

**SEQRA FINDINGS OF THE  
TOWN BOARD OF THE TOWN OF DOVER  
RESPECTING THE KNOLLS OF DOVER PROJECT**

Pursuant to the New York State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and its implementing regulations, 6 NYCRR Part 617, (referenced herein as “SEQRA”), the Town Board of the Town of Dover, as Lead Agency, makes the findings contained herein for the Proposed Action identified below:

**Name of Action:** Knolls of Dover

**Lead Agency:** Town Board of the Town of Dover  
126 East Duncan Hill Road  
Dover Plains, New York 12522

**Contact Person For  
Additional Information:** Hon. Ryan Courtien, Supervisor  
(845) 832-3206

**SEQR Status:** Type I

**Date Final FEIS Filed:** February 24, 2010

**Lead Agency Adoption of this Statement of Environmental Findings:** May 12, 2010

**Location:** Former site of the Harlem Valley Psychiatric Center (“HVPC”) and neighboring parcel (the former Dykeman property) straddling New York State (“NYS”) Route 22 in the hamlet of Wingdale, in the Town of Dover, New York. The site consists of four tax parcels designated as 7059-00-555750, 7059-00-814768, 7159-00-162702, and 7059-00-502949. It totals approximately 937 acres. The site’s perimeter has frontage onto NYS Route 55 (as it splits from NYS 22), Pleasant Ridge Road (County Route 21), Hoags Corners Road, and Old Pawling Road.

**Description of the Action:** The Proposed Action (also referred to herein as the “Project”) is a comprehensive transit-oriented redevelopment of the former HVPC property and an adjacent parcel with a mixed-use community centered around the existing Metro-North Railroad Wingdale train station. The development program includes approximately 1,376 dwellings in a wide variety of unit-types, a minimum of 238,500 square feet of commercial space, and approximately 70,250 square feet of community facility or recreation center space in a traditional neighborhood design (“TND”) pattern.

The Proposed Action, which has been considered through a coordinated SEQRA review, includes adoption of a Master Development Plan for the Knolls of Dover Project, adoption of the Knolls of Dover Design Guidelines, and amendments to the Town of Dover Zoning Code, which include revisions to the zoning map and text in relation to the existing Mixed-Use Institutional

Conversion (MC) Overlay District. It also includes extending the MC District to the approximately 83-acre former Dykeman property.

The Proposed Action described in this Statement of Findings is the modified Master Development Plan presented as the “Modified FEIS Plan” in the Final Environmental Impact Statement (“FEIS”). This plan is a modified version of the Master Development Plan originally presented in the Draft Environmental Impact Statement (“DEIS”). The modified FEIS plan was developed by the Applicant and presented after listening to and reviewing comments received from the Town Board, as well as other Involved and Interested Agencies, and the general public, and after taking into consideration revised flood insurance maps from the Federal Emergency Management Agency (FEMA). With these modifications, the Town Center increased in density, as per the suggestions of the Dutchess County Department of Planning and Development, while additional density was removed from environmentally sensitive areas of the site in the Modified FEIS Plan, in accordance with the comments of the New York State Department of Environmental Conservation (“NYSDEC”), this Board, and the public.

**Purpose and Need:**

The Proposed Action fulfills the Town’s longstanding goal of redeveloping the former HVPC as a mixed-use community, which meets the goals of the Town Master Plan and the purposes set forth in Article I of the Town Zoning Code. The Town Board finds that the Proposed Action would transform the abandoned and deteriorated former State psychiatric center into a model transit-oriented community with traditional neighborhood design principles. The Town Board finds that, by concentrating development around an existing train station, the Project would accommodate growth in a responsible manner. The Project would limit impacts on the road network and reduce pressure for development and conversion of greenfield sites throughout the rest of the Town, thereby helping to preserve the community’s overall rural-suburban character. Many of the former HVPC buildings suffer from significant deterioration. Without the Project, the buildings would continue to deteriorate and exert a blighting influence on the Town and the Route 22 corridor.

The Project also advances the goals of the Town’s Master Plan and the purposes of the Town Zoning Code, including, in particular, of the MC District Overlay, by establishing compact mixed-use development on the site, which would create a new, definable hamlet or town center. The Project would increase the types of housing available in the Town and County, providing for a variety and flexibility in dwelling types to accommodate households across the age spectrum. In order to provide for a variety of living arrangements for future residents, the Master Development Plan includes several small outlying neighborhoods, with housing clustered and surrounded by open space. Nearly seventy percent (70 percent) of housing for the Project would be located within a half-mile of the Town Center. The new “Main Street,” which would anchor the community, would include a minimum of 238,500 square feet of commercial space, which could accommodate retail stores, personal service establishments, offices, restaurants, a grocery store, and other appropriate uses. This would expand retail shopping options for Dover residents and reduce the travel distance required to meet basic necessities and conveniences. The Project would also expand job opportunities in the area, both during the construction period and at full buildout and operation.

**Project Background/History:**

The HVPC opened in 1924. It was closed 70 years later, in 1994. New York State had decided to sell all its Department of Mental Hygiene facilities. The Harlem Valley region was deeply affected by the closure of this facility, and the downsizing of nearby Wassaic Developmental Center north of the site in the Town of Amenia. When the State closed the HVPC in 1994, the community lost over 5,000 jobs and a \$45 million payroll. Along with the State employees at the HVPC, hundreds of residents lost their only source of income as contractors to the State. Community leaders immediately began working on strategies to reuse the properties.

The Town of Dover joined the Harlem Valley Partnership, a not-for-profit economic development corporation directed by board members from both the public and private sectors in the seven communities in eastern Dutchess County.

The Harlem Valley Partnership commissioned a market feasibility study for the HVPC in 1994 and a reuse action plan in 1995, and managed the state-mandated HVPC Task Force in 1996. The information and recommendations from all those plans and hearings were combined with assistance from Dutchess County Planning into the HVPC Reuse Plan in 1996. The Partnership continuously provided tours of the HVPC to potential developers over a ten-year period. The cost of addressing the existing buildings and grounds, however, proved to be a substantial disincentive to these redevelopment efforts. Any redevelopment of the HVPC site would, for example, entail an extensive overhaul of the outdated and decaying buildings and infrastructure, most of which were built well over 50 years ago, and contain significant quantities of asbestos and lead paint.

The Dover Town Board adopted a new Town Zoning Code in 1999, which included the Mixed-Use Institutional Conversion Overlay (MC) District, in a further effort to induce a buyer to acquire the former HVPC site. The Town Board's stated purpose in adopting that provision over ten years ago was "to facilitate the redevelopment of the former Harlem Valley Psychiatric Center as a mixed-use community that fulfills the goals of the Town of Dover Master Plan and the purposes of [the Town Zoning Code] as expressed in [its] Article I." The Town Code states, "This [MC] overlay district is the most appropriate area of the town for intensive mixed-use development. The provisions of this overlay district are intended to streamline permitting and allow greater use flexibility." This new District included density bonuses and flexibility, which were intended to serve as incentives to attract a buyer for the site.

The Town Board recognizes, however, that existing MC District provisions were drafted without the aid of any market studies or feasibility analyses. The MC Zoning provisions attempted to strike a balance between the amount of residential and commercial development by requiring that no more than 50 percent of the gross floor area of all development could consist of residential development, excluding age-restricted senior housing. In addition, no more than 30 percent of the floor area of all development could consist of residential units with three or more bedrooms. As discussed below, the Town Board finds that while the general development principles of the 1999 MC Zoning were valid, certain requirements of those provisions are inconsistent with market demands. Contrary to the MC District's purpose of facilitating the

redevelopment of the HVPC site, certain of these provisions have actually impeded development efforts.

Notwithstanding the creation of the MC District, the Town still had difficulty attracting a responsible Applicant for the HVPC site. Finally, in 2003, the Benjamin Companies visited the site and met with Town officials. The Town Board notes that the Benjamin Companies – Dover Knolls' parent company – successfully redeveloped two other former psychiatric centers in New York, and has joined with major municipalities, including the City of New York, to form successful public-private partnerships to foster land use and environmental approvals of other difficult redevelopment projects. In the spring of 2003, Town representatives met with the Benjamin Companies and travelled to Long Island to tour its two other successful state psychiatric facility redevelopment projects. Continued positive discussions induced the Benjamin Companies to purchase the HVPC property. The Benjamin Companies formed the subsidiary Dover Knolls, and purchased the HVPC site on October 27, 2003 and the Dykeman parcel on or about August 1, 2007. The development of conceptual plans began immediately.

For more than a year, Dover Knolls' consultants met with representatives of the Town to develop and revise a plan that would fit the MC Overlay requirements. The Town Board recognizes that, in a spirit of cooperation, the Applicant agreed to fund an unprecedented escrow account before it submitted an application for an environmental consultant to survey the site on the Town's behalf and prepare a baseline ecological report and recommendations. This environmental resources survey significantly expanded the range of recognized environmentally sensitive area on the site. The Applicant accepted the survey, and endeavored to integrate it into a coherent proposal for the site.

By November 2004, Dover Knolls submitted to the Town a plan, which integrated the environmental survey, and its discussions with the Town, and fit within the language of the MC Overlay, by, among other things, meeting the existing density and balancing requirements of the District. This plan proposed approximately 1.3 million square feet of commercial floor area, and 1,457 residential units. In January 2005, the former Town Board signaled its displeasure with the Applicant's draft plan.

At a Special Meeting, which the former Town Board called for March 16, 2005, the County staff and Town planning consultant presented their proposal for the HVPC site. The Town Board recognizes that the Applicant spent approximately six months trying to harmonize the County staff's and former Town consultant's plan with practical planning considerations, including in numerous meetings with the Town and its consultants from April 2005 through November 2005 (as enumerated below). In November of 2005, the Applicant submitted an amended application and plan. This plan showed approximately 877,640 square feet of floor area designated for commercial and community facility/public uses and approximately 1,338 dwelling units.

The Town Board accepted this Plan for public review on December 29, 2005, and initiated this SEQRA review process by issuing a Notice of Intent to assume Lead Agency Status. At a meeting on March 22, 2006, the Town Board declared itself Lead Agency for the environmental review of the Project. On April 6, 2006, the Town Board issued a Positive Declaration.

As part of the SEQRA review process for that plan, the Town Board, acting as Lead Agency, adopted a DEIS Scoping Document in June of 2006. The Scope, in essence, rejected the Applicant's proposed Amended Master Plan, and called for an alternative new urbanism/traditional neighborhood development plan, defined as a Primary Alternative Development ("PAD") Plan. The Scope also required the hiring of additional consultants in traditional neighborhood design and economic analysis to develop and study the PAD.

