

Comment 206: Dan Broedel, Program Director, Midstate Regional Emergency Medical Services Council, Public Hearing, 12/6/18:

With the treatment specialties divided among the two separate hospitals, quickly navigating the best path of care isn't always an easy task for the more than fifteen hundred emergency medical services providers, the staff of 57 ambulance services...With specialty services consolidated at one location, we'll be able to avoid the need for these many patient transfers.

Response 206:

The Commenter's statement is consistent with the objectives and capabilities of the Project Sponsor – MVHS, which, as stated in the DEIS and CON application, includes:

- Consolidation of multiple, existing, licensed health care facilities into an integrated system of care, within the largest population center in Oneida County (as stated in MVHS's CON application; see DEIS Appendix A). Within its CON application submitted to the NYSDOH, MVHS indicated that the consolidation will result in the following public benefits:
- Provision of one integrated location for acute care with greater access to residents of the City of Utica, Oneida County and the region
- Improve operational efficiency, patient satisfaction and safety for both patients and caregivers
- Centralize limited physician resources. For example, of the current 550 physicians at MVHS only 220 practices at both FSLH and SEMC
- Reduce the need for patients to make several trips to various locations or be transferred between facilities for specialized care
- Create more collaborative care versus the individual silos of care currently caused by two separate facilities
- Improve access to primary care, especially for population most in need

Comment 207: Kevin Revere, Director of Emergency Services, Oneida County, Public Hearing, 12/6/18:

[]...having a designated area in the hospital for victims of rape and sexual assault segregated from the rest of the patients in the emergency room; I hope it is still going to be discussed and included.

Response 207:

MVHS has planned for a SAFE (Sexual Assault Forensic Evidence) exam room within the Observation area. It has additional storage and a dedicated toilet/shower. MVHS has also indicated that it is providing for secured storage (refrigerated and not) for forensic evidence.

Comment 208: Patrick Becher, Chair of the Board of Directors, Greater Utica Chamber of Commerce, Public Hearing, 12/6/18:

Since 2015, the Mohawk Valley Health System has coordinated and participated in over 130 meetings with decision makers and stakeholders. These efforts included meetings with more than 40 interested agencies, specific groups and businesses, and The Greater Utica Chamber of Commerce was included in that process. Through this outreach, a very complete review was established with the state environmental quality process.

Response 208:

The comment is noted. See Response 30 and Section 1.2 of this FEIS Responsiveness Summary.

Comment 209: Patrick Becher, Chair of the Board of Directors, Greater Utica Chamber of Commerce, Public Hearing, 12/6/18:

The Greater Utica Chamber of Commerce has stated a public position in the past supporting the downtown location, and upon review of the DEIS, we remain confident that our policies and issues was well phrased. We believe in the methodology applied to this review was scientifically sound, factually accurate, extremely comprehensive and was in every aspect conducted in full compliance with all applicable state laws and regulations.

Response 209:

The comment is noted.

Comment 210: Tom Zalocha, Union Representative, Plumbers & Pipefitters Union, Public Hearing, 12/6/18:

The rebuilding of downtown Utica provides limitless opportunities for growth and development. Developers had already began purchasing buildings with plans for renovation once hospital construction begins. These plans include creating apartment complexes, retail space, and outdoor eating areas.

Response 210:

The comment is noted.

Comment 211: Tom Zalocha, Union Representative, Plumbers & Pipefitters Union, Public Hearing, 12/6/18:

This hospital does not only benefit the downtown area, but the community as a whole. Our city's residents will have access to the latest achievements in technology, medicine and service with state of the art equipment from specialty doctors and research leaders. This hospital would also provide academic advantages for the local colleges.

Response 211:

The comment is noted.

Comment 212: Daniel Gilmore, Environmental Health Director, Oneida County Health Department, Public Hearing, 12/6/18:

I have to say that the document that's been prepared, the draft environmental impact statement, is thorough, is well written as any of them that have come across my desk, and I think the hospital will be a benefit to the community.

Response 212:

The comment is noted.

Comment 213: Frank Przybycien, Employee, Genesis Group, Public Hearing, 12/6/18:

We endorse the project because we feel very strongly that it will enhance the medical services for the region.

Response 213:

The comment is noted.

