

# State Environmental Quality Review Act

## Findings Statement

### Commercial Campus at Fields Corner

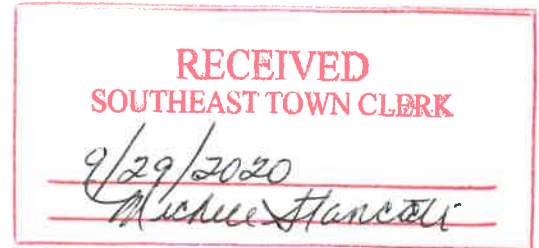
**Lead Agency:** Town of Southeast Planning Board  
1 Main Street  
Brewster, New York 10509

**Contact Person for  
Additional Information:** Victoria Desidero, Assistant to Planning Board  
1 Main Street  
Brewster, New York 10509  
(845) 279-7736

- or -

Ashley Ley, AICP  
Senior Technical Director, AKRF  
Town of Southeast Planning Consultant  
[aley@akrf.com](mailto:aley@akrf.com)  
(914) 922-2360

**SEQRA Classification:** Type I  
**Project Location:** NY 312 & Pugsley Road  
Town of Southeast  
Putnam County, New York<sup>1</sup>



<sup>1</sup> The Project Location consists of 156 existing tax parcels, which, identified by parcel #, Tax ID #, acreage and zoning, are as follows: (1) 45.-1-4 (NH); (2) 45.-1-5.2 (NH); (3) 45.-1-5.3; (4) 45.-1-8.1; (5) 45.-1-8.2; (6) 45.-1-8.3; (7) 45. (53) 45.-3-46; (54) 45.-3-47; (55) 45.-3-48; (56) 45.-3-49; (57) 45.-3-50; (58) 45.-3-51; (59) 45.-3-52; (60) 45.-3-53; (61) 45.-3-54; (62) 45.-3-55; (63) 45.-3-56; (64) 45.-3-57; (65) 45.-3-58; (66) 45.-3-59; (67) 45.-3-60; (68) 45.-3-61; (69) 45.-3-62; (70) 45.-3-63; (71) 45.-3-64; (72) 45.-3-65; (73) 45.-3-66; (74) 45.-3-67; (75) 45.-3-68; (76) 45.-3-69; (77) 45.-3-70; (78) 45.-3-71; (79) 45.-3-72; (80) 45.-3-73; (81) 45.-3-74; (82) 45.-3-75; (83) 45.-3-76; (84) 45.-3-77; (85) 45.-3-78; (86) 45.-3-79; (87), 45.-3-80; (88) 45.-3-81; (89) 45.-3-82;

**Date FEIS Filed:** March 2010  
Revised November 2019  
Revised January 2020  
Revised July 2020

**Date FEIS Deemed Complete:** July 27, 2020

**Date Findings Statement Adopted:** September 28, 2020

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(90) 45.-3-83; (91) 45.-3-84; (92) 45.-3-85; (93) 45.-3-86; (94) 45.-3-87; (95) 45.-3-88; (96) 45.-3-89; (97) 45.-3-90; (98) 45.-3-91; (99) 45.-3-92; (100) 45.-3-93; (101) 45.-3-94; (102) 45.-3-95; (103) 45.-3-96; (104) 45.-3-97; (105) 45.-3-98; (106) 45.-3-99; (107) 45.-3-100; (108) 45.-3-101; (109) 45.-3-102; (110) 45.-3-103; (111) 45.-3-104; (112) 45.-3-105; (113) 45.-3-106; (114) 45.-3-107; (115) 45.-3-108; (116) 45.-3-109; (117) 45.-3-110; (118) 45.-3-111; (119) 45.-3-112; (120) 45.-3-113; (121) 45.-3-114; (122) 45.-3-115; (123) 45.-3-116; (124) 45.-3-117; (125) 45.-3-118; (126) 45.-3-119; (127) 45.-3-120; (128) 45.-3-121; (129) 45.-3-122; (130) 45.-3-123; (131) 45.-3-124; (132) 45.-3-125; (133) 45.-3-126; (134) 45.-3-127; (135) 45.-3-128; (136) 45.-3-129; (137) 45.-3-130; (138) 45.-3-131; (139) 45.-3-132; (140) 45.-3-133; (141) 45.-3-134; (142) 45.-3-135; (143) 45.-3-136; (144) 45.-3-137; (145) 45.-3-138; (146) 45.-3-139; (147) 45.-3-140; (148) 45.-3-141; (149) 45.-3-142; (150) 45.-3-143; (151) 45.-3-144; (152) 45.-3-145; (153) 45.-3-146; (154) 45.-3-147; (155) 45.-3-148; (156) 45.-3-31.-1-12 (NH); (8) 45.-1-13 (NH); (9) 45.-3-1; (10) 45.-3-2; (11) 45.-3-3; (12) 45.-3-4; (13) 45.-3-5; (14) 45.-3-6; (15) 45.-3-7; (16) 45.-3-8; (17) 45.-3-9; (18) 45.-3-10; (19) 45.-3-11; (20) 45.-3-12; (21) 45.-3-13; (22) 45.-3-14; (23) 45.-3-15; (24) 45.-3-16; (25) 45.-3-17; (26) 45.-3-18; (27) 45.-3-19; (28) 45.-3-20; (29) 45.-3-21; (30) 45.-3-22; (31) 45.-3-23; (32) 45.-3-24; (33) 45.-3-25; (34) 45.-3-26; (35) 45.-3-27; (36) 45.-3-28; (37) 45.-3-29; (38) 45.-3-30; (39) 45.-3-32; (40) 45.-3-33; (41) 45.-3-34; (42) 45.-3-35; (43) 45.-3-36; (44) 45.-3-37; (45) 45.-3-38; (46) 45.-3-39; (47) 45.-3-40; (48) 45.-3-41; (49) 45.-3-42; (50) 45.-3-43; (51) 45.-3-44; (52) 45.-3-45;

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## 1.0 INTRODUCTION AND OVERVIEW

This Findings Statement has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (the State Environmental Quality Review Act or “SEQRA”) and its implementing regulations set forth at 6 N.Y.C.R.R. Part 617. It has been prepared by the Town of Southeast (“Town”) Planning Board (“Planning Board”), the Lead Agency for the coordinated environmental review of the proposed Commercial Campus at Fields Corner (the “Action” or “Project”). The statement of facts and conclusions herein regarding potential impacts, and findings for mitigation measures, is made upon the information and analyses contained in the Draft Environmental Impact Statement (“DEIS”) and Final Environmental Impact Statement (“FEIS”), including all comments thereon, and forms the basis for subsequent Lead Agency decisions.

### The Action

Putnam Seabury Partners, L.P. (“Applicant”) has applied to the Town for the requisite approvals to construct a facility to be known as the Commercial Campus at Fields Corner. As explained herein, and as SEQRA contemplates, the Project has been significantly modified as a result of the public environmental review process. The resulting modified and reduced Project that is the Action that is the subject of this Findings Statement is the FEIS Preferred Alternative Plan, which involves the development of two (2) warehouse buildings (Building A and Building B, together, the “Buildings”) on an approximately ±328-acre site located at New York State Route 312 and Pugsley Road (“Property”). The Action totals approximately 933,100 square feet, consisting of warehouse Building A, which is 303,100 square feet, and Building B, which is 630,000 square feet.

The Property was previously zoned in the OP-2 district, which permitted, among other uses, warehousing. In the 1990’s, the Applicant petitioned for and ultimately obtained the rezoning of a portion of the Property to the OP-3 district, in connection with a mixed-use plan, featuring approximately 143 single family homes, retail, office and hospitality uses (“Mixed-Use Plan”), which would pose significantly greater impacts than the Action. In recognition of substantial changes to the real estate and financing markets, the Applicant rethought its development plan for the Property to identify a use that would concurrently reduce the environmental impacts of the prior Mixed-Use Plan, create strong and sustainable economic benefits for the Town, and meet the intent and objectives of the Town’s Comprehensive Plan, including for economic development in the I-84/Route 312 area.

As recent events have shown, warehousing and distribution facilities like the Action are a use that has substantial current market demand and insufficient supply in the region and are deemed to be an essential service to communities. These facilities are also major jobs creators, and as the analysis for the Action shows, they can be a significant source of tax revenue while having a limited environmental impact on the community. The Action is considered a “Light Manufacturing” use under the Town Code,<sup>2</sup> which is permitted by Special Permit in the OP-3 District, where the Action will be located.

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<sup>2</sup> Letter from Michael Levine, Town of Southeast Building Inspector, dated January 22, 2019 determined that the Action is a Light Manufacturing Use under the Town Code.

The Property is located on either side of Pugsley Road and Fields Corner Road, to the northwest of the Exit 19 I-84/NY Route 312 interchange and extends to the Town line of the Town of Patterson to the north. The Property is currently comprised of 156 tax parcels. The entire Property is located within the New York City Department of Environmental Protection (“NYCDEP”) Watershed. The Property contains six wetlands and adjacent wetland buffer areas, including four regulated by the New York State Department of Environmental Conservation (“NYSDEC”), and two regulated by the Town. The Property is entirely located within the Town of Southeast, in the northwest corner of the Town. The Property is located partially within the Town’s RC “Rural Commercial District”, and partially within the Town’s OP-3 District. The Property was previously used for agricultural purposes, including as a livestock farm, which were subsequently abandoned. Much of the Property is currently characterized by overgrown former farm fields, with tangles of dense underbrush, small trees, and wild rose. The open fields were once separated by stone walls and hedgerows, much of which remain. No buildings remain on the Property.

Both Buildings are proposed to be located on a portion of the 229.0 acres of the Property located in the OP-3 District. No building development is proposed on the approximately 100 acres of the Property located in the RC District. Only stormwater retention and septic facilities sized for Building A are proposed to be located on the proposed Lot 1 in the RC District portion of the Property. The Applicant has proposed to place “no build” restrictions on the entire portion of the Property located in the RC District, and on approximately 92 acres of the 229-acre OP-3 portion of its Property, meaning that more than half of the approximately 328-acre Property will be subject to “no build” restrictions.

### **Substantially Reduced FEIS Preferred Alternative Plan**

The Action represents a substantial reduction of impacts from the plan as originally proposed in the DEIS (“DEIS Plan”). Instead of the two buildings in the instant Action, the DEIS Plan proposed four (4) logistics center buildings ranging in size from 173,775 to 366,404 square feet. The total proposed building square footage for the DEIS Plan was 1,124,575 square feet. The DEIS Plan proposed zoning text amendments to make “logistics center” a defined term under Section 138-4(b) of the Town Code and to allow logistics centers as a conditional use in the Town’s OP-3 District. Additionally, the DEIS Plan would have required that approximately 39 acres of land located in the RC District be re-mapped into the OP-3 District to facilitate development of the DEIS Plan within that area. The Action was designed to significantly reduce impacts and required Town actions, as compared to the DEIS Plan, in response to the Planning Board, other agency, and public comment.

The Action significantly reduces, by approximately 17%, the size of the Project proposed buildings in comparison to the DEIS Plan. Additionally, unlike the DEIS Plan, the Action proposes no rezoning of any portion of the Property (including the RC District) and does not require any zoning text amendments.

The Action also significantly reduces the project’s potential impacts on the community, including by making the project minimally visible off-site. Under the Action, the closest building to Route 312 will be approximately 2,150 feet away, as compared to 965 feet in the DEIS plan. The nearest

building to the Twin Brook Manor residences is approximately 1,210 feet under the Action, as compared to approximately 600 feet for the DEIS Plan. The distance of the nearest building to Hunter's Glen residences remains at approximately 1,415 feet under both the Action and DEIS Plan. The Action proposes to construct Building A below the top of the ridgeline, and Building B would be constructed on the upper portion of a ridgeline but below the existing grades. The Action results in a reduction of the project impacts on the ridgeline. Under the DEIS Plan, Ridgeline A disturbance was 37.2 acres and Ridgeline B was 49.1 acres, under the Action, Ridgeline A disturbance was reduced to 22.3 acres, and Ridgeline B to 44.5 acres. These conditions also significantly reduce the Buildings' visibility along the ridgeline and, combined with the preservation of existing trees, make the Action minimally visible off-site. The visual impacts of the Project have also been minimized through engineering techniques, and proposed landscaped screening, as well as the construction of berms.

The reduction in size from the DEIS Plan to the Action also results in an 8.8-acre reduction in impervious area. The Action proposes total impervious area of 48.4 acres, which is approximately 14.8% of the overall approximately 328-acre Property. Notably, the Town Code permits impervious surface coverage of up to 55%. These impact reductions are the result, in significant part, of the suggestion by various Planning Board Members that the former Buildings 3 and 4 under the DEIS Plan be merged into Building B. This Building consolidation, which also results in increasing the distance of Building B from the nearest Twin Brook Manor unit from 600 feet to 1,210 feet, requires that the Town Board de-map Barrett Road.

Minor encroachments into wetlands (0.05 acre) and wetland buffers/adjacent areas will be mitigated by a detailed wetland mitigation plan. This mitigation plan includes 1.5 acres of wetland mitigation and a comprehensive 13-acre habitat restoration plan to replace degraded upland habitat with restored habitat areas using a variety of native species, and restoration of both wetland and upland habitat types to support wildlife species of concern, which potentially occur at the Property. Once the habitat restoration is complete, the wetland and buffer areas will be more diverse and robust habitats for wetland dependent wildlife species than existing conditions.

The Action would result in a significant reduction in projected traffic, as compared to the DEIS Plan. The primary reason for the approximately 17% reduction in the Project from the DEIS Plan is less development, as well as the elimination of the ancillary retail component. The Applicant proposes major traffic improvements to accommodate and mitigate the Action, including the widening of Route 312 into four lanes from two lanes, the entire distance between Pugsley Road and the I-84 Eastbound ramps/Independent Way. The Pugsley Road intersection will be improved by adding a demand responsive traffic signal and a minimum of two approach lanes, with dual left turns and a shared right turn lane. A left turn lane is also proposed along Route 312 at Pugsley Road. Additionally, the New York State Department of Transportation ("NYSDOT") is currently working on signal improvements at intersections near the Property, including Route 312 at the I-84 eastbound ramp, Independence Way and the I-84 Westbound ramps, and International Boulevard. Coordination of these traffic signals will improve overall operating conditions in the area.

The Action results in only a one percent (1%) net impact to the studied intersections, lane groups, and approaches, plus provides additional capacity along Route 312 by providing two (2) lanes in

each direction from Pugsley Road to Independent Way. A series of land exchanges are proposed to enable the modification of the right-of-way necessary for improvements to Pugsley Road and Route 312. Once improved, Pugsley will provide paved access to the Town's property near the Pugsley/Zimmer intersection. To prevent truck traffic going from the Buildings to the Town of Patterson, the Applicant would install height clearance bars, gates and video cameras on Fields Corner Road to monitor truck traffic, as well as signs indicating the prohibition of commercial trucks and the progressive fines currently established by the Town for restricted road use violations. Should it be found that the traffic levels on Fields Corner Road exceed those predicted under the traffic analysis in the FEIS, the gate will be closed, except for use by emergency vehicles.

The Action also meets the NYCDEP's Watershed regulatory requirements. The Action would use lower levels of water compared to the Mixed-Use Plan previously approved for the site, and discharge waste in amounts that can be accommodated by septic systems. The Action's Stormwater Pollution Prevention Plan ("SWPPP") would mitigate stormwater runoff rates from the development areas. The SWPPP utilizes a combination of stormwater infiltration basins in a series with wet detention basins (micropool extended detention basins or pocket ponds) and micropool detention basins in series with pond/wetland systems. Hydrodynamic separators would pretreat stormwater prior to being discharged into stormwater management areas, cisterns, open channels, bioretention areas and level-spreader discharges. The vegetated swales and other overland conveyances of stormwater runoff would result in additional infiltration for runoff reduction and water quality. Vegetated swales, an infiltration trench, and bioretention areas are proposed along Route 312 and Pugsley Road in association with the proposed road improvements.

The Action would result in substantial additional revenues to the taxing jurisdictions, including the School District. The Property currently pays approximately \$143,000 in property taxes on the undeveloped land. Without the Action, this annual tax would stay the same in perpetuity subject only to annual tax escalation. Under a fifteen (15) year PILOT program with the Putnam County IDA, the Property with the Action would generate a cumulative total of more than \$31,894,781 in revenue to local taxing jurisdictions. This is an increase of \$29,233,271 compared with cumulative property taxes paid if the Property were to remain undeveloped.

The Action would also generate an estimated \$73,500,000 of annual economic output, including a total of 1,040 jobs over a 24-hour period (551 new on-site jobs during the anticipated day shift) and 1,156 new indirect jobs in the area.

This SEQRA Findings Statement sets forth requirements, conditions, and mitigation measures that will be required for the Action. This Findings Statement incorporates the Commercial Campus at Fields Corner DEIS and FEIS by reference.

## **2.0 DESCRIPTION AND PROCEDURAL HISTORY OF ACTION**

The Applicant is seeking a Special Permit, and the demapping and abandonment of portions of roads from the Town Board of Trustees ("Town Board"), and associated approvals, including, Site Plan, Subdivision, and Wetland Permit from the Planning Board to enable the development of the Project at its ±328-acre Property.

The Action also requires approvals and/or authorizations from other Involved Agencies, including the Town of Southeast Architectural Review Board (“ARB”), the Town of Southeast Highway Department, the Putnam County Department of Health (“PCDOH”), the New York City Department of Environmental Protection (“NYCDEP”), the New York State Department of Environmental Conservation (“NYSDEC”), the New York State Department of Transportation (“NYSDOT”), and the United States Army Corps of Engineers (“ACOE”). The following table provides a summary of the various permits and approvals that are required for the Project:

<b>Involved Agency</b>	<b>Type of Approval/Review</b>
Southeast Town Board	<ul style="list-style-type: none"> <li>• Special Permit</li> <li>• Demapping/Abandonment of Barrett Road and portions of Pugsley Road.</li> <li>• Access Highway Extension along Pugsley Road</li> </ul>
Southeast Planning Board	<ul style="list-style-type: none"> <li>• Site Plan Approval</li> <li>• Subdivision Approval</li> <li>• Local Wetland Permit</li> </ul>
Putnam County Planning Department	<ul style="list-style-type: none"> <li>• GML 239 Review</li> </ul>
Putnam County	<ul style="list-style-type: none"> <li>• Land Acquisition</li> </ul>
Putnam County Department of Health	<ul style="list-style-type: none"> <li>• Commercial Subsurface Treatment System Approval</li> <li>• Realty Subdivision</li> <li>• Non-Transient, Non-Community Public Water Supply</li> </ul>
New York City Department of Environmental Protection	<ul style="list-style-type: none"> <li>• Stormwater Pollution Prevention Plan Review</li> <li>• Commercial Subsurface Treatment System Review</li> </ul>
New York State Department of Environmental Conservation	<ul style="list-style-type: none"> <li>• Article 24 Freshwater Wetlands Permit</li> <li>• SPDES Stormwater Permit</li> <li>• 401 Water Quality Certification</li> <li>• Article 17 SPDES Permit for Septic</li> </ul>
New York State Department of Transportation	<ul style="list-style-type: none"> <li>• Highway Work Permit</li> <li>• Access Highway Extension Approval</li> </ul>
United States Army Corps of Engineers	<ul style="list-style-type: none"> <li>• Individual Permit (Wetlands)</li> <li>• Section 404 Permit (dredged or fill materials)</li> </ul>
Town of Southeast Highway Department	<ul style="list-style-type: none"> <li>• Permit for modifications to Pugsley Road</li> </ul>
Town of Southeast Architectural Review Board	<ul style="list-style-type: none"> <li>• Architectural Review</li> </ul>

Interested Agencies

- Town of Patterson
- Putnam County Sheriff’s Department
- NY State Police, Troop K, Zone 2, Brewster Barracks



- Brewster Fire Department
- Office of New York State Attorney General, New York City Watershed Inspector General (WIG)
- Office of New York State Attorney General, Environmental Protection Bureau
- Hunters Glen Master Association

In accordance with SEQRA, the following procedural steps have been undertaken:

- November 6, 2017: Applicant files:
  - Applications for Site Plan Approval, a Wetlands Permit, a Conditional Use Permit, and Subdivision Approval (“Applications”), and;
  - Petition for Zoning Text Amendment to: (1) make “logistics center” a defined term under Section 138-4(b); (2) allow logistics centers as a conditional use in the Town; (3) make a logistics center a permitted conditional use in the OP-3 District; and (4) include the parcel referred to on the Putnam County Tax Map as Section 45, Block 1, Lot 4 in the OP-3 District on the Zoning Map.
- November 27, 2017: Planning Board circulates 30-day Notice of Intent to serve as Lead Agency for the review of the Applications to all Involved Agencies.
- May 11, 2018: Applicant submits DEIS to the Planning Board.
- May 14, 2018: Planning Board declares itself Lead Agency for the review of the Applications having received no objections to the Notice of Intent and directed its consultants to review the draft DEIS prepared by the Applicant.
- May 23, 2018: Applicant files lot line/minor subdivision approval application to create a small separate tax lot to facilitate a roundabout, as requested by the DOT.
- June 8, 2018: Applicant submits revised DEIS to the Planning Board which responded to the comments from the Planning Board and its consultants.
- June 12, 2018: AKRF, Inc. (Town Planning Consultant) submits Memorandum to the Planning Board regarding DEIS completeness.
- June 14, 2018: Planning Board issues a Positive Declaration, Notice of Completion of DEIS and set Public Hearing.
- June 20, 2018: Applicant files an amendment to the lot line adjustment/minor subdivision approval application clarifying tax ID number.
- July 9, 2018: Planning Board opens Public Hearing on DEIS.

- July 13, 2018: Site Walk with members of the Planning Board and Town Board, and consultants.
- July 18, 2018: Site Walk with members of the Planning Board and Town Board, and consultants.
- July 23, 2018: Second Public Hearing before the Planning Board on the DEIS where Planning Board set a Special Meeting for August 27<sup>th</sup> and set the written comment period on the DEIS until August 31<sup>st</sup>.
- August 27, 2018: Planning Board holds Special Meeting to discuss initial DEIS comments.
- July-August 2018: Planning Board receives substantive comment letters from its consultants and Involved and Interested Agencies regarding the DEIS
  - June 11, 2018 – Stephen Coleman Environmental Consulting LLC (Town Wetland Inspector)
  - July 20, 2018 – Nathan L. Jacobson & Associates, P.C. (Town Engineering Consultant)
  - July 20, 2018 – AKRF, Inc.
  - August 23, 2018 – New York City Watershed Inspector General
  - August 27, 2018 – NYSDEC
- July-September 2018: Planning Board receives 179 comment letters from the public.
- January 22, 2019: Town Building Inspector issues interpretation that project is permissible in the OP-3 District as a “Light Manufacturing” Use.
- March 29, 2019: Applicant submitted draft FEIS that introduces the Revised Preferred Alternative (referred to herein as the “Action”).
- April 8, 2019: Planning Board met to discuss draft FEIS and directed its consultants to provide comments on it.
- April-May 2019: Town receives substantive comment letters from its consultants and Involved and Interested Agencies regarding the draft FEIS:
  - April 4, 2019 – AKRF, Inc.
  - April 4, 2019 – Putnam County Office of the Sheriff
  - April 5, 2019 – Town of Patterson Supervisor
  - April 5, 2019 – Nathan L. Jacobson & Associates, P.C.
  - April 7, 2019 – Stephen Coleman Environmental Consulting LLC

- April 12, 2019 – AKRF, Inc.
- April 15, 2019 – Nathan L. Jacobson & Associates, P.C.
- April 29, 2019 – New York City Watershed Inspector General
- May 8, 2019 – Putnam County Office of the Sheriff
  
- May 9, 2019: Additional site walk with Town Board members
  
- November 18, 2019: Applicant submits revised draft FEIS, which incorporates comments from Town’s consultants.
  
