me. Let me give you a scenario. Resort  
6 gets built, economic conditions change. In

7 order to stay economically afloat the resort has  
8 to lower its room rate. Suddenly it's at a room  
9 rate that you charge. They have restaurants.  
10 Suddenly they are charging for a cover at their  
11 restaurants what you charge. What is it that  
12 you believe that you offer at the Alpine Inn,  
13 your niche, what is it that you believe you  
14 offer that even if that economic scenario occurs  
15 you can still compete with them? Do you  
16 understand my question?

17 MR. GRIESSER: You say what do I  
18 feel I am offering that I can compete with that  
19 scenario.

20 THE COURT: What do you offer, no  
21 matter what the economy does, how they play with  
22 the price at the restaurants or inns or  
23 whatever, that you are confident you can stay in  
24 business? What is it you give people you  
25 believe that they can't?

1 (GROWTH/CHARACTER ISSUE) 3057

2 MR. GRIESSER: Well, I suppose the  
3 answer is everything that makes me successful

4 now. Good service, good food, cleanliness, good  
5 ambience, so forth. I'm not going to be able to  
6 offer any more than that.

7 THE COURT: A level of intimacy they  
8 can't offer at a large resort, a personal touch,  
9 is that it?

10 MR. GRIESSER: They probably will  
11 not be able to offer the personal touch but they  
12 should be able to offer food just as good as  
13 mine, cleanliness, service, ambience; some  
14 people might say better. Am I going to be  
15 scared if their prices come down by economic  
16 conditions? By no means.

17 THE COURT: Why is that?

18 MR. GRIESSER: I don't know. I  
19 suppose it's just my confidence that on how I  
20 run my business and the success I have had with  
21 what I have done through thick and through thin.  
22 There have been some rough times and we made it  
23 and actually at this point I'm not worried about  
24 anything. I feel very -- I'm not trying to make  
25 a joke. I feel very confident.

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THE COURT: So you got that family member to finally take over the business.

MR. GRIESSER: No, but there were times I was really worried. I once paid 16 percent, whatever it was, two and a half above prime thanks to Jimmy Carter or whoever was to blame, but we really, our business has had it rough. I don't worry about it now anymore. If I weathered that, I will weather everything else, you know. We have always picked up new clientele. We do very little advertising.

THE COURT: What percentage --

MR. GRIESSER: Business is good.

THE COURT: What percentage of the folks who stay at the inn come from Belleayre?

MR. GRIESSER: Come from Belleayre in the winter?

THE COURT: Yes.

MR. GRIESSER: Ninety-five percent. You mean as opposed to other ski centers, as





19 weekend. You can't get a room. But two divided  
20 by seven still gives you something in the 30s.  
21 You follow? In other words, a full two nights  
22 out of seven doesn't give us an occupancy rate  
23 that you could go to the bank with and say I  
24 want to get a mortgage, expand and do things  
25 with. They look at you and say, not with that

1 (GROWTH/CHARACTER ISSUE) 3060

2 occupancy rate you are not going to.

3 MR. RUZOW: You don't see the  
4 Belleayre Resort affecting that in any way for  
5 you during the winter season?

6 MR. GRIESSER: In the winter season  
7 no. I don't know that I have given it that much  
8 thought as to what it might do or might not do  
9 but I don't think so. Well, I wasn't sure what  
10 you were asking. I guess what we are always  
11 hoping is that eventually Belleayre will become  
12 a destination ski resort. I'm not saying  
13 Belleayre Resort project will become a  
14 destination hotel. The ski resort can become a

15 destination ski resort without having lodging if  
16 enough people believe that this is the place to  
17 be mid week to go skiing. Once we crest that  
18 point, it will start happening. How do you get  
19 it that way? In other words, if you have a week  
20 off in the middle of the winter to go skiing, or  
21 you arrange for this to happen, where are you  
22 going to go? You are not going to go to  
23 Belleayre. It's that magnetic attraction is not  
24 there. You are going to go to Canada, the  
25 Laurentians, maybe White Face, Lake Placid or

1 (GROWTH/CHARACTER ISSUE) 3061  
2 out west or to Austria. The world is very small  
3 when it comes to that. Belleayre is not on the  
4 list. But if we can develop a critical mass,  
5 more things to do, the image, the perception of  
6 a place to go, to be. You know, you have to be,  
7 you need to be there where you are supposed to  
8 be. It may not have anything to do with skiing,  
9 right, whatever, so you can later say we went  
10 to. How was the skiing? We didn't ski much but

11 we were in the right place.

12 MR. RUZOW: The image?

13 MR. GRIESSER: The image, yes, the  
14 perception of. We haven't reached that point  
15 but I do feel by having something of a higher  
16 stature than the rest of us are, in other words,  
17 a Holiday Inn doesn't have that aura, the Alpine  
18 Inn doesn't have that aura, but perhaps  
19 Belleayre Resort, whatever, will begin to start  
20 that process. You could argue why doesn't  
21 Hunter have this? Hunter is successful. Why  
22 doesn't Hunter have that whole aura? Well, name  
23 me a place that's open in Hunter, a resort small  
24 or large or whatever. The first thing you would  
25 think of, well, there is no Holiday Inn there,

1 (GROWTH/CHARACTER ISSUE) 3062

2 this or that. No, there is no chain facility  
3 there or anything. Why? The closest is along  
4 the Thruway and they do fill up because of ski  
5 weekends. They pack them right in. They  
6 probably have a higher occupancy rate weekends  
7 than mid week business. Travel takes second

8 position. But none of those companies are going  
9 to build something near the mountain because  
10 what are they going to do the rest of the year,  
11 sit empty? So you can turn and so therefore why  
12 should Belleayre resort be successful? I think  
13 a 12 month operation if it's done right I have  
14 no fears.