Comment 214: Stephen Keblish, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

The impact of relocating current businesses is obviously unknown at the moment given we don't know that

all the businesses are going to relocate either in Utica or in the surrounding region. Until plans are finalized with those businesses, the resulting impact they may have on the environment is completely unknown at the moment. I recommend that you do not finish the statement until we can at least estimate or know what the impacts of relocating any of those businesses might be.

Response 214:

See Responses 32, 194, 241 and 254.

Utica has been a historically depressed area with no lack of commercial/industrial space suitable for relocation of existing businesses. The impact of existing businesses operating out of other space is highly speculative at this point, but would not have any greater environmental impact than what exists presently.

Comment 215: Brett Truett, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

There is not a study that says that our current hospitals are inadequate.

Response 215:

As indicated in the DEIS, as well as in several responses to comments contained within this FEIS Responsiveness Summary, MVHS, in accordance with New York State Public Health Law, submitted and received approval for its CON application. The CON program is a review process that allows the NYSDOH to assess whether there is a public need for the Project, the financial feasibility to undertake the Project, an assessment of the character and competence of the applicant and construction of the facility to certain building code specifications. Based on the information in its application, MVHS received contingent approval of its CON to move forward with the Project, demonstrating that NYSDOH believes the IHC will achieve improvements in healthcare delivery.

The CON application demonstrates that the current hospitals are inadequate. The new facility will provide structural longevity that the current facilities cannot offer. From a facilities perspective, the consolidation of two aging facilities (100 and 60 years) will provide a more energy-efficient environment, which meets and exceeds current day best practices and building codes. Patients will have greater control of room temperature, lighting (both natural and artificial), sound, access to nutrition and private toilet facilities due to the use of 100% private rooms. A reduction of greenhouse gases, water conservation and other sustainable measures will be incorporated to improve the patient experience, as well as a healing environment.

Moreover, expansion/upgrades to St. Luke's would be costly and difficult to achieve. For example, room sizes, door sizes and configuration create potential for falls, transfer difficulties and general movement of patients. In addition, patients are exposed to public areas and there is no clear separation of public and patient support. HVAC, communication, and pressurization systems are not optimal and upgrading in existing space can be difficult and costly. Construction on the existing St. Luke's site also presents a challenge regarding construction phasing; construction and employee access; circulation; and noise, vibration and other sensitivities. The age of St. Luke's does not provide for long-term sustainability and would eliminate certain energy-efficiencies, which meet and exceed current day best practices and building code requirements.

Comment 216: Shawn Corrigan, Owner, Wilcor International, Public Hearing, 12/6/18:

We have not been given a choice and we have not been given what we need to even look elsewhere at this point.

Response 216:

See Response 194. In addition to the assistance offered by MVHS, several other individuals from the City, the Community Foundation, and the Industrial Development Agency have met specifically with this Commenter concerning suitable locations for their business.

Comment 217: Michael Lehman, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

Many consultants employed should be noted by MVHS experts in their very specialized fields and contributed in most cases using only information provided by MVHS; therefore a possible bias in favor of the MVHS interest is unavoidable.

Response 217:

The Environmental Impact Statement process has built in checks against bias and distortion because the EIS is subject to public scrutiny and then assessed by government authorities. Those preparing the EIS, generally professional consultants, are aware of this and few would risk their reputations by preparing a biased EIS.

Comment 218: Michael Lehman, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

[]...the board should focus specifically on the accuracy, completeness and objectivity of information provided by MVHS and direct their consultants through the evaluation of chapters dealing with aesthetic resources, historic and archeological resources as pertaining to community care and the short and long-term costs associated with the proposed action.

Response 218:

The Lead Agency reviewed the DEIS and has relied on its planning staff and other City departments and involved state agencies to assist with its review. On November 15, 2018, following its review, the Lead Agency issued a Notice of Completion of the DEIS, indicating that the document was complete, conformed to the approved scoping document, addressed the issues required to be addressed in the scoping document, and was adequate for public review and comment.

Comment 219: Michael Lehman, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

Many of the costs associated with the proposed downtown site has yet to be identified by the other people you spoke to, this is problematic as to these additional costs are typically born by the taxpayers. The St. Luke's site was identified by MVHS as an acceptable second alternative if the proposed downtown site proved financially unfeasible, which it has. The public is expected to cover the cost of the parking garage, infrastructure upgrading and expansion to our lost tax revenue and a cost proposed amounting to the main proceeding of the property as well.