- December 9, 2019: Applicant appears for Planning Board meeting to present the revised draft FEIS.
  
- December 2019: Town receives additional substantive comment letters from its consultants regarding the revised draft FEIS:
  - December 6, 2019 – AKRF, Inc.
  - December 8, 2019 – Stephen Coleman Environmental Consulting LLC
  - December 9, 2019 – AKRF, Inc.
  
- January 21, 2020: Applicant submits revised draft FEIS.
  
- February 10, 2020: Town receives additional substantive comment letter from AKRF, Inc. regarding the revised draft FEIS.
  
- February 10, 2020: Planning Board holds meeting on draft FEIS.
  
- February 13, 2020: Town receives traffic review memorandum from AKRF, Inc.
  
- March 1, 2020: Town receives memorandum from Stephen Coleman Environmental Consulting LLC, confirming completeness of FEIS with regards to natural resources and wetlands.
  
- June 26, 2020: Applicant submits revised SWPPP, which in corporates all comments from the Planning Board and Town’s consultants.
  
- July 2, 2020: Applicant submits final FEIS, including final SWPPP, which incorporates all comments from Planning Board and Town’s consultants.
  
- July 23 & 24, 2020: Town receives additional comment letters regarding the completeness of the final FEIS:

Adopted 09/28/2020

- July 23 – Nathan L. Jacobson & Associates, P.C.
  - July 24 – AKRF, Inc.
  - July 24 – Stephen Coleman Environmental Consulting LLC
  - July 24 - NYCDEP
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- July 27, 2020 Planning Board issues a Notice of Completion of the FEIS, which was published in the Environmental Notice Bulletin on August 5, 2020. The FEIS and Notice of Completion were duly circulated to all SEQRA Involved and Interested Agencies, made available for public inspection on August 5, 2020 and posted on the Town public website.

**3.0 SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

This Section sets forth the Action’s potential significant adverse impacts as disclosed and identified during the SEQRA process, and the corresponding measures designed to avoid and/or mitigate such impacts to the maximum extent practicable, organized in the same order of presentation in the DEIS and FEIS.

The Action is the product of the Planning Board’s SEQRA process, including comments on the DEIS Plan from the public, the Town Board, Planning Board and other Interested and Involved Agencies during the public hearing process. The measures proposed herein avoid and/or mitigate potential significant adverse impacts to the maximum extent practicable.

**A. Land Use and Zoning**

The Action involves the development of two (2) warehouse Buildings (Building A and Building B) on an approximately ±328-acre site located at New York State Route 312 and Pugsley Road. The Property is located in the OP-3 and RC Zoning Districts. The Action represents an approximately 17% reduction in the square footage of the buildings proposed in the DEIS Plan from 1,124,575 s.f. to 933,100 s.f. (a 191,475 s.f. reduction).

The Buildings associated with the Action would be located on a portion of the 229.0 acres of the Property located entirely in the OP-3 District. No building development is proposed for the approximately 100 acres of the Property located in the RC District. As permitted by the Town’s zoning ordinance, the stormwater retention and septic facilities for Building A would be located in the RC District portion of the Property. The Applicant has proposed to place “no build” restrictions on the entire portion of the Property located in the RC District, as well as on approximately 92 acres of the OP-3 portion of its Property, restricting the development of buildings in these areas. This means that more than half of the approximately 328-acre Property will be subject to “no build” restrictions.

The Property is currently comprised of 156 tax parcels. The Applicant proposes to re-subdivide the Property into ten (10) tax parcels with the following uses:

<b><u>Lot No.</u></b>	<b><u>Description</u></b>
Lot 1	Existing Tax Map No. 45.-1-4 Parcel (No building development)
Lot 2	Development Lot Containing Building A
Lot 3	Development Lot Containing Building B
Lot 4	
Lot 4A	Existing Tax Map No. 45.-1-12 Parcel (Non-Inclusive of the Well Parcels)
Lot 4B	Well Parcel Within Existing Tax Map No. 45.-1-12 Contiguous to Pugsley Road
Lot 4C	Well Parcel Within Existing Tax Map No. 45.-1-12 Contiguous to NY 312

Lot 5	Potential Land Donation Parcel to Putnam County
Lot 6	Potential Land Donation Parcel to NYSDOT (West of Pugsley Road)
Lot 7	Potential Land Donation Parcel to NYSDOT (East of Pugsley Road)
Lot 8	Potential Land Donation Parcel to Town of Southeast

A series of land exchanges are also proposed to enable the modification of the right-of-way necessary for improvements to Pugsley Road and Route 312.

To enable the consolidation of Buildings 3 and 4 in the DEIS Plan to the reduced Building B under the Action, the Town would abandon the Barrett Road right-of-way to the Applicant. Although United States Geological Survey maps dating 1882 through 2016 show Barrett Road connecting Pugsley Road to John Simpson Road, Putnam County’s GIS maps show Barrett Road ending at the Property rather than running through other properties to John Simpson Road. No road has been open between the Applicant’s Property and John Simpson Road for at least fifty years, and the Town does not carry any road at this location on its highway inventory. Title searches were run on the properties between the Applicant’s Property and John Simpson Road that are proximate to the termination point of Barrett Road on the Applicant’s Property. Barrett Road did not appear as an exception on any of these title reports, which indicates that Barrett Road no longer exists after the end of the Property. Furthermore, none of maps or title reports contain a specific location of a road at this location. As such, the only conclusion that can be drawn from this evidence is that Barrett Road is not a legitimate road past the Applicant’s Property.

**Impacts and Mitigation Measures Relating to Land Use and Zoning**

**A-1** The Action is consistent with the Town’s Comprehensive Plan and is in compliance with all applicable zoning and dimensional requirements.

The Action is consistent with the vision and goals of the 2014 Comprehensive Plan Update (“CPU”) of balancing a healthy economic environment with quality commercial character, while also protecting the integrity of the Town’s natural resources and infrastructure. (See CPU, at 1-4.) Both the Town’s 2002 Comprehensive Plan and 2014 CPU establish that the area around the I-84/Route 312 Interchange is intended to be a “node of commercial activity” such that development for commercial purposes, such as the Action, is compatible with that vision. (See CPU, at 7-4.) The Project provides significant economic development for the Town in terms of direct, indirect, and induced jobs, as well as millions of dollars of direct, indirect and induced economic output during the construction phase and continuing annually during the operations phase.

Unlike the DEIS Plan, the Action does not require any zoning text or zoning map amendments. The Town Building Inspector has confirmed that the Action qualifies as a “Light Manufacturing” use under the Town Code, which is allowed in the OP-3 District, where it would be located, by Special Permit issued by the Town Board. All of the Applicant’s Property located in the RC District would remain zoned RC. Locating the Action on OP-3 zoned property preserves Route 312’s rural character, meets this vision and the intent of the Town’s RC zoning.

**A-2** The Action is consistent with the Town’s goal of protecting natural resources. Approximately 85% of the Property would remain as open space (which is defined in §138-4.B of the Zoning Code as “that percentage of the land area not covered by the combined area of all buildings, structures and paved areas on all or that portion of the lot within the same zoning district as the main building”). Within the OP-3 portion of the Property, approximately 139.4 acres (61% of the Property) would remain undisturbed, and Town-defined open space would comprise approximately 80% of the approximately 229-acre OP-3 portion of the Applicant’s property.

In addition, no build restrictions will be placed on approximately 172 acres, which is more than 50%) of the Property. These no build restrictions would cover the entire portion of the Property located in the RC District, as well as approximately 92-acres (40%) of the 229-acre OP-3 portion of the Property. These restrictions would prohibit any future building development in these portions of the Property. This would result in a variety of environmental benefits, including effectively eliminating any visual impacts of the Project from Route 312 and Tilly Foster Farm, and providing long term protection to the Hunters Glen and Twin Brook Manor developments.

**A-3** The Action is consistent with the Town’s CPU goals respecting ridgeline protection and the Town zoning ordinance’s ridgeline protection provision, which are both aimed at minimizing off-site visual impacts to the maximum extent practicable. (See CPU at 5-12; Town Code § 138-12(I).) The CPU states that future development should be regulated “to ensure that it is adequately protecting viewsheds, while allowing for reasonable development of a site.” (See CPU at 5-12.) Similarly, the Town Code specifically allows development on ridgelines so long as the building is not, to the maximum extent practicable, visible from surrounding properties, public rights-of-way, or adjoining ridgelines. (See Town Code § 138-12(I).)

The Action implements the CPU’s and the Town Code’s goal of protecting off-site viewsheds through ridgeline protection. It incorporates specific recommendations in the CPU to implement its goal of protecting this goal, including siting buildings to minimize intrusions into viewsheds by taking advantage of topographic changes and existing vegetation, placing buildings to maintain harmony between the built and natural environment, avoiding “excessive clearing” (i.e., the removal of more than 10 trees per quarter acre of disturbed land), and utilizing dark sky compliant lighting. (See *id.*) In comparison to the DEIS Plan, and in response to comments, the Action disrupts less of the ridgeline to further meet the CPU’s goals, including reducing visibility. Building A would be located below the top of a ridgeline, which would remain in place between the Building and Route 312 and Tilly Foster Farm. While Building B would be constructed at the top of a ridgeline, it would be located below the existing grade. As a result of this building placement, the Buildings would be minimally visible off-site.

No “excessive clearing” as defined by the ridgeline protection provisions would occur, and the Applicant would be removing trees at a ratio substantially below the maximum number of trees permitted to be removed by the Town Code.

**A-4** To ensure that the handling of materials at the Project will not have the potential for significant adverse impacts, including with respect to health and safety, the Planning Board requires as a condition of the Action’s Special Permit and Site Plan Approval that no “hazardous

substances,” as that term is defined by NYSDEC regulations and which are subject to regulation by the NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will be handled or stored at the Property. The NYSDEC is the State agency primarily responsible for the handling and storage of hazardous substances. The Action would only handle and store consumer goods, which may contain trace elements of substances that may be considered hazardous, such as nail polish, televisions, and computers.

**A-5** The Action does not contemplate the outdoor storage of goods and materials, as operations are intended to occur entirely within the Buildings. Small temporary storage areas for empty pallets and trailers shall be designated on the site plan during the Site Plan approval process.

**A-6** The Planning Board requires that each tenant and/or occupant of the Buildings assign or delegate the responsibility to enforce site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project. The conditions that such individual shall be charged with enforcing shall include:

**A-6(1)** The prohibition of overnight facilities or overnight sleeping by truckers at the Property, which shall also be included as a condition in the Action’s Special Permit and/or Site Plan Approval and;

**A-6(2)** The prohibition against trucks idling on the Property, which shall also be included as a condition in the Action’s Special Permit and/or Site Plan Approval.

**A-7** The Barrett Road abandonment enables the consolidation of the Buildings, which, in turn, reduces visual impacts to neighboring residential communities, as well as reduces impacts to the ridgeline. Inasmuch as the evidence gathered during this environmental review shows that Barrett Road has long since ceased to provide access to John Simpson Road, the Planning Board determines that this abandonment will have only positive impacts, including by allowing a more sensitive, consolidated Action.

**A-8** The water storage tank for the Action shall be no higher than forty feet (40’), which is zoning compliant.

**Summary of Mitigation Measures and Findings on Land Use and Zoning**

The Planning Board determines that the following mitigation measures are required in connection with the Action’s potentially significant adverse impacts on land use and zoning:

1. Prior to issuance of a Building Permit for the Action, the Applicant shall file with the Putnam County Clerk a deed restriction, in a form acceptable to the Town Attorney, that places no build restrictions on the approximately 172 acres of the Property shown in FEIS Figures 1-2 and 1-2A.
2. To enable the consolidation of the DEIS Plans’ Buildings 3 and 4 into the Action’s Building B, the Town shall abandon the Barrett Road right-of-way to the Applicant. Upon the Town’s abandonment of Barret Road, the Road will, by operation of law, revert to the Applicant, which owns the land on either side of it.



3. The Action's Special Permit and/or Site Plan Approval shall have as a condition that no "hazardous substances," as that term is defined by NYSDEC regulations and which are subject to regulation by the NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will be handled or stored at the Property.

4. The Action's Special Permit and/or Site Plan Approval shall require that each tenant and/or occupant of the Buildings \ enforce site-specific requirements of these Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on Land Use and Zoning have been avoided or minimized to the maximum extent practicable.

## **B. Traffic**

Mitigation measures for the Project, including the widening of Route 312 to four lanes between Pugsley Road and the I-84 Eastbound intersection, as well as NYSDOT improvements currently under construction, would generally improve operations and capacity along Route 312 as compared to future No-Build conditions without the improvements.

The Action would result in a significant reduction in projected traffic, as compared to the DEIS Plan. The primary reason for the approximately 17% reduction in the Project from the DEIS Plan is less development, as well as the elimination of the ancillary retail component.

In issuing these Findings, the Planning Board recognizes that NYSDOT is currently constructing improvements to the three signalized intersections of Route 312 at the I-84 eastbound ramps/Independent Way, the I-84 westbound ramps, and International Boulevard, which would coordinate the traffic signals to improve operating conditions in the area. The Planning Board is also aware that NYSDOT intends to provide a Route 312 westbound left turn lane into the park & ride lot, and partially extend the Route 312 eastbound two-lane section to the vicinity of the Caremount medical office building driveway. In conjunction with the measures proposed by the Applicant, the NYSDOT's actions would also improve operating conditions in the area. Moreover, the Applicant met with the Town representatives and NYSDOT on multiple occasions to review the Action and discuss and coordinate the associated mitigation improvements.

The Applicant conducted several traffic analysis and generation projections based on data from the Institute of Transportation Engineers (ITE) and a study of local trip generation from the GAP facility in Fishkill and Matrix Facility in Newburgh to evaluate the Project. All of these analyses confirm that the Action substantially reduces the traffic projected for the Project as compared to the DEIS. This conclusion is verified by each of the analytic paradigms that have been used to evaluate the Action, including:

(i) the 9<sup>th</sup> Edition of the Institute of Traffic Engineers ("ITE") data, published in 2012, which was the basis of the DEIS traffic analysis;

(ii) a very conservative Sensitivity Analysis scenario required by the Town (whereby the Project's peak hour traffic volumes were analyzed as if they would coincide with the local peak hours, even though ITE and local data both confirm that warehouse type uses typically generate peak traffic volumes during hours which are different than (out of phase with) the peak hours of the adjacent street traffic);

(iii) the current 10<sup>th</sup> Edition of ITE data published in 2017, which provides data indicating substantially lower traffic volumes would be generate by the warehouse use (ITE Code 150) than was analyzed in the DEIS, and;

(iv) analysis of local trip generation from the GAP facility in Fishkill and the Matrix Facility in Newburgh, which the Town also required, as shown on Table 4-1S indicate that the reduced project could generate substantially (up to 85%) less traffic during the peak roadway hours than the DEIS Plan.

Most truck trips would be arriving from and departing to I-84. Inbound trucks would access the Property from I-84 at Route 312 and would make the right turn onto Pugsley Road along a new Route 312 lane proposed by the Applicant. Trucks leaving the facility would access Route 312 via a traffic signal and proceed east on Route 312 to I-84 along the new four-lane section of Route 312 with the proposed improvements. According to industry standards, the majority of truck trips are scheduled throughout the day and are not made during the peak Rush Hours along Route 312 or the facility's Shift Change.

### **Impacts and Mitigation Measures Relating to Traffic**

**B-1** With the exception of Pugsley Road and Route 312, the Action would generate under five percent (5%) of the traffic at all intersections during the peak Rush Hours (occurring between 7:30-8:30 AM and 5:00-6:00 PM) based on the averaging of all counts. At the intersection of Route 312 and Route 6, the percentage of Project generated traffic would account for an increase of only 1.8% or less based on the average of the four Project-generated traffic scenarios.

As shown on FEIS Tables 4-10A and 4-10B, the Action would have a net negative impact at only one percent (1%) of the various lane groups, approaches and overall intersections that have been evaluated in the FEIS based on the conservative 9<sup>th</sup> Edition ITE build analyses required by the Town. Thus, a net of ninety-nine percent (99%) of the lane groups, approaches and overall intersections would not be significantly adversely impacted or would be mitigated even under the conservative analysis required by the Town. While a relatively small number of lane group levels of service change between the No Build and Build conditions with the Action, the overall intersection levels of service, which reflect a weighted average balancing of the delays for the various lane groups, are not changed as a result of the Action.

Counts from the GAP facility in Fishkill and the Matrix Facility in Newburgh indicate that the Project would generate substantially less traffic than projected by the ITE analysis. The generic

ITE data indicates that the Project would result in 424 truck trips (i.e. 212 trucks entering/exiting the site) per weekday business day, in comparison to the 510 truck trips from the DEIS Plan.

Using an average of the trips generated at the GAP and Matrix facilities and adjusting them to the comparable size of the Project, data from these facilities indicates that the Project would only generate 130 truck trips per day (i.e. approximately 65 trucks entering/exiting each day). Based on the local counts, approximately 60% of the trucks would be tractor trailers and 40% would be trailer cab or straight box trucks.

**B-2** While the Town required a Sensitivity Analysis, whereby the Project's peak hour traffic volumes were analyzed as if they would coincide with the local peak hours, both ITE and local data indicate that the Project's peak traffic volumes will occur at different hours than the peak hours of the adjacent street traffic. The peak hours of the Project generated traffic are expected to be 6:30–7:30 AM and 2:30–3:30 PM, while, in contrast, the peak hours of the adjacent roadway traffic are 7:30-8:30 AM and 5:00-6:00 PM.

During the peak weekday PM hour (Rush Hour) along Route 312, overall traffic generated by the Project based on the reduction of the building size and more recent 10<sup>th</sup> Edition ITE data would be reduced by 183 trips, from 360 to 177 trips, as compared to the DEIS Plan. During the weekday peak AM hour of the Project (i.e., Shift Change), which would occur prior to the peak weekday AM Rush Hour along Route 312, according to the 10<sup>th</sup> Edition ITE data, the traffic volumes are projected to reduce by 313 trips, from 472 to 159, as compared to the DEIS Plan and the 9<sup>th</sup> Edition ITE data. Traffic data from the GAP facility in Fishkill and the Matrix Facility in Newburgh also indicate that overall traffic from the Project would be substantially reduced from the DEIS Plan. During the peak weekday PM Rush Hour along Route 312, trips could be reduced by 336 trips, from 360 to 24. During the weekday peak AM hour (i.e., Shift Change), which would occur prior to the peak AM Rush Hour along Route 312, the project generated volumes could be projected to be reduced by 355 trips, from 472 to 117.

To accommodate the generated traffic volumes associated with the Project, the Applicant proposes several mitigations to existing roadways:

1. While both a traffic signal and a roundabout were considered at the intersection of Route 312 and Pugsley Road, NYSDOT has determined, and the Planning Board concurs, that the desired improvements are a demand responsive traffic signal, with vehicle detection to provide additional green time for certain movements when the approaching volume necessitates the signal green time extension, together with extensive roadway improvements approaching the traffic signal. The traffic signal would be coordinated with the three signalized intersections to the east along Route 312. The demand responsive traffic signal will operate with the traffic signal being green for the Route 312 through traffic 85% or more of the time, except when green time is actuated for the turning movements. In addition to the previously proposed left turn lane along Route 312, a second through lane is proposed along Route 312 eastbound. Either a right turn lane (Alternative A) or second through lane (Alternative B) would be provided along Route 312 westbound, subject to NYSDOT selecting the preferred alternative. The Pugsley Road improvements with the signalized T intersection are proposed to either be expanded from the

previously proposed two lanes to provide three approach lanes, with dual left turns and a single right turn lane with the Route 312 westbound right turn lane as Alternative A, or improved to a two lane approach with dual left turns and shared right turns as Alternative B. The traffic impacts at the intersection would be mitigated under both improvement alternatives. Queuing along the Route 312 westbound thru movement at Pugsley Road is reduced under the Alternative B improvement, which provides two thru lanes with shared right turns, as compared to Alternative A which provides separate thru and right turn lanes along the westbound approach.

2. At the request of the Town, the Applicant proposes to widen Route 312 from two lanes to provide four lanes for the entire distance between Pugsley Road and the I-84 Eastbound ramps/Independent Way. This would substantially address the Action's traffic impacts because the Action will be accessed primarily from the I-84/Route 312 interchange. Nearly all truck movements would access the Property from I-84 via Route 312 over this quarter-mile, four lane. Most workers would also use the same I-84 access as the primary access to the Property. In addition to mitigating Action-generated traffic along Route 312, the four lane section would improve emergency responses along the roadway by providing a second lane for vehicles to pull over into. Accordingly, the widening of Route 312 in this area would significantly mitigate the traffic generated as a result of the Project, doubling the capacity along a portion of the roadway, and generally improve operations along Route 312. The Planning Board concludes that Route 312 does not need to be widened to four lanes between Pugsley Road and Route 6 in association with the Action because less than 2% of the Route 312/Route 6 traffic volumes are projected to be generated by the Action and the volumes along Route 312 would increase by only 2% or less during the peak hours along Route 312.

3. Pugsley Road would be improved by the Applicant from Route 312 to Barrett Road, including widening and grade adjustments to provide two 12 foot wide travel lanes designed to accommodate the Proposed Project generated traffic. The improvements to Pugsley Road will also provide all-season access to the Town's property located at Zimmer Road and Pugsley Road. A portion of Fields Corner Road would be improved to eliminate existing curves in Pugsley Road/Barret Road/Fields Corner Road intersections. Upon the completion of said improvements, the Town may, pursuant to New York Town Law Section 212-a, abandon to the Applicant, as the adjacent property owner, such sections or part of the old road as it existed before the improvements which are of no further use for highway purposes. The Town would also abandon the Barrett Road right-of-way to the Applicant to enable the Project to be moved 600 feet farther away from Twin Brook Manor than the DEIS Plan. In total, the Applicant is offering a total of 6.8 acres to the Town of Southeast, County of Putnam, and NYSDOT, and the Town of Southeast would provide (including by its act of abandonment of Barrett Road) 3.6 acres to the Applicant. Thus, the Applicant is providing 3.2 acres more than the Town for these purposes.

The Planning Board find that these mitigation measures will add needed capacity and traffic management to better serve traffic conditions and integrate new traffic generated by the Action into the traffic flow as seamlessly as possible while limiting further traffic generation by the Action. These improvements would specifically improve the flow of school related traffic, including reducing queuing of eastbound traffic, including school related cars and buses, which

would otherwise occur, by effectively extending a separate lane for vehicles turning left onto the I-84 eastbound ramp, which processes the largest percentage of the anticipated site generated volumes.

