

**Final Generic Environmental Impact Statement**  
**For the Southern Area of the Town of New Hartford**

**Lead Agency:**

Town of New Hartford Planning Board

**Contact Person:**

Jerome Donovan, Chairman  
Town of New Hartford Planning Board  
111 New Hartford Street  
New Hartford, NY 13413

**Prepared By:**

peter j. smith & company, inc.  
in association with:  
Hatch Mott MacDonald  
Shumaker Consulting Engineering & Land Surveying, PC  
Hartgen Archeological Associates, Inc.



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# 1.0 Introduction

## 1.1 Introduction

This is the Final Generic Environmental Impact Statement (FGEIS) for the proposed Design Plan for the Southern Area of New Hartford. This FGEIS has been prepared by the Planning Board of the Town of New Hartford, New York, in compliance with the regulations issued under the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law, 6 NYCRR Part 617. The New Hartford Planning Board is the lead agency for the environmental review. Other involved agencies have been coordinated into the SEQRA procedure.

A Draft Generic Environmental Impact Statement (DGEIS) was prepared and a Notice of Completeness was issued by the Planning Board on July 14, 2009 and published in the Environmental Notice Bulletin on July 22, 2009.

A public hearing was duly noticed and held August 10, 2009 for the purpose of hearing any public comments on the DGEIS. Written comments were accepted by the Planning Board following the close of the public hearing until midnight August 20, 2009. A copy of the transcripts of the public hearing and all written comments are provided in the Appendix to this FGEIS.

The purpose of this FGEIS for the Southern Area Design Plan is to respond to the substantive public comments (both written and verbal) offered during the public comment period.

Chapter 2 of this FGEIS presents modifications to the Design Plan and the DGEIS. The Planning Board took careful consideration of the many comments offered by the public on the Southern Area Design Plan as presented in the DGEIS. The revised Plan addresses public concerns pertaining to agricultural preservation and proposed zoning changes, and in so doing, the revised DGEIS presents a refined strategy to achieve the Design Plan that reflects citizen concern and better achieves the Planning Boards development objectives for the Southern Area.

The Planning Board considers the revised strategy for the Southern Area to be an important overall response to the public's comments on the DGEIS and on the original Design Plan as described in the DGEIS. The analyses presented in the DGEIS remain applicable to the revised Design Plan on the basis that the revised plan retains critical features, such as residential and commercial densities, that are substantially the same as those of the original plan presented in the DGEIS. Changes to the DGEIS focus mainly on the strategy to achieve the goals of the Design Plan and the community as a whole.

Chapter 3 of this FGEIS provides written responses to comments received from the public during the DGEIS public review period. The official transcript of the public hearing and the written comments received are appended.

## 2.0 Changes to the Proposed Design Plan

In response to comments from the public hearing on the Southern Area DGEIS, the Planning Board proposes several changes to the Design Plan that both preserve the original intent of the plan and address concerns of the residents in the Southern Area. The basic analyses in the DGEIS are unchanged. The plan has been revised in the areas of minimum lot size and farmland protection strategies. There is also clarification cluster developments and transfer of development rights strategies. There was one substantive comment that required a change in the Commitment of Resources section. The following sections detail the changes that were made to the Design Plan and the DGEIS document. The revised DGEIS is submitted as part of this FGEIS.

### 2.1 Minimum Lot Size

The greatest objection to the Design Plan and DGEIS is the recommendation of a five-acre minimum lot size. Raising the minimum lot size outside of the growth area to a five-acre minimum was not the intent of the Design Plan. The intent of the Design Plan was to achieve an overall average *density* of one residential unit for every five acres of land. Preserving large lots of farmland would contribute significantly to establishing this density as it would offset development that would occur in other areas outside of the growth area. It was not the intent of the Design Plan to establish five acre lots across the board. The Planning Board recognizes that these lots would be too small to farm and too large to maintain as a residential estate.

All references to a lot size in the Design Plan and DGEIS have been changed to reflect the approach of an average overall density. In some areas of the document, this concept was expanded upon explaining the difference between lot sizes and average density. Any reference to a minimum lot size was removed except when it pertained to the minimum lot size of existing zoning. The recommendation of increasing the minimum lot size was deleted.

All analyses remain the same since the densities did not change. The revised Design Plan shifted the strategy from setting a minimum lot size to agricultural protection in order to achieve the desired density.

### 2.2 Farmland Protection Strategies

The preservation of farmland is a fundamental goal of the Design Plan and the means by which the desired overall average density can be achieved. The Design Plan presented several strategies to accomplish this goal. In some cases, the presented strategies required better explanation. Some changes had to be made to examples that referred to a specific lot size or development potential. In addition other farmland protection measures were presented as possible strategies which could be explored by the Town.

#### 2.2.1 Cluster Developments

Cluster Developments are still an effective strategy for preserving open space and farmland. The example presented in the original Design Plan was based on a 100 acre lot having the potential to develop 20 units. While this is the overall density desired for the area, it does not apply to a single

lot. The example was removed and just the standard definition for cluster developments is presented. Based on the build out analysis, the amount of farmland preserved was calculated under the assumption that development would occur in clusters. While the assumption is applied to all the parcels, the end result does not change because the areas of the developable lots are summarized and the ratio applied to the area as a whole.

### 2.2.2 Purchase of Development Rights

The revised Design Plan removed the hypothetical example which specified a cost of development rights. There is a difference between the value of development rights and property value. There was some misconception that the Town would purchase the development rights of anybody willing to sell them, which led to the question of how the Town would be able to afford this program. The purchase of development rights is not open to everyone. The program is administered on a parcel by parcel basis with the terms agreed upon by the parties involved. The value of development rights is less than the value of land since the land can still provide economic benefits in the form of agricultural production. There is no set price for development rights throughout the Town. The value of development rights could vary based on the potential for a property to develop. For example, the topography of a parcel could affect the value of development rights. The final value of a development right is determined through negotiation. A land owner's willingness to sell and the Town's desire to obtain will have an effect on the value. There are state and federal matching funds available for this program. Some non-for-profit conservation organizations also contribute funds towards these programs and in some cases purchase the development rights themselves. The program is presented as an option that the Town could pursue.