Response 219:

The Project budget has accounted for the costs associated with developing the IHC downtown. To the extent that the comment relates to St. Luke's as an acceptable alternative site, see Responses 26, 28 and 48.

MVHS has entered into a Memorandum of Agreement with the City and the County to construct a new parking garage. The parking garage will be funded in part by MVHS and in part by the County and City. Although the parking garage will be used to provide parking for the new hospital, the parking garage will be open to the public and will also be used to provide parking for the NEXUS Center project. Moreover, parking in the garage will not be free of charge, and the income will be used to repay the bonds acquired by the County and City to finance their portion of the project. See Responses 123 and 152.

Comment 220: Michael Lehman, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

Site planning that was directed by the previous speaker is not an integrator providing he cannot speak as an architect urban designer; having the training in that area, it does not provide creative site making, it's basically a suburban scheme with acres of parking surrounding it being shoehorned into an Urban site and basically destroying any potential for economic development that may happen there in an organic manner similar to what is happening in the rest of the city.

Response 220:

See Responses 43, 60, 86, 151, 194 and 234.

Comment 221: Donna Beckett, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

The other thing that somebody mentioned about state of the art equipment. It will not have state of the art equipment. It's a new building, it could be all the same old equipment.

Response 221:

While it is correct that some of the equipment at the new hospital will be brought over from St. Luke's and the SEMC, it will only be equipment that is relatively new with a majority of its serviceable life remaining. MVHS has indicated that it has included a medical equipment planning consultant on the design team that evaluates the usability of existing equipment, and recommends what should be purchased as part of the hospital system's on-going capital budget between now and the opening of the new hospital. Additionally, MVHS has indicated that it has budgeted for the purchase of new, state-of-the-art, medical equipment for the new hospital.

Comment 222: Karen Corrigan, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

Why do the taxpayers have to pick up the parking garage?

Response 222:

See Responses 123, 152 and 219. The County and City have stated that additional parking in the area of the AUD is necessary.

Comment 223: Karen Corrigan, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

[]...no more people are going to be employed by the hospital, it's the same amount of people, maybe less because they're consolidating.

Response 223:

MVHS is anticipating gaining numerous operational efficiencies by combining clinical and service departments into one facility. The current forecast reduces overall full-time equivalents at the combined facility; however, given the historical staff turnover rate, MVHS anticipates that a majority of the positions identified in the forecast will be accomplished through attrition, as well as a portion of the employees transferring to the outpatient setting to accommodate the additional demand in the areas of primary care, behavioral health, and home care.

Comment 224: Karen Corrigan, Resident (Municipality Unspecified), Public Hearing, 12/6/18:

Why are we taking these businesses out of there, not only the businesses that are there, the businesses that could have been, and why are we not letting people take these places over so that we can build?

Response 224:

See Responses 26, 28, 32, 47, 60 and 144.

Comment 225: Linda K. Paciello, Ph.D., Resident (New Hartford), Letter, 12/18/18:

What will be the cost to the taxpayers to replace the businesses that are being displaced? What are the amounts of money lost in tax revenue?

Response 225:

See Responses 193, 194 and 195.

Response 226:

The comment is noted.

Comment 227: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

As detailed within, the Draft EIS contains incorrect and misleading information, omits relevant information, and dismisses or fails to develop certain topics.

Response 227:

This comment is an opinion. There are no major, substantive omissions or deficiencies in the DEIS.

The Lead Agency should ensure that all relevant information has been presented and analyzed, but should neither expect nor require a "perfect" or exhaustive document. The degree of detail should reflect the complexity of the action and the magnitude and importance of likely impacts.

A draft EIS that is adequate to be accepted for public review should describe the proposed action, alternatives to the action, and various means of mitigating impacts of the action. The draft EIS should identify and discuss all significant environmental issues related to the action, however, the draft EIS will not necessarily provide a final resolution of any issues. Since one of the major purposes of a draft EIS is to give the public an opportunity to comment on the environmental issues raised, as well as the possible alternatives and mitigation offered to address those issues, settling on a resolution of one or more issues prior to public review would be counter to the intent of SEQRA.