Pugsley Road would be reconstructed by the Applicant to accommodate trucks as well as passenger vehicles and the pavement section would be substantially thicker than the existing pavement section. The Applicant undertook the assessment of the specific pavement section which should be provided for the roadway based on the existing soil conditions to ensure that the roadway would accommodate the future project generated traffic without undue wear and tear of the roadway and associated maintenance. The cost of all construction improvements would be borne by the Applicant.

The Action would generate an increase in property taxes, which can be used for road maintenance items such as plowing, drainage issues, pot hole repair, etc. However, to ensure the satisfactory completion and performance of all proposed public improvements on Pugsley Road, the Town shall hold a performance bond in an amount to be determined in consultation with the Town Highway Superintendent and Town Engineer. The anticipated truck traffic associated with the Action will generate greater wear and tear on a roadway than typical automobile traffic. As such, the performance bond would be utilized for the first full resurfacing of Pugsley Road as directed by the Town Highway Superintendent.

NYSDOT restricts large trucks known as Special Dimension Vehicles, including 53 foot trailers, to travel within one mile of an interstate ramp, as well as along specially designated truck access highways. In association with the project, Pugsley Road would be improved to provide 12 foot lanes and the proposed improvements to the Route 312/Pugsley Road intersection and the Pugsley Road/Barrett Road intersection have been designed to accommodate a WB-67 design (Special Dimension Vehicle) with a 53' trailer. NYSDOT has conditionally approved the extension and requests confirmation from the Town. The Applicant has been coordinating with NYSDOT and the Town of Southeast, and NYSDOT advised that Pugsley Road will be designated as a truck access highway upon completion of the proposed road improvements which will provide 12' wide travel lanes and appropriate turning radii.

**B-3** At the I-84 bridge, it is projected that there would be more than sufficient capacity to accommodate the projected volumes, including traffic volumes from the Project and Crossroads 312 project. NYSDOT is currently constructing improvements to the three signalized intersections of Route 312 at the I-84 eastbound ramps/Independent Way, the I-84 westbound ramps and International Boulevard, which would coordinate the traffic signals to improve operating conditions in the area. NYSDOT also intends to provide a Route 312 westbound left turn lane into the park & ride lot, and partially extend the Route 312 eastbound two lane section to the vicinity of the Caremount driveway as part of the project. These measures would improve operating conditions in the area.

**B-4** All improvements to existing roads and intersections will be designed to accommodate a WB-67 design (Special Dimension Vehicle) with a 53' trailer.

**B-5** As mentioned in B-2, the Applicant is willing to donate a portion of its Property to the County (nearly 4 acres) for use by Tilly Foster. If desired, the County could use this land to provide a

second access to the Tilly Foster property and utilize the proposed traffic signal at the Route 312/Pugsley Road intersection. Inasmuch as the County has not yet signaled clear interest in the donation of this land, the potential environmental impacts of such donation would be studied by others at such time as the County expresses a clear desire to consummate the donation.

**B-6** At the Route 312/Route 6 intersection, delays are experienced, even without the Project, for left turns onto Route 312 from Route 6 and right turns onto Route 6 from Route 312. NYSDOT acknowledged during a meeting on January 7, 2020 that improvements to the Route 6/Route 312 intersection are beyond the scope of this project.

**B-7** The Action requires additional mitigation measures in connection with its Level of Service (LOS)/Delay and/or Queue for individual vehicle movements/lane groups at the following intersections:

- Route 6 and Route 312 (AM and PM peak hours)
- Route 312 and Prospect Hill Road (AM and PM peak hours)
- Route 312 and Independent Way/I-84 Eastbound Ramps (AM, PM, and Saturday peak hours)

To address these impacts, and to develop appropriate mitigation measures, the Applicant met with the Town representatives and NYSDOT on January 7, 2020. On average the Project would only contribute 1.3 percent of the weekday peak hour volumes at these intersections (shown on Table 4-2S in the FEIS), and the Project's projected peak hour traffic volumes on Prospect Hill Road turning onto Route 312 are not expected to be significant enough to impact whether or not the intersection volumes satisfy the warrant analysis. As such, the measures discussed below constitute more than adequate mitigation measures for these intersections, and, in fact, constitute a major step toward addressing pre-existing issues along Route 312. The following mitigation measures were recommended and agreed to by the Applicant:

- A traffic signal Warrant Analysis of the Route 312/Prospect Hill Road intersection shall be prepared within three months of full occupancy of both buildings. The analysis shall consider the variety of warrants available and justify the signal using at least two warrants per NYSDOT direction. If warranted and approved by NYSDOT, the signal would be designed, installed and coordinated with the four other existing and proposed signals along Route 312 to Independent Way.
- A corridor study shall be prepared within six months of full occupancy along Route 312 from Prospect Hill Road to International Boulevard to determine the need and recommendations for revised Time-of-Day traffic signal plans. The corridor study shall include the weekday AM, PM and Saturday peak hours using SimTraffic software per NYSDOT guidance.
- If the traffic signal is not approved by NYSDOT, other traffic signal technologies could be implemented as may be identified in the corridor study.
- The Applicant shall escrow \$150,000 as a cap on its "fair share" contribution to the design and installation of a traffic signal at the intersection of Route

312/Prospect Hill Road, or other signal technologies identified in the corridor study. The Applicant and its consultants shall be responsible for preparing the Warrant Analysis within three months of full occupancy of the project, and costs incurred by the Town to review the Warrant Analysis shall be deducted from the \$150,000 escrow.

**B-8** The Planning Board's conclusions and findings regarding the Action's potential impacts on traffic is based on the best information available at the time of its issuance of these Findings. In an excess of caution, in order to confirm the validity of the Planning Board's conclusions and findings, the Planning Board requires that the Applicant complete a Traffic Monitoring Plan (TMP) within 6 months of the occupancy of the first of the two buildings completed, and within 6 months of the full development and occupancy of the Project. The following items will be included in the Applicant's tenant leases and/or contracts of sale to new owners to ensure the accuracy of the TMP:

1. Confirm there are no scheduled truck deliveries after 11:00 PM on Monday through Saturday or after 5:00 PM on Sunday, and no scheduled truck deliveries before 6:00 AM on Monday through Saturday or before 10:00am on Sunday.

2. Confirm that trucks parking on the site are only within the designated truck loading and trailer parking spaces shown on the approved Site Plan drawings. Tenants and/or occupants will permit truck parking within truck loading and trailer parking spaces on the approved site plan drawings.

3. Confirm there are no manned overnight layover of trucks. Tenants and/or occupants will not permit manned overnight truck layovers. Notwithstanding, Tenants and/or Occupants may provide trucker's bunks to be used for emergency conditions only.

4. Confirm trucks are not idling on-site in excess of State guidelines and/or local regulations. Tenants and/or occupants will not permit on-site truck idling in excess of the State guidelines or local regulations.

5. The Applicant and/or owner will confirm Project generated traffic volumes do not exceed the volumes analyzed in the FEIS as the Sensitivity Analysis scenario during the Peak Weekday AM (7:30-8:30 AM) and PM (5:00-6:00 PM) Hours along the area roadways (Route 312) and the Peak Saturday Midday Hour (12:15-1:15 PM). If the Project generated volumes exceed the Sensitivity Analysis volumes during the peak roadway hours, the Applicant and/or owner will coordinate with its tenants and/or occupants to adjust work shift hours. The volume thresholds are 364 trips on a weekday from 7:30-8:30 AM, 426 trips on a weekday from 5:00-6:00 PM and 121 trips on Saturday from 12:15-1:15 PM.

6. Record travel speeds along Pugsley Road for 24 hours with automatic traffic recorders (ATR) to determine the average and 85<sup>th</sup> percentile travel speed. Based on the results of the study, the roadway posted speed limit could potentially be reduced to 25 MPH if determined to be appropriate by the Town and/or the Applicant could be required to install radar speed signs on Pugsley Road.

7. Tenants and/or occupants will provide the number of visitors and employees that utilize Metro-North to the Project so that the need for a jitney can be assessed.

8. The tenant(s) and/or occupant(s) of the Buildings shall have a policy in place with all the trucking companies that requires the use of approved routes to and from the facility. Trucks shall not use Fields Corner Road, and trucking companies shall face fines or suspension of business with the facility if found not in compliance.

**B-9** The Planning Board recognizes the Town of Patterson's concern that Action-generated traffic would use Field Corners Road to access the site from Patterson. The Planning Board notes that large trucks cannot physically or legally access the site from Fields Corner Road in Patterson via exit 18. The large trucks cannot access the site legally from exit 18 because the travel path from exit 18 is beyond 1 mile from Interstate 84 and there are no access highways for the trucks to access the site from this direction. Large trucks cannot physically access the development from exit 18 due to geometric roadway constraints along Fields Corner Road. The analysis also shows that the Action would not have a significant impact on any of the studied intersections in Patterson including the intersections of Fair Street/Field Corners Road and Fair Street/Route 311.

In any event, to prevent truck traffic from getting to or leaving the Property through Patterson, truck access to Fields Corner Road to/from Patterson would be restricted. Fields Corner Road shall remain a seasonal road that is closed north of the current Barrett Road intersection during the winter. The Applicant shall install height clearance bars and gates. The Applicant shall also install video cameras to monitor truck traffic along Fields Corner Road, as well as signs indicating the prohibition of commercial trucks and the progressive fines currently established by the Town for restricted road use violations. The Applicant shall record the video information on a 24-hour loop and the video monitoring shall be provided to the Town and/or the Putnam County Sheriff's Department, if requested, to determine whether tickets should be issued. Should it be found by the Planning Board that the traffic levels on Fields Corner Road exceed those predicted under the traffic analysis in the FEIS, the gate shall be closed, except for use by emergency vehicles.

**B-10** To prevent Action-generated truck traffic from adversely impacting sensitive receptors in the area, the Planning Board concludes that no trucks shall be scheduled to access the Property after 11:00 PM Monday through Saturday or 5:00 PM on Sunday, and before 6:00 AM Monday through Sunday or 10:00 AM on Sunday.

### **Summary of Mitigation Measures and Findings on Traffic**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on traffic. The Applicant is responsible for the preparation of all post-construction and occupancy studies. To avoid confusion on methodology and time of year considerations, the Applicant shall be required to submit a scope of work to the Town prior to the commencement of any study. Further, the Town shall be copied on all correspondence between the Applicant and NYSDOT (e.g., HWP, final approval on the Access Highway Extension, etc). All improvements to existing roads and intersections undertaken by the



Applicant described below shall be designed to accommodate a WB-67 design (Special Dimension Vehicle) with a 53' trailer:

1. The no-build restrictions on the RC portion of the Site shall prevent further traffic from being generated on the Site.

2. The Applicant shall install at the intersection of Route 312 and Pugsley Road, prior to the issuance of a certificate of occupancy for either Building, a demand responsive traffic signal, with vehicle detection to provide additional green time for certain movements when the approaching volume necessitates the signal green time extension. The proposed traffic signal shall be coordinated with the three signalized intersections to the east along Route 312.

3. Prior to the issuance of a certificate of occupancy for either building, the Applicant shall, at the intersection of Route 312 and Pugsley Road, install:

a. on Route 312 eastbound a left turn lane and a second through lane is proposed along Route 312 eastbound;

b. on Route 312 westbound, subject to the selection of the NYSDOT, a right turn lane (Alternative A) or a second through lane with shared right turns (Alternative B), and;

c. on Pugsley Road, either (i) expand Pugsley Road to provide three approach lanes to Route 312, with dual left turns and a single right turn lane with the Route 312 westbound right turn lane (Alternative A), or; (ii) improve Pugsley Road to a two lane approach to Route 312, with one left turn lane and one shared left/right turn lane (Alternative B). It is anticipated by the Applicant based on discussions with NYSDOT that NYSDOT will determine that the Alternative B improvements should be implemented, although either alternative is acceptable to the Planning Board.

4. The Applicant shall, prior to the issuance of a certificate of occupancy for either of the Buildings, widen Route 312 from two (2) lanes to provide four (4) lanes for the entire distance between Pugsley Road and the I-84 Eastbound ramps/Independent Way.

5. The Applicant shall, prior to the issuance of a certificate of occupancy for either of the Buildings, improve Pugsley Road and Fields Corner Road to eliminate existing curves in Pugsley Road/Barret Road/Fields Corner Road intersections pursuant Drawing PE-1 in FEIS Appendix 4.A, Part M. Property will be provided by the Applicant as well as the Town to provide sufficient right of way for the improved roads. Upon the completion of said improvements, the Town may, pursuant to New York Town Law Section 212-a, abandon to the Applicant, as the adjacent property owner, such sections or part of the old road as it existed before the improvements which are of no further use for highway purposes.

6. NYSDOT restricts large trucks known as Special Dimension Vehicles, which includes 53 foot trailers, from travelling beyond one mile of an interstate ramp, or along specially designated truck access highways, unless NYSDOT issues an extension approval. NYSDOT has conditionally approved the extension. The Lead Agency finds that such extension is warranted for the Project and should be confirmed by the Town Board. NYSDOT advised that Pugsley Road will be designated as a truck access highway upon completion of the proposed road improvements.

Pugsley Road will be improved to provide 12 foot lanes and the proposed improvements to the Route 312/Pugsley Road intersection and the Pugsley Road/Barrett Road intersection have been designed to accommodate appropriate turning radii for Special Dimension Vehicles.

7. The Applicant shall, prior to the issuance of a certificate of occupancy for either of the Buildings, at the intersection of Route 312 and the I-84 eastbound ramps/Independent Way: (i) in the event the improvements proposed for the Crossroads 312 project have already been made, modify signal timing during the peak weekday AM hour, or; (ii) in the event the improvements proposed for the Crossroads 312 project have not already been made, modify signal timing for the peak weekday AM and peak weekday PM hours, and modify the lane utilization of Independent Way, including traffic signal modifications.

8. The Applicant shall, prior to the issuance of a certificate of occupancy for either of the Buildings, at the intersection of Route 312 and the I-84 westbound ramps, modify signal timing in the event the improvements proposed for the Crossroads 312 project have been made. In the event the improvements proposed for the Crossroads 312 project have not already been made, the Applicant is not required to undertake any measures at this intersection.

9. The Applicant shall prepare within three (3) months of full occupancy of both Buildings a traffic signal Warrant Analysis of the Route 312/Prospect Hill Road intersection. The analysis shall consider the variety of warrants available and determine if a signal is justified at this intersection using at least two warrants per NYSDOT direction.

10. The Applicant shall prepare within six (6) months of full occupancy of both Buildings a corridor study along Route 312 from Prospect Hill Road to International Boulevard to determine the need and recommendations for revised time-of-day traffic signal plans. The corridor study shall include the weekday AM, weekday PM, and Saturday peak hours using SimTraffic software per NYSDOT guidance.

11. The Applicant shall make a fair share contribution to the design and installation of the traffic signal at the intersection of Route 312/Prospect Hill Road, if warranted and approved by NYSDOT. The signal would be designed, installed, and coordinated with the four other existing and proposed signals along Route 312 to Independent Way. Prior to the issuance of the first certificate of occupancy associated with the Project, the Applicant shall place \$150,000 in escrow with the Town, or provide a bond to the Town in the amount of \$150,000, to cover the Applicant's fair share portion of the design and installation of the traffic light or other signal technologies identified in the corridor study. The Applicant and its consultants shall be responsible for preparing the Warrant Analysis within three months of full occupancy of the project, and costs incurred by the Town to review the Warrant Analysis shall be deducted from the \$150,000 escrow.

12. The Applicant shall complete a Traffic Monitoring Plan (TMP) within six (6) months of the issuance of a certificate of occupancy for the first of the two Buildings completed, and also within six (6) months of the full occupancy of both Buildings. The following items will be included in the Applicant's tenant and/or occupant leases to ensure the accuracy of the TMP:

a. Confirm there are no scheduled truck deliveries after 11:00 PM on Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday or before 10:00 AM on Sunday;

b. Confirm by policy that trucks parking on the site are only within the designated truck loading and trailer parking spaces shown on the project site plan approval drawings. Tenants and/or occupants will permit truck parking within truck loading and trailer parking spaces on the approved site plan drawings;

c. Confirm by policy that manned overnight layovers of truck are not permitted. Notwithstanding, Tenants and/or Occupants may provide trucker's bunks to be used for emergency conditions only to assure that truck idling is minimized;

d. Confirm trucks are not idling on-site in excess of State guidelines and/or local regulations. Tenants and/or occupants will not permit on-site truck idling in excess of the State guidelines or local regulations;

e. Confirm Project-generated traffic volumes do not exceed the volumes analyzed in the FEIS as the Sensitivity Analysis scenario during the Peak Weekday AM (7:30-8:30 AM) and PM (5:00-6:00 PM) Hours along the area roadways (Route 312) and the Peak Saturday Midday Hour (12:15-1:15 PM). If the Project-generated volumes exceed the Sensitivity Analysis volumes during the peak roadway hours, the Applicant shall coordinate with its tenants and/or occupant to adjust work shift hours. The Project-generated volume thresholds are 364 trips on a weekday from 7:30-8:30 AM, 426 trips on a weekday from 5:00-6:00 PM and 121 trips on Saturday from 12:15-1:15 PM;

f. Record travel speeds along Pugsley Road for 24 hours with automatic traffic recorders (ATR) to determine the average and 85<sup>th</sup> percentile travel speed. Based on the results of the study, the roadway posted speed limit could potentially be reduced to 25 MPH if determined to be appropriate by the Town and/or the Applicant could be required to install radar speed signs on Pugsley Road;

g. Provide the number of visitors and employees that utilize Metro-North to the Project site so that the need for a jitney can be assessed; and

h. The operator(s) of the Buildings shall have a policy in place with all the trucking companies that requires the use of approved routes to and from the facility. Trucks shall not use local roads, and trucking companies shall face fines or suspension of business with the facility if found not in compliance.

13. Fields Corner Road shall remain a seasonal road that is closed north of the current Barrett Road intersection during the winter. The Applicant shall install height clearance bars and gates. The Applicant shall provide two turnaround areas along Fields Corner Road within the Town of Southeast. The Applicant shall also install video cameras to monitor truck traffic along Fields Corner Road, as well as signs indicating the prohibition of commercial trucks and the progressive fines currently established by the Town for restricted road use violations. The Applicant shall record the video information on a 24 hour loop and the video monitoring shall be

provided to the Town and/or the Putnam County Sheriff's Department, if requested, to determine whether tickets should be issued. Should it be found by the Planning Board that the traffic volume levels on Fields Corner Road associated with the Project exceed those predicted under the traffic analysis in the FEIS, the gate shall be closed, except for use by emergency vehicles. The Project-generated volume thresholds on Fields Corner Road are 22 trips on a weekday from 7:30-8:30 AM, 26 trips on a weekday from 5:00-6:00 PM and 7 trips on Saturday from 12:15-1:15 PM.

14. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that trucks shall not be scheduled to access the site after 11:00 PM Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday or before 10:00 AM on Sunday.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on Traffic have been avoided or minimized to the maximum extent practicable.

### **C. Visual Resources**

In response to public comments and feedback from Town officials, the Action has been significantly reduced in size and location, and the design has also been changed to further reduce the Project's already limited visual impacts when compared to the DEIS Plan.

A combination of distance, intervening topography, and dense existing vegetation would completely obscure the visibility of Building A from Route 312 and Tilly Foster Farm and preserve the rural character of this area.

The Action also would not be visible from the vast majority of units within the two closest residential developments, Hunters Glen and Twin Brooks Manor, during both the leaf-on (summer) and leaf-off (winter) conditions. The Buildings would be at least 1,200 feet from the closest unit in Twin Brooks Manor and 1,440 feet to the nearest Hunters Glen unit. Any visual impacts would be minimized to the maximum extent practicable by the distance of the buildings, as well as the preservation of substantial areas of existing mature trees and habitat (including in the "no build" areas discussed above in Section A ("Land Use and Zoning")), construction of a 12-foot high berm, and additional proposed evergreen landscaping planted in the "gaps" where the Buildings may be visible from the developments. Sixty-one percent (61%) of the OP-3 portion of the Applicant's property (approximately 139.4 acres) would remain completely undisturbed throughout the development process. Moreover, following development, approximately eighty percent (80%) of the approximately 229-acre OP-3 portion of the Property would remain as open space either in a natural or landscaped state.

The Action would also be generally imperceptible from most other locations in the Town. The colors of the Buildings would also minimize their visibility by blending them into the surroundings, and Project lighting would be fully shielded and dark sky compliant, such that there would be no light spillage off the Property.

The water tank for the Project would not be visible from Route 312, Hunters Glen, or Twin Brook Manor, and is in compliance with the height requirements of the Town Code.

**Impacts and Mitigation Measures Relating to Visual Impacts**

**C-1** Building A, which is the closest of the two Buildings to Route 312, would be approximately 2,150 feet from Route 312, as a result of eliminating building development in the RC District portion of the Site. Distance, intervening topography, and vegetation would make Building A virtually invisible from Route 312. Route 312 is at an elevation of 550 feet at its nearest point, while Building A (with a finished floor elevation of 645 feet) would be below and behind the upper portion of the ridgeline (with a top elevation of 672 feet) located between Building A and Route 312.

Distance, intervening topography, and vegetation would also make the Project imperceptible from Tilly Foster Farm. The closest Project Building, Building A, is approximately 2,850 feet from the clustered buildings within Tilly Foster Farm, approximately 3,125 feet from the closest ancillary building in Tilly Foster Farm, and approximately 2,210 feet from the closest property line of Tilly Foster Farm.

**C-2** In leaves on condition, the Action would not be visible from within the Hunters Glen and Twin Brook Manor residential developments. The distance from Building B to the nearest Hunter's Glen residence is approximately 1,415 feet, or just a little over a quarter mile. The distance from the nearest building of the Twin Brook Manor development to Building B is approximately 1,210 feet distant. In the DEIS Plan, the distance to Twin Brook Manor was previously approximately 600 feet.

In addition to distance, visual impacts to Hunters Glen and Twin Brooks Manor would also be minimized by measures including:

1. The preservation of substantial areas of existing mature trees and habitat, as well as additional proposed evergreen landscaping planted in the "gaps" where the Buildings might be visible from the developments. As discussed in greater detail above in Section A ("Land Use and Zoning"), the Applicant has agreed to impose "no build" restrictions on more than half of its 328-acre Property, including all of its approximately 80 acres located in the RC District and on approximately 92 acres of the OP-3 portion of its Property, some of which are adjacent to the developments. This will serve to preserve substantial existing vegetation that will minimize views.

2. Subject to approval of the boards of Hunter's Glen, Twin Brook Manor and the respective residents, the Applicant shall plant a total of up to 50 evergreen trees (25 per residential development, unless otherwise distributed between the two developments) on the Hunters Glen and Twin Brook Manor residential properties in locations approved by the respective condominium association boards to further reduce visibility from Hunters Glen and Twin Brook Manor. The locations would be coordinated with the Town Planning Consultant upon completion of the exterior of Building B.

3. The Project's stormwater management areas shall be adequately landscaped as shown on the Site Plan Approval drawings so as to reduce any potential visual impacts of those areas.

4. An approximately 12 foot high berm is proposed on the Property north of Building B to minimize views of the Building, even though none are projected, from Twin Brook Manor.