### 2.2.3 Conservation Easements

Conservation easements are another program presented in the revised Design Plan that the Town could pursue in order to make farming more economically viable. Conservation easements are similar to the purchase of development rights except that instead of receiving payments for the development rights of the property, a land owner could surrender their development rights in the form of a conservation easement in exchange for a reduced assessed value on their land. Conservation easements could be applicable for a pre-determined time period or for perpetuity. A system of gradually raising the assessed value prior to termination of a conservation easement should be built into the program.

### 2.2.4 Transfer of Development Rights

The transfer of development rights is an effective tool that can be used to concentrate development in desired areas while preserving agriculture and open space in other areas. The benefit of the program is that it is driven and funded by the market. The transfer of development rights is still presented as an option that the Town could pursue in the future.

## 2.3 Commitment of Resources

The revised GEIS removed the statement that construction jobs created by development are an irretrievable commitment of resources.

### 3.0 Comments and Responses

The Town of New Hartford Planning Board accepted the Draft Environmental Impact Statement for the Southern Area of the Town of New Hartford on July 14, 2009, opening a public comment period beginning July 15, 2009 and concluding August 20, 2009. A public hearing was held August 10, 2009 at the Ralph J. Perry-Junior High School, School Auditorium, 9499 Weston Road. All written and verbal comments were entered into the record and responses to them included here. Responses appear in order of their authors' appearance at the public hearing followed by responses to the written comments received. The official transcript of the hearing and the written comments entered into the record are appended to this document.

#### **Councilman Robert Payne, First Ward, 5 Forest Road (8/10/09 hearing transcript pp.28-30)**

##### **Comment 1.**

Councilman Payne stated that he was not in favor of limiting property owners land use. Councilman Payne went on to say that he knew that stormwater and flooding are major issues voiced by residents and that he was in favor of having a tool to mitigate stormwater and infrastructure issues.

##### **Response 1.**

*Comment noted.*

#### **Councilwoman Christine Krupa, Second Ward, 48 Genesee Street (8/10/09 hearing transcript pp.30-32)**

##### **Comment 2.**

Councilwoman Krupa stated that she was against limiting development to 5-acre lots and clusters at a 5 to 1 ratio. She went on to say that she doesn't believe this approach will mitigate stormwater problems or preserve agriculture.

##### **Response 2.**

*The intent of the Design Plan is to implement an approach to density of land use in the Southern Area and references to specific acreages were used as examples. The EIS has been revised to reflect the approach and clarified the use of five acres as an example of how the density can be accomplished. Additional strategies to achieve this density have also been added to the plan. Cluster developments are still a recommended strategy, but the example given, which is based on five-acre lots has been modified. The zoning changes no longer recommend increasing the minimum lot size. The goal is to establish an average density of one unit per five acres of land. This density can be achieved primarily through the preservation of farm land, not by limiting the lot size, but by creating economic conditions more favorable to farming. Modifying tax assessments on farms would be a major strategy to maintain farmland. Established agriculture land that is preserved will offset the density of any new development to meet the overall density. If 80 acres of farmland stays in production and another land owner develops a 20-acre lot into 20 one-acre lots, then the overall density is achieved. This does not have to happen on the same initial parcel, but across the entire area.*

**Eileen Spellman, Director of Human Services for the Town of New Hartford, 29 Bohling Road (8/10/09 hearing transcript pp.32-33)**

**Comment 3.**

Ms Spellman stated that she is also against the 5-acre minimum lot size. The 5-acre minimum lot size is not fair to land owners who have bought the land and have been paying taxes. She also went on to say that 5-acre lots would not be affordable.

**Response 3.**

*See response to speaker Councilwoman Krupa (Response 2), above. There is not a recommendation for a five-acre minimum lot size in the revised Design Plan.*

**Source: Ben Simons- President, Oneida County Farm Bureau (8/10/09 hearing transcript pp. 34-37)**

**Comment 4.**

Mr. Simons stated that the farmers that own the land, the land is their only retirement. By putting added restrictions onto those farmers is actually strangling them in the long-term.

**Response 4.**

*See response to speaker Councilwoman Krupa (Response 2), above. The revised Design Plan does not recommend placing any restrictions on farmland.*

**Comment 5.**

Mr. Simons addressed the issue of losing farmers due to the economics of agriculture. Farmers are getting older and retire and the next generation does not want to farm because of the economics. As farmers leave, the agricultural infrastructure goes with it. The best way to preserve agriculture is to keep the farmers in the community. Farmers need tax incentives and other options that will make their operation more economical. Once the farmer leaves, the land will turn into brush and burdocks.

**Response 5.**

*The revised Design Plan presents several strategies to improve economic conditions for farmers in order to preserve farmland. Among them is providing tax incentives. See also response to speaker Councilwoman Krupa (Response 2), above.*

**Vincent Johns – Area Representative, Oneida County Farm Bureau, 3274 Mohawk Street  
(8/10/09 hearing transcripts pp. 37-40)**

**Comment 6.**

Mr. Johns state that it would appear to him that the preservation being sought by the recommendations contemplated is strictly that of current infrastructure.

**Response 6.**

*Comment noted.*

**Comment 7.**

Mr. Johns stated that large lots are difficult to keep up as it would require large lawn mowers. He does not believe that 5-acre lots will preserve agriculture. As the farmers go away, the land will not add to the scenery because it will be overgrown and harbor unwanted pests.