SEQRA gives considerable discretion to agencies to make decisions consistent with social, economic and other essential considerations. While SEQRA requires that adverse environmental impacts must be avoided, minimized, and/or mitigated to the maximum extent practicable, agencies may approve actions providing social or economic benefits, even if all environmental impacts cannot be totally avoided or mitigated. Thus, the more a project provides important, public, social and economic needs or benefits, the more an agency may conclude that it can accept certain adverse environmental impacts. Here, not only have the potential environmental impacts been minimized or mitigated, but the IHC will also provide significant social and economic benefits.

Comment 228: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

While its flaws are many and in need of correction, its Fatal Flaw is that it does not consider re-siting the Project to the St. Luke's Campus as avoidance or mitigation of the many significant environmental impacts that are evident.

Response 228:

See Responses 26 and 28.

Comment 229: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Simply, the Draft EIS is incomplete and does not provide a rational basis for the Planning Board or any Involved Agency to make the findings required by the State Environmental Quality Review Act (SEQRA) that adverse environmental impacts are avoided or mitigated to the maximum extent practicable.

Response 229:

See Responses 35 and 227.

Comment 230: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Environmental Justice: The Draft EIS acknowledges the need to address Environmental Justice in Section 1.2.3 and in several other places, mentions several times that the Downtown Site is potentially an Environmental Justice area, but then fails to offer anything about the issue. The Draft EIS fails to assess the Project's impacts on

the protected population or otherwise deal with those impacts. In this regard it is noted that the Project will displace from the neighborhood, if not destroy, about 40 business and other entities where people are working. No attempt has been made to assess the number or holders of those jobs, their circumstances, or whether they are members of the protected population. The Project will also displace or impact several charitable institutions that serve the protected population, such as the Salvation Army and Compassion Coalition. Jobs and services clearly are going to be lost to the neighborhood. The EIS must acknowledge that Environmental Justice impacts may be completely avoided by relocation of the Project to the St. Luke's Campus, which is not in an E-J neighborhood.

Response 230:

Siting the IHC within walking distance of the most at-risk population is a community character and EJ benefit. The DEIS (Section 1.2.3) notes that the entire City of Utica is located in an area identified as a "Potential EJ Area." According to the MVHS grant application, there is high poverty with 22.5% of the population <138% of Federal Poverty Level (Medicaid eligible) and 30.1% of population in Utica <100% of Federal Poverty Level. In the City of Utica 40.5% of the population is on public health insurance, 36.9% are Medicaid. Oneida County has 23.7% of the residents on public health insurance and 19.2% are Medicaid. It's an area with high socio-economic disparities compared to NYS; Emergency Department (ED) visits and hospitalizations are also significantly higher.

Home to one of the largest refugee resettlement agencies in the country, Mohawk Valley Resource Center for Refugees (MVRRCR) has, since the 1980s, resettled more than 15,000 individuals in Utica with ethnicities and nationalities including Vietnamese, Russian, Bosnian, Somali Bantu, Burmese and Nepali. Utica foreign-born residents constitute 17.6 percent of the population. 26.6 percent of households in Utica speak a language other than English. The new hospital/health campus downtown would improve access for our refugee population. (MVHS spends more than \$800,000 annually to provide language assistance for health care services. We employ four program specialists/interpreters, 22 per diem interpreters and work with outside agencies, covering 30 different languages and dialects.) Within the rural areas of Oneida County, there are also growing areas of Amish and Mennonite populations.

See Responses 1, 32 and 33 for further discussion on how the IHC will improve healthcare for those who need it most.

Comment 231: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Creation of a Demand for Other Actions that Could Impact the Environment: This topic is only partially touched upon in the Draft EIS in Section 8.2 "Adaptive Reuse of FSLH and SEMC," and is otherwise ignored.

The Project will take the new Utica Police Garage, disrupting the Utica Police Campus which also includes the Police Station, Utica City Court, and associated parking. No plan for the garage's functions has been announced, and the impact on the functioning of the other portions of the Campus is unassessed. The change in the map of the Utica Police Campus suggests that it will be 'squeezed out' by the surrounding Medical Campus, and create a need to build a new Police Campus (Garage, Station and City Court) elsewhere.

Response 231:

See Response 4.

Comment 232: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

The Project will take the facilities of some 40 business and other entities, and likely force others out of the neighborhood due to construction disruptions. If these entities continue their existence elsewhere they likely will go to the suburbs (Empire Bath has already moved to Marcy, and Brandeis will be moving to Whitesboro). Forcing businesses out of the City creates sprawl, increasing the demand for public infrastructure and services, making the public more dependent on the automobile, and wasting energy.