5. To reduce the visual impact of any on-site lighting to Hunter's Glen and Twin Brooks Manor, trucks will not be able to circulate around the Buildings. Additionally, there will be no wall-pack lighting on the western sides of the Buildings nearest to these residential developments and parking lot light poles shall not be larger than 20 feet high so that there would be no light spillage off of the Property towards Hunter's Glen or Twin Brook Manor. The Project shall otherwise use dark sky compliant lighting.

**C-3** The Action would be generally imperceptible from most other locations in the Town. At the direction of the Planning Board, the Applicant conducted visual analyses based on a synthesis of photos taken at various locations. The computer simulations utilize existing and proposed topographic information as well as Light Detection and Ranging (lidar) data to accurately reflect the relationships between the various viewpoints and the proposed Buildings, including where existing grades that will remain will result in the Buildings not being visible and/or if vegetation will minimize the visibility. These additional analyses confirm that the Project will not be visible from most off-site locations, including as follows:

1. Nelson Boulevard & Drewville Road: This intersection is more than two miles from the closest of the Buildings, which in itself would minimize the Project's visual impacts from this location. Moreover, the Project would not be visible along Nelson Boulevard, including because a variety of evergreen trees and other vegetation lines the majority of the roadway. Much of Drewville Road also has trees and other vegetation adjacent to the roadway which obscure views of the project. The southern side of Building B would be visible from the intersection of the two roadways, which can be mitigated through a combination of evergreen and deciduous trees proposed to be planted along the southern side of Building B as shown on the Site Plan Approval drawings to minimize its off-site visibility.

2. NYS Route 6 as it Crosses Over the Middle Branch Reservoir: The Buildings would not be visible from Route 6 during the leaves on condition. During the winter leaves off condition, existing tree branches are expected to screen the potential visibility of the buildings.

3. Maple Road: The Project would be minimally if at all visible from this Road, including because of existing vegetation along much of Maple Road.

**C-4** The colors of the Buildings and the water tank shall be required to effectively mitigate color contrast with the surrounding landscape. The Buildings and water tank would be predominately medium to dark green, as well as grey colors. The green colors would be similar to natural green colors of vegetation. The color will be subject to review and recommendation by the Town's Architectural Review Board.

**C-5** Topography, distance and existing vegetation would also make the Project virtually imperceptible to drivers along I-84. The existing wooded Town-owned parcel located adjacent to the Property, on the east side of Fields Corner Road, the north side of Zimmer Road/Barrett Road and the west side of I-84, for example, has a ground elevation at the highpoint of approximately 810 feet, which is more than 130 above the highest proposed finished floor elevation 672.5 feet.

**C-6** The water tank would not be visible from Route 312, Hunters Glen or Twin Brook Manor. The water tank may be visible from Pugsley Road/Barrett Road intersection, which can be mitigated by planting evergreen trees around the proposed water tank to reduce any potential visual impact and to minimize the view of the tank from Pugsley and Fields Corner Roads, as shown on the Site Plan Approval drawings.

**C-7** The Action meets the requirements of the Town Code's ridgeline protection provisions, including by minimizing its off-site visual impacts to the maximum extent practicable. (See Town Code § 138-12(I).) The Applicant proposes to construct Building A below the top of the ridgeline, which is proposed to remain, and while Building B is to be constructed at the top of the ridgeline, the finished floor elevation will be below the existing grades. This reduces the Buildings' visibility along the ridgeline, and, as a result, the Project is minimally visible off-site. Again, the Action minimizes the impacts on the ridgeline by reducing ridgeline area disruption of the Action by 22% in comparison to the DEIS Plan (Ridgeline A disturbance area decreased from 37.2 acres in the DEIS Plan to 22.3 acres in the Action, and Ridgeline B disturbance area decreased from 49.1 acres to 44.5 acres). The Action also implements a variety of other measures to reduce off-site impacts, including: (a) siting the Buildings in the locations on the Property that minimize intrusions into viewsheds by taking advantage of topographic changes and existing vegetation, (b) placing the Buildings strategically to maintain harmony between the built and natural environment, avoiding "excessive clearing" (i.e., the removal of more than 10 trees per quarter acre of disturbed land), and (c) utilizing "dark sky" compliant lighting. (See CPU, at 5-12.) Trees would be removed at a ratio substantially below the maximum number of trees permitted by the Town Code on ridgelines. The Buildings' finished floor elevations would be substantially below the existing tops of ridgelines.

### **Summary of Mitigation Measures and Findings on Visual Impacts**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse visual impacts:

1. Prior to issuance of a building permit for either of the Buildings, the Applicant shall file with the Putnam County Clerk a deed restriction, in a form acceptable to the Town Attorney, that places no build restrictions on the approximately 172 acres of the Property shown in FEIS Figures 1-2 and 1-2A, assuring no future visibility impacts.

2. Subject to approval of the boards of Hunter's Glen, Twin Brook Manor and the respective residents, the Applicant shall plant a total of up to 50 evergreen trees (25 per residential development, unless otherwise distributed between the two developments) on the Hunter's Glen and Twin Brook Manor residential properties in locations approved by the respective condominium association boards to further reduce visibility of the Buildings from Hunters Glen and Twin Brook Manor. The locations would be coordinated with the Town Planning Consultant upon completion of the exterior of Building B. The evergreen trees shall be 6-7 feet tall at the time of planting. Prior to the issuance of a building permit for Building B, the Applicant shall obtain a performance bond in the amount of \$30,000.00 for up to one year subsequent to the issuance of a certificate of occupancy for Building B.

3. The Action's stormwater management areas shall be adequately landscaped as shown on the Site Plan Approval drawings so as to reduce any potential visual impacts of those areas.

4. Prior to the issuance of a certificate of occupancy for Building B, an approximately 12 foot high berm shall be constructed north of Building B.

5. The Action's Special Permit and/or Site Plan Approval shall have as a conditions that:

- a. trucks shall not be allowed to circulate around the Buildings;
- b. there shall be no wall-pack lighting on the western sides of the Buildings;
- c. parking lot light poles shall not be larger than 20 feet high;
- d. a combination of evergreen and deciduous trees would be planted along the southern side of Building B;
- e. subject to the review of the Town Architectural Review Board, the color of Buildings and the water tank shall be predominately medium to dark green, as well as grey colors. The green colors would be similar to natural green colors of vegetation;
- f. evergreen trees shall be planted around the proposed water tank, and;
- g. to reduce the potential visual impact and to minimize the view of the tank from Pugsley and Fields Corner Roads.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse visual impacts have been avoided or minimized to the maximum extent practicable

#### **D. Surface Water and Wetlands**

##### **Surface Water**

The Project's stormwater management facilities have been designed such that the quantity and quality of stormwater runoff during and after construction will not be adversely altered or will be enhanced when compared to pre-development conditions. There would be no anticipated impacts to off-site properties as a result of the Project. All water quality practices, including the enhanced phosphorus removal required because the Project is within the NYCDEP watershed, meet or exceed the requirements of the stormwater management practices criteria as outlined in Chapter 6 of the NYS Stormwater Management Design Manual. The Project's Stormwater Pollution Prevention Plan ("SWPPP") responds to comments from the NYCDEP, the Watershed Inspector General, the NYSDEC, and updated soil testing results. The NYCDEP has notified the Planning Board that it conceptually agrees with the requirements under the SWPPP for the purposes of SEQRA, and that further amendments can be accommodated during Site Plan Review. Further, the SWPPP and letter from David Lombardi, PE, JMC, dated September 23, 2020 substantively



address the concerns identified by the WIG, including its comments on the FEIS in a letter dated September 10, 2020. As noted in the September 23, 2020 letter from JMC, the remaining items do not affect the overall approach of the SWPPP and the minor modifications and clarifications shall be resolved during Site Plan review.

An Erosion and Sediment Control Management Program will be, beginning at the start of the Action's construction and continuing throughout its course, as outlined in the "New York State Standards and Specifications for Erosion and Sediment Control," dated November 2016. A continuing maintenance program would be implemented for the control of sediment transport and erosion control after construction and throughout the useful life of the Project.

### **Wetlands**

The Action's potential impacts on wetlands and wetland adjacent areas will be avoided to the maximum extent practicable, and the Action's minimal impacts on wetlands and wetland adjacent areas will be adequately mitigated.

The Project's only permanent wetland encroachment will be minor (0.05 acres). It will occur in connection with an existing on-site road crossing (improvements at the Barrett Road wetland crossing between Wetlands 4 and 5). As part of this road improvement, the existing 18" culvert under Barrett Road will be replaced with a 48" open-bottom arch culvert to facilitate wildlife passage within the central wetland corridor. Retaining walls are proposed at various locations to minimize wetland encroachments. In addition, 1.54 acres will be dedicated to wetland mitigation (restoration and habitat enhancement), and there will be buffer restoration within the immediate area of the wetland.

Only minor encroachments into the wetland adjacent areas are proposed, with 2.08 acres of disturbance to NYSDEC wetland buffers (which are also regulated by the Town), and 5.23 acres of disturbance to Town-only regulated wetland buffers. These impacts are due to grading from proposed Buildings and from improvements to road crossings. The Action's impacts on regulated wetland adjacent areas has decreased from the DEIS Plan, with impacts to NYSDEC regulated adjacent areas decreasing from 2.44 to 2.08 acres and impacts to Town regulated adjacent areas decreasing from 5.37 to 5.23 acres. Upland habitat planting/restoration will occur outside of the actual wetland buffers, but in close proximity to the wetland corridors, totaling approximately 13 acres.

Once the restoration is completed, the wetland would be a more diverse and robust habitat for wetland dependent wildlife species that use the central wetland corridor of the site.

### **Impacts and Mitigation Measures Relating to Surface Waters and Wetlands**

**D-1** The total impervious area of the Action is 48.4 acres, a reduction of 8.8 acres from the DEIS Plan, which had an impervious area of 57.2 acres. A SWPPP was designed for the Action and incorporates comments from the NYCDEP, NYSDEC, and WIG to ensure that the Project would add no additional phosphorous to the Middle Branch Reservoir or otherwise adversely impact the watershed. Runoff from all new impervious areas will be captured and treated by a variety of stormwater management practices, green infrastructure planning and green infrastructure process.

The proposed stormwater facilities have been designed such that the quantity and quality of stormwater runoff during and after construction are not adversely altered, or are actually enhanced

when compared to pre-development conditions. There would be no anticipated impacts to off-site properties. All water quality practices, including the enhanced phosphorus removal required because the Project is within the NYCDEP watershed exceed the requirements of the stormwater management practices criteria as outlined in Chapter 6 of the NYS Stormwater Management Design Manual.

The proposed stormwater facilities include a combination of stormwater infiltration basins in series with wet detention basins (micropool extended detention basins or pocket ponds) and micropool detention basins in series with pond/wetland systems, the utilization of hydrodynamic separators for pretreatment prior to being discharged into stormwater management areas, cisterns, open channels, bioretention areas and level-spreader discharges. The stormwater facilities have been designed such that the quantity and quality of stormwater runoff during and after construction are not adversely altered, or in some cases are even enhanced when compared to pre-development conditions. The proposed stormwater improvements would result in reductions in peak rates of runoff from existing conditions for all storms and design points analyzed, resulting in no impacts to off-site properties. Vegetated swales, an infiltration trench and bioretention areas are proposed along Route 312 and Pugsley Road in association with the proposed road improvements.

**D-2** An Erosion and Sediment Control Management Program would be implemented for the Action beginning at the start of construction and continuing throughout its course, as required by the New York State Standards and Specifications for Erosion and Sediment Control, dated November 2016. As set forth in the Program, a qualified professional would conduct an assessment of the Property prior to the commencement of construction and certify that the appropriate erosion and sediment control have been adequately installed to ensure overall preparedness of the Property for the commencement of construction. In addition, a qualified professional would conduct one site inspection at least every seven calendar days and at least two site inspections every seven calendar days when greater than five acres of soil is disturbed at any one time. A continuing maintenance program would be implemented for the control of sediment transport and erosion control after construction and throughout the useful life of the Action.

Towards the completion of construction, permanent erosion and sediment control measures will be developed for long term erosion protection. The following permanent control measures and facilities have been proposed:

1. Vegetated swales will function to provide additional treatment to stormwater runoff by removal of pollutants and will promote a reduction of peak flows and provide runoff infiltration.
2. Infiltration basins will be used to treat the runoff volume generated from the developed area and provide improvement to water quality control. The proposed basins will provide water quality for 1 year stormwater runoff volume. The water quality volume will be retained and higher storms will be released gradually.

3. CDS Water Quality Structure will be used to provide pretreatment of the water quality flow rate for separating sediment, debris, floatables, etc. from the runoff prior to discharge to the SMP's. The CDS must provide water quality for 75% of existing impervious areas for the 1 year, 24 hour storm in accordance with the requirements of the New York State Department of Conservation (NYSDEC). The CDS Water Quality Structure has been designed to treat up to the required water quality volume and appropriately handle all storm frequencies without the resuspension of solids. The system will provide 80% TSS removal rate for particles having a mean particle size of 125 microns for stormwater runoff.

4. Infiltration System (I-2) which is standard SMP that will be used to treat the runoff volume generated from a portion of the developed area and provide additional water quality and runoff volume reduction. The smaller storms will be retained and the higher storms will be released gradually. The StormTech SC-740 Recharge Chambers are domed shaped fully opened bottom corrugated chambers with perforated side walls. Chambers allow stormwater to be stored within the dome void until it can infiltrate into the ground.

5. Catch Basin will be used to remove some of the coarse sand and grit sediment before entering the drainage system. Each catch basin will be constructed with an 18 inch deep sump

6. Rip-Rap Energy Dissipaters at discharge points from the stormwater drainage system into the stormwater management basins, rip-rap pads consisting of angular rocks will be placed to dissipate velocity and reduce the risk of erosion.

7. Seeding of at least 70% perennial vegetative cover will be used to produce a permanent uniform erosion resistant surface.

**D-3** The Project avoids impacts to wetland and wetland adjacent areas to the maximum extent practicable. The Action will result in only a 0.05 acre permanent encroachment into wetlands, and this impact is only at an existing on-site road crossing (improvements at the Barrett Road wetland crossing between Wetlands 4 and 5). This minor impact is required to provide access to the central uplands on the Property. Consistent with discussions with NYCDEP, improvements to the existing Barrett Road are proposed on the south side of the road to avoid impacts to the intermittent watercourse in this area. Retaining walls are proposed at various locations to minimize wetland encroachments.

Similarly, due to the Property's existing topography, complete avoidance of wetland buffer impacts is not possible. As a result of consolidating the Buildings from the DEIS Plan, the Buildings were sited in the more level areas of the Property to reduce the amount of topographic changes needed to accommodate them. Consolidation of the Buildings has resulted in NYSDEC buffer impacts to the adjacent area to be reduced to 2.08 acres from 2.66 acres and Town regulated buffer impacts to be reduced to 5.23 acres from 5.79 acres. This is a combined total reduction of over 70%.

Compensatory mitigation in the form of wetland and wetland buffer restoration and enhancement is proposed for these unavoidable impacts. A report titled "Installation, Management and

Monitoring Protocol for Upland Habitat Restoration Areas and Wetland Habitat Restoration,” dated August 2019, was prepared by Evans Associates to detail the wetland mitigation and habitat restoration for the proposed project. The associated plans are Drawings MP-1 “Overall Habitat Restoration & Wetland Mitigation Plan”, MP-2 and MP-3 “Habitat Restoration Plan”, MP-4 “Wetland & Wetland Buffer Restoration Plan” prepared by Evans Associates last revised August 7, 2019.

To mitigate the 0.05 acres of direct wetland impact, the Applicant will provide 1.54 acres of wetland mitigation (restoration and habitat enhancement) and buffer restoration within the immediate area of the wetland. Mitigation for the wetland encroachment at the Barrett Road crossing will be provided through restoration of the upper portion of Wetland 4. This area has been overgrown by invasive species which degrade the overall habitat value of the wetland. If left alone, it is likely that these species will continue to spread and will eventually eliminate the native species within this portion of the wetland. The upper portion of the wetland will be excavated to remove the common reed rhizomes, and the area will be solarized by placing clear plastic over the remaining soils during the growing season. This will result in sterilization of soil where the invasive species were growing by elimination of seeds and remaining rhizomes. Following completion of the road construction, 50% of sterilized soils will be replanted with live plugs of native species and allowed to grow. Once the restoration is complete, the wetland would be a more diverse and robust habitat for wetland dependent wildlife species that use the central wetland corridor of the Property.

Also, upland habitat planting/restoration is proposed outside the wetland buffers, but in close proximity of the wetland corridors, totaling approximately 13 acres. This would be accomplished through control of invasive species and restoration of a variety of habitats using substantial amounts of native trees, shrubs, forbs and grasses to provide improved habitat for a variety of mammals, birds, reptiles and amphibians. Over-seeding/reseeding and use of live plugs will be done as needed to ensure establishment of the meadow grasses. A comprehensive plan would be employed to ensure that seed mixes will take where they are used, including plowing for over a year to eliminate any existing invasive seed banks in the soil, followed by bioamendment.

The wetland and upland restoration areas are to be monitored for a period of five (5) years from the date of completion of the initial planting, which is to be noted in the initial compliance report.

1. During the 5-year monitoring period, an environmental monitor will inspect the restoration planting areas quarterly during the first two years and yearly in the subsequent 3 years. The yearly inspections are to be conducted during the growing season, between the dates of June 15 and October 1.

2. Over-seeding/reseeding and use of live plugs will be done as needed to ensure establishment of the meadow grasses. A comprehensive plan would be employed to ensure that seed mixes will take where they are used, including plowing for over a year to eliminate any existing invasive seed banks in the soil, followed by bio-amendment.

Moreover, as part of the Barrett Road improvements, the existing 18” culvert under Barrett Road will be replaced with a 48” open-bottom arch culvert to facilitate wildlife passage within the central wetland corridor.

**D-4** The Wetland Water Budget Analysis confirms that there will be no significant adverse changes to the existing hydrology for Wetlands 4, 5, or 6. By implementing the stormwater management practices required to handle runoff water quantity and water quality from the proposed project, the project is designed to mimic existing drainage patterns as closely as possible. Data indicate that the use of the onsite bedrock wells to supply water to the project would have no impact on wetlands on the site.

**D-5** A Herptofauna survey undertaken by the Mid-Atlantic Center for Herpetology and Conservation (MACHAC) confirmed that the central wetland corridor, which includes the northern portion of Wetland 4 to be impacted, does not contain Bog Turtles, which are a threatened/endangered species.

**D-6** Fertilizers and pesticides will be applied in accordance with state and federal law as well as with the manufacturer’s guidelines by a competent landscaper or other professional.

**D-7** No clearing of vegetation will occur during May 1-July 15 when most bird and mammal species are breeding and rearing young.

#### **Summary of Mitigation Measures and Findings on Surface Waters and Wetlands**

The Planning Board determines that the following mitigation measures are required in connection with the Action’s potentially significant adverse impacts on surface waters and wetlands:

1. The Action’s Special Permit and/or Site Plan Approval shall require the implementation of the Project’s SWPPP.

2. The Action’s Special Permit and/or Site Plan Approval shall require the implementation of the Project’s Erosion and Sediment Control Management Program in connection with Project construction.

3. The Action’s Special Permit and/or Site Plan Approval shall require the implementation of permanent erosion and sediment control measures, including the following terms:

- a. vegetated swales;
- b. infiltration basins that provide water quality for one year stormwater runoff volume;
- c. CDS Water Quality Structure to provide pretreatment of the water quality flow rate for separating sediment, debris, floatables, etc. from the runoff prior to discharge to the SMP's. The CDS must provide water quality for 75% of existing impervious areas for the 1 year, 24 hour storm in accordance with the requirements of the NYSDEC;

- d. infiltration System (I-2) to treat the runoff volume generated from a portion of the developed area and provide additional water quality and runoff volume reduction;
- e. catch basins to remove some of the coarse sand and grit sediment before entering the drainage system;
- f. Rip-Rap Energy Dissipaters at discharge points from the stormwater drainage system into the stormwater management basins, and;
- g. seeding of at least 70% perennial vegetative cover.

4. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the wetland and wetland buffer restoration and enhancement measures set forth in the report entitled "Installation, Management and Monitoring Protocol for Upland Habitat Restoration Areas and Wetland Habitat Restoration," dated August 2019, prepared by Evans Associates, and the associated plans, namely Drawings MP-1 "Overall Habitat Restoration & Wetland Mitigation Plan", MP-2 and MP-3 "Habitat Restoration Plan", MP-4 "Wetland & Wetland Buffer Restoration Plan" prepared by Evans Associates last revised August 7, 2019. This report and the associated plans require 1.54 acres of wetland mitigation (restoration and habitat enhancement) and buffer restoration within the immediate area of the wetland, and 13 acres of upland habitat planting/restoration outside of the wetland buffers. The wetland and upland restoration areas shall be monitored for a period of five (5) years from the date of completion of the initial planting, with an environmental monitor inspecting the restoration planting areas quarterly during the first two years and yearly in the subsequent three years. The yearly inspections are to be conducted during the growing season, between the dates of June 15 and October 1.

5. The Action's Special Permit and/or Site Plan Approval shall require that fertilizers and pesticides will only be applied in accordance with state and federal law as well as with the manufacturer's guidelines by a competent landscaper or other professional.

6. The Action's Special Permit and/or Site Plan Approval shall require that no clearing of vegetation shall occur between May 1-July 15.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on surface waters and wetlands have been avoided or minimized to the maximum extent practicable.

**E. Geology, Soils and Topography**

Due to the relatively deep depth of bedrock on the Property, the Action will have little to no impact on geological resources. The geotechnical investigation conducted during early 2018 concluded that from a soils and foundation support standpoint, the existing subsurface conditions are satisfactory to support the Project and roadways, and do not present limitations to development.

The current grading design results in an approximate balance of cut and fill, for a net site balance. Any excess amount of excavated material would be utilized as berm material within the limit of disturbance.

The Action's 17% reduction (191,475 s.f. less) as compared to the DEIS Plan would reduce the Project's impacts on geology, soils and topography, including further minimizing the Project's ridgeline impacts. The ridgeline associated with the southernmost buildings (Buildings 1 and 2 in the DEIS and Building A in the FEIS) has 40% less disturbance (-14.9 acres) and 75% fewer trees removed (-326 trees) under the Action. The impacts to the northern ridgeline have also been reduced (9% less disturbance or -4.6 acres, and 3% or 9 fewer trees removed) under the Action. The Action also reduces disturbance to steep slopes to 18.8 acres from 22.2 acres for the DEIS Plan, and steep slope disturbance to Ridgeline A to 3.8 acres from 5.1 acres, and to Ridgeline B to 4.4 acres from 5.2 acres.

### **Impacts and Mitigation Measures Relating to Geology, Soils and Topography**

**E-1** There will be little to no impact on geological resources due to the relatively deep depth to bedrock on the site. No blasting is anticipated.

**E-2** No significant impacts to soils are anticipated, and the topography of the site would be developed in accordance with the Town Code, resulting in no significant adverse impacts.