**Response 7.**

*See response to speaker Councilwoman Krupa (Response 2), and speaker Ben Simons (Response 5), above.*

**Comment 8.**

Mr. Johns addressed cluster zoning, saying that appears to be the silver bullet of this whole study. He said that clusters would not be a workable solution as homes and farmland would compete for the little flat land available.

**Response 8.**

*The recommendation of cluster developments has been modified to reflect no five-acre ratio. Cluster developments are still an effective tool to preserve open space. Provisions for cluster developments should allow the preserved open space to be utilized as farmland. Cluster developments are an optional tool that can be utilized by a land owner and is somewhat dependant on the layout of the land.*

**Comment 9.**

Mr. Johns stated that limiting the population density is not a good idea. He says that by limiting the amount of houses able to be built in a given area limits the available tax revenue, which causes higher taxes on the existing properties. He also states that land which has been owned by taxpaying, multi-generational families should not be unilaterally changed so as to make the land less valuable and less usable for all citizens.

**Response 9.**

*See response to speaker Councilwoman Krupa (Response 2), above. The density of one unit for every five acres of land is not a limitation, but a goal to achieve.*

**Albert Shaheen, 5 Wadsworth Lane (8/10/09 hearing transcripts pp.41-46, Prepared comments submitted – exhibit 2)**

**Comment 10.**

Mr. Shaheen mentions that he is disturbed by the cost of the study. He goes on to say that there is only 100 pages of substance which, based on the \$350,000 cost of the study, equates to \$3,500 per page.

**Response 10.**

*Comment noted.*

**Comment 11.**

Mr. Shaheen states that the DGEIS makes the assumption that, within 20 years, the Town is going to have full build out, every acre of the land that's usable will be used, if there's unlimited demand, and there's going to be significant environmental impacts. He goes on to say that anybody who has lived in New Hartford and knows anything about the area, knows that the population is aging and declining.

**Response 11.**

*There were two analyses presented in the DGEIS. One was a complete build out of all vacant land in the Southern Area. The other demonstrated the amount of development that could be expected by the year 2030 based on current trend extrapolated out over the 20-year planning horizon. The analysis cannot anticipate changes in market conditions or other impacts on building and home sales trends and is intended only as a tool for planning purposes.*

**Comment 12.**

Mr. Shaheen suggests that even top executives of the expected chip factory, who should be making roughly \$90,000, will not be able to afford a home in New Hartford. He presents figures that demonstrate it would cost \$500,000 to build a home and several hundred thousand dollars more to build on a 5-acre lot.

**Response 12.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 13.**

Mr. Shaheen addresses the idea that New Hartford needs more affordable housing. He states that the current zoning creates affordable lots and that the people in the town do not want to have their land devalued by making only 20% of it usable.

**Response 13.**

*See response to speaker Councilwoman Krupa (Response 2), above. The Design Plan provides areas for and promotes affordable housing including multi-family and mixed use developments in the hamlet centers.*

**Comment 14.**

Mr. Shaheen mentions that the \$2,000 per acre for development rights is too low. He presents figures that demonstrate that agricultural land in the Northeast cost about \$5,000 per acre. He also expresses concern that the Town would be unable to afford a program where the Town would buy anybody's development rights that were willing to sell. He also thinks that no developer will pay that much for an extra unit and that the whole concept of transferring development rights is not practical.

**Response 14.**

*The cost of farmland and the cost of development rights are two different things since the land still has economic potential without development rights. The cost per acre of transfer/purchase of development rights and similar programs could vary due to location, topography, soil quality and from terms of each agreement. As mentioned in the DGEIS, there are State and Federal funding programs to assist municipalities in purchasing development rights. There are also non-profit organizations dedicated to purchasing easements and preserving open space. The agreements are negotiated between the parties involved and are optional to all parties. The Town would not be entering into a program it could not afford. In many cases the Town would not necessarily be a party to the agreements at all.*

**Comment 15.**

Mr. Shaheen points out that on page 85 of the DGEIS, the analysis shows that by 2030, no one particular alternative would grow the Town more than the other. He states that this proves the point that the Town is not going anywhere. There's no population growth. With no population growth, the impact on storm water runoff, on traffic, on environment, on everything else is not going to happen. The infrastructure is of no cost to the Town, because the Town is not building infrastructure. Every developer that builds has to extend the existing infrastructure.

**Response 15.**

*While no significant growth is forecast for the immediate future, impacts accrue over a longer period of time and some portion will be established in the 20-year time period. Developers of subdivisions generally provide infrastructure and then dedicate it to the Town which is then responsible for maintaining it into the future. Impacts are also realized away from the development site. Even the construction of one lot will create additional sanitary sewer flow and stormwater runoff.*

**Comment 16.**

Mr. Shaheen states that if the goal is centralization, it will happen automatically. Developers will build where there is existing infrastructure because the cost of extending infrastructure to remote areas is cost prohibitive.

**Response 16.**

*The cost of running infrastructure to remote areas does add cost to a development, but does not make it prohibitive. If development is permitted piece meal, without a plan, infrastructure is more expensive to construct and maintain for the taxpayers of New Hartford.*

**Comment 17.** Mr. Shaheen stated that the traffic in this Town is non-existence compared to other places where there is a significant population.

**Response 17.**

*During the public input process for the GEIS, concerns about local traffic volumes and capacities were raised numerous times. Whether or not traffic is an issue today, traffic impacts add up over time. Eventually, improvements will be needed. If there is no developments then there will be no impacts, however, if there is development, the Town should provide a way to mitigate those impacts.*

**Comment 18.**

Mr. Shaheen states that everybody here is upset about the 5-acre lots idea. He submits that a developer told him that it would cost five times more to run infrastructure on a 5-acre lot than a 1-acre lot.