15 THE COURT: Who are the folks that  
16 patronize the Alpine Inn during the summer  
17 months?

18 MR. GRIESSER: They come from  
19 everywhere. It's not just -- yes, of course,  
20 New York City metropolitan area is our biggest.

21 THE COURT: I mean, you have skiers  
22 in the wintertime. What do you have in  
23 summertime?

24 MR. GRIESSER: People who want to  
25 come up and do nothing because they have enough

1 (GROWTH/CHARACTER ISSUE) 3063

2 activity five days a week in Manhattan.

3 THE COURT: Sounds good to me.

4 MR. GRIESSER: They ask for specific  
5 rooms that are not facing the front. They want  
6 to face the mountain in the back because they  
7 don't need to watch what is going on, they see  
8 cars all week long. We have people that come  
9 and hike, attend a wedding, come up for  
10 concerts. As I said, a family reunion, parents'  
11 weekend at a camp and many other activities in  
12 the area. Those that make the effort will find  
13 things to do. They go down to West Point, up to  
14 Cooperstown, they take Hudson Scenic Cruises.  
15 If they have kids go to the Catskill Game Farm,  
16 et cetera.

17 MR. RUZOW: They use it as a base  
18 for traveling around?

19 MR. GRIESSER: They use it as a  
20 base, yes.

21 THE COURT: Thank you.

22 MR. RUZOW: Thanks very much.

23 Your Honor, our next guest is  
24 Theresa Grant.

25 Theresa, would you tell us where you

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live and what you do.

MS. GRANT: I live in Phoenicia. I lived here pretty much all my life but about five years I moved to Long Island. I have lived here all my life. I moved away for five years to Long Island then I moved back. My father had a couple different businesses here.

MR. RUZOW: Your father was Neil Grant?

MS. GRANT: He was supervisor. I think he did eight years.

MR. RUZOW: From the early '90s until he passed away?

MS. GRANT: He passed away in '99, right.

THE COURT: Supervisor of?

MS. GRANT: Town of Shandaken.

MR. RUZOW: How are you employed?

MS. GRANT: I work at a restaurant in Phoenicia, Al's Restaurant. I do the hosting there three nights. I also clean the restaurant. I also do, for my friends, like I

24 take care of their kids while they go out of  
25 town to work.

1 (GROWTH/CHARACTER ISSUE) 3065

2 MR. RUZOW: You stay locally in the  
3 sense of looking for employment opportunities?

4 MS. GRANT: Yes. I am a single mom,  
5 I have a son.

6 MR. RUZOW: In terms of your  
7 experience with finding employment in the area,  
8 has it been difficult? Al's isn't open every  
9 day of the week?

10 MS. GRANT: No, five days, they are  
11 closed on Tuesday and Wednesday, but he is not  
12 going to open -- he used to open seven days a  
13 week for the summer, but business is way down.  
14 He is not going to, just going to be five days a  
15 week.

16 MR. RUZOW: For this year?

17 MS. GRANT: For this year.

18 MR. RUZOW: Your father as you said  
19 was supervisor during the '90s. I understand he

20 operated a linen business?

21 MS. GRANT: He actually had two  
22 different times, the first one when I was very  
23 young was right in Shandaken on 28 called  
24 Consolidated Laundry. After that went under he  
25 had opened up another one with another partner

1 (GROWTH/CHARACTER ISSUE) 3066

2 in Kingston; that also went under.

3 MR. RUZOW: That was in the '60s,  
4 '50s and '60s?

5 MS. GRANT: Yeah, I was little.

6 MR. RUZOW: You were little. Did  
7 the linen service service the hotels in the  
8 area?

9 MS. GRANT: Hotels in Hunter, Pine  
10 Hill, Fleischmanns.

11 MR. RUZOW: Were there many  
12 businesses like your dad's servicing the hotel  
13 business?

14 MS. GRANT: No.

15 MR. RUZOW: Just on the linen side



16 your father?

17 MS. GRANT: I think there was one in  
18 Saugerties, Morgan Linen, but my father did the  
19 local towns.

20 MR. RUZOW: So you have grown up and  
21 lived in Phoenicia your whole life?

22 MS. GRANT: Chichester.

23 MR. RUZOW: Other than the time you  
24 were in Long Island. Good sense to return?

25 THE COURT: Where on Long Island?

1 (GROWTH/CHARACTER ISSUE) 3067

2 MS. GRANT: Wantagh, Lindenhurst,  
3 sort of country.

4 MR. RUZOW: So you have seen  
5 Phoenicia the last 30 or 40 years or  
6 thereabouts?

7 MS. GRANT: Thereabouts. I'm not  
8 giving it up.

9 MR. RUZOW: Not asking you to. What  
10 changes have you seen in Phoenicia over the last  
11 decade?

12 MS. GRANT: Just everybody has got

13 to leave to go get a job, then the people like  
14 myself couldn't afford to go out of town then  
15 pay for child support. It's just easier doing  
16 three or four jobs that I do.

17 MR. RUZOW: You like living here?

18 MS. GRANT: I love living here. I  
19 love Shandaken. I lived in Fleischmanns too.

20 MR. RUZOW: So the choice you are  
21 making is try to piece it together?

22 MS. GRANT: Get another job.

23 MR. RUZOW: To make it work so you  
24 can stay?

25 MS. GRANT: Yes, yes, absolutely.

1 (GROWTH/CHARACTER ISSUE) 3068

2 MR. RUZOW: You had mentioned to me  
3 looking at the shops. I characterize Phoenicia  
4 pretty vibrant in the sense of businesses. You  
5 said those businesses open and close?