Response 232:

See Response 32. There are approximately 25 existing businesses and 4 active not-for-profit organizations within the Project area. At least 9 of the businesses are small-scale auto parts/service or warehousing businesses conducted in garages or other low-quality retail space. The businesses also include 2 bars and an adult entertainment establishment. Other businesses include an HVAC contractor, fabrication business, billboard company, paint retailer, retail bookstore, dry cleaner, salon, and The Salvation Army. Most or all the properties at issue were not specifically constructed for the current use, but instead are adapted for second or third-generation, lower quality use. Given the types of uses and the nature of the space involved, these uses should be able to relocate to appropriately zoned spaced with little to no additional impacts. Relocation of these businesses either in the City of Utica or elsewhere creates additional opportunities for growth and economic development.

Comment 233: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Relocation of the Project to the St. Luke's Campus should be considered in mitigation of potential demands for other actions because: (a) there would be no need to disrupt the Utica Police Campus, (b) there would be no need to displace businesses and others, and (c) some of the St. Luke's facilities could continue to be used to serve the Applicant (*e.g.*, the Medical Office Building and the Co-Gen Facility).

Response 233:

See Responses 4, 26, 28, 32, 48, 37, 58 and 194.

Comment 234: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Smart Growth Policy (Environmental Conservation Law Article 6): The Draft EIS makes some references to the State's Smart Growth Policy (pp. 48, 49, 1591/3527) regarding the Site Selection Process, but otherwise ignores the subject. The Draft EIS claims that the Downtown Site would be viewed more favorably if state funds are pursued and that re-purposing urban parcels is a sustainable initiative. The Draft EIS assigns extra "points" to the Downtown Site as being "smart growth." However, the Draft EIS' treatment of the topic is absurd – like a box to be checked – without any apparent understanding that the purpose of the law is to minimize sprawl. The Project exacerbates sprawl by: (1) ripping out (wasting) an urban grid infrastructure and replacing it with a suburban-style campus with acres of parking (a low level use); (2) wasting Applicant's existing suburban campus, unnecessarily dispersing Applicant's facilities; and (3) pushing out 40 entities currently occupying the Downtown Site, and likely driving many of them to the suburbs or lesser developed areas. Simply, the Draft EIS turns the State's Smart Growth Policy on its head. The EIS needs to acknowledge that relocating the Project to the St. Luke's Campus would be more consistent with Smart Growth principles because it avoids the three negatives listed above.

Response 234:

The comment focuses on the St. Luke's Campus as an alternative for the Project as proposed, and an analysis of that potential site was conducted. However, utilizing the St. Luke's Campus as the Project Site would not achieve the Project's goals and would entail significant additional costs to upgrade as detailed above. See Responses 28, 32, 48 and 123.

In fact, utilizing the St. Luke's Campus as the Project Site would not achieve the Applicant's goals as detailed above and would actually increase the potential for sprawl, which is the expansion of human populations away from central urban areas into low-density, monofunctional and usually car-dependent communities. Development of the IHC in downtown Utica is the antithesis of sprawl and instead represents smart growth, which concentrates growth in compact walkable urban centers.

The Principles of Smart Growth as outlined on the NYSDEC website (<http://www.dec.ny.gov/lands/45970.html>) are listed below along with a discussion of how they may be applied on this Project at the Downtown Site:

