

I. **LATHAM AREA CHAMBER OF COMMERCE**

The following comments are taken from a letter dated April 24, 1996 from the Latham Area Chamber of Commerce. A copy of the letter is provided in Appendix 1.

1. **Comment:**

*While a number of municipalities in New York have created local impact/mitigation fees, every local impact/mitigation fee that has been challenged in court to date has been invalidated. Municipalities need state authorization to levy taxes or fees, and state law does not provide such permission for impact/mitigation fees. The Town of Colonie is using SEQURA as the basis for impact/mitigation fees, which has not been tested in the New York State court system, and would have disastrous results for the Town if it is determined that the fees are illegal at a later date.*

**Response:**

The State Environmental Quality Review requires that adverse environmental impacts be avoided or minimized to the maximum extent practicable by incorporating appropriate mitigation measures. Impacts to infrastructure or services can often be most effectively mitigated by providing improvements to the system, such as highway capacity improvements, sewer and water improvements, and recreational facilities. The GEIS process provides a mechanism to identify cumulative and long term impacts that would result from development within a specific area, determine appropriate mitigative measures to avoid or minimize such impacts, and assess alternatives for funding necessary improvements. The establishment of a policy that each development contribute a share of the cost of such improvements, proportionate to its impact, ensures that mitigation required as a direct result of cumulative actions is provided.

The purpose of implementing mitigation costs is to provide an equitable means of paying for improvements in the area. These costs were determined through evaluation of impacts and mitigation in the DGEIS. Deficiencies in infrastructure and other community related impacts that are a result of existing development were identified and excluded from the total required mitigation, leaving only the mitigation required for potential future development. Costs to provide this mitigation to future development were estimated and distributed. The mitigation costs have a strong foundation in the DGEIS and are distributed in a manner that will equitably address the amount and location of future development.

2. **Comment:**

*Impact/mitigation fees can also be regarded as **double taxation**. The owners of the newly developed property first pay a substantial up-front charge to Town Hall; thereafter, they pay property and other local taxes on a permanent basis the same as previous existing property owners. (Tax on a Tax.)*

**Response:**

Mitigation costs are collected on a proportionate share basis only for improvements that are required to mitigate impacts directly resulting from future development. Developers who fund such improvements through mitigation contributions will not be assessed a portion of the cost of the same improvements through general tax levies.

3. **Comment:**

*Our investigations with the banking institutions in the Capital District indicates that **financing of impact/mitigation fees will not be available**.*

**Response:**

The statement in the DGEIS refers to the possibility that mitigation costs could be combined with projected development related costs and funded through local lending institutions. This is common practice in other areas of the Town of Colonie.

4. **Comment:**

*Other municipalities are desperately trying to find incentives to attract business, while this Study puts forth a proposal that does just the opposite by attempting to **discourage sensible growth** by putting the burden of cost on a few.*

**Response:**

One of the major goals of the DGEIS is to provide a long term plan for the Study Area to ensure a balance between future development and environmental and socioeconomic resources. The document ensures that growth proceeds in a manner that is sensitive to the resources of the Study Area. The mitigation fees are not designed for "putting the burden of the cost on a few", but to have future development pay for its proportionate share of improvements that will be required to accommodate it.

5. **Comment:**

*No effort has been made to review the financial impact of growth in the Study area, equating the increase in property and sales tax to the costs of such growth. What is the financial outlook for the Town of Colonie if the identified improvements were paid for by general taxation in the Lisha Kill - Kings Road Area?*

**Response:**

The Town of Colonie estimates that if traffic improvements, including the new connector road, and all water improvements were funded by the general tax fund as part of the Town's 5 Year Capital Improvement Plan, the homestead and non-homestead tax rates would increase by approximately \$75/\$1000 of assessed valuation. An increase of this nature would be in direct contrast to the Town's goal of maintaining property tax rates at their current level.

Furthermore, funding these improvements through the general tax fund would be contrary to the Town's Policy of establishing mitigation costs for new development. The property tax increase estimated above does not take into consideration the cost of improvements recommended in previously prepared GEIS's. Funding of these improvements would increase property taxes dramatically, because the Airport Area GEIS and the Columbia Street/Boght Road GEIS recommended infrastructure improvement costs substantially more than those proposed for the Study Area.

6. **Comment:**

*Information provided at the Public hearing indicates that the sharing of road improvements would be 70% private and 30% public. Who sets the rates for mitigation fees, and what are the determining factors for this decision?*

**Response:**

As discussed in Section II.H., the Capital District Transportation Committee's Systematic Traffic Evaluation and Planning (STEP) model, by the end of the planning period, 70% of the traffic increase in the Study Area will be attributable to growth within the Study Area. The remaining 30% of traffic increase in the Study Area will be background growth, attributed to traffic passing through the Study Area from surrounding areas.