6 MS. GRANT: Open and close. We have  
7 had a lot of little shops but they just don't  
8 make it.

9 MR. RUZOW: They operate for a few  
10 seasons?  
11 MS. GRANT: Probably not even a few  
12 seasons.  
13 MR. RUZOW: Are they open -- how  
14 many days a week are the stores open? We took a  
15 walk down Phoenicia. We have all been driving  
16 back and forth over the last years here. It  
17 doesn't seem the stores are open every day.  
18 MS. GRANT: No.  
19 MR. RUZOW: Is it just weekends  
20 essentially?  
21 MS. GRANT: I would say Thursday to  
22 Monday.  
23 MR. RUZOW: Like Al's?  
24 MS. GRANT: Like Al's.  
25 MR. RUZOW: Would people be open

1 (GROWTH/CHARACTER ISSUE) 3069

2 longer in your judgment if there was visitors?

3 MS. GRANT: Yes, yes.

4 MR. RUZOW: Another thing we talked  
5 about was you say you are a single mom here.

6                   When you grew up there were lots of kids in  
7                   Phoenicia?

8                   MS. GRANT: There was a lot back  
9                   then when I was growing up. You just went  
10                  outside and did things, but now it's like you  
11                  got to just take your kid somewhere to do  
12                  something and pay.

13                  MR. RUZOW: Are there many kids your  
14                  kid's age?

15                  MS. GRANT: No. My son is going to  
16                  be 11 but there isn't a lot of family in that  
17                  age group, no, not like when I was growing up  
18                  there was always kids around, always.

19                  MR. RUZOW: What do you see in terms  
20                  of the Belleayre Resort bringing visitors to  
21                  Phoenicia, for example? What do you see as the  
22                  impact of bringing more visitors here? You  
23                  heard Eric Griesser in terms of his perspective.  
24                  What is yours?

25                  MS. GRANT: I think it would be

2 great. They are not just going to stay there,  
3 like he said, 24 hours. They are going to  
4 venture out and hopefully the small businesses  
5 will get some of that business, especially the  
6 restaurant business. Al's isn't the only one  
7 that's not doing great, you know, but I just  
8 think the more visitors the better.

9 MR. RUZOW: Your Honor.

10 THE COURT: No.

11 MS. GRANT: Don't make me nervous.

12 THE COURT: If that's the case, let  
13 me think of something.

14 MS. GRANT: You are not getting my  
15 age.

16 MS. BAKNER: To give you more time  
17 to think. I will protect you from that  
18 question. As far as the types of jobs that are  
19 available, we have heard a lot in the past about  
20 how the jobs at the resort aren't going to be  
21 that great. If a job provided benefits and  
22 health benefits and retirement benefits, would  
23 that distinguish it from jobs that are available  
24 now in the area?

25

MS. GRANT: Yes, most definitely,

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(GROWTH/CHARACTER ISSUE)

3071

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most definitely. There is a lot of people in

3

the Town of Shandaken my age with kids that just

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do part-time three and four jobs just to

5

survive. They are not going to go to Kingston,

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pay child support, it's not worth it. Child

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care, not support, it's not worth it, but there

8

isn't much around.

9

MR. RUZOW: Do the jobs where you

10

piece together like that, like the job at Al's,

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do they provide any benefits?

12

MS. GRANT: No. You just don't get

13

sick.

14

MR. RUZOW: Good luck on that one.

15

So do you think, do most of your friends leave

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the area or people you know leave the area, take

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those jobs because of those benefits and things

18

they can't get locally?

19

MS. GRANT: Yes.

20

THE COURT: No questions.

21

MR. RUZOW: Your Honor, next we will

22 have Walter Elander. Walter's resume is

23 Applicant's Exhibit 65.

24 Walter, would you introduce yourself  
25 and tell us where you work and where you are

1 (GROWTH/CHARACTER ISSUE) 3072

2 from.

3 MR. ELANDER: Walter Elander. I  
4 live in Franconia, New Hampshire. It's in the  
5 White Mountains of New Hampshire. Currently  
6 golf manager for a golf resort in the White  
7 Mountains. Background is engineer. About '74 I  
8 started work in the ski industry as ski school  
9 director at a mid size resort in Quebec. I  
10 finished a master's in civil engineering while I  
11 was ski school director and went on to become  
12 general manager of that ski resort in about  
13 1983. In 1986 I left that job and became a  
14 project manager at Sno-Engineering which is a  
15 world renown ski resort consulting firm for  
16 planning and development, planning and  
17 consulting for ski resorts around the world. I

18 became a partner in Sno-Engineering 1992 and I  
19 had a wide range of experience with  
20 Sno-Engineering kind of on both extremes. On  
21 the strategic side I was involved in a number of  
22 regional and nationwide tourism development  
23 plans including a nationwide tourism plan for  
24 the Republic of Turkey, regional tourist IMPLAN  
25 for the Republic of Slovakia and a nationwide

1 (GROWTH/CHARACTER ISSUE) 3073  
2 tourist plan for Norway. My last assignment for  
3 strategic level was to be involved in a regional  
4 mountain tourism development plan for one of the  
5 provinces in China. I was the only American on  
6 a multi national team set up by the United  
7 Nations to help China get into the ski industry.  
8 On the tactical side, other extreme, I have been  
9 involved in a lot of resort construction, built  
10 several resorts in Canada, I upgraded,  
11 modernized a number of resorts in the United  
12 States mostly in the northeast.