**E-3** Paxton soils on the site, with their soil component of fines, will warrant additional sediment and erosion control precautions. To address this, an Erosion and Sediment Control Management Program would be implemented for the Project, beginning at the start of construction and continuing through its course to avoid potential impacts to soils. The following components of the Erosion and Sediment Control Management Program, which are set forth in JMC Drawings C-401 through C-405, last revised June 17, 2020, were developed specifically to limit impacts to soils:

1. the Applicant will have a qualified professional conduct an assessment of the site prior to construction to certify that the appropriate erosion and sediment controls have been adequately installed to ensure overall preparedness of the site for construction;
2. the Applicant will have a qualified professional conduct one site inspection at least every seven calendar days and at least two site inspections every seven calendar days when greater than five acres of soil is disturbed at any one time;
3. temporary control measures and facilities will include silt fences, interceptor swales, stabilized construction entrances, temporary seeding, mulching and sediment traps with temporary riser and anti-vortex devices;
4. throughout construction, temporary control facilities will be implemented to control on-site erosion and sediment transfer, including:
  - a. interceptor swales will be used to direct stormwater runoff to temporary sediment traps for settlement;
  - b. silt fence of 18-30 inches high will be constructed using geotextile fabric, the height of which can be increased in the event these devices are placed on uncompacted fills or extremely loose undisturbed soils. The fences will not be placed in areas which receive concentrated flows such as ditches, swales and channels nor will the filter fabric material be placed across the entrance to pipes, culverts, spillway structures, sediment traps or basins;

c. stabilized construction entrance consists of AASHTO No. 1 rock. The rock entrance will be a minimum of 50 feet in length by 20 feet in width by 8 inches in depth;

d. seeding will be used to create vegetative surface to stabilize disturbed earth until at least 70% of the disturbed area has a perennial vegetative cover. Grass lining will also be used to line temporary channels and the surrounding disturbed areas;

e. mulching will be used as an anchor for seeding and disturbed areas to reduce soil loss due to storm events. These areas will be mulched with straw at a rate of 3 tons per acre such that the mulch forms a continuous blanket. Mulch must be placed after seeding or within 48 hours after seeding is completed;

f. inlet protection will be provided for all stormwater basins and inlets with the use of curb & gutter inlet protection and stone & block inlet protection structures, which will keep silt, sediment and construction debris out of the storm system. Existing structures within existing paved areas will be protected using "Silt Sacks" inside the structures;

g. erosion control matting will be utilized on slopes and within swales to provide stabilization in advance of vegetation being established. Such matting will be biodegradable to facilitate long term growth of vegetation in swales, on slopes and within stormwater management facilities;

h. sediment traps will be used with the permanent SMP's until their contributing areas drainage are stabilized. Once stabilized, the temporary risers will be removed and final grading/planting of the basins will be completed for permanent use as Stormwater Management basins;

i. temporary sediment basins will be constructed to intercept sediment laden runoff and trap and retain the sediment. The sediment basins are sized to provide a sediment storage volume of 3,600 cubic feet per acre draining to the basin. The Sediment Basins will be used with the permanent SMP's until their contributing drainage areas are stabilized. Once stabilized, the temporary risers will be removed, permanent outlet control structures will be installed and final grading/planting of the sediment basins will be completed for permanent use as Stormwater Management basins;

j. temporary riser and anti-vortex devices will be placed at the bottom of the temporary sediment basins where they intercept and collect debris and litter from the pond before they can enter the off-site storm drainage system, and;

k. stone check dams will be laid across the grass swales which are approximately 12 inches high, located at a minimum of two foot of elevation change along the swales so that the crest elevation of the downstream dam is at the same elevation of the toe of the upstream dam.

5. The contractor will maintain the temporary sediment and erosion control measures throughout construction, including:



- a. for dust control purposes, all exposed graded areas will be moistened with water at least twice a day in those areas where soil is exposed and cannot be planted within a temporary cover due to construction operations or the season;
- b. the erosion and sediment control measures shall be inspected at the end of each construction day and immediately following each rainfall event. All required repairs shall be immediately executed;
- c. sediment deposits shall be removed when they reach approximately 1/3 the height of the silt fence. The sediment shall be properly disposed of in fill areas on the Property. Fill shall be protected following disposal with mulch, temporary and/or permanent vegetation and be completely circumscribed on the downhill side by silt fence;
- d. rake all exposed areas parallel to the slope during earthwork operations;
- e. following final grading, disturbed area shall be stabilized with permanent surface treatment. During rough grading, areas which are not to be disturbed for fourteen or more days shall be stabilized with the temporary seed mixture as defined on the plans. All piles of dirt in exposed soil areas that will not receive a permanent surface treatment will be seeded, and;
- f. a continuing maintenance program will be implemented for the control of sediment transport and erosion control after construction and throughout the useful life of the Project.

**E-4.** The Action minimizes impacts to steep slopes on the Property to the maximum extent practicable. The Action results in a reduction to steep slope disturbance from 22.2 acres in the DEIS Plan to 18.8 acres.

**E-5** The Action is consistent with the Town Code's Ridgeline Protection Provisions, which allows the Project to be developed on the Property's ridgelines, while avoiding off-site impacts to the maximum extent practicable without excessive clearing. Entirely avoiding the ridgelines on the Property would virtually prohibit any reasonable development of the Property. The ridgelines constitute a significant portion of Lots 2 and 3. The ridgeline within which Building A is to be constructed is approximately 2,900 feet long, and the ridgeline on which Building B is to be constructed is approximately 3,900 feet long.

The Action proposes to construct Building A below the upper portion of the ridgeline, which is proposed to remain. Building B would be constructed on the upper portion of the ridgeline but below the existing grades. Unlike the DEIS Plan, the Applicant proposes to construct Building A partially below the upper portion of the ridgeline which is proposed to remain. This would result in a 40% less disturbance and 75% fewer trees removed than under the DEIS Plan. Building B is to be constructed below the existing grades and many existing mature trees within the ridgeline will be preserved. The relocation and consolidation of Building B leads to 9% less disturbance and 3% fewer trees than under the Building B. These conditions would reduce the building's visibility along the ridgeline, and the project would generally be minimally, if at all, visible from various locations analyzed off-site. The disturbance to Ridgeline A to 3.8 acres from 5.1 acres and Ridgeline B to 4.4 acres from 5.2 acres.

### **Summary of Mitigation Measures and Findings on Geology, Soils and Topography**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on geology, soils, and topography:

1. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on geology, soils and topography have been avoided or minimized to the maximum extent practicable.

#### **F. Groundwater**

No significant adverse impacts to the bedrock aquifer or watershed are anticipated from the planned groundwater withdrawal for the Project. There are currently three wells located on the Property, and two of these wells will be utilized for the non-transient, non-community water supply for the Action. The data from U.S. Geological Survey Water Resource Investigations in the Fishkill-Beacon area and the region indicates that the available groundwater recharge from precipitation under both normal and drought conditions will recharge at a rate greater than the Project's water demand. Infiltration and recharge of a portion of the water withdrawn back into the groundwater system through the use of an onsite septic system would also reduce the consumptive water withdrawal of the project, further reducing the potential for cumulative aquifer impacts.

Previous testing in connection with the Mixed-Use Plan proved that there is no direct hydraulic interconnection between the wells the Action will use, and the Hunters Glen, Twin Brooks and Tilly Foster Farm wells. Even beyond the lack of hydraulic connection to wells for Hunters Glen, Twin Brook, and Tilly Foster Farm, the substantially reduced daily water usage of the Action as compared to the Mixed-Use Plan shows that no drawdown effects or changes in water quality in these off-site wells are anticipated from pumping onsite wells. Water usage for the Action is substantially less (less than a tenth) than water usage that would be required for the Mixed Use Plan, which was previously shown to be sustainable.

Therefore, the Project is not anticipated to place any demands on adjacent or nearby groundwater resources, and the Project would not adversely impact offsite wells or the watershed.

Wetland water-level monitoring was conducted as part of a 2004 pumping test. Piezometers were installed at three locations in the onsite wetland to assess the potential for a hydraulic interconnection between the deep bedrock groundwater withdrawal and the wetlands. Water-level measurements were collected for the surface-water in the wetlands and the shallow, overburden groundwater below the wetland to determine if pumping the onsite bedrock wells caused a drawdown in the water level. No drawdown was observed at any of the piezometers in either the shallow groundwater or surface water that was caused by pumping the on-site bedrock wells. This data indicates that the use of the onsite bedrock wells to supply water to the project would not affect wetlands in the area. It is anticipated that water would continue to naturally recharge at a greater rate than anticipated site usage during drought conditions, where precipitation would drop.

Under both normal and drought precipitation conditions, groundwater is expected to recharge at a rate greater than the project's water demand.

### **Impacts and Mitigation Measures Relating to Groundwater**

**F-1** Two of the three wells located on the Property -- denominated OW-3 and NW-4 -- will be utilized for the non-transient, non-community water supply for the Action. The Project water demand has been conservatively calculated at 15,600 gpd or about 10.9 gpm. The 1992 pumping test was conducted on wells OW-1, OW-3 and NW-4 pumping at 140 gallons per minute (gpm), 58 gpm, and 90 gpm, respectively, for a combined 288 gpm or 414,720 gallons per day (gpd). A follow up yield test was conducted in March 2004. The wells demonstrated rates of 56 gpm for OW-1, 30 gpm for OW-3 and 60 gpm for NW-4. As such, OW-3 and NW-4 will sufficiently meet the combined Project water demand.

The water demand for the Project is calculated based on the March 2014 New York State Design Standards for Intermediate Sized Wastewater Treatment Systems, issued by the New York State Department of Environmental Conservation (NYSDEC), Division of Water. The water usage multiplier for a "Distribution Warehouse," as set forth in Section B.6.b, Table B-3, is 15 gallons per day (gpd) per employee per shift. The water usage multiplier does not differentiate between day or night shift employees, and the resulting water demand associated with the total number of 1,040 employees on the three shifts is 15,600 gpd. This water demand is considered conservative because it does not incorporate the 20% reduction in water usage for use of water-saving plumbing fixtures allowed by the NYSDEC Design Standards, and which will be incorporated into the Project. If the 20% reduction is applied to the 15,600 gpd, this would decrease the projected total water demand to 12,480 gpd or 8.7 gpm. However, the credit was not incorporated in the analysis of the potential effects of the groundwater withdrawals to provide a more conservative assessment.

Water-quality testing was conducted on proposed supply wells OW-3 and NW-4 in May/June 2018. Water samples from the wells were analyzed for all parameters required by the NYSDOH Sanitary Code Part 5, subpart 5-1 for non-community, public water-supply wells. The proposed sampling parameter list was submitted to the PCDOH prior to the sample collection in 2018 and the PCDOH concurred with the list. The water-quality results for wells OW-3 and NW-4 from the 2018 sampling event met all NYSDOH drinking water standards.

**F-2** There will be no significant adverse impacts to the bedrock aquifer or watershed from the planned groundwater withdrawal for the Project. The available groundwater recharge from precipitation under both normal and drought conditions is expected to recharge at a rate greater than the Project's water demand. Infiltration and recharge of a portion of the water withdrawn back into the groundwater system through the use of an onsite septic system would also reduce the consumptive water withdrawal of the Project, further reducing the potential for aquifer impacts.

**F-3** The Project would not adversely impact offsite wells or the watershed. There is no direct hydraulic interconnection between the Project wells, and the Hunters Glen, Twin Brooks and Tilly Foster Farm wells. There are no mitigation measures in regard to the planned groundwater withdrawal warranted. Despite the fact that no mitigation is warranted, onsite subsurface wastewater disposal is planned for the Project, which will further reduce the potential for cumulative aquifer impacts. Infiltration and recharge of a portion of the water withdrawn back into

the groundwater system through the use of an onsite septic system will reduce the consumptive water withdrawal of the project.

The Project's SWPPP, which has been developed in accordance with the NYSDEC, NYCDEP, and Town requirements, is intended to prevent impacts to groundwater quality underlying the Project site and surrounding areas. NYCDEP regulations are crafted to protect the watershed including reservoirs and aquifers to the maximum extent possible with both design and operating practices. The Project's SWPPP complies fully with these regulations.

**F-4** To ensure protection of the watershed, no road salt would be stored on site. An outside contractor would clear snow on the project site after a storm and would comply with all pertinent NYCDEP regulations regarding any materials used for snowmelt, and use the minimum amount necessary.

**F-5** Hydrodynamic water quality separators would be used to separate any oil accumulated from the parking lots and driveways that may source from small leaks in engines and potential larger spills, prior to flowing to any other stormwater management practice. The separators can store various volumes of oil depending upon the amount of runoff they are designed to treat, and the separators used on the project site would be appropriately sized for the areas that they would be associated with. For example, the hydrodynamic separators in the project's stormwater design range from an oil storage capacity of 210 gallons (which would only be proposed in landbanked parking lot areas where the large trucks would never travel). The next largest sizes used would store 263, 520, 568, 965, 1,172 and 1,309 gallons of oil. The separators would be regularly maintained, and the accumulated oil would be disposed of at a licensed processing facility.

**F-6** The additional water usage of 12,000 gpd for onsite irrigation would be supplied from cisterns capturing runoff from the roofs of the proposed buildings.

**F-7** Fertilizers and pesticides will be applied in accordance with state and federal law as well as with the manufacturer's guidelines, and as such are not anticipated to have an impact on groundwater or surface water resources.

### **Summary of Mitigation Measures and Findings on Groundwater**

The Planning Board determines that the following condition is required in connection with the Action's potentially significant adverse impacts on groundwater:

1. The Action's Special Permit and/or Site Plan Approval shall require that: (a) no road salt be stored on the Property, and; (b) that any outside contractor(s) used to clear snow at the Property shall comply with all pertinent NYCDEP regulations regarding any materials used for snowmelt, and use the minimum amount necessary.

The Planning Board finds that, with the condition/mitigation measure described above, the Action's potential significant adverse impacts on groundwater have been avoided or minimized to the maximum extent practicable.

### **G. Vegetation and Wildlife**

Based on extensive field assessments of the Property, the Applicant proposes a series of mitigation measures that will compensate for portions of the Property, which constitute potential habitat, that

would be impacted by the Action. These mitigation measures involve restoring and enhancing both wetlands and uplands on the Property.

In addition to the approximately twenty-five (25) field hours spent on the Property over two years by the Applicant's wetland and environmental consultant, which included time with biologists from NYSDEC and representatives from NYCDEP, the Mid-Atlantic Center for Herpetology and Conservation (MACHAC) independently conducted both: (i) an assessment to determine what impacts the Project would have on the flora and fauna of the site and its environs, and provide an opinion regarding the suitability of all of the Applicant's Property for rare amphibian and reptile inhabitation ("Habitat Assessment"), and; (ii) a herpetofauna survey, which determined the actual presence or inferred absence of species within the potential habitats identified on the site in the Habitat Assessment ("Herpetofauna Survey").

Based on all of these field studies, the Applicant developed a comprehensive Wetland Mitigation/Habitat Restoration Report, which, together with its associated plan, provides a detailed approach for mitigating the Project's potential significant adverse impacts on vegetation and wildlife. These mitigation measures are in accordance with and, in fact, adopt the recommendations in the MACHAC report to the maximum extent possible.

#### **Impacts and Mitigation Measures Relating to Vegetation and Wildlife**

**G-1** The Applicant's wetlands and environmental consultant, Evans Associates, spent approximately twenty-five (25) field days on the Property over the last two years (June 2017 through July 2019), including time spent with biologists from NYSDEC and representatives from NYCDEP. Evans Associates' analysis included evaluating areas where the development is proposed, as well as nearby meadow areas, forested areas, and wetland corridors, for resident, breeding and migratory birds during the winter, spring and early summer of 2018 -2019. During all field visits by Evans Associates notes were made on mammals (including tracks, scat and other signs) and vegetation cover.

To better define and describe the on-site habitats for amphibians and reptiles, MACHAC, a non-profit organization that conducts amphibian and reptile research and conservation planning, was also retained to provide an opinion regarding the suitability of the proposed site for rare amphibian and reptile inhabitation (*i.e.*, the Habitat Assessment). To be conservative, the Habitat Assessment assessed the entire Property, even though the Project only involves erecting buildings within a portion of the Property located in the OP-3 District, with some accessory utility work on the proposed Lot 1 in the RC District, and that, in addition, approximately 172 acres of the Property would remain protected by a no-build restriction, which would prohibit future building development.

MACHAC's Habitat Assessment identified thirty-seven (37) species of amphibians and reptiles as having habitat present on the Property that could support them, although the Habitat Assessment was not intended to, and did not, conclude whether any of these species are actually on the site. Of these 37 species, the Bog Turtle is protected (NYSDEC Endangered and USF&WS Threatened). An additional seven (7) species are listed as "Species of Special Concern" by the NYSDEC: Jefferson Salamander, Blue-spotted Salamander, Marbled Salamander, Spotted Turtle, Wood

Turtle, Eastern Box Turtle, and Eastern Hog-nosed Snake. Three (3) species, the Four-toed Salamander, Atlantic Coast Leopard Frog and, Eastern Musk Turtle, are considered “Species of Greatest Conservation Need” which is a conservation status rather than a regulatory status.

MACHAC subsequently undertook a follow-up Herpetofauna Survey during the spring and summer of 2019, at the request of the Planning Board, in order to determine the actual presence or inferred absence of species within the potential habitats identified on the Property in the Habitat Assessment. Beginning in early May 2019 and continuing through July 2019, a team of trained surveyors investigated the central wetland corridor (Wetlands 4 and 5) and the adjacent upland meadows and woodlands. The Survey covered approximately eighty-five (85) acres of the Property and included investigation of the potential Bog Turtle habitat in the central corridor (Wetland 4) following the USF&WS recommended Phase 2 Bog Turtle Presence/Absence Survey Methodology. The Herpetofauna Survey undertaken by MACHAC confirmed that the central wetland corridor, which includes the northern portion of Wetland 4 that will be impacted, does not contain Bog Turtles.

Based on these analyses, the Applicant proposes a series of mitigation measures to compensate for portions of the Property, which constitute potential habitat, that would be lost. These mitigation measures involve restoring and enhancing both wetlands and uplands on the Property. A Wetland Mitigation/Habitat Restoration Report has been prepared to detail the mitigation for the proposed project, as well as the proposed monitoring and maintenance of wetland and wetland buffer mitigation and upland habitat restoration plantings. The associated plans are Drawings MP-1 “Overall Habitat Restoration & Wetland Mitigation Plan”, MP-2 and MP-3 “Habitat Restoration Plan”, MP-4 “Wetland & Wetland Buffer Restoration Plan” prepared by Evans Associates Environmental Consulting, Inc. (Evans Associates), dated August 7, 2019 (the Wetland Mitigation/Habitat Restoration Report). These mitigation measures are in accordance with and, in fact, adopt the recommendations in the MACHAC report to the maximum extent possible, as follows:

1. MACHAC Recommendation 1: Provide suitable buffers on critical habitats for species of concern based on the life history requirements of the species.

As discussed in the Wetland Mitigation/Habitat Restoration Report, life-history buffers on habitats have been provided where possible. The only critical habitat being impacted is along Barrett Road, which is unavoidable, and to mitigate this impact, the Applicant proposes to adopt all other recommendations set forth in the MACHAC report.

2. MACHAC Recommendation 2: Where there is unavoidable habitat impact, improve onsite habitats for species that may lose their habitat as a result of development.

The restoration of 1.54 acres of upland fields compensates for the 0.05 acres of wetland impact and the upland habitat planting/restoration proposed outside of the actual wetland buffers but in close proximity to the corridors totals 13 acres. The proposed restoration of upland meadow habitat through the elimination of invasive species and replacement with native grasses and forbs will improve the remaining on site habitat. Once the restoration is completed, the wetland would be a more diverse and robust habitat for wetland dependent wildlife species that use the

central wetland corridor of the site. In addition, the 172-acres of no build area throughout the site provides suitable habitat for all species. Maintenance of existing vegetation, including successional old field/shrubland habitats on the site, as well as the protection of wetland corridors on the site will provide shelter and nesting habitat for birds and small mammals, as well as wetland dependent species. Habitat connectivity is maintained under the proposed layout, with corridors of undisturbed habitat running through the project site in a north-south orientation.

3. MACHAC Recommendation 3: installation of permanent and temporary barriers between final developed area and any residual lands that may be habitat.

The Applicant proposes to install low barriers, fencing and retaining walls to keep species of concern out of the developed portions of the site.

4. MACHAC Recommendation 4: Create elevated road with wildlife passageways or a road with wildlife culverts.

Barrett Road will be widened and lifted at the existing wetland crossing. An existing 18" RCP culvert pipe will be replaced with a 48" open bottom arch culvert to allow for wildlife passage under the Road, eliminating the potential road mortality and providing habitat connectivity. Barrett Road will also not have curbs that would otherwise entrap wildlife within the roadway.

The creation of the habitat restoration area will result in thirteen (13) acres of temporary disturbance to habitat due to construction. Temporary disturbance will be limited to removing existing vegetation, tilling the soil and planting with habitat seed mix. No change to existing grade will occur. Habitats will ultimately be improved by removing invasive species and planting native vegetation.

**G-2** An extended tree-cutting prohibition period will ensure that there is no incidental harm to any bats using the Property during the active period (April 1 to October 31). This will also protect breeding birds and mammal species that may use the Property during that period.

**G-3** Outdoor lighting will be shielded and illuminate as small an area as possible for the shortest time period possible. Outdoor lighting will be dark sky complaint to minimize any effect of light pollution on the animals. The lighting fixtures to the west of the buildings, excluding employee parking, will be equipped with occupancy motion detectors. The sensors adjust the brightness of the light to 30% of full illumination when the zone is absent of motion for five minutes. The building lights will be 16 feet above the ground and the pole mounted parking lot lighting will be 20 feet.

**G-4** The Property does not contain any areas which would be considered preferred habitat for the bald eagle, however NYSDEC would be contacted prior to construction to determine the closest nest site to the project.

### **Summary of Mitigation Measures and Findings on Vegetation and Wildlife**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on vegetation and wildlife:

1. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Wetland Mitigation/Habitat Restoration Report, prepared by Evans Associates, dated August 7, 2019 (Appendix 9-1), and the associated plans (Drawings MP-1 "Overall Habitat Restoration & Wetland Mitigation Plan", MP-2 and MP-3 "Habitat Restoration Plan", MP-4 "Wetland & Wetland Buffer Restoration Plan" prepared by Evans Associates, dated August 7, 2019).

2. The Action's Special Permit and/or Site Plan Approval shall require an extended tree-cutting prohibition period from April 1 to October 31 (i.e., tree-cutting may only be conducted between November 1 and March 31).

3. The Action's Special Permit and/or Site Plan Approval shall require that NYSDEC be contacted prior to construction to determine the closest bald eagle nest site to the Project Site.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on vegetation and wildlife have been avoided or minimized to the maximum extent practicable.

#### **H. Tax Analysis**

The Action is anticipated to have substantial positive economic benefits to the local and regional economy, in terms of job creation and new revenue to the local taxing jurisdictions. The Project Sponsor is seeking a Payment in Lieu of Taxes ("PILOT") agreement with a Putnam County IDA. PILOT agreements typically extend for fifteen years, and the estimated cumulative payments over that period of time would total approximately \$31,894,781 in revenue for the various taxing jurisdictions. The Applicant currently pays approximately \$143,000 per year in real property taxes on the subject property as undeveloped land. As such, with the PILOT agreement in place the Action would generate approximately \$29,233,271 more in revenue over the first fifteen years than would be paid if the Property were to remain undeveloped. Brewster Central School District would receive \$23,785,000 of these PILOT payments based on their current share of property taxes. Additionally, the Town would receive approximately \$2,711,056 of these PILOT payments based on their share of property taxes. With no PILOT in place and the Property paying fully assessed real estate taxes, \$40,889,223 would be paid in real estate taxes during the first fifteen years. The PILOT Agreement would result in the Project paying approximately 75% of the fully assessed Property taxes for the Project.