**Response 18.**

*See response to speaker Councilwoman Krupa (Response 2), above and speaker Albert Shaheen (Response 15), above.*

**Ed Collins, 9499 Elm Street (8/10/09 hearing transcripts pp.47-52, prepared comments also submitted)**

**Comment 19.**

Mr. Collins expresses concern that the plan does not address what will happen when the farmers are gone. He goes on to say that there is probably not anything that the Town can do to stop the inevitable decline of agriculture in the area.

**Response 19.**

*See response to speaker Ben Simons (Response 5), above.*

**Comment 20.**

Mr. Collins expresses concern that the Study did not elicit input from farmers.

**Response 20.**

*During creation of the Comprehensive Plan, surveys were distributed randomly throughout the Town. A representative of the Oneida County Farm Board was present at one of the Focus Group sessions. The GEIS also included its own public input process. The Planning Board had a meeting with farmers in the spring of 2008 regarding development in the southern portion of the town and the GEIS. Additionally, the Planning Board conducts regular open meetings during which members of the public and interest groups can voice opinions on current issues. Comments taken from this public hearing are also being considered before a final GEIS is accepted.*

**Comment 21.**

Mr. Collins asked “What do city-based consultants for 150 miles away know about agriculture in this community?”

**Response 21.**

*Comment noted.*

**Comment 22.**

Mr. Collins stated that in his experience, whenever the government tries to interfere with farming under the guise of promoting agriculture, it doesn't work.

**Response 22.**

*Comment noted*

**Comment 23.**

Mr. Collins states that it is difficult to farm in the district and presents many of the challenges facing the farmer in the area. Among the challenges include competition on the global market, difficulty farming smaller lots, conflict with residential uses and high property taxes.

**Response 23.**

*See response to speaker Ben Simons (Response 5), above.*

**Comment 24.**

Mr. Collins states that when the farmers are gone, it will be difficult to mow 5-acre lots and the land will turn to brush land.

**Response 24.**

*See response to speaker Councilwoman Krupa (Response 2) and speaker Ben Simons (Response 5), above.*

**Comment 25.**

Mr. Collins states that it should be noted that appointed Town officials and not elected officials seem to be taking the lead in promoting this massive in zoning ordinances, which reminds him of the old adage: An environmentalist is someone who already has his house in the woods.

**Response 25.**

*The Planning Board did not initiate the GEIS process. This is a continuation of a process started by the Town Board in an effort to plan for and manage growth throughout the town.*

**Comment 26.**

Mr. Collins states that existing building and zoning regulations should be left in place and the farmers should be left alone. The last thing farmers want is for the government to pretend to be taking care of the farmer and supposedly to be protecting the farmer's interest.

**Response 26.**

*Comment noted.*

**Comment 27.**

Mr. Collins expresses the idea that the \$350,000 would be better spent addressing the storm water issues than wasting it on this study.

**Response 27.**

*Comment noted.*

**Carol Benton, 9469 Roberts Road (8/10/09 hearing transcripts pp. 56-57, prepared comments submitted)**

**Comment 28.**

Ms. Benton says that she is not in favor of 5-acre lots and that the children should not have to be forced to sell their land in 5-acre lots.

**Response 28.**

*See response to speaker Councilwoman Krupa (Response 2), above.*

**Patrick Calhoun, 3666 Snowden Hill Road reading a letter on behalf of George Shaheen, 8760 Red Hill Road (8/10/09 hearing transcripts pp. 57-60, prepared comments submitted)**

**Comment 29.**

Mr. Shaheen expressed the belief that the Board is sincerely concerned about the future development of the Town and the impact it will have on all residents, including farmers, business owners and residents alike, not only from an economic standpoint but from an environmental one, as well.

**Response 29.**

*Comment noted.*

**Comment 30.**

Mr. Shaheen states that the restrictive options presented in the study as solutions to the issues not only disheartening, but also based on little, if any, actual input from people that are supposed to be effected by these issues, the farmers. After speaking to a number of farmers in New Hartford, Mr. Shaheen feels that the options restricting the size or number of parcels developed within the land areas cited in the study will neither help nor maintain their current farming viability. He states that the farmers he had had discussions with cite these options as exasperating their farming methods and long-term ability to farm in the Town, at all.

**Response 30.**

*See response to speaker Councilwoman Krupa (Response 2), speaker Ben Simons (Response 5) and speaker Ed Collins (Response20), above.*

**Comment 31.**

Mr. Shaheen expresses the belief that landowners outside of the growth boundary will bear the financial burden for all of the other residents, developers and builders in the past that have not had to be accountable for the problems that they have created. He would hope that a community like New Hartford, where everyone's position is appreciated and all residents, regardless of their financial positions are given equal rights, that a solution to these problem will be equitable to all, rather than at the expense of a few.

**Response 31.**

*By not attempting a design plan and complimentary zoning, development of parcels of land by some land owners can affect neighboring landowners directly and non neighboring landowners indirectly by costing taxpayers money to mitigate unanticipated impacts.*

**Dr. C.P. Rao, 19 West Main Street, Mohawk, NY (8/10/09 hearing transcripts pp. 61-66, prepared comments submitted – exhibit 3)**

**Comment 32.**

Dr. Rao states that New York State has laws that address the issue of stormwater flow. He goes on to say “This is the New York State DEC Environmental Review Act, which provides the guidelines for attenuating the peak flow from the construction site. What it says is, that quote, *The development site will generate no greater peak flow than prior to the development for a 2-year, a 10-year and a 100-year, 24-hour storm considered individually.* Now, which means that, if we go by those guidelines for any construction that takes place on any site, that means that Type 1 Action Category of the DEC, which means that whether you construct a 1-acre lot or you construct on a 10-acre lot, runoff from that sight, during construction, after construction, should not be any different or more than what was there before you started constructing there.”