As required by the Scope, the Applicant retained one of the preeminent traditional neighborhood design planning firms in the nation, Torti Gallas and Partners ("Torti Gallas"), to develop the PAD Plan based on new urbanism principles. Traditional neighborhood development and new urbanism aim to develop communities that are walkable, contain a diverse range of housing and employment opportunities, incorporate open space, and foster active and attractive public spaces. These principles are intended to reduce the time people spend in traffic, increase the supply of affordable housing, rein in suburban sprawl and create more vibrant communities. Also as required by the Scope, the Applicant commissioned Economic Research Associates ("ERA"), a nationally renowned firm, to provide economic and market analyses for the new PAD Plan.

The Town Board and its professional consultants met throughout the fall and winter of 2006 with the Applicant and its development team, including Torti Gallas and ERA, in four open planning sessions, to develop the design of the PAD Plan. The conclusions from ERA were used to develop a realistic and achievable mix of commercial and residential uses. The result of these work sessions was a comprehensive and creative new urbanism plan, referred to as the "Torti Gallas PAD." The Torti Gallas PAD redevelopment plan for the HVPC proposed a variety of uses in a layout that respected the natural constraints and man-made features on the site. The Torti Gallas PAD's components included a mix of residential, commercial, community, recreational and open space uses, distributed among existing HVPC buildings, and new structures sited in the most buildable areas of the site. The PAD set forth a program that created a mixed-use, transit-oriented community with components that support each other and achieve a sustainable and balanced development. The Town Board expressed its preference for the PAD as the development scenario for the site.

Consequently, the Applicant formally submitted the Torti Gallas PAD Plan in March 2008, and advanced it as the Proposed Action for the DEIS, with the prior plan to be studied as an alternative. Inasmuch as the Plan, which was the focus of the Scope, was no longer the main focus of the SEQRA analysis, and cognizant of the fact that SEQRA establishes that "[t]he primary goal of scoping is to focus the EIS in potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant," 6 NYCRR §617.8(a), the Town Board, after reaffirming its status as Lead Agency, acted to revise the Scope to match the anticipated impacts of the Torti Gallas Plan. Following Public Hearings on a proposed revised Scope, the Town Board adopted a revised Scope on June 25, 2008.

**Compliance with SEQRA Procedural Requirements Timeline:**

The Town Board has served as Lead Agency for the environmental review of the Proposed Action. The Town Board has determined that the requirements of SEQRA have been met, as evidenced by, among other actions, the following:

- On December 28, 2005, the Applicant submitted an Application to the Town Board;
- On December 29, 2005, the Town Board accepted the Application and issued a Notice of Intent to Assume Lead Agency;
- On March 22, 2006, the Town declared itself Lead Agency;
- On April 6, 2006, the Town Board issued a Positive Declaration;
- On April 29, 2006 and May 1, 2006, respectively, the Town Board conducted public hearings to receive comments on the draft scoping document, which were directed to the plan then being advanced by the Applicant;
- On June 23, 2006, the Town Board adopted a Scope focused on the plan then being advanced as the Applicant's preferred action, and requiring consideration of a PAD;
- On March 26, 2008, following the submission of an application based on the Torti Gallas PAD, the Town Board reaffirmed its status as Lead Agency for the Project;
- On May 7, 2008, and May 10, 2008, respectively, the Town Board conducted public hearings to receive comments on a draft revised scoping document, which was intended to re-focus the DEIS analysis on the Torti Gallas PAD Plan, which was now the Proposed Action. A written comment period on the draft revised Scope was held open until May 14, 2008;
- On June 25, 2008, the Town Board adopted a Final Scoping Document;
- On December 24, 2008, the Applicant submitted a preliminary Draft Environmental Impact Statement ("pDEIS") to the Town for its review for completeness with respect to the final Scoping Document;
- On February 13, 2009, the Town conveyed to the Applicant the comments from the Town Board and AKRF, a consulting firm retained by the Town to review the Environmental Impact Statement, indicating that the pDEIS was not complete and that revisions were required;
- On or about March 27, 2009, the Applicant submitted a revised pDEIS to the Town for its review for completeness with respect to the final Scoping Document;
- On or about April 19, 2009, the Town conveyed to the Applicant the comments from the Town Board and AKRF, indicating that the pDEIS was not complete and that revisions were required;
- On April 27, 2009, the Applicant submitted revised portions of the pDEIS to the Town for its review for completeness with respect to the final Scoping Document;
- On April 29, 2009, the Town Board determined the revised pDEIS was adequate and complete with respect to the adopted Final Scoping document;
- On May 30, 2009 and June 3, 2009, the Town Board held duly noticed public hearings on the DEIS, Master Development Plan, and proposed Zoning Amendments, and extended the public comment period until June 30, 2009;
- On or about July 30, 2009, the Town Board conveyed to the Applicant comments from the Town Board and AKRF;
- On November 16, 2009, the Applicant submitted a preliminary Final Environmental Impact Statement (pFEIS) to the Town for its review for completeness;
- On or about December 30, 2009, the Town Board conveyed comments from the Town Board and AKRF, indicating that the pFEIS was not complete and that revisions were required;

- On February 4, 2010, the Applicant submitted revised portions of the pFEIS to the Town Board for its review for completeness;
- On February 24, 2010, AKRF communicated to the Town Board that the revised portions of the pFEIS were responsive to the December 30, 2009 comments, and the Town Board requested the Applicant make several additional revisions;
- On February 24, 2010, the Town Board determined the revised pFEIS was adequate and complete;
- On March 24, 2010, although not required by SEQRA regulations, the Town Board held a duly noticed public hearing on the FEIS, Master Development Plan, Design Standards and Zoning Amendments, where comments on the FEIS were made by the general public with additional public comments accepted until March 31, 2010; and
- On May 12, 2010, the Town Board adopted this Findings Statement.

**Additional Actions Undertaken During the SEQRA Process:**

In addition to the formal actions taken above, which demonstrate strict compliance with SEQRA procedures, the Town Board and the Applicant have been aggressive in encouraging public participation in recognition of the importance of the redevelopment of the former HVPC site to the Town and the region. The following are dates of meetings, open houses, mailings and other actions taken in the public-private partnership to fully engage the public and to facilitate a dialogue on the details of the plan:

- On February 23, 2004, a public meeting was held at Town Hall where representatives of the Town Board and the Applicant discussed the SEQRA process for the Dover Knolls application;
- On December 11, 2004, the Applicant hosted an open house event at the Project site to allow public access to team consultants;
- On January 3, 2005, a public meeting was held by the Town Board to discuss and set the Applicant's Escrow Deposit;
- On January 31, 2005, the Town Board hosted presentations on the proposed conceptual plan with Town consultants and Applicant's team;
- On March 16, 2005, the Town Board hosted a visioning meeting with Dutchess County Planning and Town consultants for the proposed conceptual plan;
- On December 8, 2005, the Applicant hosted a presentation on the proposed conceptual plan;
- On December 10, 2005, the Applicant hosted an open house on the Project site to allow public access to team consultants;
- In January 2006, the Applicant sent Issue No. 1 of the Project Newsletter to all residents of the Town of Dover;
- In January 2006, the Applicant launched the Project website;
- In March 2006, the Town Board sent a Project newsletter to all residents of the Town of Dover;
- In April through July of 2006, the Applicant met with various community groups in the Town of Dover;
- On April 7, 2006, Mr. Alvin Benjamin, Founder and President of the Benjamin Companies, sent a personal letter to residents of the Town of Dover;

- On April 29, 2006, the Town Board held a weekend public hearing on Scoping Document;
- On May 1, 2006, the Town Board held a weeknight public hearing on Scoping Document;
- On June 28, 2006, the Town Board held a meeting and adopted the Final Scoping Document requiring a PAD Plan;
- In July 2006, the Applicant sent Issue No. 2 Project Newsletter to all Town residents;
- On October 18, 2006, the Town Board held a workshop to develop a PAD Plan for the Project with Town consultants and Applicant's team;
- On November 8, 2006, the Town Board held a workshop to develop a PAD Plan for the Project with Town consultants and Applicant's team;
- On November 28, 2006, the Town Board held a workshop to develop a PAD Plan for the Project with Town consultants and Applicant's team;
- On December 19, 2006, the Town Board held a workshop to develop a PAD Plan for the Project with Town consultants and Applicant's team;
- On February 21, 2007, the Town Board sent a letter to all residents regarding the Project;
- On February 26, 2007, the Applicant hosted a presentation of the Torti Gallas PAD;
- In February 2007, the Applicant sent Issue No. 3 of the Project Newsletter to all Town residents;
- On March 28, 2007, the Town Board held a meeting and discussed the Project application;
- On May 7, 2007, Mr. Alvin Benjamin sent a personal commitment letter to all Town residents;
- In August 2007, the Applicant sent a Town-wide mailing of the Project's vision;
- In September 2007, the Applicant sent a Town-wide mailing regarding the benefits of employment generation from the Project;
- In September 2007, the Applicant sent a Town-wide mailing on the tax benefits from the Project;
- In October 2007, the Applicant sent a Town-wide mailing on the proposed retail and recreation components of the Project;
- On October 13, 2007, the Applicant hosted a barbeque on the Knolls of Dover site to allow public access to team consultants;
- On December 8, 2007, the Applicant hosted an open house on the Project site on site to allow public access to team consultants;
- On January 15, 2008, the Town Board discussed amending the Zoning Code to have the Town Board assume Site Plan Review for MC Overlay District for Project at a public meeting;
- On January 23, 2008, the Town Board held a public meeting to discuss assuming Site Plan Review for MC Overlay District;
- On February 27, 2008, the Town Board held a public hearing on amendment to Zoning Code to have the Town Board assume Site Plan Review for MC Overlay District for the Project;
- On February 27, 2008, the Town Board passed a resolution to assume site plan review for MC Overlay District for the Project;
- On March 12, 2008, the Town Board hosted a presentation of the conceptual plan;