With or without the PILOT in place, the Project would generate substantial revenue to local taxing jurisdictions during the first fifteen years. Consequently, the Project could help to lower the effective tax rate for all property owners in the Town.

The Project would also create quality, essential jobs, which would be consistent with the skills of the existing local workforce and average salaries. The industry of warehousing and distribution is rapidly evolving as an essential component of our economy. Today, typical warehouse jobs would have a salary range based on hourly rates of approximately \$36,000 to \$83,000 per year before overtime and bonuses. Many warehouse/distribution facility jobs are semi-skilled and do not require higher education as technology enters the workplace. Town residents will likely benefit



from these jobs as fifty-two percent (52%) of Town residents are high school graduates without a college degree. Supply chain management is an evolving career path with the national average salary for warehouse/distribution facility managers and directors in the \$100,000-\$130,000 range. Additionally, the anticipated new jobs would include a wide range of employee benefits.

The estimated 1,040 new essential jobs will offer Town residents the opportunity to work in Town, thereby lowering the current resident average 36-minute commute time. Currently, only 10% of residents live and work in the Town.

At the Planning Board's direction, a study using the Impact Analysis for Planning (IMPLAN) modeling software, which uses proprietary multipliers to evaluate the economic output, labor income and employment generated by a specific industry activity, was used to assess the Project's economic impacts. The IMPLAN study for the Project projects that it would result in an annual economic output of \$73,500,000. Of this \$73,500,000, approximately \$19,000,000 are direct salaries to on-site employees. The IMPLAN study further indicates that the Project would create nearly \$4,000,000 in additional indirect salaries annually and over \$3,000,000 in local business salaries for businesses servicing the Project. The study also indicates that the induced economic output (*i.e.*, services provided by local businesses) from the Project will total approximately \$13,545,000 annually. New jobs and new opportunities for local businesses are the primary economic benefits for the Southeast business community.

#### **Impacts and Mitigation Measures Relating to Taxes and Economics Conditions**

**H-1** The Action results in a net positive benefit for the taxing jurisdictions. Without the Action, the Property would continue to bring in a yearly revenue of just \$143,000. The Project would result in significantly more revenue to the relevant taxing jurisdictions, including the Town and the School District, regardless of whether it is in the form of real property taxation or PILOT payments.

The Applicant is not applying for a PILOT at this time, but may do so at a future date when building occupants(s) are identified. Nevertheless, the Applicant has indicated that it intends on applying for inducement from the Putnam County IDA, which would include a 15-year PILOT agreement. The purpose of the PILOT program is to make the Town as competitive as other municipalities in attracting commercial uses, and in order to help diversify the Town's real estate tax base. The Town of Southeast has a relatively high effective tax rate (3.65%) in comparison with other areas along the Route 84 corridor that have more commercial development, with several areas in Orange County having effective tax rates in the mid to low 2% range. The PILOT program enables the Town to lower the effective tax rate to a level that makes the Property competitive for these new essential jobs and economic impacts as businesses comparatively evaluate location within the region.

Accordingly, the Planning Board undertook a realistic and conservative estimate of revenue, recognizing that the actual PILOT payments would not be determined until the PILOT application process is completed and approved. Based on this analysis, it is projected that with a 15-year PILOT agreement in place, the Project would generate a total of \$31,894,781 in revenue. This is an increase of \$29,233,271 in revenue for the local taxing jurisdictions when compared with cumulative property taxes paid if the Property were to remain undeveloped. Without a PILOT, the

Project would generate \$40,889,223 in the first fifteen years. Therefore, with a PILOT the Project would still pay approximately 75% of what it would pay without a PILOT program.

The Action is also projected to generate approximately \$527,122 in sales tax revenue annually. Approximately \$7,738 would be generated at the sub-county or municipal level, approximately \$229,075 at the county level, and approximately \$290,309 at the state level.

**H-2** IDA inducement could also include sales tax exemption, and mortgage recording tax reduction benefits. Construction materials for the project are estimated to total approximately \$22,000,000. IDA inducement would allow for a sales tax exemption on items purchased for construction during the construction period. Sales tax in Putnam County is 8.375%. Thus, exempting sales tax from the \$22 million in construction materials leads to an overall savings of \$1,842,500. IDA inducement also allows for a reduction in the mortgage recording tax, from 1.05% to 0.85%, a difference of 0.2%. The Applicant anticipates an approximately \$80,000,000 construction loan. The 0.2% would lead to a savings of \$160,000. The Planning Board concludes that lost revenues from these benefits would be more than offset by the economic benefits that the Project would provide, including in revenue to the Town and the School District and through direct and indirect economic impacts, including job creation.

**H-3** The Project will result in significant economic development that will benefit the Town and County, including increased property tax revenue based on increased assessed value of the Property, sales tax revenue, and revenue to support local businesses by the creation of construction and permanent jobs.

The IMPLAN analysis estimated the economic benefits of the Project both during construction and operation.. IMPLAN modeling was utilized to accurately assess the Project's construction and operations phase impacts to the local economy. Direct, indirect and induced impacts will be generated in the local economy. Direct impacts are derived from short-term business activity, such as construction, or long-term business activity generated from operations, such as money spent to pay for salaries, raw materials and operating expenses. Indirect impacts relate to businesses that are directly impacted by the Project through business-to-business transactions, such as the purchase of supplies, materials and other services provided to the Project. Induced impacts are the result of increased personal income caused by the direct and indirect benefits.

The IMPLAN model projects that the Project would generate an estimated \$73,500,000 of annual economic output, of 551 new on-site jobs (in the estimated first shift of employees) during the anticipated day shift and 115 new indirect jobs. The 551 job reflects one shift, although, in reality, many warehouse/distribution facility users would have 2<sup>nd</sup> and 3<sup>rd</sup> shifts, which could substantially increase the total employment generated by the facility, which the Applicant estimates as approximately 1,040. Nevertheless, while a total of 1,040 jobs are projected over the 24-hour period, the 551 jobs anticipated on the day shift were used in the economic analysis as a conservative number, even though water/septic and traffic analysis all take into account all three shifts. Of the projected salary amounts, approximately \$19,000,000 are direct salaries paid to on-site employees, \$4,000,000 would be indirect salaries, and over \$3,000,000 in local business salaries for businesses servicing the Project. The model also indicates that the induced economic

output from the Project totals \$13,545,000 annually. This economic output would have a favorable and lasting impact on the local economy.

Even with automation, warehouse/distribution facilities would still need significant staffing, including employees to operate machines, input data, program, and maintain the equipment. It is anticipated that as warehouse/distribution facilities become more technologically sophisticated, the operational and maintenance jobs will become more skilled. Automated facilities generally include higher paying jobs, which require degrees in higher education, such as robotics maintenance mechanics, process software engineers, and similarly skilled positions. At the same time, there may also be lower skill jobs, such as packers, who complement the automated system.

**H-4** Additionally, the Applicant estimates that during the construction phase, approximately 486 jobs would be added to the local workforce and approximately \$29,260,649 would be paid to these workers. It is estimated that approximately \$9,097,570 would be indirectly injected into the local economy from other firms conducting business related to Project construction, such as material suppliers and other outside vendors providing goods and services for the construction of the project. The induced output from spin-off effects (i.e., disposable income spent by construction workers and workers associated with the construction of the project) would result in approximately \$14,762,730 of economic activity.

**H-5** The Action would place minimal demands on municipal services. Other than routine road maintenance, the only anticipated municipal costs generated by Project operations would be related to per capita emergency services costs for the employee population. The 1,040 anticipated total employees over a 24-hour period would incur a total estimated annual municipal service cost of \$117,520, which is well below what the Project would pay either as property taxes or under a PILOT agreement.

The proposed development would not generate any costs for the School District, but would contribute significantly to the District's budget, regardless of whether via real estate taxes or PILOT payments. According to the Brewster Central School District's website, the budget for the 2018/19 School Year is \$98,062,493, of which \$74,111,529 is generated by property taxes. Had the Project been built and operating as of the July 1, 2017 Valuation Date for the 2018/19 School Year, it would have generated approximately \$2,813,785 in real estate taxes (excluding any PILOT program payments), of which approximately 81.37%, or \$2,289,573, would be school taxes. Thus, taxes generated from the project would be approximately 3.09% of the District's budget.

The Applicant would fund initial road construction and related infrastructure improvements for the Project, which is an investment of nearly \$5,000,000. The Applicant proposes to construct Pugsley Road from Route 312 to Barrett Road as a heavy-duty roadway, which will reduce the need for maintenance. The additional property taxes generated by the Project would more than compensate the Town for standard road maintenance resulting from the Project, such as plowing. However, to ensure the satisfactory completion and performance of all proposed public improvements on Pugsley Road, the Town shall hold a performance bond in an amount to be determined in consultation with the Town Highway Superintendent and Town Engineer. The anticipated truck traffic associated with the Action will generate greater wear and tear on a

roadway than typical automobile traffic. As such, the performance bond would be utilized for the first full resurfacing of Pugsley Road as directed by the Town Highway Superintendent.

**H-6** There is no evidence that the Action would adversely impact home values near the Project. The Applicant evaluated the impact of the nearest comparative warehouse/distribution development, which is the Gap Distribution Center facility in Fishkill at 110 Merritt Boulevard, on residential property values at a nearby residential development, Merritt Park, which is just across Merritt Boulevard and only approximately 0.05 miles from the Gap facility. This analysis shows that the Gap facility has not caused any decline in real property values, nor has it negatively impacted the ability of owners in that development to realize capital gains on the investments in their homes when re-sold.

### **Summary of Mitigation Measures and Findings on Taxes**

The Planning Board determines that the Action will only have positive impacts relating to taxes, and that no mitigation measures or other conditions in this regard are required to avoid or minimize any potential impacts relating to taxes.

#### **I. Community Services**

The Action is not anticipated to pose any significant adverse impacts relating to community services. The Action is not anticipated to place significant additional demands on emergency services. Applying the U.S. Bureau of Labor Statistics' standard five percent (5%) annual workplace injury or illness projection to the anticipated total of 1,040 employees over three shifts indicates that a total of fifty-two (52) workplace injuries can be expected annually. Not all of these occurrences would likely require a 911 call, but conservatively, assuming that they all did, 52 EMS calls would be made annually, or approximately 4-5 per month. According to the Brewster Fire Department website, 2,585 incidents were responded to through the 12-month period from October 2018 to September 2019. That is an average of 215 calls per month. The addition of 4-5 potential calls a month from the Project would only represent an approximately 2% increase in 911 calls. Again, however, the number of EMT calls actually generated by the Project is likely to be lower.

The Project is not anticipated to place additional demands on police or other law enforcement services because the nature of the anticipated use (storage of goods) makes it incumbent upon any tenant and/or occupant to ensure that the facility is protected by security personnel and state of the art security systems. This may include Loss Prevention Associates, who can enforce a tenant's and/or occupant's policies and procedures, as well as automated Trailer Control Centers (TCS), which have a camera that is monitored from inside the facility. Tenants/occupants may elect to provide additional security based on their unique operations which may include alarms, exterior staffed security, etc.

Discussions with Chief DeSantis of the Brewster Fire Department confirm that the Department would not need special equipment to handle an emergency at the Project and that access to the Property and fire truck circulation and turning movements around the buildings are acceptable.

The Brewster Central School District serves the Property. Because the Project is a commercial use, there will be no school children generated, while, conversely, as discussed in the Taxes Section of these Findings, the Project would make a significant yearly financial contribution to the School District. Ultimately, as discussed in detail in the Tax Analysis chapter, even with a PILOT

agreement the revenue generated from the PILOT agreement would help offset the Project's limited impacts to the community. Based upon employee count of 1040, the total cost of providing community services to the Project is approximately \$117,520 annually, which is well below what the Project would pay either as property taxes or under a PILOT agreement.

### **Impacts and Mitigation Measures Relating to Community Services**

**I-1** The Action would place minimal demands on municipal services. Other than routine road maintenance, the only anticipated municipal costs to be generated by ongoing operations of the Project would be related to per capita emergency services costs for the employee population. The annual cost of municipal services for the Project, with a total of 1,040 employees, is approximately \$117,520. Even with a PILOT agreement, the Applicant's payments would offset its limited impacts to the community. The minimum amount of revenue that would be generated from the Project with only one of the Buildings and a PILOT agreement in place would be \$332,871 in the first year. With both Buildings and a PILOT agreement in place, the annual revenue generated would initially be \$1,006,692 and would increase each year, reaching a total of \$3,807,423 at completion of the PILOT.

**I-2** The Action would place minimal demands on emergency services. According to the U.S. Bureau of Labor Statistics for the year 2016, the rate of workplace injuries and illnesses was 5.0% of all workers in the Warehousing and Storage subsector. An injury or illness is considered to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

For the Project, with an anticipated total of 1,040 employees over three shifts, an 5.0% annual workplace injury or illness yields a total of 52 workplace injuries annually. Not all of these occurrences would likely require a 911 call, but even if, to be conservative, it is assumed that they all did, 52 EMS calls would be made annually, or approximately 4-5 per month. According to the Brewster Fire Department website, 2,585 incidents were responded to through the 12-month period from October 2018 to September 2019. That is an average of 215 calls per month. The addition of 4-5 potential calls a month from the proposed project represents approximately a 2% increase in 911 calls. Again, however, the number of EMT calls actually generated by the project is likely to be lower.

**I-3** The Project is not anticipated to generate any significant impacts for the two police forces serving the Property, in part because the Project is anticipated to provide significant security systems for itself. The nature of the anticipated use (storage of goods) make it incumbent upon any tenant and/or occupant to ensure that the facility is protected by security personnel and state of the art security systems. The Buildings will likely be protected with automated security systems including alarms and cameras. This may include Loss Prevention Associates, who can enforce a tenant's and/or occupant's policies and procedures, as well as automated Trailer Control Centers (TCS), which have a camera that is monitored from inside the Buildings. If a truck is scheduled for arrival, the truck would be let into the perimeter fenced security area that most tenants and/or occupants are anticipated to install. For the security of their own facility, most tenants and/or occupants want a full perimeter fence surrounding their facility. This burden is typically shifted to tenants and/or occupants as an obligation in the lease. Tenets/occupants may elect to provide additional security based on their unique operations which may include alarms, exterior staffed

security, etc. The individual Buildings are sited to facilitate this type of security should it be desired.

**I-4** The Project is not anticipated to place significant demands on are fire fighting services. The Project has been designed to meet all applicable building and fire code regulations. Both buildings would include a specialized sprinkler system, specifically designed for high piled storage occupancies, and which would substantially reduce the amount of water needed in the event of a fire in any building. This sprinkler system – Early Suppression Fast Response (ESFR) sprinklers – is state-of-the-art and is widely used for warehouse/distribution facilities because they are quick responding, high volume systems that provide exceptional protection for high piled storage occupancies. Pursuant to standards established by the National Fire Protection Association (NFPA), substantially less water would be required to handle a fire at the warehouse/distribution facility because the Buildings would be outfitted with ESFR sprinklers.

The proposed water tank contains 303,700 gallons, which, according to NFPA standards, is sufficient to protect the materials that would be stored in the Buildings. The emergency water storage consists of 240,000 gallons for the sprinkler system requirements and 60,000 gallons for standpipe/hydrant use. The site hydrant outlets would each be sized for 250 gallons per minute (gpm) at 100 pounds per square inch (psi). The tank would be insulated and heated.

The on-site water storage tank and automatic sprinkler system are designed to suppress a fire in the time it takes the fire department to arrive and then to provide supplemental water for the fire department to use to control and put out a fire. The water for the fire department would be provided by fire hydrants surrounding each building. Subject to final design calculations, the hydrants are to be connected by a 6” line from the water tank via the fire pump, which would supply water to the system. Distribution volume and pressure would be obtained via a fire pump in the range of 2,500 to 3,000 gpm, which would be verified according to NFPA standards when the system design is completed. Due to the building spacing and robust fire suppression systems, it is extremely unlikely that both Buildings would have a fire at the same time.

The Applicant’s discussions with Chief DeSantis of the Brewster Fire Department confirm that the Department would not need special equipment to handle an emergency at the Project and that access to the site and fire truck circulation and turning movements around the Buildings are acceptable.

In addition, the Applicant has agreed to the Fire Department’s request for the Department to draw on the Property’s fire emergency water supply from the proposed hydrants on Pugsley Road in the event of an off-site fire emergency, which would benefit Fire Department response both on and off the Project Site.

**I-5** There would be no cost to the Town in connection with the handling of the Project’s refuse. While the Applicant has not yet decided which commercial refuse contractor will be used for the Project, there are many available private commercial refuse contractors and the Project will hire their own private contractor for these services. All materials would be recycled according to all applicable regulations. All costs of recycling would be borne by the Applicant and/or tenants or occupants, using private recycling firms. Recycled materials and garbage (to be removed by a private carter) would be disposed of at licensed facilities in accordance with all applicable regulations. Each of the buildings would have two trash compactors. All trash and recycling would be stored in secure containers prior to pick-up by the carter.

**I-6** As discussed in greater detail in the Taxes Section of these Findings, the School District would gain revenue from tax or PILOT payments, with no additional expenses.

### **Summary of Mitigation Measures and Findings on Community Services**

The Planning Board determines that the Action does not pose significant adverse impacts relating to community services, and that no mitigation measures or other conditions are required to avoid or minimize any potential impacts relating to community services.

#### **J. Utilities**

No significant adverse utility impacts are anticipated to result from the Project.

As discussed in greater detail in the Groundwater Section of these Findings, on-site wells would provide more than adequate water supply for the Project. In sum, there are currently three (3) wells located on the Property, and two (2) of these wells -- denominated OW-3 and NW-4 -- will be utilized for the the Action. Pumping tests for these two wells demonstrated rates of 30 gpm for OW-3 and 60 gpm for NW-4. In comparison, the Project water demand has been conservatively calculated at 15,600 gpd or about 10.9 gpm. Again, this water demand is considered conservative because it does not incorporate the 20% reduction in water usage for use of water-saving plumbing fixtures allowed by the NYSDEC Design Standards, which will be incorporated into the Project. If the 20% reduction is applied to the 15,600 gpd, this would decrease the projected total water withdrawal to 12,480 gpd or 8.7 gpm, which is, again, far below what on-site wells can provide.

Gas and electric service will be provided to the Property. The Applicant has received “will serve” letters from New York State Electric and Gas (NYSEG) to supply both gas and electricity to the site, which means they have or are able to procure sufficient electricity and gas to serve the Project.

### **Impacts and Mitigation Measures Relating to Utilities**

**J-1** The combined groundwater withdrawal, or pump capacity, for the Project (15,600 gpd, or 12,480 gpd using low flow plumbing fixtures, as anticipated) is below the NYSDEC threshold of 100,000 gpd that would require a water withdrawal permit. The domestic well water supply from wells OW-3 and NW-4 would be chlorinated in accordance with New York State Drinking Water standards. In consideration of the well water analysis, no other treatment is required, i.e., no filtration is needed or incorporated in the design. No mitigation measures in regard to the planned groundwater withdrawal are warranted because based on the existing well pumping test data, there will be no significant adverse impacts from the pumping of wells OW-3 and NW-4.

**J-2** There is ample water to address a fire on the Property with the proposed 303,700 gallon water storage tank.

**J-3** The estimated 12,000 gpd demand for onsite irrigation would be supplied in part from cisterns capturing runoff from the roofs of the Buildings.

**J-4** The Applicant will continue to coordinate with NYSEG regarding utility extensions for gas and electric service, who indicated they will provide service by extending gas and electric services along Pugsley Road and Route 312.

**J-5** The Action proposes two subsurface disposal systems (SSDS) for each of the Buildings, rather than the sewage treatment plant that was previously approved for the Mixed-Use Plan. The septic

design flows for the Action are 4,500 gallons per day (gpd) for Building A, and 7,980 gpd for Building B. Each individual septic system is sized for the anticipated loading requirements for each building based on the March 2014 New York State Design Standards for Intermediate Sized Wastewater Treatment Systems prepared by the NYSDEC Division of Water. PCDOH has witnessed testing for the septic areas and the systems have been sized accordingly. The SSDS have been designed to be fully compliant with all applicable regulations and will result in no off-site or other adverse impacts, thus requiring no mitigation.

**Summary of Mitigation Measures and Findings on Utilities**

The Planning Board determines that the Action does not pose significant adverse impacts relating to utilities, and that no mitigation measures or other conditions are required to avoid or minimize any potential impacts relating to utilities.

**K. Cultural Resources**

The Action will not have any significant adverse impacts on historic or cultural resources. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has provided a letter of No Effect, confirming this conclusion.

**Impacts and Mitigation Measures Relating to Cultural Resources**

**K-1** OPRHP, also known as the State Historic Preservation Office (SHPO), provided a letter of No Effect, stating that the Action would have no effect on historical/cultural resources and confirming that no further investigation should be required for the Project.

A large portion of the Property was previously the subject of a Phase IA documentary research and Phase IB archaeological field test in 2005, the Mixed-Use Project. While documentary research found that the Property lies in a region of known precontact use, the extensive survey by Historical Perspectives, Inc. identified no precontact resources on land with similar characteristics. Additionally, the Phase IB testing conducted at the Property in 2005 showed that the Area of Potential Effect (APE) of the Action is unlikely to contain precontact resources and documentary research shows that the Property has a low potential for historical period cultural resources. The OPRHP has confirmed that the lack of archeological resources revealed from the prior Phase IB testing obviates the need for further Phase IB testing on the Property.

Documentary evidence also found that the Property has only low potential for historical period cultural resources since structures were not mapped in the APE until the 1960s. While there is historic archaeological potential in locations near the former locations of these mapped historic structures, it is considered to be low due to their distances from the APE.

**Summary of Mitigation Measures and Findings on Cultural Resources**

The Planning Board determines that the Action does not pose significant adverse impacts relating to cultural resources, and that no mitigation measures or other conditions are required to avoid or minimize any potential impacts relating to cultural resources.

**L. Noise**



The Preferred Alternative would meet and exceed all noise restrictions enacted at the local, state and federal levels, because of a variety of measures taken by the Applicant, including:

1. Taking Advantage of Line of Sight: Sound generally travels in waves over a straight line, the Action places the Buildings' loading docks on the sides facing away from the two condominium communities, and, therefore, uses the Buildings' structures to block sound transmission;

2. Distance: Sound dissipates over distance, which works to the Project's advantage, as the Action positions the Buildings and vehicles nearly one-quarter of a mile from all developments, including, but not limited to, the two condominium communities and Tilly Foster Farm, in the area;

3. Traffic Circulation: The Action restricts trucks from circumnavigating the sides of the Buildings that face the two condominium communities, and confines trucks to areas where a Building stands between the truck and these condominium communities.