- **Foster strong, sustainable businesses in community centers** – enhance infrastructure in downtowns and villages to attract economic growth and discourage scattered development. The Project does enhance the downtown infrastructure surrounding the Project Site, which will facilitate economic growth. Downtown housing, commercial, food, retail, education and entertainment venues are positioned to benefit from the influx of more than 3,500 MVHS employees and medical staff at the new IHC. The Project is a strong step in discouraging scattered development. The MVHS Board dismissed sites that could be categorized as greenfields in suburban communities.
- **Preserve open space, forests, farmland, natural beauty, and critical environmental areas** – keep irreplaceable resources intact to bolster local economies, improve quality of life, and guide growth inward. The Project guides growth inward, seeking to increase employment in the downtown core and spur new mixed-use investments in downtown and in adjacent neighborhoods like Bagg’s Square and Harbor Point.
- **Strengthen and direct development towards existing communities** – tap into existing infrastructure and neighborhood resources to stop the sprawling urban fringe. The Project makes use of, and improves, sewer and water infrastructure that was built to serve a larger population base in the City.
- **Foster distinctive, attractive communities with a strong sense of place** – value development and construction that has distinctive architectural beauty. The IHC would be constructed within a section of the city earmarked for urban renewal, and the proposed hospital facility would be a significant architectural accomplishment, potentially injecting this area of the city with a new, modern centerpiece derived from the architecture of its neighboring buildings and historical past.
- **Create walkable neighborhoods** – build compactly and focus everyday activity along streetscapes designed for pedestrians, bicyclists, transit riders, and automobiles. A key consideration of the Project is to preserve and enhance walkability and increase pedestrian traffic. See Response 86.
- **Take advantage of green building design** - use innovative approaches, proper building placement, and local materials. Several of the Project elements are consistent with “green” design (see DEIS Section 3.8).
- **Create a range of housing opportunities and choices** – build quality housing for people of all income levels with access to jobs, culture and open space. Investment in urban housing projects near the IHC are expected to grow.
- **Encourage community and stakeholder collaboration in development decisions** – work together to find creative solutions, increase community understanding and plan and invest in shared spaces. The Project helps to connect adjacent districts together with common themes (*e.g.*, health, sports, and entertainment as reflected in the IHC, Varick Street, AUD/NEXUS, Harbor Point), while investing in public spaces (AUD/NEXUS and Harbor Point) and preserving historic districts (Genesee Street and Bagg’s Square).
- **Mix land uses – locate commercial uses proximate to residential areas and open space.** The Project should help downtown and adjacent neighborhoods like Bagg’s Square locate commercial uses to complement newly created loft apartments.
- **Make development decisions predictable, fair and cost effective** – provide government leadership that creates a fertile environment for innovation. The Project includes a proposed innovative collaboration between MVHS and the Masonic Medical Research Laboratory.
- **Provide a variety of transportation choices** – reinforce the viability of smart growth with efficient movement between housing, shopping, and jobs. Being downtown, the Project is well-positioned to maximize transportation choices.

- **Foster long term comprehensive planning** – plan to reach local, regional and state goals, to target investment, increase local capacity and increase intergovernmental efficiency. Targeted investment in upstate New York cities has been part of the economic development agenda of the State over the past several years.

Comment 235: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

Conclusion re Environmental Concerns. Significant environmental concerns are either ignored, understated, or masked by a focus on minutiae. [sic]

Response 235:

See Responses 35, 227 and 229.

Comment 236: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

The SEQRA process is set forth in ENV Article 8 and its implementing regulations, 6 NYCRR Part 617 (State Environmental Quality Review, SEQR). As described in the SEQR Handbook (p.3):

“SEQR establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local, regional and state agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.”

The availability of State funds for the Project was announced in early 2015, the Project Site was announced in September, 2015, and we just got around to SEQR in 2018 when the Oneida County Industrial Development Agency made a Positive Declaration. Does that sound like “incorporating environmental review early in the planning stages” so that “projects can be modified as needed to avoid adverse impacts on the environment?” Why was SEQR not part of the planning of the Project from the very beginning, including the choice of the site? As noted under Part I Section I, the site of a project is an appropriate consideration under SEQR, and the State promulgated a non-exhaustive list of those actions considered to have significant adverse impacts (6 NYCRR 617.7(c)(1)). This could have been used to help screen or rank the sites – but it was not.

Response 236:

Grant funds were made available by an act of the New York State Legislature when it adopted the Oneida County Health Care Facility Transformation Program in 2015. The Oneida County Health Care Facility Transformation Program specifies that to qualify for funding the proposed Project must be located in the largest population center in Oneida County. Accordingly, to qualify for state funding, the Project was required to be located in the City of Utica, which is the largest population center in Oneida County based on the most recent U.S. survey results. The SEQRA regulations are clear that actions of the Legislature of the State of New York are Type II actions that are not subject to review. Accordingly, it was not necessary for the State Legislature to incorporate environmental review into its decision making, which included establishing the parameters for the location of the Project.