- In March 2008, the Applicant sent Issue No. 4 of the Project Newsletter to all Town residents;
- On March 26, 2008, the Town Board reaffirmed its Lead Agency status for the Dover Knolls Application and set public hearings for scoping;
- On April 23, 2008, the Town board held a public meeting to discuss the Project and adopted an escrow agreement;
- On May 7, 2008, the Town Board held a weeknight public hearing for the revised Scoping document;
- On May 10, 2008, the Town Board held a weekend public hearing for the revised Scoping document;
- On May 28, 2008, the Town Board held a public meeting to discuss the revised Scoping document and the public comments received;
- On June 11, 2008, the Town Board held a public meeting to discuss the revised Scoping document;
- In July 2008, the Applicant sent Issue #5 Project Newsletter to all Town residents;
- On August 5, 2008, the Applicant held a public focus meeting regarding the Project's proposed Jobs and Retail;
- On September 10, 2008, the Applicant held a public focus meeting regarding the Project's proposed housing and planning;
- On December 13, 2008, the Applicant hosted an open house on the Project site to allow public access to team consultants;
- On January 5, 2009, the Town Board held a public meeting for the Town consultant to present the preliminary DEIS (pDEIS) and scheduled two workshops dates for discussion on pDEIS;
- On January 14, 2009, the Town Board held a public workshop on pDEIS;
- On January 28, 2009, the Town Board held a public workshop on pDEIS;
- On February 11, 2009, the Town Board held a public meeting to discuss the pDEIS and authorized a finding of completeness;
- In March 2009, the Applicant sent Issue #6 Project Newsletter to all town residents;
- On March 25, 2009, the Town Board held a workshop on pDEIS;
- On April 22, 2009, the Town Board held a workshop on pDEIS;
- In May 2009, the Applicant sent Issue #7 Project Newsletter to all town residents;
- On June 24, 2009, the Town Board held a public meeting to discuss public comments received regarding the DEIS;
- In September 2009, the Applicant sent Issue #8 Project Newsletter to all Town residents;
- In October 2009, the Applicant sent Issue #9 Project Newsletter to all Town residents;
- On December 5, 2009, the Applicant held an open house on the Project site to allow public access to team consultants;
- On December 23, 2009, the Town Board held a public workshop in relation to the preliminary FEIS (pFEIS); and
- On January 13, 2010, the Town Board held a public workshop in relation to the pFEIS.

As indicated by the above chronology, the Town held no fewer than thirty-three (33) public meetings and presentations during a six year planning process, during which the Town Board was able to take an extraordinarily hard look at all environmental issues and to modify the

Proposed Action in response to comments received. Additional meetings were held with various Involved Agencies as part of the process, including Metro North, SHPO, NYSDEC, NYSDOT, County Planning Department and County Health Department. The Town Supervisor and the Town's consultants attended most of the meetings. In addition to meetings held in compliance to SEQRA procedures and the 33 meetings mentioned above, the Applicant hosted presentations, open houses, sent several town-wide newsletter mailings and maintained an up-to-date Project website. All SEQRA documents were posted on the Town's website, including preliminary drafts of the DEIS and FEIS prior to formal acceptance by the Town Board.

#### **A. Description of the Proposed Action**

The Proposed Action involves the comprehensive redevelopment of the former Harlem Valley Psychiatric Center property and an adjacent parcel (former Dykeman property) in the hamlet of Wingdale, New York, with a mixed-use community centering on an existing train station and exhibiting traditional neighborhood design principles. The development program includes 1,376 dwellings in a wide variety of unit-types, a minimum of 238,500 square feet of commercial space, and approximately 70,250 square feet of community facility or recreation center space (excluding Our Lady of Solace Church). The Proposed Action being considered under SEQRA includes a Master Development Plan, Design Guidelines, a phasing plan, certain changes to the Town Zoning Map to extend the MC District onto the former Dykeman property, and certain zoning text amendments.

The 937-acre site is located to the east and west of NYS Route 22. There are a number of private roadways within the site, including Wheeler Road, which runs east-west, and Hutchinson Avenue which runs north-south. At the intersection of Wheeler Road and Route 22, a Metro North Railroad Station exists, providing service to White Plains, New York City and other locations.

The site contains a number of environmental features, including wetlands designated by the New York State Department of Environmental Conservation ("NYSDEC"), steep slopes, a reservoir and significant habitat areas. The Swamp River and Great Swamp bisect the site, just west of the Metro-North railroad tracks. The Appalachian Trail passes through a 750 foot wide easement, just to the east of the Project site.

At the height of its operation, the former HVPC, with its majority of buildings concentrated on the east side of Route 22, contained 83 principal and accessory structures totaling approximately 2.15 million square feet of floor area. Most of these structures remain, with only a few structures, including, garages, barns and the dam gatehouse having been removed or destroyed. The majority of the buildings were constructed during the 1920's and 1930's, with some earlier construction closer to the turn of the century. Operations at the HVPC peaked in the 1950's with 5,000 patients and 5,000 around-the-clock employees at the site. It continued at that level until the state began downsizing the facility in the 1970's. At that time, the State Division for Youth ("DFY") leased some of the emptied buildings from the State Office of Mental Health. When the HVPC closed on February 1, 1994, the remaining patients and staff were transferred to other state facilities, creating a \$45 million payroll loss for the region. The State decommissioned the majority of the buildings and those buildings

have remained vacant for the past fifteen years. DFY moved their operations from the property in March 2004. Many of the buildings on the site are considered to be eligible for the National Register of Historic Places. Notwithstanding their deteriorated condition, demolition of these structures is considered to be a significant adverse impact.

While most structures are substantially deteriorated, there are some buildings that present opportunities for adaptive reuse, such as the Director's Residence, which was already restored by the Applicant, and several buildings that front along Route 22. The former HVPC buildings planned for reuse include: the Administration Building; the two I-buildings fronting Route 22; the U-shaped building near the running track; the Power Plant; the Storehouse; Our Lady of Solace church; and the recreational building known as Smith Hall. Rehabilitating buildings along Route 22 would maintain the historic character of the site where it is most visible. As discussed in detail below, those buildings that are incapable of reuse and/or inconsistent with the proposed development scenario would be demolished.

The largest structures are the 10-story hospital building known as Sullivan Tower and the H-buildings. These served as on-site dormitories for the HVPC patients and the NYS Division for Youth detention center residents. Three former prison buildings are located along Hutchinson Avenue. These buildings and others are planned for demolition.

Existing recreational uses on the site include an approximately 64-acre, 9-hole golf course on the west side of Route 22, a running track, and a Swamp River access point. The site also has an internal utility system, which includes the dam and reservoir, a water filter plant and supply system with a 1 million gallon per day design capacity, and a sewage treatment plant with the design capacity and a SPDES permit for 1.2 million gallons per day.

The Project is conceived as a community of compact neighborhoods on both sides of the Swamp River. Following its historic pattern, the eastern side of the Project site is proposed for more varied and more intensive uses. A town center would be established on Wheeler Road across Route 22 from the Metro-North station. The layout is designed to create a new "Main Street" for the community, and includes buildings with residential and office space above ground floor retail. The former Power Plant and Storehouse buildings near the train station would be adaptively re-used, and anchor the west end of the downtown area. The Great Swamp, associated New York State NYSDEC regulated wetlands and the FEMA-mapped floodplain that pass through the center of the site would remain undisturbed.

Residential neighborhoods incorporating a wide variety of housing types surround the Town Center core on the east side, consistent with traditional community development patterns and the principles of new urbanism. Less intense residential neighborhoods would be located toward the north, and east of the Town Center, with two neighborhoods located at the foot of the hill towards the north, two located near the southern property boundary, and another small neighborhood nestled behind the hilltop near the reservoir.

The western portion of the Project consists of several distinct neighborhoods, as well as the 9-hole golf course (a portion of which would be redesigned from its present configuration). Again, consistent with traditional neighborhood design principles, each neighborhood

incorporates diverse housing types, with available housing opportunities on the west side, including single-family homes, duplexes, townhomes and flats. Each neighborhood also contains a hamlet green or other open space to help define its identity, with the two neighborhoods along Wheeler Road including community buildings, as well. In addition, the neighborhoods include a mix of age-restricted, age-targeted and non-age-restricted units. The former Directors’ Residence, which has already been restored and would serve as a clubhouse for the upgraded 9-hole golf course, offers more social and recreational amenities.

At full build-out, the site would contain approximately 1,376 dwelling units, a minimum of 238,500 square feet of floor area designated for a variety of commercial uses, and approximately 70,250 square feet of community center or recreational facility space (excluding Our Lady of Solace Church). Of the 1,376 dwelling units, 276 would be restricted to households with one member aged 55 years or older; 10 percent of the 1,376 units would be provided as workforce housing, which would be attractive for teachers, municipal employees, volunteers, etc. (See Table 1).

**Table 1  
Proposed Housing by Type**

<b>Location</b>	<b>Unit Type</b>	<b>Total Number of Units</b>	<b>Age-Restricted</b>	<b>Age-Targeted</b>
<b>West Side Neighborhoods</b>	Single Family	123	19	0
	Stacked Townhouse	10	0	10
	Townhouse	67	6	61
	Apartments, 2-Story	142	0	0
	<b>Subtotal</b>	<b>342</b>	<b>25</b>	<b>87</b>
<b>Mixed Use Town Center</b>	Single Family	64	32	0
	Stacked Townhouse	266	0	266
	Townhouse	3	0	3
	Townhouse Conversions	34	0	34
	Apartments, 2-Story	108	0	108
	Apartments (above retail/flex)	94	0	94
	Apartments, 4-Story	96	96	0
	Loft Conversions	24	0	24
	<b>Subtotal</b>	<b>689</b>	<b>128</b>	<b>519</b>
<b>East Side – Outer Neighborhoods</b>	Single Family	144	0	0
	Stacked Townhouse	18	0	18
	Townhouse	72	19	53
	Townhouse Conversions	7	0	7
	Apartments, 4-Story	104	104	0
	<b>Subtotal</b>	<b>345</b>	<b>123</b>	<b>78</b>
<b>Total</b>		<b>1,376</b>	<b>276</b>	<b>684</b>

**Table 2  
Proposed Commercial Space in Mixed-Use Town Center**

Commercial Area	Size (s.f.)	
	West Side	East Side
Power Plant/Storehouse	74,500	-
Main Street	-	124,000
Supermarket	-	40,000
Subtotal	74,500	164,000
Total Commercial Development	238,500	

**Table 3  
Proposed Community Facility**

Community Space	Location	Size (sf)
Smith Hall*	East Side	49,100
Community Building	East Side	8,800
Community Building	West Side	6,350
Director's Residence/Manor House/ Golf Facilities	West Side	6,000
Total Community Space		70,250

\*Proposed to be accessible to the general public. Future use and ownership to be determined.