4. Topography: The Buildings will be placed at a higher elevation than the two condominium communities in the area. The topographic change would act as a natural sound barrier for these residential communities from noise from I-84;

5. Berm: The Applicant will install a twelve foot (12') high berm between Building B and the Twin Brook Manor community to provide a further high quality, natural visual and sound barrier;

6. Sound Walls: The Applicant will select quieter equipment and/or install sound walls on all rooftop equipment to ensure that no more than 46 dBA of sound reaches the closest residences from this equipment, which is 9 dBA lower than the nighttime noise limitation set by the Town Noise Ordinance;

7. Operations: The Applicant will ensure that New York State's anti-idling regulations are followed. In addition, trucks would not be permitted to layover on-site overnight, and;

8. Operating Hours: The building would operate 24/7/360, but a condition of the Project's Special Permit and Site Plan Approval will require that no trucks be scheduled to access the Property after 11:00 PM Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday or before 10:00 AM on Sunday.

As a result of these measures, the Action is anticipated to generate background noise that is consistent with current, existing background noise levels, and would not generate disruptive noise levels at normal operation. The Action would not pose any significant adverse noise impacts on the nearby residential communities, and no foreseeable noise levels from the Property would have a detrimental effect on the residents, including those who choose to sleep with open windows.

### **Impacts and Mitigation Measures Relating to Noise**

**L-1** The Applicant engaged an acoustic consultant to verify that the Action meets or exceeds all applicable noise restrictions enacted at the local, state and federal levels.

**L-2** To reduce any impacts of on-site truck noise to neighboring residences, the Action eliminated Building 4 from the DEIS Plan, which was 600' from Twin Brooks, and re-positioned the Project so that Building B would be nearly one quarter of a mile from all nearby residences. Additionally,

employee parking at Buildings A and B range from 1,300' to 2,500' from Hunters Glen, and from 1,400' to 3,200' from Twin Brooks. Cars and car doors at these distances will not be audible. Additionally, the access to the Buildings would be controlled by gates to prevent unnecessary truck access to the Property.

The loading docks have been reoriented to face away from Twin Brooks Manor and Hunters Glen. The Action places the loading docks on the sides of the Buildings that face away from the abutting condominium communities, using the Buildings to block sound transmission. In turn, the Buildings also act as a buffer from the existing noise from the nearby I-84 (on which there are approximately 9,000 daily truck trips). Trucks will not be able to circulate around the Buildings, with only employee parking situated on the side facing Hunters Glen. These conditions would help to further reduce potential noise impacts for Hunters Glen. Any faint truck sounds that could be audible outside the residences in those developments would be similar in nature to, but not as loud as, the peak truck noise from I-84, and would not wake up a person sleeping, even with an open window. The Planning Board considered whether or not a noise wall at or near the property line would further benefit the neighboring residential areas. Based on the analysis presented in the DEIS and FEIS, as well as consultation with the Town's acoustical consultants, it has determined that a noise wall would not be warranted or particularly effective. The Project does include a 12 foot high berm between Building B and the Twin Brook Manor community to provide a further high quality, natural visual and sound barrier. To confirm that operational noise levels are consistent with those presented in the DEIS and FEIS, the Applicant shall conduct noise monitoring for two consecutive days/nights at the locations utilized in the DEIS within six months of full operation. The results of this noise monitoring shall be presented to the Planning Board and Town of Southeast Building Inspector. Should onsite traffic or HVAC equipment exceed permitted noise levels at the sensitive receptors analyzed in the DEIS, additional noise mitigation shall be implemented in consultation with the Town's Building Inspector and acoustical consultants.

Trucks traveling on Pugsley Road would be traveling at relatively low speeds (with 30 mph is the posted speed limit) and the noise levels they generate would be substantially quieter than the maximum allowed by the Town Noise Ordinance.

Compression brakes, commonly known as "Jake" brakes, are only used when trucks are traveling at high speeds and need to slow down quickly. At the slower speeds that the trucks will be operating on Pugsley Road and the Property, there would be no need to use a Jake brake system. Nevertheless, in an excess of caution the Applicant will install a sign on Pugsley Road near Route 312 stating: Truckers Quiet Zone: NO JAKE BRAKES.

**L-2** The Buildings would operate 24/7/360, but within the industry, the majority of commercial activity occurs during the traditional business day and is reduced by approximately half during the second (evening) shift. During the third (night) shift the activity is limited to in-building cleaning, maintenance, repair and restocking activity much like a grocery store prepares for the next business day. Based on truck counts at the Gap Distribution Center in Fishkill and at the Matrix Distribution Center in Newburgh, truck traffic is concentrated to the first shift, tapering into the second shift. The Applicant is willing to agree to restrict the scheduling of trucks accessing the Property after

11:00 PM Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday and before 10:00 AM on Sunday.

**L-3** The Applicant is willing to take extra steps to ensure that its Action surpasses the night-time requirements of the Town Noise Ordinance. The Noise Ordinance allows a night-time  $L_{eq(1\text{ hr})}$  of 55 dBA. The Applicant's analysis shows that its Project can easily conform to that requirement, and, as an exercise of good faith and to be conservative, is willing to agree that its Project can surpass the night-time requirements of the Town Code by meeting a limit of 46 dBA. At the time of Site Plan Approval, the Applicant shall perform a supplemental noise analysis based on actual equipment selection and location to confirm that with both Buildings fully occupied the HVAC noise would be less than 46 dBA at all existing residential receptors. The Applicant shall also provide a monitoring report after installation of the equipment to document the results and confirm that the noise levels would be less than 46 dBA at all existing residential receptors. Sound barriers would be added adjacent to units on the roof if that would be necessary to meet the 46 dBA goal, although the analysis indicates that this it is unlikely for these to be necessary.

**L-4** The Applicant will commit to assuring the Town and its residents that New York's anti-idling regulations are followed at all times. Specifically, it will make anti-idling policies a condition of all Lease Agreements with tenant(s) and/or occupant(s). Tenants and occupants will be required to install trucker lounges where drivers can relax while their trucks are being loaded or unloaded, eliminating the need to remain in any idling truck. Trucks will not be permitted to layover on site overnight. The trucker lounge shall contain chairs, a table, TV and a bathroom with a toilet and sink. The lounge shall have a separate entrance from the warehouse, and the drivers would not be permitted into the warehouse. Outlets shall be provided at each building so that truck's engine warmers can be plugged in during the coldest weather.

**L-5** Noise from construction of the Buildings will be audible at all receptors, but noise levels will not be much different from the existing background noise on most occasions. As discussed in the Construction section, hours of construction will be limited to those permitted by the Town Code. Construction noise resulting from operation of onsite equipment is a daytime short-term issue with limits on hours and days imposed by the Town Code. During construction, all gasoline and diesel-powered construction vehicles and equipment will be outfitted with properly maintained mufflers. Construction may only be conducted during the times permitted under the Town Code. The volume of construction traffic is less than the operational traffic. The operational traffic will result in no noise impacts, as set forth above. Therefore, it is not necessary to analyze the noise from construction traffic. "Sound baffles" are not necessary between the construction sites and Hunters Glen because the impacts would be temporary, and the hours of construction would be limited to those permitted by the Town Code.

#### **Summary of Mitigation Measures and Findings on Noise**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on noise:

1. The Special Permit and/or Site Plan approval(s) for the Action shall require that the Applicant perform a supplemental noise analysis based on actual equipment selection and location

to confirm that with both Buildings fully occupied the HVAC noise would be less than 46 dBA at all existing residential receptors. The Applicant shall also provide a monitoring report after installation of the equipment to document the results and confirm that the noise levels would be less than 46 dBA at all existing residential receptors. If noise from the rooftop HVAC equipment does not exceed 46 dBA during the night-time hours of 8:01 PM to 6:59 AM, which is 9 dBA less than the maximum permitted by the Town Noise Ordinance, no further action will be required. However, if noise from the rooftop equipment exceeds 46 dBA, sound barriers would be added adjacent to units. In addition to ensure that operational noise levels from traffic and motor vehicles are in compliance with the noise levels projected within the DEIS and FEIS, the Applicant shall conduct noise monitoring for two consecutive days/nights at the locations utilized in the DEIS within six months of full operation. New baseline noise measurements should be taken prior to the issuance of the certificate of occupancy. The results of this noise monitoring shall be presented to the Planning Board and Town of Southeast Building Inspector. Should onsite traffic or HVAC equipment exceed permitted noise levels at the sensitive receptors analyzed in the DEIS, additional noise mitigation shall be implemented in consultation with the Town's Building Inspector and acoustical consultants.

2. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that trucks shall not be scheduled access the Property after 11:00 PM on Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM Monday through Saturday or before 10:00 AM on Sunday.

3. The Action's Special Permit and/or Site Plan Approval shall require that each tenant or occupant of the Buildings assign or delegate the responsibility to enforce site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property. Each tenant's/occupant's lease and/or subsequent owner's contract of sale shall contain provisions to confirm trucks are not idling on-site in excess of State guidelines and/or local regulations.

4. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that the Applicant shall install a sign on Pugsley Road near Route 312 stating: "Truckers Quiet Zone: NO JAKE BRAKES."

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on Noise have been avoided or minimized to the maximum extent practicable.

#### **M. Construction**

All construction activities would be conducted in accordance with all municipal and state regulations and would not result in significant adverse impacts. Pursuant to Town Code Section 96-6.D, construction will only taking place between the hours of 7:00 am and 8:00 pm Monday through Friday, and between 9:00 am and 5:00 pm on Saturdays.

Construction workers would generally arrive before the 7:30-8:30 AM peak weekday morning traffic hour and depart before the 5:00-6:00 PM peak weekday afternoon hour, and generally utilize the same route as the construction truck traffic.

The current grading design results in an approximate balance of cut and fill, for a net site balance. Any excess amount of excavated material would be utilized as berm material within the limit of disturbance. No excess material would need to be exported off of the Property, and no material would need to be brought in for fill. This voids the need for dump trucks, which lessens potential off-site truck traffic trips. An Erosion and Sediment Control Management Program would be implemented for the Project, beginning at the start of construction and continuing throughout its course, in accordance with the requirements of the "New York State Standards and Specifications for Erosion and Sediment Control," dated November 2016. No blasting is anticipated.

It is estimated that during the construction phase approximately 486 local construction jobs would be created and approximately \$29,260,649 will be paid to construction workers. It is also estimated that approximately \$9,097,570 would be indirectly injected into the local economy from other firms conducting business related to the Project.

### **Impacts and Mitigation Measures Relating to Construction**

**M-1** Construction activities will be limited to the hours and days as provided for in the Town's Noise Ordinance to limit noise impacts related to construction. Pursuant to Town Code Section 96-6.D, construction will only taking place between the hours of 7:00 am and 8:00 pm Monday through Friday, and between 9:00 am and 5:00 pm on Saturdays.

**M-2** Construction traffic will be far less than operational traffic during the peak travel time periods, and therefore would not create any air quality, noise or roadway capacity issues. The total development cycle would take approximately 18 months for each of the Buildings, with no overlap. Site work for each Building is anticipated to take approximately 40 weeks, with the construction of each Building taking approximately one year. Thus, construction would take approximately three years in total.

Most construction related trucking would utilize I-84, exiting at Exit 19, proceeding along NY 312 to Pugsley Road. The majority of equipment will remain on-site for the duration of construction, minimizing movement of equipment to and from the Property.

There would be an estimated 50 to 120 workers present on-site during construction dependent on the construction activities underway on a given day. It is anticipated that 90% of the workers would arrive before the peak hour of 7:30 am to 8:30 am and that 95% would leave before the beginning of pm rush hour (5:00 pm to 6:00 pm).

**M-3** No demolition is required because no buildings remain on the Property. Additionally, no blasting is anticipated.

**M-4** The grading design of the Project is to balance the earthwork, such that no excess material will need to be exported off of the Property and no material will need to be brought into the site as fill, avoiding the need for dump trucks. However, if any fill is required, it will be clean fill.

**M-5** The SWPPP contains both temporary erosion control measures during construction and long-term post-construction stormwater management practices to avoid flooding and water quality impacts in the long term. Prior to the start of construction or site disturbance, a pre-construction meeting will be held with the contractor, Town and Project Engineer to discuss construction details and the erosion and sediment control plans.

The components of the Action's Erosion and Sediment Control Management Program, are set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020, and are detailed in the Geology, Soils and Topography Section of these Findings. A continuing maintenance program will be implemented for the control of sediment transport and erosion control after construction throughout the useful life of the project.

**M-5** Staging areas will be created for construction that will include gravel parking surfaces for parking for construction workers at the location of the proposed parking areas of each of the buildings.

**M-6** As detailed in the Taxes Section of these Findings, the Applicant estimates that during the construction phase, approximately 486 jobs would be added to the local workforce and approximately \$29,260,649 would be paid to these workers. It is estimated that approximately \$9,097,570 would be indirectly injected into the local economy from other firms conducting business related to Project construction, such as material suppliers and other outside vendors providing goods and services for construction. The induced output from spin-off effects (i.e., disposable income spent by construction workers and workers associated with the construction of the project) would result in approximately \$14,762,730 of economic activity.

**M-7** Water use associated with construction activities is projected to be less than the water demand of the completed facility. No hazardous runoff is anticipated from construction activities, however, post spill procedure information will be provided on site in accordance with NYSDEC regulations.

#### **Summary of Mitigation Measures and Findings on Construction**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on construction:

1. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on Construction have been avoided or minimized to the maximum extent practicable.

#### **N. Air Quality**

The Action does not pose any significant adverse air quality impacts.

As noted above in these Findings, the Project will have strict anti-idling policies, which each individual tenant's and/or occupant's warehouse manager is charged with enforcing.

Natural gas will be used to heat the buildings and hot water for the restrooms. An analysis of rooftop stack emissions showed that because of the large vertical and horizontal distances between the Buildings and the two condominium communities, the impact of natural gas emissions on air quality from on-site fuel combustion is not anticipated to be significant.

The Action's contribution to regional air emissions will be quite small and will not result in any significant adverse impacts. Air quality in Putnam County, with the exception of ozone, which is just below the standard, is excellent and improving. Ozone is a regional issue with the majority of the precursors that impact Putnam County having been emitted from outside the County.

### **Impacts and Mitigation Measures Relating to Air**

**N-1** Air quality is not anticipated to be impacted by the Project. Traffic generated by the Project would not result in an exceedance of NYSDOT's screening criteria for mobile source air quality impacts. There would be a less than 1% increase in truck emissions in the region as a result of the Project. Additionally, the operation of the Buildings themselves will not pose any significant air quality impacts. The Buildings will be air conditioned by electricity that is generated off-site, thus there will be no on-site emissions. The Buildings will be heated by natural gas, which has less pollutant emissions than other fuel oil options. The emissions from the on-site boilers/heaters will be a de minimis contributor to regional emissions and will not cause any adverse air quality impacts and will not result in any violations of the National or State AAQAS.

**N-2** The New York State Environmental Conservation Law prohibits trucks from idling for more than five minutes at a time. The exception is for diesel fueled trucks operating in an ambient air temperature below 25°F for more than 2 hours. Truck idling would be prohibited at the Project and each individual tenant and/or occupant will have an employee that actively enforces the anti-idling policy. Outlets would be provided at each of the Buildings to enable trucks to plug in during the coldest winter weather, rather than keeping their engines on. Trucker lounges will also be provided.

**N-3** The volumes of cars and trucks will be less during construction than during the operation of the Project. Additionally, dust emissions during construction may have temporary impact on local air quality. Emissions during construction of the Project can be associated with land clearing, drilling, blasting (which is not anticipated), ground excavation, cut and fill operations and construction of the buildings themselves. Dust emissions would vary substantially day to day, depending on level of activity, the specific operations and the prevailing meteorological conditions.

During construction the following items, which will be incorporated into the construction plan, will be employed to minimize the potential of fugitive dust and ensure there will be no violations of the NAAQS:

1. Following all measures in the Soil Erosion and Sediment Control Plan will assist in minimizing soil erosion by wind, as well as water.
2. Any disturbed earth will be wet down with water, as necessary to control dust.

3. After construction activities, all disturbed areas will be covered and/or vegetated to provide for dust control on the site.

4. All trucks carrying fill or other unconsolidated materials shall be covered with tarps. This shall help ensure that debris and dust will be fully contained during transport.

5. All soil or dirt stockpiles shall be enclosed with silt fencing when not in use and during weekends.

6. A stabilized construction entrance shall be established at the entrance to the site at Pugsley Road and at the entry to Barrett Road from Pugsley Road. Tires and truck bodies, as necessary, will be washed to minimize tracked mud and dust.

### **Summary of Mitigation Measures and Findings on Air**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts on air:

1. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020. In addition, the Project's construction plan shall incorporate the following measures:

a. any disturbed earth will be wet down with water, as necessary to control dust;

b. after construction activities, all disturbed areas will be covered and/or vegetated to provide for dust control on the site;

c. all trucks carrying fill or other unconsolidated materials shall be covered with tarps;

d. all soil or dirt stock piles shall be enclosed with silt fencing when not in use and during weekends, and;

e. a stabilized construction entrance shall be established at the entrance to the site at Pugsley Road and at the entry to Barrett Road from Pugsley Road. Tires and truck bodies, as necessary, will be washed to minimize tracked mud and dust.

2. The Action's Special Permit and/or Site Plan Approval shall require that each tenant or occupant of the Buildings enforce site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property. Each tenant's/occupant's lease and/or subsequent owner's contract of sale shall contain provisions to confirm trucks are not idling on-site in excess of State guidelines and/or local regulations.



The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts on Air have been avoided or minimized to the maximum extent practicable.

**O. Hazardous Materials**

The Action does not pose any adverse impacts related to hazardous materials. There are no Recognized Environmental Conditions (RECs) at the Property. Even though it has been confirmed that prior remedial actions on the Property were completed in 2004 appropriately and consistent with NYSDEC requirements, in an excess of caution, a Soil Management/Contingency Plan has been provided by the Applicant, which documents contingency procedures to address any unknown conditions (*i.e.*, underground tanks, dry wells, contamination or additional dump areas) that may be encountered during redevelopment.

Hydrodynamic water quality separators would be used to separate any oil accumulated from the parking lots and driveways that may source from small leaks in engines and potential larger spills, prior to flowing to any other stormwater management practice. The separators can store various volumes of oil depending upon the amount of runoff they are designed to treat, and the separators used on the project site would be appropriately sized for the areas that they would be associated with. The separators would be regularly maintained, and the accumulated oil would be disposed of at a licensed processing facility.

The Project would not handle or store "hazardous substances" as defined in the NYSDEC's regulations and which are subject to regulation by NYSDEC pursuant to 6 N.Y.C.R.R. Part 596. The Project may handle and store ordinary consumer goods that may contain trace elements of substances that are considered hazardous, such as nail polish, televisions, and computers.

**Impacts and Mitigation Measures Relating to Hazardous Materials**

**O-1** There are no potential impacts related to hazardous materials because the ESA revealed no RECs in connection with the Property. The Phase I ESA conducted by CA RICH in March of 2018, which included a site inspection and review of historical information, confirmed that no RECs were identified in connection with the Property. Due to the historical use of the Property, in an excess of caution, the Applicant prepared a Soil Management/Contingency Plan, which documents contingency procedures to address any unknown conditions (*i.e.* underground tanks, dry wells, contamination or additional dump areas) that may be encountered during construction.

**O-2** Hydrodynamic water quality separators will be used to separate any oil accumulated from the parking lots and driveways that may source from small leaks in engines and potential larger spills, prior to flowing to any other stormwater management practice. The separators will be regularly maintained, and the accumulated oil would be disposed of at a licensed processing facility.

**O-3** "Hazardous substances," as defined in the NYSDEC's regulations and which are subject to regulation by NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will not be handled or stored at the Project. The Project may handle and store ordinary consumer goods that may contain trace elements of substances that are considered hazardous, such as nail polish, televisions, and computers.

**Summary of Mitigation Measures and Findings Relating to Hazardous Materials**

The Planning Board determines that the following mitigation measures are required in connection with the Action's potentially significant adverse impacts relating to hazardous materials:

1. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Soil Management/Contingency, dated June 2019. (See FEIS Appendix 17-3.)

2. The Action's Special Permit and/or Site Plan Approval shall require that hydrodynamic water quality separators be used to separate any oil accumulated from the parking lots and driveways that may source from small leaks in engines and potential larger spills, prior to flowing to any other stormwater management practice. The separators shall be regularly maintained, and the accumulated oil shall be disposed of at a licensed processing facility.

3. The Action's Special Permit and/or Site Plan Approval shall have as a condition that no "hazardous substances," as that term is defined by NYSDEC regulations and which are subject to regulation by the NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will be handled or stored at the Property.

The Planning Board finds that, with the conditions and mitigation measures described above, the Action's potential significant adverse impacts relating to Hazardous Materials have been avoided or minimized to the maximum extent practicable.

**P. Alternatives**

In addition to the Proposed Action, the Town Board mandated analysis of several alternatives in the Scoping Document, which are discussed below:

**No Action (No Build)**

The "No Action" alternative would involve no development of the Property, which would mean leaving the Property vacant. This alternative does not meet the goals and objectives of the Applicant or correlate with its reasonable investment backed expectations. Moreover, under the "No Action" alternative, the Town and the wide community would not receive any of the tax and other economic benefits the Project offers. Because the Planning Board determines that the Project can be mitigated to void significant adverse traffic, visual and other environmental impacts, the Planning Board finds thus alternative unacceptable.

**Previously Approved Residential, with Planned Commercial/Office**

This alternative is based on the Mixed-Use Plan approval, which involved the development of 143 single-family homes and 237,000 square feet of office/commercial space, on 185.2 acres. (See DEIS Figure IV 1.) If the Phase 2 portion of the Mixed-Use Plan, which consisted of 823,000 s.f. of remaining commercial/office space plus a 300 room hotel component, had been approved/constructed on the remaining portion of the Property, the environmental impacts would have been significantly greater.

This alternative does not meet the goals and objectives of the Applicant because the market demand and financing for this type of development is not as strong as for the proposed Project, and is not feasible.

This alternative would also have greater impacts than the Action in a variety of important environmental areas. This alternative, would generate greater peak hour traffic than the Action (680 trips in the peak AM hour, and 699 in the peak PM hour, as compared to the Action's projected 159 trips in peak AM hour and 177 trips in the peak PM hour).

Moreover, this alternative would also have significantly greater impacts to wetlands and NYSDEC regulated wetland buffers than the Action, It would impact 2.19 acres of wetlands (as compared to 0.05 acres for the Action), and disturb 24.6 acres of NYSDEC regulated wetland adjacent areas (as compared to 2.08 acres for the Action).

Additionally, the buildings in this alternative would be significantly closer to the proximate condominium communities (525 feet from Hunters Glen as compared to 1,415 feet for the Action, and 465 feet from Twin Brook Manor, as compared to 1,210 feet for the Action).

While, on paper, this alternative would generate more property taxes than the Action, the Action would actually generate greater net revenue, including because it would not generate any school-aged students. This would result in an approximately \$25,952,740 surplus to the School District over 15 years. Moreover, this alternative would not produce the jobs or other economic benefits provided by the Action.

#### **As-of-Right Mixed-Use Development**

This alternative was intended to assess what development program could occur on the Property that would not require amendments to the Town Zoning Code, as the DEIS Plan did. Since the Project has evolved so as not to require amendments to the Zoning Code, and the Action is otherwise consistent with the Zoning Code, this alternative is no longer relevant.