13 MR. RUZOW: On your resume you have



14 indicated you have done work for Hunter  
15 Mountain?

16 MR. ELANDER: Yes. About 1992 the  
17 owners of Hunter Mountain called on  
18 Sno-Engineering to help them figure out how to  
19 reverse what was a downward trend in their  
20 business. Hunter went from being a leader in  
21 the business in the '60s and '70s, then  
22 something was going wrong in the '80s, things  
23 were going in the wrong direction businesswise.  
24 We went in, I was project manager, to help guide  
25 them in the revitalization of Hunter. We kind

1 (GROWTH/CHARACTER ISSUE) 3074

2 of figured out what they needed to do from a  
3 market point of view to market their facilities  
4 and look at their operations to really turn the  
5 business around. I think that personally for me  
6 it was one of the success stories of my career  
7 is that Hunter Mountain did get turned around  
8 and is back on top of quite a success story.

9 MR. RUZOW: You have also done work  
10 for the State of New York, at least two

11 facilities?

12 MR. ELANDER: Yeah, I have been  
13 involved at Belleayre Ski Center, also at White  
14 Face. At Belleayre my first assignment was in  
15 1987. DEC called on us, on Sno-Engineering, to  
16 put together what was called a comprehensive  
17 management study. It involved a number of  
18 tactical items such as an operational analysis  
19 from looking at staffing and looking at their  
20 marketing plan, but the real focus of it was  
21 what was at the time called a blue sky picture  
22 of what the ultimate development potential of  
23 the ski center was.

24 MR. RUZOW: Your Honor, in the  
25 Belleayre Unit Management Plan of 1985 which is

1 (GROWTH/CHARACTER ISSUE) 3075  
2 Applicant's Exhibit 81, that document calls for  
3 the development of a comprehensive management  
4 strategy plan.

5 And that is your work is what flowed  
6 from that UMP?

7 MR. ELANDER: That's what we did.  
8 So we put together that comprehensive management  
9 plan, '88 is when it ended, and it did  
10 demonstrate that there was a lot of expansion  
11 potential at the ski center and it was very  
12 significant. It would be very good skiing.

13 MR. RUZOW: It identified in the  
14 course -- I assume what you did for Belleayre  
15 and have done in other places, you identified  
16 snow-making potential issues, parking access, a  
17 variety of things?

18 MR. ELANDER: Everything. There is  
19 a lot of components that go into making up a  
20 successful ski resort: Parking, snow-making,  
21 right lifts, right place, right trails, right  
22 ability levels, all the lodge facilities needed  
23 to support the people and everything that goes  
24 on inside the lodging, space for everything. So  
25 that's the kind of planning process we typically

1 (GROWTH/CHARACTER ISSUE) 3076

2 did.

3 MR. RUZOW: In the context of the  
4 Central Catskills area you have also had, I want  
5 to talk about the White Face Mountain in a  
6 second, but you have also had involvement in the  
7 West of Hudson Economic Development Study,  
8 played a small role there?

9 MR. ELANDER: It was a small role.  
10 We were a sub consultant to HRNA. HRNA looked  
11 at us -- we were the ski guys -- for guidance  
12 and input as to the state of affairs in the  
13 Catskills with respect to the really six  
14 significant ski areas.

15 MR. RUZOW: Three are obvious to me,  
16 Windham, Hunter, Belleayre. The other three?

17 MR. ELANDER: The other three.

18 MR. RUZOW: Plattekill?

19 MR. ELANDER: Plattekill was one.

20 THE COURT: Was Highmount?

21 MR. ELANDER: No, it wasn't at the  
22 time. Highmount wasn't working at the time. I  
23 would have to go back and look. The other two  
24 were smaller.

25 MR. RUZOW: Tell us a little about

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what you did at White Face.

MR. ELANDER: White Face we, Sno-Engineering, undertook their 1996 UMP then we updated that UMP in 2000. So we wrote their UMP which is a little different than what happens at Belleayre. DEC writes their own UMP. White Face hired outsiders to do their UMP.

MR. RUZOW: You also assisted Crossroads in the development of the recreational plan, Appendix 3 and 4 of the DEIS. I would like to spend a little time on that. Before you go to that, you have had an opportunity to review DEC's Catskill Forest Preserve Public Access Plan and Draft Catskill Park State Land Master Plan, you are familiar with that and the wilderness areas to the south of the project?

MR. ELANDER: I have reviewed them, not in detail, but I am familiar with them.

MR. RUZOW: In developing the resort

22 recreational plan you produced a number of, two  
23 plans, one was the existing conditions in terms  
24 of trails and what exists in terms of the  
25 relationship between the properties that

1 (GROWTH/CHARACTER ISSUE) 3078

2 comprise the Crossroads lands as well as a  
3 conceptual amenities plan which at least as I  
4 read it sought to link and develop opportunities  
5 for trails on Crossroads property as well as at  
6 key junctures, tie it into existing state trails  
7 in the area. Can you give us a sense of what  
8 factors you took into account in developing that  
9 part of the plan?

10 MR. ELANDER: Well, in a broad sense  
11 we knew the state land master plan called for  
12 public partnership, public/private, so the state  
13 doesn't have all the responsibility or all the  
14 needed funding to acquire greater access to  
15 existing trails and existing facilities within  
16 the park. So we implemented or planned for the  
17 implementation of a number of access points and  
18 linkages from private property, Belleayre

19 Resort, to those existing trails. So we were  
20 trying to fulfill that mandate the state land  
21 master plan was setting out for these  
22 public/private partnerships.