Table 4 indicates the existing buildings on-site that would be preserved and their location. A more detailed description of the buildings proposed for rehabilitation and proposed uses is provided in a later section below.

**Table 4  
Buildings Proposed for Rehabilitation**

Building	Location
Director's Residence/Manor House (Building 39)	Wheeler Road (west)
Storehouse (Building 22)	Wheeler Road (west)
Power Plant (Building 34)	Wheeler Road (west)
Administration Building (Building 23)	Brewster Drive
I-Building (Building 19)	Route 22
I-Building (Building 20)	Route 22
U-Building (Building 21)	Wheeler Road (east)
Smith Hall (Building 35)*	Hutchinson Avenue
Our Lady of Solace (Building 107)	Hutchinson Avenue
Staff House (Building 13)	Carmel Lane
Staff House (Building 33)	Carmel Lane
Staff House (Building 46)	Hutchinson Avenue
Garage (Building 47)	Hutchinson Avenue

\*Proposed to be accessible to the general public. Future use and ownership to be determined.

The proposed development would also offer a wide array of recreation facilities within the approximately 63 percent of the Site designated as open space (see Table 5). Some of these facilities would be open to the public-at-large; others would be restricted to site residents, members and guests.

**Table 5  
Proposed Recreational and Open Space Amenities**

Proposed Amenity	Location	Size	
		Acres	Linear Feet
Golf Course	West Side	68.75	
Great Lawn	East Side	3.50	
Boat Launch	West Side	0.25	
Neighborhood Greens/Squares	All Neighborhoods	9.25	
Playfield	West Side	1.25	
Trails	East and West Sides		42,000
<b>Total Proposed Publicly Accessible Recreation Amenities</b>		83.00	42,000
Dedicated Open Space	Throughout Site	510	
Total		593.00	42,000

The recreation facilities open to the general public would include the various greens/commons sprinkled throughout the neighborhoods, a recreation field, the Swamp River boat launch, golf, fishing access, hiking/biking trails, connecting trails to Boyce Park and the Appalachian Trail, the reservoir, and possibly the restored Smith Hall.

The area currently occupied by the existing running track is part of a wetland complex, and therefore it is proposed for restoration as a wetland area. As part of the restoration, a nature walk/trail would be created by the Applicant, enhancing the educational function of the wetlands, providing a linkage to Boyce Park to the north, and providing a walking/jogging opportunity to replace usage of the track. A second major trail would provide access from the east side of the site to the Appalachian Trail, with connections to other on-site trails, including, those following the existing trails around the reservoir. There would also be a nature trail in the southwestern portions of the property, again following former dirt roads, where this trail passes through wetlands or wetland buffers.

Opportunities for public fishing and canoeing would be available in the Swamp River. The Swamp River boat launch would provide an access point to the River for residents of the proposed development and the general public. Recreational use of the existing reservoir would also be open to the public, fishing, canoeing or kayaking, and nearby hiking trails would be permitted.

The Golf Course would be open to membership use for residents, non-residents and guests with access to the public if appropriate. Preference would be given to residents of the Town of Dover. Similarly, the clubhouse would be open to residents and golf course members.

The Applicant has also indicated that this facility could occasionally be made available to others for special events. Private recreation facilities would include the small community buildings and swimming pools to serve Project residents on either side of Route 22.

After careful analysis, and in consultation with its professional consultants, the Town Board concludes that certain amendments to the Town Zoning Map and Zoning Code are required to meet the Town's established goals for the redevelopment of the HVPC site. The contemplated amendments are consistent with the stated purpose of the MC Overlay District of facilitating the redevelopment of the HVPC site in a manner that fulfills the goals of the Town's Master Plan and the purposes of the Zoning Code. It has long been recognized by the Town that the redevelopment of the HVPC site would serve the general welfare of the entire Dover community, by, among other things, creating jobs and removing the blighting effect of the current deteriorated structures. Redeveloping the HVPC into a mixed-use community satisfies multiple purposes of the Zoning Code, by helping conserve the Town's natural resources and rural character and by encouraging development in appropriate locations, including concentrated residential development and a range of business activities in appropriate locations. The Town Board further recognizes that another of the fundamental purposes of the Town Zoning Code is "[t]o provide a flexible system of land use regulation that enables the town's economy and population to grow, while preserving the most important natural, historic, scenic, architectural, and cultural features."

The Town Board concludes that the contemplated amendments are necessary to achieve the Town's goal of redeveloping the HVPC into a mixed-use community because, without them, redevelopment is not financially feasible. The Town Board recognizes the significant costs of redeveloping the site, which has long been a disincentive to developers. The Town Board has also carefully examined, in consultation with its professional consultants, the market study prepared by ERA, an independent economic consulting firm, which indicates significant limitations on the amount of commercial activity and age-restricted housing that could be captured on site. The Town Board is persuaded by this study.

Based on these factors, the Town Board has determined that the proposed text amendments to the existing MC Overlay District are required to achieve its goal of facilitating the redevelopment of the HVPC because they would enable a level of commercial development and a mix of residential housing types that would be both consistent with traditional neighborhood development principles and realistically capable of being absorbed by the market. In order to ensure that the redevelopment of the HVPC meets the Town's goals of concentrating development in appropriate locations, the text revisions establish a minimum commercial floor area for the MC District of 200,000 square feet and a maximum residential density of 1.5 dwelling units per acre.

Similarly, to ensure that the Town's goals for the redevelopment are clearly met, the Town Board has determined to adopt amendments to the MC District, which set forth the specific requirements regarding the information that must be set forth in a "Master Development Plan," including, but not limited to, Design Guidelines and a phasing plan. The existing Zoning Code confers authority upon the Town Board to approve "comprehensive development plans" in the MC District, but sets forth only general requirements for them,

mandating that they show street layouts, open space systems, and density and general use classifications. While any approved comprehensive development plan would be subject to subsequent site plan review, which would flesh out the comprehensive development plan, the Town Board concludes that redevelopment of the HVPC site would be facilitated by requiring the Town Board and the developer be on the same page regarding the parameters of development earlier in the process. Accordingly, the amendments require more detail concerning a developer's plans at the Master Development Plan stage, including, but not limited to, a narrative description of the overall plan, along with appropriate graphics, as well as project-specific design guidelines.

The Town Board has also concluded that the Town's goals for the redevelopment of the HVPC site would be served by the Town Board's assumption of subdivision plat review authority and authority over applications pursuant to Town Code Chapter 65 ("Erosion and Sediment Control") in the MC District. Again, the existing Zoning Code confers authority upon the Town Board to approve Master Development Plans in the MC District, which would then be subject to site plan review. The Town Board previously assumed site plan review authority in the MC District for reasons including; (i) reducing potential conflict and/or confusion in the implementation of the comprehensive development plan approved by the Town Board; (ii) ensuring the implementation of the intentions of the Town Board, which is the Town's primary land use policy body, as well as the intentions of the public following the review process for a comprehensive development plan; and (iii) ensuring that the Town Board retains the authority to compel the mitigation measures and other conditions required by the SEQRA process for a comprehensive development plan. The Town Board concludes that these same reasons argue in favor of the Town Board's assumption of subdivision and Chapter 65 review authority.

The Town Board further concludes that the Zoning Code's overarching purpose of providing "a flexible system of land use regulation, which enables the Town's economy to grow while preserving" sensitive resources, as well as the Code's specific intention "to streamline permitting" in the of the MC District, would be served by creating clear thresholds under which site plan amendments may be granted in the MC District without a more protracted public hearing process. In consultation with its professional consultants, the Town Board has determined that, following the comprehensive review of a project during Master Development Plan and site plan review, a developer must be allowed to amend its program within certain limitations without undue regulation and/or delay. This would allow a developer to revise its product to reflect evolving and current market realities. This would further facilitate the successful redevelopment of the HVPC. By only allowing such amendments without a hearing when they are below certain thresholds, the Town Board is ensuring that any changes fall well within the range of potential adverse environmental impacts, which were already studied in the underlying SEQRA review. Significantly, this amendment would not allow an increase in the total number of residential units approved during Master Development Plan approval.

In addition, the Town Board concludes that the Town's goal of redevelopment of the HVPC site requires a "vesting" provision to ensure that a Master Development Plan remains valid over an extended period. While several commentators, including the County Planning

Department and Town Planning Board, expressed concern over the length of the period, the redevelopment of the HVPC site is a massive undertaking that would clearly take time to implement. It would undermine the Town's goal of redeveloping the entire site pursuant to a coherent Master Plan if portions of that Plan affecting part of the site were allowed to become "stale" while a developer diligently undertakes redevelopment in other areas of the site. Moreover, the Town Board recognizes that the redevelopment of the HVPC site is a significant risk to a developer, which requires substantial upfront costs. Similarly, while the County Planning Department expressed a preference that a developer be required to demonstrate substantial progress before the vesting provision applies, the Town Board believes that a developer willing to undertake the upfront risks and expenses of this massive development, including the enormous costs already expended in maintaining the property and completing the public review process, should have some assurance that it would have a reasonable period of time to redevelop the HVPC site pursuant to an approved Master Plan. Moreover, the intent of reviewing and approving a Master Development Plan is to develop a coherent and integrated plan for the entire property. The Town Board concludes that the vesting provision is necessary to provide the developer sufficient time to fulfill the unified vision set forth in a Master Development Plan, and to prevent it from being undermined by future visions or demands. Certainty and consistency are essential if a Project of this scope and breadth in going to be implemented successfully. The vesting provision is designed to achieve such goals. This would also conserve future municipal time, money, and resources. Finally, consistent with the comment of the County Planning Department, nothing in the vesting provision would prevent changes to the Master Development Plan by mutual agreement between the Town and the developers, subject to any other applicable legal requirements.

The Town Board concludes that the MC District's goals for the redevelopment of the HVPC site would also be facilitated by extending the District to include the former Dykeman property. The Dykeman property, which is immediately adjacent to the HVPC site, is a logical constituent for the comprehensive development of this area. It "fills in" the contiguous block of land between Pleasant Ridge Road to the north, and Hoags Corners Road to the west. In order to provide for a consistent design and planning approach to the HVPC site, and address the logical and natural connection to the remainder of the land, the Town Board concludes that the MC Overlay District should be extended onto the former Dykeman parcel. The Town Board notes that this extension of the Overlay would not increase overall permitted density for the Project. Notably, during the SEQRA process, the Town Board, the Town Planning Board and the Dutchess County Department of Planning and Development commented that expansion of the MC Overlay zone to the former Dykeman property was appropriate.