Not only was the State Legislature not subject to SEQRA, but also MVHS is a private applicant that is not subject to SEQRA in connection with its own internal site selection process. Nevertheless, MVHS’s decision to locate the new healthcare campus in downtown Utica was made after extensive research and studies were performed. The criteria analyzed in these studies included access to the site by the populations we serve, environmental impacts and infrastructure requirements. An initial study was performed by Elan and OBG, which prepared a comprehensive site evaluation of 10+ sites within Oneida County that could support a replacement facility. That report, issued on June 12, 2015, recommended the downtown Utica location. Subsequently, Hammes Company, who MVHS began to engage in December 2014, provided a second opinion on the site recommendation of the initial study. After performing a comprehensive review of the report, Hammes confirmed the recommendation of the Downtown Site as the best option for MVHS to pursue.

Accordingly, there was no requirement to commence the SEQRA process prior to the submission of MVHS's application for assistance to the Oneida County Local Development Corporation. However, even though the formal SEQRA process was not commenced until 2018, the spirit of SEQRA was satisfied as a result of the site selection process undertaken by MVHS.

See also Response 39.

Comment 237: Frank Montecalvo, Attorney at Law, Letter, 12/26/18:

For a major project such as this, ENV 8-0109 requires preparation of an EIS. The regulations make clear that a government agency cannot undertake, fund or approve of an action until it has complied with the provisions of SEQR (see 6 NYCRR 617.3 (a)). But that is, in deed, what happened at least as far back as Summer 2016 when Oneida County put county employees, and Utica put city employees (the Planning Board's Staff), to the task of engaging in regular meetings with MVHS to help plan for the Project at the Downtown Site, because government employee time is money.

If the applicability of SEQR and need for an EIS was not apparent to the local authorities at that point in time, then it should have been apparent when the County approved funding for MVEDGE to provide property appraisal services for MVHS aiding the pursuit of the Downtown Site. The County should have stopped further action and opened the SEQR process then, but it did not. Nothing was done about SEQR until there was an "application" that triggered a review – but, as noted above, the law wants the environment taken into consideration "early in the planning stages" so that "projects can be modified as needed to avoid adverse impacts on the environment." Here, the County and City had employees planning this project without the environmental information required by law. It is a shame that so much time and money was spent on a flawed process.

Like the Site Selection Process appears to have been tainted by undue influence, the entire EIS appears tainted as well. People who have personally invested their time toward securing the Project for Downtown will have difficulty focusing on another site – an impossibility for those where the alternate site is in another jurisdiction.

At this point in time the Planning Board is faced with (1) an EIS that cannot support a SEQR finding because St. Luke's appears to be the environmentally superior site and (2) having to give up jurisdiction because it has no legal authority in New Hartford.

The EIS must be rejected as inadequate, and the process reopened for a new Lead Agency to produce a revised Draft EIS that addresses all the open issues identified herein.

Response 237:

See Responses 26, 28, 36, 39 and 236.

Comment 238: Michael Galime, City of Utica Council President, Letter, 12/27/18:

The City of Utica has no formal financial plan to increase public safety requirements, nor are the new requirements listed within the scoping studies.

Response 238:

This comment was not raised during the scoping process as an issue to be covered in the DEIS. Accordingly, there is no requirement that such information be contained in the DEIS. Nevertheless, the proposed Project will not require increased public safety requirements.

Comment 239: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Overall Site Assemblage. The site is not complete.

Response 239:

MVHS holds purchase options on a significant number of the properties located within the downtown Utica Project footprint and is in active negotiations with several other owners to acquire the remaining properties. For those few properties that MVHS may not be able to acquire through negotiation, MVHS has asked Oneida County and the Utica URA to assist with the acquisition of those properties via *eminent domain* since the Project serves the public health and welfare by providing improved medical services and revitalizing a blighted area.

Comment 240: Michael Galime, City of Utica Council President, Letter, 12/27/18:

As part of the site assemblage private land owners have been told they must sell to MVHS. This impact study does not address the needs to assemble the site fully or remediate the environmental impacts imposed on the current land owners and businesses.

Response 240:

The DEIS discusses the potential need for *eminent domain* to complete property acquisition. The DEIS also discusses environmental impacts associated with demolition of existing buildings and remediation of any soil or groundwater contamination. Although there might be economic impacts on owners and businesses required to relocate, these do not amount to environmental impacts that require consideration under SEQRA.

See Responses 32, 142 and 194.