#### **Keeping Barrett Road a Town Road Rather Than Making it a Private Road**

This alternative would maintain Barrett Road as a Town road, rather than making it a private road. If Barrett Road were to remain a Town road, the Town would have the responsibility of maintaining the roadway, including snow plowing and repair, with the proposed development in place. Thus, the Town would incur additional costs it would otherwise not have to bear.

Moreover, this alternative would not allow the consolidation of the DEIS Plan's Buildings 3 and 4 into Building A, which, as reflected in the Action, significantly reduces the Project's potential impacts, including making it 600 farther feet away from Twin Brook Manor.

#### **Q. Adverse Environmental Impacts that Cannot be Avoided**

The Action will result in some unavoidable adverse environmental impacts, as would any development. Though these impacts cannot be avoided, they can be, as described in this Findings Statement, mitigated.

#### **R. Irreversible and Irretrievable Commitment of Resources**

The Action would convert approximately 15% of the ±328 acre site, which now consists predominately of vacant agricultural land, to impervious surface for the development of the Project. This is well below the 55% permitted by zoning, and provides for more than 80% open space as defined by the Town Code.

Once developed with the Project, the Property will be unavailable for other uses for the foreseeable future, including because the Applicant has offered to place “no build” on more than half the Property, including its approximately 80 acres located in the RC District and 92 acres of its Property in the OP-3 District.

The construction of the Project will involve the commitment of a variety of natural resources. These include, but are not necessarily limited to, concrete, macadam, steel, paint, and topsoil. The operation of construction equipment will involve the consumption of fossil fuels, while the completed facility will require electricity and the use of fossil fuels.

The construction phase of the Project will require a substantial commitment of manpower. However, the need for construction workers provides a beneficial economic impact to the area with the creation of construction jobs.

**S. Growth Inducing Impacts of the Proposed Action**

The Action will have a number of beneficial growth inducing impacts in terms of jobs and revenues, as described in greater detail in the Taxes Section of these Findings.

**T. Effects on the Use and Conservation of Energy Resources**

Energy consumption will occur during construction and operation of the Project. During construction, fuel will be used for power equipment and various construction vehicles.

Once construction is completed and the project is operational, energy will be required for heating, air conditioning, and the provision of electricity. Specific energy systems have not yet been designed in sufficient detail to permit examination of the extent of energy consumption or conservation. However, the design and plans for the Buildings will take into account the availability and cost of various fuels, and will be designed in such a way as to require minimum use of fossil fuel or electricity.

In addition, water saving devices will be incorporated into the plumbing systems of the Buildings. Thus, less energy will be required to provide water to buildings and to treat wastewater than would be required without the use of water-saving devices.

The electrical, heating, and cooling systems will be designed at a minimum to meet the New York State Energy Code.

#### **4.0 CONDITIONS**

The Planning Board establishes the following conditions/mitigation measures on the Project:

##### **Land Use**

1. Prior to issuance of a building permit for the Action, the Applicant shall file with the Putnam County Clerk a deed restriction, in a form acceptable to the Town Attorney, that places no build restrictions on the approximately 172 acres of the Property shown in FEIS Figures 1-2 and 1-2A.

2. To enable the consolidation of the DEIS Plans' Buildings 3 and 4 into the Action's Building B, the Town shall abandon the Barrett Road right-of-way. Upon the Town's abandonment of Barret Road, the Road will, by operation of law, revert to the Applicant, which owns the land on either side of it.

3. The Action's Special Permit and/or Site Plan Approval shall have as a condition that no "hazardous substances," as that term is defined by NYSDEC regulations and which are subject to regulation by the NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will be handled or stored at the Property.

4. The Action's Special Permit and/or Site Plan Approval shall require that each tenant or occupant of the Buildings enforce site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property.

##### **Traffic**

5. The Applicant is responsible for the preparation of all post-construction and occupancy studies specified herein. To avoid confusion on methodology and time of year considerations, the Applicant shall be required to submit a scope of work to the Town prior to the commencement of any study. Further, the Town shall be copied on all correspondence between the Applicant and NYSDOT (e.g., HWP, final approval on the Access Highway Extension, etc).

6. The Applicant shall install at the intersection of Route 312 and Pugsley Road, prior to the issuance of a certificate of occupancy for either Building, a demand responsive traffic signal, with vehicle detection to provide additional green time for certain movements when the approaching volume necessitates the signal green time extension. The proposed traffic signal shall be coordinated with the three signalized intersections to the east along Route 312.

a. Prior to the issuance of a certificate of occupancy for either building, the Applicant shall, at the intersection of Route 312 and Pugsley Road, install: on Route 312 eastbound a left turn lane and a second through lane is proposed along Route 312 eastbound;

b. on Route 312 westbound, subject to the selection of the NYSDOT, a right turn lane (Alternative A) or second through lane with shared right turns (Alternative B), and;

c. on Pugsley Road, either expand Pugsley Road to provide three approach lanes to Route 312, with dual left turns and a single right turn lane with the Route 312 westbound right turn lane (Alternative A), or; (ii) improve Pugsley Road to a two lane approach to Route 312, with dual left turns and shared right turns (Alternative B).

7. The Applicant shall, prior to the issuance of a certificate of occupancy for either Building, widen Route 312 from two (2) lanes to provide four (4) lanes for the entire distance between Pugsley Road and the I-84 Eastbound ramps/Independent Way.

8. The Applicant shall, prior to the issuance of a certificate of occupancy for either Building, improve Fields Corner Road to eliminate existing curves in Pugsley Road/Barret Road/Fields Corner Road intersections pursuant Drawing PE-1 in FEIS Appendix 4.A, Part M. Upon the completion of said improvements, the Town may, pursuant to New York Town Law Section 212-a, abandon to the Applicant such sections or part of the old road as it existed before the improvements which are of no further use for highway purposes.

9. The Applicant shall, prior to the issuance of a certificate of occupancy for either Building, at the intersection of Route 312 and the I-84 eastbound ramps/Independent way: (i) in the event the improvements proposed for the Crossroads 312 project have already been made, modify signal timing during the peak weekday AM hour, or; (ii) in the event the improvements proposed for the Crossroads 312 project have not already been made, modify signal timing for the peak weekday AM and peak weekday PM hours and modify the lane utilization of Independent Way.

10. The Applicant shall, prior to the issuance of a certificate of occupancy for either Building, at the intersection of Route 312 and the I-84 westbound ramps, modify signal timing in the in the event the improvements proposed for the Crossroads 312 project have been made. In the event the improvements proposed for the Crossroads 312 project have not already been made, the Applicant is not required to undertake any measures at this intersection.

11. The Applicant shall prepare within three (3) months of full occupancy of both Buildings a traffic signal Warrant Analysis of the Route 312/Prospect Hill Road intersection. The Warrant Analysis shall consider the variety of warrants available and determine if a signal is justified at this intersection using at least two warrants per NYSDOT direction. The Applicant shall also prepare within six (6) months of full occupancy of both Buildings a Corridor Study along Route 312 from Prospect Hill Road to International Boulevard to determine the need and recommendations for revised time-of-day traffic signal plans. The Corridor Study shall include the weekday AM, weekday PM, and Saturday peak hours using SimTraffic software per NYSDOT guidance.

a. If, based on the Warrant Analysis, it is determined and approved by NYSDOT that a signal is warranted, the signal would be designed, installed and coordinated with the four other existing and proposed signals along Route 312 to Independent Way. If the traffic signal is not approved by NYSDOT, other traffic signal technologies could be implemented, and coordinated with the four other existing and proposed signals along Route 312 to Independent Way, as may be identified in the Corridor Study.

b. Prior to the issuance of the first certificate of occupancy for the Action, the Applicant shall place \$150,000 in escrow with the Town, or provide a bond to the Town in the amount of \$150,000, to cover: (i) the Applicant's fair share portion of the traffic light required pursuant to the Warrant Analysis, or other signal technologies identified in the Corridor Study and (ii) the costs incurred by the Town for their review of the Warrant Analysis and Corridor Study. The Applicant shall be responsible for preparing the Warrant Analysis and Corridor Study.

12. The Applicant shall complete a Traffic Monitoring Plan (TMP) within six (6) months of the issuance of a certificate of occupancy for the first of the two Buildings completed, and also within six (6) months of the full occupancy of the Action. The following items will be included in the Applicant's tenant and/or occupant leases to ensure the accuracy of the TMP:

a. confirm there are no scheduled truck deliveries after 11:00 PM on Monday-Saturday or after 5:00 PM on Sunday, and before 6:00 AM Monday-Saturday or before 10:00 AM on Sunday.;

b. confirm that trucks parking on the site are only within the designated truck loading and trailer parking spaces shown on the project site plan approval drawings. Occupants will permit truck parking within truck loading and trailer parking spaces on the approved site plan drawings;

c. confirm there are no manned overnight layover of trucks. Notwithstanding, Tenants and/or Occupants may provide trucker's bunks to be used for emergency conditions only;

d. confirm trucks are not idling on-site in excess of State guidelines and/or local regulations. Occupants will not permit on-site truck idling in excess of the State guidelines or local regulations;

e. confirm Project generated traffic volumes do not exceed the volumes analyzed in the FEIS as the Sensitivity Analysis scenario during the Peak Weekday AM (7:30-8:30 AM) and PM (5:00-6:00 PM) Hours along the area roadways (Route 312) and the Peak Saturday Midday Hour (12:15-1:15 PM). If the Project generated volumes exceed the Sensitivity Analysis volumes during the peak roadway hours, the Applicant shall coordinate with its tenants/occupants to adjust work shift hours. The volume thresholds are 364 trips on a weekday from 7:30-8:30 AM, 426 trips on a weekday from 5:00-6:00 PM and 121 trips on Saturday from 12:15-1:15 PM;

f. record travel speeds along Pugsley Road for 24 hours with automatic traffic recorders (ATR) to determine the average and 85<sup>th</sup> percentile travel speed. Based on the results of the study, the roadway posted speed limit could potentially be reduced to 25 MPH if determined to be appropriate by the Town and/or the Applicant could be required to install radar speed signs on Pugsley Road, and;

g. provide the number of visitors and employees that utilize Metro-North to get to the Property so that the need for a jitney can be assessed.

h. The operator(s) of the Buildings shall have a policy in place with all the trucking companies that requires the use of approved routes to and from the facility. Trucks shall not use Fields Corner Road, and trucking companies shall face fines or suspension of business with the facility if found not in compliance.

13. Fields Corner Road shall remain a seasonal road that is closed north of the current Barrett Road intersection during the winter. The Applicant shall install height clearance bars and gates. The Applicant shall provide two turnaround areas along Fields Corner Road within the Town of Southeast. The Applicant shall also install video cameras to monitor truck traffic along Fields Corner Road, as well as signs indicating the prohibition of commercial trucks and the progressive fines currently established by the Town for restricted road use violations. The Applicant shall record the video information on a 24 hour loop and the video monitoring shall be provided to the Town and/or the Putnam County Sheriff's Department if requested to determine whether tickets should be issued. Should it be found by the Planning Board that the traffic levels on Fields Corner Road exceed those predicted under the traffic analysis in the FEIS, the gate shall be closed at the discretion of the Planning Board, except for use by emergency vehicles.

14. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that trucks shall not be scheduled to access the site after 11:00 PM on Monday through Saturday or 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday or before 10:00 AM on Sunday.

15. NYSDOT restricts large trucks known as Special Dimension Vehicles, which includes 53 foot trailers, from travelling beyond one mile of an interstate ramp, or along specially designated truck access highways, unless NYSDOT issues an extension approval. NYSDOT has conditionally approved the highway extension for the Project and the Town Board should confirm this. NYSDOT advised that Pugsley Road will be designated as a truck access highway upon completion of the proposed road improvements. Pugsley Road would be improved to provide 12 foot lanes and the proposed improvements to the Route 312/Pugsley Road intersection and the Pugsley Road/Barrett Road intersection have been designed to accommodate appropriate turning radii for Special Dimension Vehicles.

16. To ensure the satisfactory completion and performance of all proposed public improvements on Pugsley Road, the Town shall hold a performance bond in an amount to be determined in consultation with the Town Highway Superintendent and Town Engineer. The performance bond shall be utilized for the first full resurfacing of Pugsley Road as directed by the Town Highway Superintendent.

### **Visual Resources**

17. Prior to issuance of a building permit for the Action, the Applicant shall file with the Putnam County Clerk a deed restriction, in a form acceptable to the Town Attorney, that places no build restrictions on the approximately 172 acres of the Property shown in FEIS Figures 1-2 and 1-2A.

18. Subject to approval of the boards of Hunters Glen, Twin Brook Manor and the respective residents, the Applicant shall plant a total of up to 50 evergreen trees (25 per residential development, unless otherwise distributed between the two developments) on the Hunters Glen and Twin Brook Manor residential properties in locations approved by the respective



condominium association boards to further reduce visibility. The locations would be coordinated with the Town Planning Consultant upon completion of the exterior of Building B. The evergreen trees shall be 6-7 feet tall at the time of planting. Prior to the issuance of a building permit for Building B, the Applicant shall obtain a performance bond in the amount of \$30,000 for up to one year subsequent to the issuance of a certificate of occupancy for Building B. Any surplus funds shall be returned to the Applicant.

19. The Action's stormwater management areas shall be adequately landscaped as shown on the Site Plan Approval drawings so as to reduce any potential visual impacts of those areas.

20. Prior to the issuance of a certificate of occupancy for Building B, an approximately 12 foot high berm shall be constructed north of Building B.

21. The Action's Special Permit and/or Site Plan Approval shall have as a conditions that:

- a. trucks shall not be allowed to circulate around the Buildings;
- b. there shall be no wall-pack lighting on the western sides of the Buildings;
- c. parking lot light poles shall not be larger than 20 feet high;
- d. a combination of evergreen and deciduous trees would be planted along the southern side of Building B as shown on the Site Plan Approval drawings;
- e. subject to the review of the Town Architectural Review Board, the color of Buildings and the water tank shall be predominately medium to dark green, as well as grey colors. The green colors would be similar to natural green colors of vegetation;
- f. evergreen trees shall be planted around the proposed water tank as shown on the Site Plan Approval drawings to reduce any potential visual impact and to minimize the view of the tank from Pugsley and Fields Corner Roads.

### **Surface Water and Wetlands**

22. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Project's SWPPP.

23. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Project's Erosion and Sediment Control Management Program in connection with construction.

24. The Action's Special Permit and/or Site Plan Approval shall require the implementation of permanent erosion and sediment control measures, including the following terms:

- a. vegetated swales;
- b. infiltration basins that provide water quality for 1 year stormwater runoff volume;

c. CDS Water Quality Structure to provide pretreatment of the water quality flow rate for separating sediment, debris, floatables, etc. from the runoff prior to discharge to the SMP's. The CDS must provide water quality for 75% of existing impervious areas for the 1 year, 24 hour storm in accordance with the requirements of the NYSDEC;

d. infiltration System (I-2) to treat the runoff volume generated from a portion of the developed area and provide additional water quality and runoff volume reduction;

e. catch basins to remove some of the coarse sand and grit sediment before entering the drainage system;

f. Rip-Rap Energy Dissipaters at discharge points from the stormwater drainage system into the stormwater management basins, and;

g. seeding of at least 70% perennial vegetative cover.

25. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the wetland and wetland buffer restoration and enhancement measures set forth in the report entitled "Installation, Management and Monitoring Protocol for Upland Habitat Restoration Areas and Wetland Habitat Restoration," dated August 2019, prepared by Evans Associates, and the associated plans, namely Drawings MP-1 "Overall Habitat Restoration & Wetland Mitigation Plan", MP-2 and MP-3 "Habitat Restoration Plan", MP-4 "Wetland & Wetland Buffer Restoration Plan" prepared by Evans Associates last revised August 7, 2019. This report and the associated plans require 1.54 acres of wetland mitigation (restoration and habitat enhancement) and buffer restoration within the immediate area of the wetland, and 13 acres of upland habitat planting/restoration outside of the wetland buffers. The wetland and upland restoration areas shall be monitored for a period of five (5) years from the date of completion of the initial planting, with an environmental monitor inspecting the restoration planting areas quarterly during the first two years and yearly in the subsequent three years. The yearly inspections are to be conducted during the growing season, between the dates of June 15 and October 1.

26. The Action's Special Permit and/or Site Plan Approval shall require that fertilizers and pesticides will only be applied in accordance with state and federal law as well as with the manufacturer's guidelines by a competent landscaper or other professional.

27. The Action's Special Permit and/or Site Plan Approval shall require that no clearing of vegetation shall occur between May 1-July 15.

### **Geology, Soils and Topography**

28. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020.

### **Groundwater**

29. The Action's Special Permit and/or Site Plan Approval shall require that: (a) no road salt be stored on the Property, and; (b) that any outside contractor(s) used to clear snow

at the Property shall comply with all pertinent NYCDEP regulations regarding any materials used for snowmelt, and use the minimum amount necessary.

### **Vegetation and Wildlife**

30. The Action's Special Permit and/or Site Plan Approval shall require the implementation of the Wetland Mitigation/Habitat Restoration Report, prepared by Evans Associates, last revised August 2019, and the associated plans (Drawings MP-1 "Overall Habitat Restoration & Wetland Mitigation Plan", MP-2 and MP-3 "Habitat Restoration Plan", MP-4 "Wetland & Wetland Buffer Restoration Plan" prepared by Evans Associates, last revised August 7, 2019.

31. The Action's Special Permit and/or Site Plan Approval shall require an extended tree-cutting prohibition period from April 1 to October 31 (*i.e.*, tree-cutting may only be conducted between November 1 and March 31).

32. The Action's Special Permit and/or Site Plan Approval shall require that NYSDEC be contacted prior to construction to determine the closest bald eagle nest site to the Project Site.

### **Noise**

33. The Special Permit and/or Site Plan Approval(s) for the Action shall require that noise from the rooftop HVAC equipment shall not exceed 46 dBA during the night-time hours of 8:01 PM to 6:59 AM, which is 9 dBA less than the maximum permitted by the Town Noise Ordinance. At the time of Site Plan Approval, the Applicant shall perform a supplemental noise analysis based on actual equipment selection and location to confirm that with both Buildings fully occupied the HVAC noise would be less than 46 dBA at all existing residential receptors. The Applicant shall also provide a further confirming monitoring report after installation of the equipment to document the results. Sound barriers would be added adjacent to units on the roof if that would be necessary to meet the 46 dBA goal, although the analysis indicates that this is unlikely. In addition to ensure that operational noise levels from traffic and motor vehicles are in compliance with the noise levels projected within the DEIS and FEIS, the Applicant shall conduct noise monitoring for two consecutive days/nights at the locations utilized in the DEIS within six months of full operation. New baseline noise measurements should be taken prior to the issuance of the certificate of occupancy. The results of this noise monitoring shall be presented to the Planning Board and Town of Southeast Building Inspector. Should onsite traffic or HVAC equipment exceed permitted noise levels at the sensitive receptors analyzed in the DEIS, additional noise mitigation shall be implemented in consultation with the Town's Building Inspector and acoustical consultants.

34. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that trucks shall not be scheduled access the site after 11:00 PM on Monday through Saturday or after 5:00 PM on Sunday, and before 6:00 AM on Monday through Saturday or before 10:00 AM on Sunday.

35. The Action's Special Permit and/or Site Plan Approval shall require that each tenant or occupant of the Buildings \ enforce site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property. Each tenant's/occupant's lease and/or prospective purchaser's contract of sale shall contain provisions to confirm trucks are not idling on-site in excess of State guidelines and/or local regulations.

36. The Special Permit and/or Site Plan approval(s) for the Action shall contain as a condition that the Applicant shall install a sign on Pugsley Road near Route 312 stating: "Truckers Quiet Zone: NO JAKE BRAKES."

### **Construction**

37. The Action's Special Permit and/or Site Plan Approval(s) shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020.

### **Air**

38. The Action's Special Permit and/or Site Plan Approval(s) shall require the implementation of the Erosion and Sediment Control Management Program, set forth in JMC Drawings C-401 through C-421, last revised June 17, 2020. In addition, the Project's construction plan shall incorporate the following measures:

- a. any disturbed earth will be wet down with water, as necessary to control dust;
- b. after construction activities, all disturbed areas will be covered and/or vegetated to provide for dust control on the site;
- c. all trucks carrying fill or other unconsolidated materials shall be covered with tarps;
- d. all soil or dirt stock piles shall be enclosed with silt fencing when not in use and during weekends, and;
- e. a stabilized construction entrance shall be established at the entrance to the site at Pugsley Road and at the entry to Barrett Road from Pugsley Road. Tires and truck bodies, as necessary, will be washed to minimize tracked mud and dust.

39. The Action's Special Permit and/or Site Plan Approval(s) shall require that each tenant or occupant of the Buildings enforce the site-specific requirements of these SEQRA Findings and the conditions incorporated to any Special Permit and Site Plan Approval for the Project, including prohibitions against: (a) overnight facilities or overnight sleeping by truckers at the Property, and; (b) idling on the Property. Each tenant's/occupant's lease and/or prospective owner's contract of sale shall contain provisions to confirm trucks are not idling on-site in excess of State guidelines and/or local regulations.

**Hazardous Materials**

40. The Action's Special Permit and/or Site Plan Approval(s) shall require the implementation of the Soil Management/Contingency, dated June 2019.

41. The Action's Special Permit and/or Site Plan Approval(s) shall require that hydrodynamic water quality separators shall be used to separate any oil accumulated from the parking lots and driveways that may source from small leaks in engines and potential larger spills, prior to flowing to any other stormwater management practice. The separators shall be regularly maintained, and the accumulated oil shall be disposed of at a licensed processing facility.

42. The Action's Special Permit and/or Site Plan Approval(s) shall have as a condition that no "hazardous substances," as that term is defined by NYSDEC regulations and which are subject to regulation by the NYSDEC pursuant to 6 N.Y.C.R.R. Part 596, will be handled or stored at the Property.

## **5.0 CERTIFICATION OF APPROVAL AND FINDINGS**

In view of the Action, which modified the DEIS Plan, the Planning Board, as Lead Agency, finds that the Action, subject to the Findings and conditions contained herein, will avoid to the maximum extent practicable any significant adverse environmental impacts addressed in the SEQRA review of the Project.

Whereas, having considered the DEIS and FEIS, public and agency comments made during the public hearing and the public comment period on the EIS, and having considered the preceding written facts, conclusions, terms, conditions and specific findings relied upon to meet the requirements of 6 N.Y.C.R.R. Part 617, this Findings Statement hereby certifies that:

1. The Planning Board has considered the relevant environmental impacts, facts and conclusions disclosed in the DEIS and FEIS prepared in connection with the Project; and
2. The Planning Board has weighed and balanced the relevant environmental impacts with social, economic, and other essential considerations relating to the Project.
3. The requirements of 6 N.Y.C.R.R. Part 617 have been met.
4. Consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts revealed in the environmental impact statement process will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

These Findings, which provide a rationale for the Planning Board's decision, and all actions set forth herein, shall be incorporated in any further approvals related to the Project and shall be deemed a part of any approvals given to the project. These Findings shall be filed with the Town of Southeast Planning Board, all Involved and Interested Agencies as identified in the EIS, any person who has requested a copy, and the Applicant. A copy of the Findings shall be forwarded to and maintained by the Building Department of the Town of Southeast and maintained in files that are readily available accessible to the public and made available on request.