The Town Board recognizes and appreciates several proposed amendments to the MC District text made by Dover Planning Board in response to the referral of the proposed zoning by the Town Board. The Town Board has taken into consideration the Planning Board's suggestion for a flexibility provision similar to the one being considered by the Town Board, but with a 5 percent threshold. The Town Board concludes that this threshold does not provide the flexibility necessary to ensure a dynamic redevelopment program, and also concludes that the SEQRA analysis conducted for a Master Plan would sufficiently

cover a range of impacts justifying a 10 percent threshold. The Planning Board also proposed an expiration date for the Master Development Plan (5 years after approval by the Town Board or 15 years unless specifically renewed by the Town Board). The Town Board concludes that such an expiration period would undercut the Town's goal of facilitating the redevelopment of the HVPC, including by instilling considerable uncertainty, which would be a major disincentive to the substantial upfront investments a developer must make to redevelop this site.

The Planning Board also recommended keeping the existing zoning provision that provides the following maximums:

1. Not more than 30 percent of the gross floor area of all development shall be for residential units with 3 bedrooms or less; and
2. Not more than 50 percent of the gross floor area for all development other than age restricted housing may be residential.

The Town Board notes, however, that Alternative C in the DEIS evaluated a 2005 plan for the site, which was in accordance with both of the existing formula provisions, and concluded that this alternative was not realistic or achievable given market conditions and the need to provide a diversified housing mix, consistent with the Town's traditional neighborhood design and transit oriented development objectives. The Town Board, in consultation with its professional consultants, concludes that this analysis is correct, and the Planning Board's suggested formulae would not facilitate the redevelopment of the HVPC site.

### ***The Modified FEIS Conceptual Plan***

As SEQRA contemplates, the Project has evolved as the result of the comprehensive environmental review that the Town Board has led, including, significant agency and public comment. The comments received on the Torti Gallas PAD Plan considered in the DEIS raised a number of issues that have been addressed with proposed modifications to the PAD presented in the FEIS, which is referenced herein as the Modified FEIS Plan. These include not only the Town Board's own comments, but also comments from the Town Planning Board, the Dutchess County Department of Planning and Development, the NYSDEC, and the public, among others. Subsequent comments on the FEIS have also been considered and reflected in additional Plan modifications.

As a result of these comments, the Town Board finds that the Modified FEIS Plan further avoids or minimizes the Project's potential adverse environmental impacts to the maximum extent practicable, including through the reduction of density west of the Swamp River and around the reservoir. The modified FEIS Plan does not pose any significant adverse environmental impacts that have not already been studied. The total residential unit count in the FEIS plan remained at 1,376. The amount of commercial space was reduced slightly from the 245,500 square feet in the DEIS plan to 238,500 square feet. The most significant modifications to the proposed development relate to the placement and type of dwelling units, rather than overall density.

The following is a summary of the changes to the plan and a comparison of these changes to the plan presented in the DEIS. Most of the changes occur in the area to the west of the Swamp River and in the vicinity of the reservoir, where density has been reduced. Additional development has been provided in the Town Center at the core of the former HVPC, maintaining the same overall number of dwelling units (1,376) as proposed in the DEIS plan and increasing the percentage of units within walking distance of the Metro-North railroad station (69 percent).

- Plan changes in the area to the west of the Swamp River have been designed to respond to comments calling for additional protection of environmental features and further concentration of development in the Town Center and adjacent areas within walking distance of Metro-North railroad station

A significant change is the removal of the Meadow Hamlet in the southwestern corner of the site and reducing the length of Road E in that locale, providing additional protection for wetlands, potential bog turtle habitat and the vernal pool in this area. The redesign of this area results in the relocation of 34 units of housing to the Town Center and its vicinity.

The large open space area to the east of Road E, extending to the Swamp River would be a conservation area with a nature trail, providing opportunities for hiking. Upland portions of this area, which were previously used for agriculture, could be utilized as a community garden.

- In the northwestern portions of the site, south of Pleasant Ridge Road, the Modified FEIS Plan would remove the “Knolls Hamlet,” which was shown on the Plan in the DEIS, and modify Road C. This would increase the buffer from wetland T, which contains potential bog turtle habitat, and further protect the marble knolls in this portion of the site. The redesign of this area results in the relocation of 12 units to nearby Pleasant Ridge Hamlet.
- The Modified FEIS Plan also eliminates 16 units in the area south of Wheeler Road behind the existing golf course pond, which had been identified as a potential nesting area for painting and snapping turtles – a non-protected species. Portions of Road F, a proposed cul-de-sac, are also affected by the proposed FEMA floodplain boundary that runs along the Swamp River in this area (see item 4 immediately below). The community building and pool that is designed to serve units west of the Swamp River is located within an upland portion of this area.
- The proposed FEMA floodplain maps show that a large segment of the site on both sides of the Swamp River are included in the 100-year flood area, which requires the elimination of 42 units to the west of the Swamp River, and 32 units and 27,000 square feet of commercial development proposed for mixed use buildings immediately east of the river. Most of these housing units and commercial development would be added to the Storehouse and Power Plant. The Storehouse

would contain both residential (e.g., artists lofts) and ground level commercial space. The areas along Wheeler Road east of the Swamp River would still be used for a boat launch, with additional passive open space area added where the mixed use buildings had been located. The existing golf course clubhouse to west of the Swamp River would remain and would be enhanced as part of the accessory uses that serve the golf course.

The reconfiguration around the flood area has resulted in a net decrease in 7,000 square feet of commercial space. The Town Board would like, if feasible, to maintain the same quantity of commercial development on the Plan as proposed in the DEIS. The Town Board notes that Building F, on the southeastern corner of the Route 22/Wheeler Road intersection, is an L-shaped building accommodating approximately 11,200 square foot of commercial/retail space on the ground floor. The Applicant has committed that, if it is determined in the future that the market can absorb the space, and based on parking availability, this building would be “squared off,” expanding its footprint by approximately 7,000 square feet. Notably, this area is not constrained by the floodplain or wetlands, and could be identified and reserved as a potential future commercial expansion area.

- The proposed parking lot behind the Storehouse, which had been designed to serve the mixed use buildings cited above, is located within a NYSDEC Class 1 wetland. Although significantly degraded by past use, based on input from the NYSDEC, the Applicant has elected not to seek a wetland permit for filling this wetland and would instead restore this area as part of its wetland mitigation program.
- The Modified Plan also included adjustments to the platform and the parking provided for commuters in order to respond to comments provided by Metro North.
- In the areas to the east of Route 22, there were several comments, including from NYSDEC, relating to proposed development in the vicinity of the reservoir and in the wooded areas to the north. The modified plan reduces the number of units near the reservoir, relocating 30 units to the site of the former HVPC.

With these modifications to the Plan, the Town Center and the area where the bulk of the former HVPC was located receive increased density, with additional three- and some four-story buildings added, as per the suggestions by the County Department of Planning and Development.

The Modified FEIS Plan also includes more upfront commercial development. The Plan shifts of commercial and mixed use buildings on the north side of Wheeler Road from Phase 2A to Phase 1B, making the entire Main Street development part of one of the earliest phases of the development and ensuring that the design improvements are consistent for both the north and south sides of the Main Street.

The Modified FEIS Plan also expands the on-site trail system in both the eastern and western portions of the site, thereby increasing the amenities available to residents of the Project and the Town of Dover as a whole.

As described above, the Modified FEIS Plan serves as the Master Development Plan to be adopted as one of the actions related to this Project. In accordance with the proposed Zoning Amendments, detailed site plans will be prepared for each Phase of the Project and be reviewed by the Town Board. While the Master Development Plan incorporates a great deal of detail and a number of conceptual plans illustrating development features, site details such as specific landscaping and lighting plans will be more specifically detailed and illustrated during the individual site plan reviews. Similarly, eligibility and program guidelines for the affordable and age-restricted housing units will also be more fully detailed during the site plan review phase.

**B. Summary of Discretionary Approvals and Involved and Interested Agencies**

**Table 6  
Required Approvals and Involved Agencies**

<b>Agency</b>	<b>Approval/Review Type</b>
Dover Town Board	Master Development Plan Zoning text and map changes for the MC Overlay District Site plan approval Subdivision approval* Sediment and erosion control permit (Chapter 65) Formation of water and sewer districts
Dover Planning Board	Recommendation on the Master Development Plan, Zoning changes, and site plan. Subdivision and erosion control permit approvals (unless removed from the jurisdiction of the Planning Board as part of the Proposed Action).
Dover Architectural Review Board	Architectural review
Dutchess County Department of Health	Sewage disposal system Water supply Subdivision
Dutchess County Department of Public Works	Highway Work Permit
Dutchess County Planning Board	239m GML referral
NYS Department of Environmental Conservation	SPDES permits: <ul style="list-style-type: none"> <li>• SPDES stormwater (for construction related impacts)</li> <li>• SPDES wastewater (to operate wastewater treatment plant and reflect actual discharge volumes)</li> </ul> Wetlands permit Water supply (storage) Water quality certification Dam permit (protection of waters [Article 15] relating to Swamp River disturbance) and potential Dam Safety Permit for reservoir dam repairs.
NYS Department of Health	Water supply Treatment, storage and distribution systems Backflow prevention devices Swimming pools
NYS Department of Transportation	Highway work permit/Route 22

<b>Agency</b>	<b>Approval/Review Type</b>
NYS Attorney General	Homeowners Association approval
New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP)	State Historic Preservation Office (“SHPO”) review of historic and archaeological resources
NYS Secretary of State	Formation of sewer and water corporations
MTA Metro North Railroad	Improvements at the Wingdale Station and parking
Army Corps of Engineers	Wetlands permit

\* - Subdivision approval and issuance of a Sediment and Erosion Control Permit are currently under the jurisdiction of the Dover Planning Board. The Proposed Action would shift this jurisdiction to the Dover Town Board.