23 MR. RUZOW: In the Catskill Forest  
24 Preserve Access Plan there is indication of  
25 under-utilization in this area?

1 (GROWTH/CHARACTER ISSUE) 3079

2 MR. ELANDER: Yeah, but my  
3 understanding of what the access plan says is  
4 that they do recognize there is some  
5 under-utilization but it wasn't their goal to  
6 figure out or set out ways for increasing  
7 utilization so much as it was to improve the  
8 current utilization through better education,  
9 information, signage, access points. Perhaps  
10 they understood that greater utilization would  
11 be important or would be a benefit to the region  
12 but I think their real goal was to set the  
13 objective for improving education and access and  
14 information. So we use that, that goal to help

15                   some of the programming aspects that we put  
16                   forth in this amenities plan for Belleayre.

17                   MR. RUZOW: My reading seems to be  
18                   some highly managed scripted opportunities for  
19                   recreation. Is that a fair or unfair  
20                   characterization?

21                   MR. ELANDER: No, it's fair. It's  
22                   very accurate. It's one of the modern trends in  
23                   ski resort or really mountain resort development  
24                   in general is that activities are managed. Not  
25                   so much the skiing side, skiing is skiing.

1                   (GROWTH/CHARACTER ISSUE)                   3080  
2                   People go there for one reason in the winter,  
3                   that's to ski, but summer tourism at mountain  
4                   resorts is a whole different animal. It's a  
5                   huge variety of things to do. As Mr. Griesser  
6                   said, sometimes people want to go do nothing,  
7                   but you have to manage that nothing. It can't  
8                   be simply nothing, there have to be things  
9                   people feel good about doing nothing.

10                   MR. RUZOW: Like a Seinfeld episode.

11                   MR. ELANDER: Maybe it is, but



12 typically today the real trend is family tourism  
13 so the kids have to be doing something, adults  
14 want to be doing something else, sometimes they  
15 want to do it together. All of this has to be  
16 managed. People have to be guided through the  
17 process, especially when you are in a rural  
18 environment like this where people might not be  
19 comfortable with the rural environment. That's  
20 what we set out to do in the amenities plan.

21 MR. RUZOW: I notice in the plan  
22 there seems to be lots of ties to other  
23 activities, off-site activities in the  
24 community. You worked in this area, you have  
25 been through hamlets and all. What is the

1 (GROWTH/CHARACTER ISSUE) 3081  
2 attraction for both the resort as well as the  
3 opportunity?

4 MR. ELANDER: As I said in the  
5 beginning, I have been very fortunate to travel  
6 around the world to resorts. I know what they  
7 look and feel like. I have been a lot to the

8 Catskills for quite a few years now. This is a  
9 very cool place. There is a lot going on here.  
10 There is a lot of arts. There is a lot of  
11 crafts. There is a lot of history. History is  
12 great, people love it. There is a lot of green.  
13 People like that too. So there is a lot of  
14 stuff to do in this greater region. I am sure  
15 that the number of people that will come to this  
16 resort they are going to disburse, go out into  
17 the hamlets, onto the side roads and discover  
18 things and find all these cool places they don't  
19 get back in their home. I see this whole area  
20 as kind of like a big store, and there is some  
21 cool stuff on the shelves but not enough people  
22 there to go and buy what's there. So it's a  
23 funny region. It baffles me sometimes.

24 MR. RUZOW: Do you see in the  
25 context of the resorts, in my word, management

1 (GROWTH/CHARACTER ISSUE) 3082  
2 of time and activity, the identification, merely  
3 just posting where you can do antiquing, or  
4 where you can go tubing, or fishing? Is it more

5 than just sort of a concierge's desk, show me  
6 what's playing today?

7 MR. ELANDER: It is that, but it's  
8 not just that for sure. I think there is a  
9 couple ways to look at it. One is at the resort  
10 itself I don't think most people who are staying  
11 there at Belleayre Resort are going to want to  
12 get out on the forest preserve trails, that's  
13 too deep woods for them, but they will want to  
14 experience the fringes of the natural  
15 environment. We have to guide them there. The  
16 term is often used "soft adventure", soft  
17 adventure being user friendly way to get people  
18 into the environment without them feeling  
19 endangered or threatened, feeling really  
20 comfortable about it. I see that kind of  
21 managed activity happening at the resort itself.  
22 Then in the bigger picture I think there will be  
23 guided tours. There will be guided tours from  
24 the resort to the hamlets, although some people  
25 will want to do that, but I think most will go

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out on their own. But there needs to be a lot of information and education at the resort about what's out there. More than just a concierge level of here is a list what to do. I think there has to be much more interaction with the guests.

MR. RUZOW: The Wildacres Resort there is a wilderness activities center planned as part of that sort of a family orientation, activity orientation using the Highmount Ski Center as a resource venue. How popular is that type of thing in a mountain resort having that available?

MR. ELANDER: It's very popular and it's typical of today's mountain resort or ski resort. It's not just about skiing anymore, it can't be or they wouldn't succeed. It has to be much more and over the past 20 years most ski resorts, certainly all the successful ones, have moved into summer business.

MR. RUZOW: What would summer

23 business include?

24 MR. ELANDER: It includes everything  
25 for the family to do but I guess most

1 (GROWTH/CHARACTER ISSUE) 3084

2 significantly it includes golf. I would say all  
3 successful resorts today have golf.