**Response 32.**

*There is no SEQRA Type 1 action that specifically refers to stormwater. However, the Town of New Hartford does have a similar provision regarding stormwater contained in its Zoning Ordinance. Theoretically, this provision would solve any future problems pertaining to stormwater. Each development would be evaluated on its own and not in conjunction with other developments. There is still an impact resulting from multiple developments. Furthermore, when each development is evaluated on its own and not in conjunction with other developments, those who develop later potentially suffer greater expense to fix problems caused by others. This is not equitable.*

**Comment 33.**

Dr. Rao addresses the issue of the designated development area. He believes that by cramming everybody in the center of town increases traffic which, in turn, will increase traffic congestion, noise pollution, air pollution, and the amount of impervious surface which will increase stormwater runoff.

**Response 33.**

*Whether new development is concentrated in the center of Town or spread throughout the Southern Area, traffic is going to be created. Employment centers and commercial areas would still be located in the center of town. The only difference is that with spread out development, people would be traveling to the center from further away, which increases vehicle miles traveled. Concentrating housing around these commercial centers gives people the option of walking to their destination, thereby decreasing traffic. The statement of increasing runoff is contradictory to the previous argument that flow rates must be the same before and after development. The Design Plan for the hamlets includes stormwater retention facilities and would increase the need for roads, increase the expense of snowplowing and maintaining the town roads affect the provision of police and fire service.*

**Comment 34.**

Dr. Rao expresses the concern that concentrating the population will increase the real estate value and result in higher taxes. He states that many senior citizens living in the area would be unable to afford living there and be forced to sell their home that they have been living in their whole life.

**Response 34.**

*Comment noted. There is no evidence that assessed values will increase. Concentrating development decreases the need for infrastructure and maintenance thereof, which could help stabilize taxes.*

**Comment 35.**

Dr. Rao also expressed concern that land values outside of the designated growth area will become depressed with 5-acre lots. He says that it will drive farmers off the land because the value of land is gone.

**Response 35.**

*There is no evidence that the value of land will decrease. See also response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 36.**

Dr. Rao expresses concern that concentrating development in the designated development area will encroach on the flood plain.

**Response 36.**

*The Design Plan includes stormwater management facilities. Development within the flood zone is regulated by current zoning regulations.*

**Comment 37.**

Dr. Rao states that “no matter where you have the infrastructure, it is needed where the population is. Whether the population is outside of the DDA or if the population is inside the DDA, you still have to have that infrastructure. It doesn't make any difference if you have a 5-acre lot, or a 10-acre lot, the infrastructure is going to be the same.”

**Response 37.**

*The amount of infrastructure necessary is less when development is concentrated.*

**Comment 38.**

Dr Rao sums up by saying “the storm water can be handled by the DEC, which says that you can't have any more storm water than what was there before. The traffic problem is going to be exacerbated by everything inside the Town area, which is the DDA, and infrastructure is going to be the same whether you have 5 or 1 acre. Now, the solution is to try to enact the green ordinances. I don't want to be a tree hugger here. Please, do what we have to do, but don't restrict the property uses of the land.”

**Response 38.**

*See other responses above. Comment noted.*

**Omar Massoud, 9716 Roberts Road (8/10/09 hearing transcripts pp. 70-71, prepared comments submitted – exhibit 4)**

**Comment 39.**

Mr. Massoud states that the GEIS is taking the stance that it needs to restrict building to one lot per 5 acres in the Southern part of the Town because of a potential burden on the infrastructure, yet the plan proposed unlimited development within a 1 mile radius around the hamlets of Chadwicks and Washington Mills, which sit at the bottom of hills. Mr. Massoud believes that this will put even more pressure on the infrastructure.

**Response 39.**

*See response to speaker Councilwoman Krupa (Response 2), above. The Design Plan does not advocate unlimited development around the hamlets. The Design Plan proposes stormwater management facilities in the hamlet areas.*

**Comment 40.**

Mr. Massoud expressed concern that the restrictions are robbing young families of looking for a country setting. And that a young family might not have the resources to maintain that much land.

**Response 40.**

*See response to speaker Councilwoman Krupa (Response 2), above. There will still be housing opportunity for all ages and income levels in the Town. The design plan allows for/ encourages a variety of housing options, both in terms of density and expense.*

**Comment 41.**

Mr. Massoud believes that the Town should give the young people of the area an opportunity at country living, as opposed to allowing them to continue to leave.

**Response 41.**

*There is still housing opportunity for young people, more so with increased density near the hamlets. The children are not leaving because they cannot find an affordable place to live. This study does not address regional economic conditions and trends that are driving young people away.*

**Comment 42.**

Mr. Massoud points out that homebuilding creates jobs for carpenters, masons, landscapers, excavators and allows money to stay local. Yet, this study claims these jobs are irretrievable commitment to labor resources.

**Response 42.**

*Point taken. The statement was deleted from the section.*

**Richard Wolfe, Attorney for some landowners, 288 Genesee Street, Utica, NY (8/10/09 hearing transcripts pp. 71-73)**

**Comment 43.**

Mr. Wolfe expresses concern that a 5-acre zoning minimum would effectively price certain citizens out of the market and that only wealthy people would be able to afford 5-acre lots. He states that this is, under the Law, exclusionary zoning which is unconstitutional, and there is case law in which judges say that ordinances which practice or create exclusionary zoning will be set aside.

**Response 43.**

*See response to speaker Councilwoman Krupa (Response 2), above. Implementation of the design plan would not create "exclusionary zoning."*

**Comment 44.**

Mr. Wolfe states that the five acre minimum will put undue hardship to the farmer. A farmer works his land his entire life, but there comes a time when business is so bad that he needs money. If he owns 150 acres, he can sell a couple acres and get the money to tide him over the tough period. With a 5-acre minimum, a farmer would be unable to sell of small pieces of land.