Comment 241: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Currently involved agencies (NYS ESD) are directing funding to specific entities (RCIL) for relocation, and other entities for reconstruction (Empire Bath Building owners), while other private land and business owners are being left to fend for themselves, based on potential option payout agreements. There is a complete lack of site assemblage support. The involvement of other agencies, such as the Community Foundation, to hire coordinators, is not sufficient, and creates another unlisted involved agency under SEQRA, and more obfuscation for property owners attempting to find resolve within the proposal.

As stated multiple times, the site assemblage is not complete, and MVHS has not demonstrated that it is committed to aiding in relocation and/or business continuance plans for the affected properties.

The current site assemblage plan resembles the efforts used when transitioning government inactive land into private sector, while this project is transitioning private active business property into a single entity campus for a not-for-profit private large business.

The funding currently routed to RCIL and the owners of the previous Empire Bath building is both segmentation and preferential treatment through use of secondary taxpayer funded initiatives, in order to clear issues for the current open SEQRA study.

None of this is addressed.

Response 241:

MVHS has been negotiating with many of the property owners in the Project area to acquire the property through voluntary acquisitions. In 2017, MVHS retained three appraisal firms to inspect the properties and prepare appraisals that would be used by MVHS to make offers to acquire the properties. Although many of the owners consented to such an inspection, some did not. Under the terms of the grant funding, once the appraisals were completed, they were submitted to DASNY for review. DASNY did not approve appraisals for properties that were not inspected. Accordingly, in December 2017, MVHS sent proposed purchase options to owners who had allowed their property to be inspected by MVHS appraisers. The proposed option sought to acquire the property based on the DASNY approved appraised value. In response to comments and public criticism that not

all the owners received a purchase offer, in February 2018, MVHS sent proposed purchase options to the remaining owners based on the appraised value even though DASNY had not approved those reports.

Following the transmission of the option agreements, MVHS actively negotiated with many of the property owners to address concerns regarding the appraised value, relocation costs, timing of relocation, and environmental indemnity. Although compliance with the Federal Uniform Relocation Assistance and Real Property Acquisition Act is not required for this Project, MVHS has segregated certain funds, initially up to \$1,000,000, to provide relocation assistance for affected property owners in the Project footprint to support those businesses or not-for-profit entities looking to relocate within the City of Utica or Oneida County. To assist with negotiations and relocation efforts, MVHS enlisted the aid of the Community Foundation, which is a non-profit foundation and is not a public agency subject to SEQRA. MVHS was clear that relocation assistance would be determined on a case-by-case basis based on the level of assistance needed to cover actual, reasonable and necessary moving expenses. During negotiations, MVHS agreed to pay relocation expenses to a number of property owners even though it was not lawfully obligated to do so.

MVHS has no knowledge of or control over any additional funding or financial benefits or incentives that have been applied for or awarded to those property owners who have entered into purchase options with MVHS. As these incentives are purely economic impacts, they are not required to be analyzed as part of the SEQRA review. In addition, any economic incentives available to relocating owners and businesses would not amount to unlawful segmentation because there is no common ownership, it is not part of a common plan, the various projects are not interrelated or functionally dependent and the Project does not commit any agency to approve economic incentives.

Comment 242: Michael Galime, City of Utica Council President, Letter, 12/27/18:

The ability for private businesses who both lease and own property to move ahead successfully, if this proposal is approved, has not been addressed.

- The proposal has proceeded as a land transition plan for vacant unused property. This land was not vacant and unused at the time of original public promotion of this proposal, nor at the time of filing, this February, 2018.
- Private business requires capital funds to relocate and continue operating if relocation is necessary.
- Prior to the approval of this proposed action, private land owners are being advised by involved agencies to incur costs ahead of MVHS agreements to purchase. This is both irresponsible, and in conflict with the current SEQRA review.
- SEQRA has no effective ability to address the pressure on private businesses to leave their current sites and/or negotiate with MVHS. The planning board should be requiring this.
- This current proposal does not address how businesses can move forward without incurring debt and/or capital expenses solely related to this project, or how to build out new facilities while operating in the current state. The advisement to move ahead pre-maturely – prior to completing negotiations with MVHS - is allowing MVHS to escape the responsibility that SEQRA should deem required in remediating the strategic and financial this proposal has presented.
- These issues must be addressed and remediated if this project is approved for development in the selected location.

Response 242:

See Responses 32, 193, 194, 195 and 241.