4 MR. RUZOW: In mountainous areas?

5 MR. ELANDER: Mountain resorts. I  
6 am strictly talking mountain resorts.

7 MR. RUZOW: I assume there might be  
8 one or more resorts that don't have golf but are  
9 still successful?

10 MR. ELANDER: There is one or more  
11 that don't, you are right, Blue Mountain in New  
12 Hampshire is one that doesn't, but they  
13 struggle. They are successful but they struggle  
14 in the summer. Golf, everybody is building  
15 golf.

16 MR. RUZOW: On a scale of one to 10,  
17 how important do you think golf is in this  
18 region? You have read the reports. Tourist

19 reports certainly defined destination resort as  
20 a goal. You weren't here for Eric Wedemeyer  
21 this morning but you are familiar with, you have  
22 a familiarity with this region, you are familiar  
23 with Windham's operation?

24 MR. ELANDER: Quite.

25 MR. RUZOW: So how important do you

1 (GROWTH/CHARACTER ISSUE) 3085

2 think golf is in attracting new visitors to this  
3 area in the summertime coupled with what  
4 investors want to do, which is a five star, four  
5 star Wildacres Resort?

6 MR. ELANDER: On a scale of one to  
7 10 about a nine. It's important. Especially if  
8 you want to sell real estate and that's what the  
9 mountain resort industry is largely about.

10 MR. RUZOW: So the time share,  
11 vacation and club share component of this --

12 MR. ELANDER: Needs golf.

13 MR. RUZOW: It needs golf as well?

14 MR. ELANDER: It does. Golf  
15 operations alone in the northern tier aren't

16 real profitable on their own, but with the  
17 addition of real estate makes sense. That's  
18 what is the financial success formula for  
19 mountain resorts.

20 MR. RUZOW: Based on your experience  
21 in terms of occupancy, what you can expect, the  
22 traffic studies use the Martin Luther King  
23 weekend as a peak period to load on full  
24 occupancy on our resort on top of the existing  
25 data. How is what pattern in a mountain area in

1 (GROWTH/CHARACTER ISSUE) 3086

2 terms of occupancy over the course of a year?

3 MR. ELANDER: The percentage rate?

4 MR. RUZOW: Percentage of occupancy.  
5 Do you have a sense, not the numbers  
6 necessarily, but peaks and valleys?

7 MR. ELANDER: I don't have a sense  
8 of the numbers because it probably varies quite  
9 a bit.

10 MR. RUZOW: If you don't know,  
11 that's fine.

12 MR. ELANDER: Fall season, fall  
13 foliage is probably the busiest non skiing  
14 period. That might just be a week or so when  
15 the colors are at peak. Memorial Day, July 4th  
16 are busy, then the rest of summer it's this flow  
17 of people who are on vacation. Everybody goes  
18 on vacation but not everybody skis. Summer is a  
19 busy time.

20 MR. RUZOW: Based on you have been  
21 doing work in this area for over 19, almost 20  
22 years. Concern has been raised in terms of  
23 potential for an adverse impact on hamlet areas.  
24 You have mentioned both historic and in a very  
25 positive way your view of the hamlets. How do

1 (GROWTH/CHARACTER ISSUE) 3087

2 you see the resort's visitation and the  
3 activities of the resort impacting the hamlet  
4 areas?

5 MR. ELANDER: I see the impact being  
6 benefits. There will be more people walking up  
7 and down the street. There will be tourists.



8                   There will be outsiders.  There will be  
9                   shopping, shopping being the number one tourist  
10                  activity that Americans do.

11                   MR. RUZOW:  Is it?

12                   MR. ELANDER:  Oh, yeah by far.  They  
13                  will be around but I think they are going to  
14                  disburse.  There is going to be a lot of people  
15                  staying at Belleayre.  They are not going to go  
16                  to one hamlet at the same time.  They are going  
17                  to be disbursed over the region.  I think you  
18                  will see these people, the people who live in  
19                  these hamlets, you are going to see more  
20                  tourists on the streets and probably mid summer,  
21                  July 1st to Labor Day you are going to see them  
22                  Monday through Friday as well as Saturday and  
23                  Sunday and that's a good thing for business.

24                   MR. RUZOW:  A suggestion has been  
25                  made that as an alternative to a golf

1                                           (GROWTH/CHARACTER ISSUE)                   3088  
2                   destination resort that a much smaller scale eco  
3                   tourism resort would be feasible in this area  
4                   and you corrected me when I asked the question

5 the other night but I viewed some of the  
6 recreational activities that you have indicated  
7 in your plan as sort of eco tourism in my view  
8 of the world in the sense of hikes, fishing,  
9 concentrating on fishing, even hunting off  
10 property. But you said you didn't view that  
11 well. We have provided for activities. You  
12 didn't see that as eco tourism?

13 MR. ELANDER: I don't and I'm not  
14 really sure if it's semantics or who really has  
15 the exact definition of what eco tourism is, but  
16 I always think of eco tourism as really broad,  
17 toward such as people who go to Costa Rico in  
18 droves to go into the rain forest to experience  
19 that, or an African safari where it is done on a  
20 really broad basis. That to me is eco tourism.  
21 What we have here, one resort, for example, or  
22 one resort in a region the size of the Catskills  
23 is not going to make eco tourism. Eco tourism  
24 is much, much bigger than that. I think what we  
25 are talking about here with Belleayre Resort

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integrating itself into this environment is this kind of soft adventure and environmentally friendly use of the natural resources. Again I am not really an expert on what eco tourism is but that's my impression. What we have here I don't think is really eco tourism.

MR. RUZOW: You are familiar with mountain resorts in the northeast and northern mountains and Canada. Is there any eco tourist there, any name of a resort that comes to mind on a high end? The goal is to be a five star, four star family resort.