**Response 44.**

*See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 45.**

Mr. Wolfe questions the idea of the Town buying development rights for \$2,000. He presents that a three-quarter acre parcel owned by Ed Richards is assessed \$22,000. At that rate, an acre of land would cost \$30,000.

**Response 45.**

*See response to speaker Albert Shaheen (Response 14), above. The value of development rights is different than the value of land.*

**Don Backman, 9900 Mallory Road (8/10/09 hearing transcripts pp. 74-80, e-mail from Paul Smith submitted – exhibit 5)**

**Comment 46.**

Mr. Backman addressed earlier GEIS projects undertaken by the Town in the past. He states that the projects are designed to extract money from commercial developers coming into the Town. He goes on to say that in the areas targeted by the earlier GEIS project, mom & pop shops have been replaced by multinational big box stores because it is about money. The only people that are going to come into this GEIS area now are those who have money and are willing to spend it here.

**Response 46.**

*The areas designated for the previous GEIS studies were zoned for regional commercial development. National chains and big box stores are always going to occupy these areas regardless of money. The Design Plan does not recommend that the hamlets be zoned for regional commercial uses.*

**Comment 47.**

Mr. Backman points out that \$350,000 was spent on this study and asks how many storm water collectors, how many drain pipes, and how much infrastructure could have been put in for this amount of money.

**Response 47.**

*Comment noted.*

**Comment 48.**

Mr. Backman opposes the 5-acre lot proposal.

**Response 48.**

*See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 49.**

Mr. Backman expresses concern that the GEIS doesn't take particular steps to identify traffic and storm water runoff, in the affect that it does not proposed any more roads to handle increased traffic. It does not say where there should be a storm water basin retention pond. He claims that the study does not address how to slow runoff from flowing off the hills.

**Response 49.**

*The Design Plan proposes stormwater and flood control facilities in the hamlets off of the Sauquoit Creek. It cannot predict where development is going to occur in order to identify each stormwater facility necessary for each development. Road improvements were identified. Preserving farmland and open space will help mitigate additional runoff.*

**Comment 50.**

Mr. Backman submits an e-mail response from Assessor Paul Smith in which he asks him three questions which are as follows:

- Could land values be impacted? Answer - yes, any physical change to a property or permitted use has potential to impact value. There's no way of knowing the impact until a market is created. In other words, you're going to be able to use 20 percent of your land now, if you have developable land, instead of 1-acre lot, 5-acre lot and, obviously, your value is going to be decreased, until that market is established.
- If this is adopted and the landowner submits proof of an appraisal before the GEIS and after, are you ready to lower the value of undeveloped agricultural land across the board. Answer - essentially, no. You have to see the market and determine, and look at sales data and see. Until he sees that, he's not willing to adjust anything.
- Is it possible that GEIS will lower the value of large tracks of land here? Answer - yes, it's possible. He says it could also, possibly, raise it, but until the market is indicated by the sales, they'll have no idea.

**Response 50.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 51.**

Mr. Backman states that there are not too many people that can take care of a 5-acre lot with their resources. It will promote unsightly and unkempt areas. It is going to impact the farming industry. There is already a population erosion and the more restrictions you put on residents, the faster they flee.

**Response 51.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 52.**

Mr. Backman addresses the issue of financing the recently constructed water system in the Mallory Road - Mohawk Road – Sessions Road – Roberts Road area. The Town took out a zero interest loan to build the system and devised a method to repay the loan based on road frontage. Limiting development to 5-acre lots would cause people to pay 5 times more to retire the debt per lot.

**Response 52.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Guy Wilcox, 9790 Mallory Road (8/10/09 hearing transcripts pp. 81-84)**

**Comment 53.**

Mr. Wilcox expressed that he appreciated that the GEIS is focusing on the Southeast New Hartford. He believes that preserving the farmland and the character of the area was a great idea.

**Response 53.**

*Comment noted.*

**Comment 54.**

Mr. Wilcox expresses concern that there cannot be farms without farmers. He suggested that there needs to be a healthier agricultural economy in order to preserve farmland and the character of the area.

**Response 54.**

*Comment noted. See response to speaker Ben Simons (Response 5), above.*

**Comment 55.**

Mr. Wilcox notes that the GEIS expressed a smart growth idea, but contained nothing on who we are as people.

**Response 55.**

*Comment noted*

**Comment 56.**

Mr. Wilcox expresses that the GEIS talked about land as a commodity, but there was no mention of farms and the future of the farming industry in the area.

**Response 56.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), speaker Ben Simons (Response 5) and speaker Ed Collins (Response 20), above.*

**Comment 57.**

Mr. Wilcox states that the GEIS contained nothing about federal conservation programs or regional land trusts.

**Response 57.**

*The DGEIS briefly mentions these programs when discussing the purchase of development rights. This Section was further expanded with more explanation and additional strategies added. See response to speaker Ben Simons (Response 5), above.*

**Comment 58.**

Mr. Wilcox expresses that he hoped that there was room for give and take and that the community needs to work together in order keep agriculture economically viable and preserve the scenic quality of the area.

**Response 58.**

*Comment noted.*

**Gail Lallier, 68 Auburn Avenue (8/10/09 hearing transcripts pp. 84)**

**Comment 59.**

Ms Lallier stated that she was told to sign in and that she did have anything to say that wasn't said already.

**Response 59.**

*Comment noted.*

**David Wellenstein, 9666 Sessions Road (8/10/09 hearing transcripts pp. 85-88, prepared comments submitted)**

**Comment 60.**

Mr. Wellenstein noted that the Town of New Hartford is aging in place and expressed concern that the children are leaving due to mainly the lack of jobs and the overall upstate economy, but also high taxes and overregulation.