**C. Evaluation of Potential Impacts**

***Land Use and Community Character, Zoning and Public Policy***

*a. Land Use*

The Town Board, in consultation with its professional consultants, and after carefully considering the entire SEQRA record, including all Involved and Interested Agency and public comments, concludes that, consistent with the goals of the Town Master Plan and Zoning Code, the Project would create a positive land use impact. It would convert the unused and deteriorating former HVPC facility, which exerts a blighting influence on the community, into a new mixed-use center that promotes economic growth, provides expanded retail and office space, increases recreational opportunities, and increases housing choices and diversity. Consistent with traditional neighborhood design principles and the goals of the Town Master Plan and Zoning Code, the Project would create a well-defined mixed-use village center and compact neighborhoods. Residential uses throughout the Project site would include single-family homes, duplex units, townhouses, apartment flats, apartments above commercial space and loft conversions; providing greater density and unit diversity than currently available in the area. The Project also includes age-restricted units. While the County Planning Department has suggested that the locations of the age-restricted units be more thoroughly mixed in throughout the development, the Town Board recognizes that provisions of the Fair Housing Act require that senior housing be created in distinct communities or neighborhoods, which necessitates the aggregation of these units. The Town Board also notes that beyond those units specifically designated as age-restricted, the Project includes large numbers of age-targeted units interspersed throughout the Project, particularly in the Town Center, which would also likely appeal to senior households. The majority of the single-family homes would be located in residential neighborhoods located in outlying areas of the site, acting as a buffer between the more intense village center at the center of the site and the less intense residential, agricultural and conservation spaces located in close proximity to the Project site to the east and west.

The Town Board finds that by concentrating development around an existing Metro-North train station, the Project accommodates growth in a responsible manner. It limits impacts on the road network and reduces pressure for development and conversion of greenfield sites throughout the rest of the Town, thereby helping to preserve the community’s overall suburban rural character.

The Town Board finds that the Project's proposed land uses would also be compatible with existing patterns of development. The proposed development would introduce a "center" pattern of development in the area, while respecting neighboring properties and land uses with perimeter buffers. The new residential uses would expand the customer base and likely increase activity for surrounding commercial properties. The new commercial uses in the Project's Town Center would provide expanded retail and recreational opportunities for surrounding residents. The Applicant is not proposing, and the Town Board would not accept, the types of heavy or noxious uses that would adversely affect a residential environment. Except for a few single-family homes in the western portion of the site, which abut existing single-family homes, landscaping and open space buffers would be present throughout the entire perimeter of the site. The Project's Route 22 corridor would also feature landscaping throughout and would preserve open space to the north, all of which would act as a scenic buffer. Significant amounts of land would be preserved as open space throughout the Project site, especially in the eastern and southern portions of the site. The residential neighborhood clusters within the Project site would also feature landscaping and open space buffers from each other. As a result, the Town Board finds that Project uses would complement and be compatible with surrounding land uses.

*b. Zoning*

**Potential Development Yield from the Existing Zoning**

The MC Overlay District is currently mapped on the former HVPC property.

The MC Overlay currently allows a density incentive of fifty percent (50 percent) more development than would otherwise be permitted in the underlying district, except for the SR district, where the density incentive is one-hundred percent (100 percent). Under the existing zoning, the MC Overlay could potentially yield 1,524 residential units and 1,338,000 square feet of commercial space on the Project site.

**Proposed Revisions to the MC Overlay District**

The Project also includes the neighboring former Dykeman property, which is not presently in the MC Overlay District. The Town Board supports extending the MC District to include this site. It "fills in" and helps form a contiguous block of land between Pleasant Ridge Road and Hoag Corner Road. The extension of the MC District to include the Dykeman parcel would also facilitate the redevelopment of the HVPC site by providing for a consistent design, taking advantage of the water, sewer and road system for the Project, and addressing the logical and natural connection to the remainder of the land.

The proposed revisions to the zoning text, which are discussed in detail above, relate in substantial part to the elimination of formulaic limitations on residential development in the existing Code, which do not correlate to market realities. For example, the present requirement that no more than 50 percent of the gross floor area of all development should consist of residential development (age-restricted senior housing is not included in the 50 percent calculation) requires a development pattern that market studies, which the Town Board, after careful review, accepts, show is not sustainable. The existing zoning code also requires that no more than thirty percent (30 percent) of the floor area of all development may consist of residential units with three or more bedrooms. The existing formula

requirements in the MC Overlay would prevent the site from supporting an integrated and balanced new urbanist community that is consistent with the Town's Master Plan and Zoning Code, as well as the Town's stated desire for traditional neighborhood design.

The proposed zoning text amendments have been prepared in consideration with the findings of a market study prepared by ERA, which provided an economic analysis. These studies indicate significant limitations on the amount of commercial activity and age-restricted housing that could be captured at the site as compared to the original MC Overlay Zoning provisions, which were prepared in 1999 without the benefit of such studies. Again, the Town has reviewed ERA's findings in consultation with its professional consultants, and finds it persuasive. The amendments are also intended to provide a framework that supports traditional neighborhood design. The proposed zoning text employs density requirements of 1.5 dwelling units per gross acre of land within the district, and a minimum of at least 200,000 square feet of commercial development. The proposed zoning text amendments also allow flexibility for defining lot and bulk controls as part of the Master Development Plan and detailed Design Guidelines to be adopted as the regulating instrument for future site plan applications. Flexibility is also incorporated into the zoning to help facilitate development that can respond to market conditions that evolve over time.

Other modifications to the proposed zoning amendments have been made in response to agency and public comments on the DEIS. The modifications include: 1) an adjustment of the maximum density to more closely reflect the proposed development program, 2) a vesting provision that would maintain Zoning and Master Development Plan approvals for a period of 15 years, and 3) modification of the 10 percent flexibility provision for site plan amendments.

The Town Board notes, once again, that the maximum residential density permitted under the proposed zoning would remain less than permitted under the existing MC Overlay District. As noted previously, extending the MC Overlay to the Dykeman parcel and amending the text of the Town's Zoning Code would also not increase the development potential beyond that already available with the existing Zoning. The Town Board concludes that the contemplated Zoning Code and Zoning Map amendments are necessary to effectuate the Code's goal of promoting the redevelopment of the HVPC site, which would benefit the entire community.

The proposed vesting provisions would stipulate that, following the approval of a Master Development Plan in the MC Zone, the Town cannot enact Zoning amendments affecting the approved Master Development Plan for at least 15 years, except for local laws that directly affect public health, safety, and welfare. While the Town Board desires that the Applicant move forward with all due diligence in obtaining additional approvals and permits and financing for the project, the Town Board recognizes that a project as large and as complicated as this has required extensive investment to date and will require extensive coordination moving forward and that additional time may be necessary to achieve all necessary approvals and financing. To protect the Town's interests should the Applicant not be successful with the additional approvals and financing, the Town Board has

modified the proposed Zoning Amendments to state that the Town Board shall have the right to rescind any vested rights granted through approval of the Zoning Amendments and the Master Development Plan for the Knolls of Dover project if, on the seventh year anniversary of the Master Development Plan approval, the Town Board finds in a written determination supported by substantial evidence that the Applicant has not made reasonable progress (e.g., good faith processing of applications with the Town of Dover or other agencies, good faith pursuit of project financing, and/or diligent efforts to construct approved portions of the Master Development Plan or to identify tenants for completed portions) in the development of the Master Development Plan based upon commercially reasonable standards including the applicable economic conditions existing at that time.

The 10 percent flexibility provision was never intended to allow for an increase in the total number of dwelling units above the maximum that the Town Board approves in the adopted Master Development Plan herein. The 10 percent provision provides flexibility necessary to keep the Project synchronized with the market over time. It would not permit an increase in the total number of units approved by the Town Board. It would allow different mixes of housing product type, subject to review by the Town, within the context and thresholds established in the zoning.

*c. Public Policy*

The Town Board has carefully reviewed, with its professional consultants, the Project's consistency with the relevant local and regional planning documents. The Town Board concludes that the Project would be compatible with the Town of Dover Master Plan goals and objectives outlined under categories such as Community Values, Historic Preservation, Natural Resources, Population and Economic Base, Housing, Community Facilities, Transportation and Land Use and Hamlet Center Plans for all the reasons articulated herein, as well as in the Administrative Record established for the Project.

The Town Board further finds that, in addition to the Town Master Plan, the proposed development is consistent with the Dutchess County Hamlet Design Guidelines, the Route 22 Corridor Study: Corridor Management Plan, the Harlem Valley Psychiatric Center Reuse Plan and the Greenway Compact Program.

The Town Board also finds that the Modified FEIS Plan further advances the Project's consistency with the Town's established planning goals by reducing even more the extent of development in some of the outlying areas. These reductions clearly do not result in significant changes in land uses, general development character, or relationships to neighboring parcels that would alter the conclusions of the land use and policy discussions.

The Town Board also concludes that the proposed Knolls of Dover Design Guidelines advance the Town's goal of promoting the redevelopment of the HVPC site in a manner consistent with the Town's and the County's planning principles. The FEIS also presented an analysis of the Project's proposed site-specific design guidelines. In response to public comment, the Applicant created a Design Guidelines Matrix that compared the comprehensive nature of the proposed Knolls of Dover Design Guidelines with existing design documents, including the Dutchess County Building Form Guidelines, Dutchess

County Hamlet Design Guidelines, Dutchess County Rural Development Guidelines, the Greenway Compact Program and the Town of Dover Sign Guidelines. The matrix illustrated to the Town Board's satisfaction that the Knolls of Dover Design Guidelines are compatible with the other documents, covering similar design issues, often in greater depth. The review did find a limited number of design features from the County documents that were not specifically addressed in the preliminary draft of the Knolls of Dover Design Guidelines. These items were then incorporated into the Knolls of Dover Design Guidelines Addendum.

For the reasons set forth above, the Town Board finds that the Project would result in significant positive land use impacts. The proposed zoning amendments are necessary to accomplish the Town's established goal of facilitating the redevelopment of the HVPC site with a mixed-use community, which fulfills the goals of the Town's Master Plan and Zoning Code. They are, moreover, structured to provide a realistic and workable regulatory framework for the redevelopment of the HVPC site. The Town Board also finds that the Project is consistent and compatible with local planning goals, as outlined in the applicable local and regional planning documents. The Town Board finds, therefore, that there would be no significant adverse impacts from the Project related to land use, zoning or public policy.