MR. ELANDER: No.

MR. RUZOW: Is there a market from your observation?

MR. ELANDER: Yeah, but it's a market that's scaled down from this really broad Costa Rico, African safari scale. People do want to get out and experience greenness and they want to experience the fringes of wilderness, but I don't really see that as eco tourism. That's a much smaller scale. Eco

24 tourism at the scale we are talking about at  
25 mountain resorts in the northeast is not

1 (GROWTH/CHARACTER ISSUE) 3090

2 financially feasible. You can't make money if  
3 your whole business is having people experience  
4 a little bit of the environment. There is much  
5 more to making mountain resorts financially  
6 viable than eco tourism.

7 MR. RUZOW: One more question,  
8 Walter. You have experience as a construction  
9 manager in mountainous area resorts. A concern  
10 has been raised, I know you are an engineer, you  
11 are a PE as well?

12 MR. ELANDER: No.

13 MR. RUZOW: We have not asked you to  
14 review the storm water management plans but you  
15 have been on the site, you have worked in the  
16 area, I assume you have worked at Hunter as  
17 well, done some observation work at Belleayre  
18 which is physically next door. Concern has been  
19 raised due to steep slopes, shallow soils,

20 coupled with heavy rainfalls that occur here  
21 Belleayre Resort cannot be safely constructed.  
22 At least in your experience given what you have  
23 seen physically, you know of the site, do you  
24 have a concern it can't be safely built?

25 MR. ELANDER: No, I have no concerns

1 (GROWTH/CHARACTER ISSUE) 3091  
2 like that. I have built several ski resorts,  
3 upgraded a number of them and, of course, they  
4 are all on steep slopes; it's the nature of it.  
5 I am building a road right now on this golf  
6 course that I work at, it's 10,000 feet of road  
7 and 4,000 feet is at 12 percent. We are in the  
8 White Mountains. We get huge thunderstorms.  
9 There are well documented best management  
10 practices on how to build properly in the  
11 mountains on steep slopes.

12 MR. BURGER: I want to object at  
13 this point. The issue today is not storm water  
14 or storm water impacts. We don't have our  
15 experts here to respond to any testimony he is  
16 offering in terms of storm water impacts. I

17 just want to note for the record this is an  
18 object to this line of testimony.

19 MR. GERSTMAN: We would like to add  
20 to the issue. We know you have allowed the  
21 parties latitude to provide rebuttal and to have  
22 an opportunity to put written submissions in.  
23 Not only has Mr. Ruzow gone to the areas of  
24 storm water, but forest preserve, alternatives,  
25 traffic, a few more I understand were touched on

1 (GROWTH/CHARACTER ISSUE) 3092

2 when I was not here earlier this afternoon. We  
3 would request the opportunity, your Honor, to  
4 have a written response from our experts after  
5 they have had a chance to look at the transcript  
6 of these proceedings.

7 THE COURT: Sure.

8 MR. GERSTMAN: Thank you.

9 MR. RUZOW: I had nothing further.

10 THE COURT: I have nothing.

11 MR. RUZOW: Your Honor, there were a  
12 couple further things I wanted to touch on with



9 reference in the MOA paragraphs 134 and 135 to  
10 the West of Hudson Economic Study was to the  
11 development of a study that would be utilized by  
12 the Catskill Watershed Corporation for its  
13 planning of how to spend or how to allocate  
14 Catskill Fund for the Future, had a fairly  
15 narrow purpose. And as reflected in paragraph  
16 134, pull that out for a second, it provided for  
17 a number of deliverables and they included in  
18 sub paragraph or paragraph 134-b a base line of  
19 economic information on the region in part  
20 through the use of existing economic studies and  
21 plans. That I believe is the baseline report  
22 number one that was talked about.

23 Secondly was a community assessment  
24 which outlined the strengths and weaknesses of  
25 business based throughout the watershed.

1 (GROWTH/CHARACTER ISSUE) 3094

2 C was an evaluation of specific  
3 opportunities and that's sort of the market  
4 report encompassed both second and third.

5 Evaluation of opportunities for



6 increased economic development in areas  
7 immediately outside the watershed that could  
8 provide economic benefits. There are some  
9 references to that in the market report which  
10 was report two.

11 Then an action plan that capitalizes  
12 on the area's strengths, recommends specific  
13 activities to address area weaknesses as well as  
14 marketing strategies.

15 And the last is a proposal for  
16 institutional arrangements.

17 The action plan took several drafts.  
18 The report that I put in today which was  
19 Applicant's 91, the blueprint I believe was 91,  
20 the blueprint. No, that would be wrong, 61.  
21 The economic development study preliminary draft  
22 blueprint for CWC, 71, that was the first of in  
23 effect the action plans and it went through a  
24 couple iterations before the final study; that  
25 would have been 61, Applicant's Exhibit 61.