**Response 60.**

*See response to speaker Omar Massoud (Response 41), above.*

**Comment 61.**

Mr. Wellenstein expressed the idea that having 5-acre lots will increase the cost for young people and create another roadblock to them staying in the area.

**Response 61.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2) and speaker Omar Massoud (Response 41), above.*

**Comment 62.**

Mr. Wellenstein notes that the demographics used for predicting growth in this area are based on building permits issued between 2000 and 2007. He believes that the method is unreliable due to the economic downturn that started in 2008.

**Response 62.**

*See response to speaker Albert Shaheen (Response 11), above.*

**Comment 63.**

Mr. Wellenstein agrees that there is a need to protect the charm of the area and address the issues, but wonders what is the charm if all the children are gone.

**Response 63.**

*Comment noted. See response to speaker Omar Massoud (Response 41) above.*

**Comment 64.**

Mr. Wellenstein states that he felt the plan was obsolete based on the new economy and believes it should be scrapped or at least postponed until it is known what a post-recession New Hartford looks like.

**Response 64.**

*Comment noted.*

**Comment 65.**

Mr. Wellenstein notes that there are storm water runoff issues that need to be solved, but any attempt to slow down or stop future growth does not fix the current problem.

**Response 65.**

*The Design Plan does not attempt to slow growth, but to manage growth as it happens. See response to speaker Councilwoman Krupa (Response 2), above.*

**Sidney and Mary Jane Perry, 415 Higby Road (8/10/09 hearing transcripts pp. 88-90) (letter to Planning Board 8/10/09)**

**Comment 66.**

Mrs. Perry stated that her family had bought their property in 1899. The property has been in the family ever since and she would like to pass it on to her children. Her property is no longer viable for agriculture and is planted with trees which will help the surface water problem.

**Response 66.**

*Comment noted.*

**Comment 67.**

Mr. and Mrs. Perry express opposition to the study stating that their property would be dramatically affected because it is a large parcel that is buildable and has sewer and water. They go on to state that increasing lot sizes to either 10 or 5 acre minimums arbitrarily decreases the development potential and the value of the land and in their perspective is borderline criminal. Although they have no desire of subdividing and developing their property, they cannot dictate the desires or actions of future generations.

**Response 67.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 68.**

Mr. Perry states that it was a good idea to encourage higher density housing and growth in the outline hamlets, but it should be done with economic incentives and appealing development that encourages residential and commercial growth, not via economic disincentives.

**Response 68.**

*Comment noted.*

**Comment 69.**

Mr. Perry states that there are numerous “green” building techniques that could be adopted to address the water run-off issues, none of which were mentioned. Alternative energy incentive programs could be established to encourage the development of land for energy production rather than residential homes (i.e. solar farms, bio-energy crops, etc.).

**Response 69.**

*Comment noted.*

**Comment 70.**

Mr. Perry states that it is imperative that the Town incorporate either the purchase of development rights or the transfer of development rights as a mechanism to compensate landowners for the significant economic opportunity loss that would be associated with a change to 5/10 acre zoning. Development rights should be valued no less than market value for such a residential building lot. Transferable development rights should be valued and traded in the open market to ensure best value for the landowner.

**Response 70.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2) and speaker Albert Shaheen (Response 14), above.*

**Kristine Giotto, 9832 Mohawk Street (8/10/09 hearing transcripts pp. 90-95)**

**Comment 71.**

Ms. Giotto expressed the belief that the plan amounted to a taking. To make her point she quoted the Founding Fathers and presented constitutional amendments that address the rights of property owners.

**Response 71.**

*Comment noted. The Town does not propose a taking. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 72.**

Ms. Giotto points out that it is all about money. She states that the GEIS study has cost the taxpayers a lot of money to do the study, and the landowners who will be affected by its policy stand to lose a lot of money if we lose control of our property. If property rights are going to be restricted then there must be compensation. And anything else is really land grabbing. The Constitution protects the rights of the people. It does not give rights to the government.

**Response 72.**

*Comment noted. Poorly managed growth costs everyone in the Town more money.*

**Comment 73.**

Ms. Giotto states “government only has the power that we give it. Government is controlled by us, the People. This means we can and will exercise our right to vote. We will organize and vote out any government officials who proceed with unfair recommendations for land restrictions and lot size. It is blatantly unfair to punish or penalize one section of the Town because we were good citizens who held and maintained our land.”

**Response 73.**

*Comment noted.*

**Comment 74.**

Ms. Giotto states that the “Constitution gives rights to individuals, to people, and one of those rights is in the 5<sup>th</sup> Amendment. It's the right to own land, to control the use of that land and to benefit from your own property.”

**Response 74.**

*Courts have held that zoning is an application of police power, granted to the states under the 10<sup>th</sup> amendment. Zoning has considerable control over the use of private property. Zoning is currently in place in the Town of New Hartford. See response to speaker Councilwoman Krupa (Response 2), above.*

**Carlton Corey, 9011 Red Hill Road (8/10/09 hearing transcripts pp. 95-98)**

**Comment 75.**

Mr. Corey expressed approval of the concept of voluntary fees in lieu of mitigation stating that the Town certainly needs that tool to be able to have the developers help take care of problems that they create when developing, rather than putting the entire burden on the taxpayers.

**Response 75.**

*Comment noted.*

**Comment 76.**

Mr. Corey expressed concern about the idea of clustering and letting the rest of the property grow wild.

**Response 76.**

*See response to speaker Vincent Johns (Response 8), above.*

**Comment 77.**

Mr. Corey stated that in regards to the Comprehensive Plan, when that Town questionnaire came to him, he personally checked that he was interested in preserving the rural lay of the land and the beauty of the land in Southern New Hartford. But he didn't realize that it was going to be at the expense of land owners. He states that if the question had been worded "Would you like to maintain these open spaces at the cost of yourself and your neighbors," his response might have been a little different.