### ***Visual Resources***

#### *a. Project Visual Character*

The Town Board finds that the Project would introduce a pattern of development that reinforces the concept of "centers," and respects neighboring properties and land uses with perimeter buffers. Consistent with the Dover Zoning Code's recognition of the economic value of the Town's natural beauty and environmental amenities, the Town Board finds that the Project would protect the integrity of scenic views, ridgelines, and other sensitive areas, and would maintain environmentally significant open space in a predominantly undeveloped state to the maximum extent practicable. For these and other reasons, including concentrating development in appropriate locations, the Project helps to preserve the open and rural character of the Town as a whole. While the visual character expressed by the Project's traditional neighborhood design would differ from the existing suburban/rural pattern of development in the area, it would be visually compatible in terms of scale. In addition, the site's historic presence and image would remain, maintained by the restoration and reuse of the majority of the existing HVPC buildings located along Route 22, including the Power Plant and Storehouse along the west side and the two I-buildings, the Administration Building, and the U-shaped building along the east side of the Route 22 corridor.

Landscaping and open space buffers would be present throughout the entire perimeter of the site with buffer sizes ranging from approximately 50 feet to approximately 1,000 feet in some of the southern and eastern portions of the proposed development. In a few locations on the northwestern portion along Pleasant Ridge Road and the western portion along Hoags Corners Road, new single-family homes would blend with existing single-family homes. In this area, the residential lot sizes are larger in order to be consistent with the

neighboring pattern of development. The Project also would include large contiguous areas throughout the interior that are preserved as open space.

Consistent with the purposes of the Dover Zoning Code, the clustering of the neighborhoods within a network of large open spaces would create hamlet centers, which encourage pedestrian activity and reduce automobile traffic. As a result, the Project would be expected to be visually compatible with surrounding land uses and appropriate for the landscape. There is also a concerted effort to place the neighborhoods in the areas of the site that had historically been disturbed, thereby requiring minimal tree clearing and removing invasive species that have overtaken these areas. The Town Board recognizes that some areas of the proposed development may be more visible in the early stages due to the growth of trees and other vegetation, but finds that this is a development pattern in any community. In the long term the Project area would be well buffered and landscaped. The Applicant has indicated the possibility of establishing a temporary plant nursery on-site, which could be used to grow and nurture trees and other plantings to be installed as the Project progresses. This would allow for the planting of larger and more mature specimens. The Town Board finds that this is a creative and appropriate approach, and that such activity will be permitted and encouraged.

The Town Board has, in consultation with its professional consultants, reviewed the Knolls of Dover Design Guidelines, including the Addendum, and finds that they effectuate the Town's goals for the site, including by defining and maintaining an aesthetically pleasing visual character throughout the Project site. The Knolls of Dover Design Guidelines provide a host of development standards for the Project, including, locations for land uses, street layout and design, lot and building dimensional standards, and specific architectural standards. The proposed Guidelines employ the transect system, which divides the site into zones with common characteristics, with the more dense mixed-use core in proximity to the train station, less dense neighborhoods beyond the center, and rural hamlets and lots located on the periphery as a transition to the surrounding community. The design standards vary by location and address design components such as block configuration, parking and alley treatments, open space and buffers, stormwater management, curbs, streetscapes, and building materials and colors. The Town Board would review future site plans submitted by the Applicant for consistency with these Guidelines.

Consistent with the purposes of the Zoning Code and the goal of the MC Overlay District, the Project would result in the comprehensive redevelopment of the degraded HVPC site, by incorporating transit-oriented development and traditional neighborhood design principles to create a mixed-use community centered on a train station. The Project would create a positive visual impact by converting the abandoned and deteriorating facility, which exerts a blighting influence on the community, into a new mixed use community in an appropriate location. It would also provide expanded retail and office space, increases recreational opportunities, as well as a range of housing opportunities for all segments of the local population with due consideration for regional housing needs.

*b. Visibility from Identified Areas Surrounding the Site*

The Town Board, in consultation with its professional consultants, has also closely examined the Project's visibility from public scenic locations within a two-mile radius of the site, including, the Appalachian Trail right-of-way along the southeast side of the site boundary, Lake Ellis, Schaghticoke Mountain, Hammersly Ridge, and any Nature Conservancy pathways.

The Town Board finds that, although the Project site is large, the surrounding topography limits its potential visibility to a relatively confined area, with West Mountain and the on-site hillside on the east side and East Mountain providing significant barriers, particularly to the east and west. The Hammersly Ridge provides further screening of areas to the east and south.

Generally, few of the types of resources identified as potentially sensitive receptors, as defined in the NYSDEC guidelines for Assessing and Mitigating Visual Impacts, other than those already identified in the Scope, exist within a two-mile radius of the site (e.g., there are no State Parks, National Wildlife Refuges, National Natural Landmarks, etc.). The only property on the National or State Register of Historic Places in the Town is the Tabor-Wing House, which is located in Dover Plains and outside of the viewshed radius. Other sites identified as potentially eligible are generally located around Dover Furnace or to the north, and as a result lie outside of the study radius.

West Mountain State Forest is located just on the fringe of this distance. This forest is managed as a multiple use area and does not have formal trails.

The Applicant undertook several field visits, which identified resources lying within the area of potential visibility to determine whether the Project site is in fact visible. These field visits showed that the Project site does not have visibility from Lake Ellis, the Schaghticoke Mountain lookout, or the adjacent Appalachian Trail right-of-way. The significant scenic resource from which the Project is potentially visible is the Hammersly Ridge area (Pawling Nature Preserve), where it is limited to only one vantage point (an opening in the canopy on the orange trail) which provides view of a limited portion of the west side.

Based on this inventory, which the Town Board, with the assistance of its consultants, has reviewed and accepted, the Town Board finds that the Project would not have significant visual impacts on identified scenic resources. Project visibility would be primarily confined to the areas directly adjacent to or located within the Project site.

For these reasons, the Town Board finds that: (i) the Project would result in beneficial impacts to the visual and aesthetic character of the Project site and the surrounding area; and (ii) that any perceived adverse visual impacts have been avoided or minimized to the maximum extent practicable.

**Geology**

*a. Soils*

Consistent with the analysis set forth in the FEIS, the Town Board, with the assistance of its professional consultants, has analyzed the potential geologic impacts for the Project in the following two categories:

(1) Earthwork

The Modified FEIS Plan altered the development footprint of the Project, reducing the overall area of disturbance and resulting in a reduction of approximately 100,000 cubic yards of cut compared to the conceptual plan presented in the DEIS. It is estimated that approximately 950,000 cubic yards (cy) of earthwork cut would be required. Earthwork on the site would be generally balanced, although import of construction materials is likely required. Building materials from the building demolition operations of approximately 1.7 million square feet of on-site structures is expected to generate between approximately 60,000 cy and 70,000 cy of construction and demolition (C&D) debris. Of this C&D material, it is estimated that approximately 25 percent, or between 15,000 cy to 17,500 cy, might be suitable for on-site reuse.

The Town Board, in response to public input, mandates that the Applicant transport off-site and ensure the safe and legal disposal of all material found unsuitable for reuse. Before transporting any of the approximately 45,000 cy to 50,000 cy of C&D material off-site, the Applicant is required to first sort such material on-site for the purpose of recycling and proper waste disposal at a State approved landfill. In either instance, the controlled handling of the material would be expected to allow for the management of off-site truck traffic. By reusing as much material on-site as practical, including the on-site processing of select material, the need for off-site transport of material would also be minimized. Excess topsoil that cannot be reused on-site would be transported off-site. Copies of documentation filed with NYSDEC shall be provided to the Town. All fill material must be compacted per specifications. The Applicant must ensure that its suitability for its ultimate use is verified as per Chapter 65 of the Dover Code. As set forth in greater detail in the section of these Findings pertaining to Hazardous Materials, under no circumstances shall the Applicant place, store or dispose of any contaminated materials anywhere on the site including in any of the tunnels. As discussed in greater detail below in the Findings pertaining to Hazardous Materials, all asbestos must be removed or remediated from the tunnels and buildings on the site.

The Town Board further requires that disturbed areas be protected through temporary and permanent stabilization measures, which are discussed below:

(2) Construction Measures

The site must be managed in accordance with local, municipal, state and federal regulations, including DEC General Permit GP-0-10-001 or current permit. The protection of disturbed areas, topsoil, and engineering fill systems of import material is required in order to minimize downstream impacts due to stormwater runoff. In

addition, soil stockpiles must be stabilized and maintained per the applicable regulatory requirements.

*b. Topography*

The Town Board finds that the Project avoids or minimizes adverse impacts to steep slopes to the maximum extent practicable. Eighty-two percent (82 percent) of steep slopes (in excess of 15 percent) would be undisturbed. The Applicant is required to perform earthwork activities in controlled areas in a manner that, to the maximum extent practicable, balances cut and fill operations in order to both limit open areas of excavation and the need to stockpile excavated material for extended periods. Construction activities and final design must be compliant with local, municipal, state and federal regulations. The Project's site plans must show that driveways comply with the Town Code's 12 percent maximum grade limitation. In order to ensure that adverse impacts to steep slopes are avoided or minimized to the maximum extent practicable, the protection of steep slopes and slope stabilization must be implemented both during and post construction to prevent erosion and transport of sediment laden water offsite. Permanent control measures shall include the installation of vegetated slopes using a combination of topsoil and seed or groundcover plant material, and where necessary, the installation of erosion control netting on slopes greater than 2:1. Temporary control measures shall include the installation of silt fencing to protect sensitive down grade areas, construction of temporary diversion swales, silt traps and sediment basins to capture and collect silt laden runoff, and temporary stabilization of open excavation areas awaiting construction completion.

*c. Bedrock*

Rock removal is anticipated and would be performed either by chipping or blasting, and would be determined with additional borings or removal of overburden. Quantities of rock cut have been estimated based on two separate methods. The first assumption is based on the soil definitions as presented in the Dutchess County Soil and Water Conservation District Interpretative Soils Report (1978). The second assumption is based on the findings presented in the Phase I Report, Harlem Valley Psychiatric Center Water Supply Study, prepared by Joseph C. Lu, P.E., P.C. Consulting Engineers, August 1988.

Rock removal must be performed in accordance with all local, state and federal regulations, including pre-blast surveys and blasting protocols and plans when explosives are required for rock cut. Rock processing must be performed on-site with rock crushers to prepare fill material for reuse on-site.

Blasting is expected to occur in excavation areas in which the depth of cut is expected to exceed five (5) feet in depth. All blasting must be conducted in strict compliance with New York State governing regulations 12 NYCRR 39, Possession, Handling, Storage and Transportation of Explosives and Chapter 69 Explosives of the local Town code. The Applicant must follow all applicable provisions of the regulations in both 12 NYCRR 39 and Chapter 69, which include, but are not limited to, licensed operator requirements, notification requirements of adjoining owners, permit and insurance requirements,

notification of local law enforcement agencies, blasting charge limitations, transportation of explosives guidelines, storage of explosives, and other safety precautions.