2                                   Each one of those plans were  
3                                   discussion documents. They were in effect  
4                                   developed by the consultant teams by HRNA,  
5                                   submitted to the Catskill Watershed Corporation  
6                                   which has representatives on it from the towns  
7                                   and the city and the state but the purpose at  
8                                   the end of the day was basically to equip the  
9                                   Catskill Watershed Corporation with an  
10                                  information base upon which it would develop  
11                                  it's own programmatic rules for how it would use  
12                                  the money that was allocated. In so doing a  
13                                  great deal of information about the region was  
14                                  developed. The decision by CWC at the end of  
15                                  the day on where the funding ought to be most  
16                                  concentrated use of grants, how much percentage  
17                                  of grant money versus loans, what market sectors  
18                                  ought to be helped was a different judgment that  
19                                  was going to be made by the board, but the  
20                                  reports basically were going to equip the board  
21                                  to make an informed decision about how to spend  
22                                  the money. Throughout the course of the  
23                                  evolution when you read all of the reports you  
24                                  will see a changing emphasis at different places

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and you will see the focus on destination

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(GROWTH/CHARACTER ISSUE)

3096

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resorts or large scale private investment begin

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to diminish in the focus by CWC. I would argue

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that was a policy decision made by CWC that

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given this limited fund of money we have we are

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going to concentrate on being an entity of last

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resort for the smaller businesses that don't

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have access to other sources of capital. I

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think that's important to keep in mind as you

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look at what functions and you look at the grant

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list, for example, that is in the exhibit, the

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press release of June 1st, also one of the

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exhibits today, and the emphasis on this rather

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small scale investment.

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Included in the final economic study

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for the Catskill Fund for the Future was

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actually planning grants for large resorts. In

18

the rules and regulations of the Catskill

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Watershed Corporation you will not find grant

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money for large resorts. They had to make a

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business judgment with regard to that.

22                               So my point in all of this is simply  
23                               that the studies are out there and are used to  
24                               inform folks about what the character of their  
25                               community is, what options exist for trying to

1                               (GROWTH/CHARACTER ISSUE)                               3097  
2                               do things and you will see reflected there in  
3                               the focus on hamlets and villages, in tourism in  
4                               general, in manufacturing business, and other  
5                               things that it talks about a whole mixture of  
6                               things that might be done to improve what was a  
7                               terribly sagging economy in the entire Catskill,  
8                               Delaware Watershed, as you heard from the  
9                               Delaware representative, as well a poverty level  
10                              with feelings of limited opportunities out there  
11                              for development.

12                              This resort proposal is attempting  
13                              to fill some of the gaps that the economy has  
14                              long been recognized as struggling with. To  
15                              fulfill the tourism niche that was not  
16                              necessarily recognized early on, certainly in  
17                              1994, as being possible to come to this area.

18 Putting all your, betting the family farm on  
19 getting one big employer, was not in anybody's  
20 vision. This development grew out of that and  
21 we will talk more when we come back on the  
22 alternatives or I won't talk about it but the  
23 vision that the community for consistently over  
24 the course of all the '90s has been on trying to  
25 restore the grandeur if you will of the tourism

1 (GROWTH/CHARACTER ISSUE) 3098

2 that existed in earlier times because the farms  
3 are gone, not coming back. Recognition of the  
4 regulatory controls imposed by the city and by  
5 the state as the state approved city's Watershed  
6 regulations necessary to protect the New York  
7 City water supply are going to impose additional  
8 burdens that had to be worked around but could  
9 not be ignored in terms of the climate.

10 So there are additional on community  
11 character issue as defined by CPC in particular,  
12 there are still some visual issues we have  
13 reserved on in terms of response. I take issue

14 with the criticism concerning our commenting on  
15 the forest preserve or the forestry related  
16 issues all of which all have been cast as broad  
17 sense of community character so we were looking  
18 to respond as appropriately we thought to the  
19 descriptions.

20 We are all reserving the right to  
21 put additional things in writing in the record  
22 and we will continue to do so to provide you  
23 with as complete a record as you can possibly  
24 need or would want on having to decide these  
25 issues.

1 (GROWTH/CHARACTER ISSUE) 3099

2 But with that we have nothing  
3 further. We have been advised by, although I  
4 didn't see anything on email as late as five  
5 o'clock this morning Mr. Young, that he has a  
6 witness that he wanted to introduce on the  
7 community character issue. Hopefully maybe  
8 there is a writing we haven't seen yet but with  
9 that we have responded to the arguments of both  
10 the City and CPC

11 THE COURT: Okay.

12 MR. GERSTMAN: We would like to  
13 request the opportunity to schedule a day for a  
14 reply to the significant information that was  
15 provided today. We will have to find a day.

16 THE COURT: That's not going to be a  
17 problem. You still have comments on visual, so  
18 forth.

19 MR. GERSTMAN: I wasn't aware visual  
20 was still an open issue.

21 MS. BAKNER: There was a number of  
22 things you provided for the very first time  
23 including some new simulations which we are  
24 still having trouble figuring out where the  
25 views were taken or with what camera lens so we

1 (GROWTH/CHARACTER ISSUE) 3100  
2 have additional information to present regarding  
3 that

4 MR. RUZOW: We were assuming our  
5 site visit would answer some of those questions.

6 THE COURT: Sounds like you guys are

7 going to have another conference call.

8 MS. BAKNER: Sounds good.

9 THE COURT: I guess we will then  
10 adjourn for today.

11 MR. RUZOW: Meet 9:00 tomorrow.

12 THE COURT: 49A and 23A. Then this  
13 Issues Conference will reconvene on July the  
14 21st at 9:00 right here.

15 MS. BAKNER: Was there decision  
16 made, your Honor, about whether you are doing  
17 the whole visit or part of the visit?

18 THE COURT: I think we are going to  
19 shoot to do a part of the visit because there  
20 are certain areas we can do and it doesn't  
21 matter if it's raining or cloudy. In fact, it  
22 could be advantageous to have a little rain.

23 That's it. Tomorrow morning.  
24  
25

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6 I, Donna V. Meo, Official Court

7 Reporter and Notary Public in the State of New

8 York, do hereby certify that I stenographically

9 recorded the foregoing proceedings at the time

10 and place as noted in the heading hereof, and

11 that same is true and accurate to the best of

12 my knowledge and belief.

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Donna V. Meo

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