**Response 77.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 78.**

Mr. Corey expressed that he didn't think there was a problem with traffic flow.

**Response 78.**

*See response to speaker Albert Shaheen (Response 17), above.*

**Comment 79.**

Mr. Corey expresses concern about his two children returning to the area.

**Response 79.**

*See response to speaker Omar Massoud (Response 41), above.*

**Comment 80.**

Mr. Corey expressed the belief that there is economic discrimination as it relates to the future homeowner's.

**Response 80.**

*See response to speaker Councilwoman Krupa (Response 2), above.*

**Bill Smith, 9940 Mallory Road (8/10/09 hearing transcripts pp. 99)**

**Comment 81.**

Mr. Smith stated that his comments would be repetitive.

**Response 81.**

*Comment noted.*

**Nancy Shaheen, 5 Sylvan Glen Road (8/10/09 hearing transcripts pp. 99-101)**

**Comment 82.**

Ms. Shaheen stated that she felt very, very strongly that the people need to do everything they can to encourage the progress and development of New Hartford.

**Response 82.**

*Comment noted.*

**Comment 83.**

Ms. Shaheen expressed opposition to 5-acre lots stating that it is ridiculous and that no one can maintain that much land.

**Response 83.**

*See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 84.**

Ms. Shaheen addressed issue of property taxes stating that aside from school taxes, property taxes are far and away higher than greater valued properties in Massachusetts, New Hampshire, Vermont, and in the Virginia area.

**Response 84.**

*Comment noted.*

**Comment 85.**

Ms. Shaheen expresses the need to do everything possible to encourage the return of people her age, but also next generation as well.

**Response 85.**

*Comment noted. See response to speaker Omar Massoud (Response 41), above.*

**Comment 86.**

Ms. Shaheen states that New Hartford is a wonderful community. She wishes all of her siblings and friends that she went to school with could be here, but they are not. She states that the Town needs encourage their return by promoting the future of the Town and not making it more restrictive.

**Response 86.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2) and speaker Omar Massoud (Response 41), above.*

**John Restivo, 8 Waterford Lane (8/10/09 hearing transcripts pp. 101-103)**

**Comment 87.**

Mr. Restivo expresses that he is very fortunate to have a beautiful home and to live in this area. He states that it's a beautiful place to live. Everybody he has met who has grown up here is a special person. He states that the area is a great place to raise a family and have children and, hopefully, have the children stay.

**Response 87.**

*Comment noted. See response to speaker Omar Massoud (Response 41), above.*

**Comment 88.**

Mr. Restivo states that it is great to be able to drive two minutes to be out in the beautiful countryside, but noted that it is not a museum. He states that the cost of preserving that should not be shouldered by the people who own the land and have worked their whole lives to maintain the land to make it beautiful in the first place.

**Response 88.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**James Messa, 25 Sherrill Lane (8/10/09 hearing transcripts pp. 103-104)**

**Comment 89.**

Mr. Messa expresses that 5 acres is excessive and thinks that there should be a compromise so that all parties involved will be satisfied.

**Response 89.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**George Massoud, Attorney for land owners, Utica, NY (8/10/09 hearing transcripts pp. 104-107)**

**Comment 90.**

Mr. Massoud states that it has been said that this is not a zoning issue. He argues that although it is not a zoning issue, it is a basis for zoning legislation and therefore becomes a zoning issue. Mr. Massoud submits that the storm water issue can be addressed in other ways through zoning other than a restriction on lot sizes.

**Response 90.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 91.**

Mr. Massoud expresses concern about transfer of development rights suggesting that if the development rights “go out to bid,” it could invite wealthy developers from outside the state to buy them up. Mr. Massoud also questions how the development rights will be utilized.

**Response 91.**

*Under a program of purchase or transfer of development rights, these rights from one part of the Town must be used in targeted other areas of the Town that can support an increased density. The cost of development rights is negotiated between parties and is optional. See also response to speaker Albert Shaheen (Response 14), above.*

**Comment 92.**

Mr. Massoud expressed concern about the 5-acre minimum lot size saying it would be counter-productive. He states that the land is the source of farmer’s retirements and that they should not be forced to have to cluster their lots in order to sell of parcels.

**Response 92.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Concetto Mazza, 3356 Mohawk Street (Letter to Planning Board 8/7/09)**

**Comment 93.**

Mr. Mazza stated that New York State ranks dead last in economic freedom and that his plan is just another example of government regulators controlling opportunity and prosperity and keeping New York in last place.

**Response 93.**

*Comment noted.*

**Comment 94.**

Mr. Mazza notes that in the Town of New Hartford, five acre lots do not cost less than one acre lots

**Response 94.**

*Comment noted.*

**Comment 95.**

Mr. Mazza expresses concern that 5-acre lots will lead to bigger government, higher taxes, and that it will drive away young people.

**Response 95.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Jean Hunt, 23 Oxford Road (Letter to Planning Board 8/9/09)**

**Comment 96.** Ms Hunt noted that it is already too costly for any developer or individual to build a new home in this state and town.

**Response 96.**

*Comment noted.*

**Comment 97.**

Ms Hunt expresses concern over the 5-acre lots questioning why anyone would want a five acre lot to take care of.

**Response 97.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 98.**

Ms. Hunt notes that the existing zoning which requires 100 ft of road frontage in areas with water and sewers would encourage growth and still maintain desirable home sites that are affordable.

**Response 98.**

*Comment noted. See response to speaker Councilwoman Krupa (Response 2), above.*

**Comment 99.**

Ms. Hunt questioned if it had occurred to anyone on the Planning Board to consult with someone in the real estate business.

**Response 99.**

*Comment noted.*

## 4.0 Appendix