*d. Erosion and Sediment Control Plan*

An erosion and sediment control plan must be prepared in conformance with both the Dover Code and the DEC New York State Stormwater Management Design Manual (April, 2008). In addition, practices must be designed based on the DEC New York State Standards and Specifications for Erosion and Sediment Control (August, 2005).

The Town Board, with the assistance of its professional consultants, finds that the conceptual soil erosion and sediment control plan included in the DEIS would minimize the downstream erosion by controlling runoff at its source, minimizing runoff from disturbed areas and de-concentrating storm water runoff to the maximum extent practicable. Temporary and permanent stabilization methods must be implemented before construction begins. They must be continuously modified as necessary throughout construction to provide the best methods for stormwater management and pollution prevention.

During construction and post-construction, efforts must be made to preserve to the maximum extent practicable similar drainage patterns as occur today, with undisturbed stormwater runoff and ground water being diverted from temporary swales and sediment traps and permanent stormwater management measures.

*e. Unique Features*

The Town Board previously recommended the designation of the Deuel Hollow Critical Environmental Area (“CEA”) in order to protect the estimated 1,050 acres of land in the southeastern corner of the Town. Due to the steep slopes and soil types found in the area, the goal was to control potential impacts caused by development, such as downstream erosion and flooding.

The Town Board mandates that proposed construction activities throughout the site, including those near or within the Deuel Hollow CEA and the Great Swamp CEA, be carefully protected, stabilized and maintained in order to meet the intent of the Town to protect these designated areas, including, through the implementation of an erosion and sediment control plan, which conforms to both the Dover Code and the NYSDEC Stormwater Management Design Manual, and practices designed pursuant to NYSDEC’s Standards and Specifications for Erosion and Sediment Control.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse geologic impacts to the maximum extent practicable. Construction activity and land disturbance necessarily raise the potential for impacts related to erosion and sedimentation. However, the Town Board finds that the overall limit of disturbance has been minimized to the maximum extent practicable and that conditions imposed by the Board include the implementation of a series of measures and best management practices designed to stabilize soil and minimize erosion and sediment transport to the maximum extent practicable.

***Natural Resources***

***a. Open Space and Habitat Protection***

The Town Board, with the assistance of its professional consultants, finds that, consistent with the purposes of the Dover Zoning Code, the Project would preserve the open and rural character of the Town by maintaining substantial amounts of environmentally significant open space in its predominantly undeveloped state. The Project would maintain and protect buffer areas exceeding regulatory requirements around wetlands and other sensitive environmental areas, both during and after construction. It would also implement management and restoration programs, such as non-native species removal near the reservoir and in certain marble knolls areas that support rare plant species, which would improve habitat quality. Of the sites 937 acres, the total disturbance area of the Project upon full buildout would only impact approximately 311 acres. This includes approximately 150 acres of land previously disturbed for construction of the HVPC and the existing golf course.

Project representatives, Town consultants, and the Supervisor met with NYSDEC staff in January 2010, during the period when the FEIS was being prepared. These discussions helped influence the proposed modifications to the Master Development Plan, the analysis included in the FEIS, and proposed mitigation measures. The NYSDEC has since provided an additional comment letter that touches upon several issues related to natural resources. Although received after the close of the comment period, these comments have been taken seriously by the Town Board. The letter indicates that the NYSDEC is “in general agreement with the direction project revisions have taken and we recognize and appreciate that these changes helped to avoid, minimize and mitigate potential negative impacts to a significant degree.” The NYSDEC letter raised concerns relating to marble knolls preservation, forest fragmentation, and bog turtle and Indiana bat protection, which have been carefully considered by the Board and are discussed in this section of the Findings.

The Town Board recognizes that the Project was specifically designed to primarily utilize portions of the site that are currently or were previously disturbed by buildings, agricultural practices or the golf course. Many of the higher quality habitats such as the forested wetlands associated with the Swamp River and high quality vernal pools were avoided. The Project also minimizes to the maximum extent practicable impacts on marble knolls, although the Town recognizes that small portions of some of the marble knoll habitats on the west side of the site would be impacted. However, most would be avoided either partially or in their entirety. The Project also follows many of the conservation recommendations in the natural resources technical reports that were prepared under the direction of Michael W. Klemens, LLC.

In consultation with the Town and the Applicant’s consultants in 2004 and 2005, Dr. Klemens identified nine areas throughout the site which were designated as Environmentally Sensitive Areas of Concern (ES-1 through ES-9). These areas include three vernal pool wetland complexes (ES-1, ES-6, and ES-9), two areas of wetland which were found to have potential big turtle habitat (ES-2 and ES-3), the State-regulated wetlands associated with the reservoir (ES-7), an area with several State listed rare and

endangered plants (ES-4), a turtle nesting area (ES-5) and the ravine below the reservoir dam (ES-8).

Area ES-1 contains both a vernal pool and spotted turtle habitat. Dr. Klemens recommended a 750-foot buffer, with development impacts totaling less than 25 percent of the buffer. A 750-foot buffer for Area ES-1, comprising 38.7 acres, has been incorporated into the revised layout and development within that buffer is less than 13 percent (4.9 acres).

No development is proposed for the northeast corner of the west side of the property, where a large, relatively undisturbed marble knoll is situated (ES-4). This would maintain the existing connection between this area and the areas off site to the north of the existing highway, Route 21.

At the Town Board's prompting, the proposed development south of Pleasant Ridge Road has been redesigned and scaled back to provide greater protection of the marble knolls (ES-4) and fen habitat (ES-3) that occur in that area. Specifically, all development has been pulled at least 300 feet from the fen wetlands on the site, and the stormwater management plan has been revised to further protect the hydrology of these sensitive areas.

Consistent with the purposes of the Town Zoning Code, large portions of the site would remain as open space, including those areas which presently serve as important habitat and dispersal corridors for wildlife and migratory birds. The most sensitive vernal pool in the eastern portion of the site (ES-6) would be part of the open space and would be surrounded by unbroken uplands extending well beyond the recommended 750-foot buffer. No development is proposed within 750 feet of the remaining vernal pools (ES-9). All of the lowland forests along the Swamp River have been avoided and would remain undisturbed. The Modified FEIS Plan provides protection of the entire riparian flood zone adjacent to the Swamp River, as well as expanded buffers around the most sensitive habitats on the site.

The majority of the existing mature second growth forest habitat would be preserved by the proposed layout on the eastern side of the property, adjacent to off-site forests. This mature second growth forest would remain intact on the Knolls of Dover site and extends well off site to the south, east and north. Keeping these forested areas undeveloped and intact would further protect adjacent woodlands and support the existing biodiversity of plants and animal species.

The Town Board finds that these measures, coupled with the clustering of development in previously disturbed portions of the site, would help protect the sensitive habitats and preserve a variety of ecosystems that are present on and off of the site.

*b. Bog Turtle Protection*

The Town Board also finds that the Project minimizes or avoids adverse impact to potential bog turtle habitat to the maximum extent practicable. In order to ensure that the

Town Board had the most accurate information pertaining to potential bog turtle habitat, and in response to NYSDEC comment, the Applicant retained Dr. Klemens to update the data on the potential bog turtle habitat areas from his previous study. The US Fish and Wildlife Service has also requested clarification of bog turtle issues. Dr. Klemens' updated report, which was included in the FEIS, concluded that:

“The results of the 2009 survey indicated that there has been little change in the overall habitat conditions over the five-year period from 2004-2009 except that much of the fringing area of Wetland E has declined in quality as bog turtle habitat with the up growth of woody vegetation at the interface between the wetland and the upland. This is a normal wetland succession and it is anticipated that this trend would continue over time. With the exception of Wetland T, which constitutes extensive and high quality bog turtle habitat, the other wetland habitats on site (E and N) each contain a small patch of bog turtle habitat set into a matrix of wetland areas that are useful primarily as connections between other wetlands.”

The Town Board, with the assistance of its professional consultants, has reviewed Dr. Klemens' updated report, and accepts its conclusions.

Wetland T is the fen habitat near Pleasant Ridge Road at the north end of the site. Wetland T was identified as Environmentally Sensitive Area ES-3 by Dr. Klemens during his studies in 2004. The conceptual plan presented in the DEIS did not impinge on Wetland T. Moreover, additional protection for the identified bog turtle habitat is provided in the Modified FEIS Plan, which scales back development in proximity to Wetland T.

Wetland E is the large forested floodplain wetland that is located south of Wheeler Road, west of the Swamp River. The narrow open-canopy portion of Wetland E located at the wetland's southwestern corner was identified as bog turtle habitat in 2004 (ES-2) and again in 2009. No activities are proposed within 300 feet (some areas range up to 450 feet) of this area in the modified FEIS plan.

Wetland N is located south of Wheeler Road and flows east into Wetland E. The western portion of this wetland near the old farm building and gravel road was identified as bog turtle habitat in 2009. This area was not identified as bog turtle habitat or an Environmentally Sensitive Feature during the 2004 studies. The Modified FEIS Plan proposes residential units to the west and south of the area of Wetland N, which was identified as potential bog turtle habitat. However, this proposed development is 100 feet or more from the wetland. It is within areas that are currently in use as agricultural fields. The proposed Project maintains the minimum 100-foot setback recommended by Dr. Klemens in this area in his 2005 report, meeting the conservation goals for the bog turtle. The Modified FEIS Plan also substantially reduces the length of the road and the number of residential units for the proposed development in the southwest corner of the site.

The Town Board also recognizes that the Klemens 2004 report entitled “Amphibians and Reptiles of the proposed Dover Knolls Development Site” states that:

There is no apparent high quality (or even intermediate quality) bog turtle habitat in the western portion of the site south of Wheeler Road. The major function of these open and grassy wetlands may serve is for the occasional passage of bog turtles. By respecting the 100-foot DEC wetland setback (i.e., allowing no development in the setback including the golf course) conservation goals for the bog turtle in these wetlands would be addressed (see USF&WS/Klemens 2001).

The Master Development Plan drawings include a limit of disturbance line for the entire development area. Limit of disturbance lines will be set forth on individual site plans to ensure that the conservation buffer areas and environmentally sensitive areas are protected.

The Project shall also implement measures identified in the FEIS to minimize potential impact to turtles during both the construction and post-construction phase. During the construction phases that may take place during the turtle nesting season (April to June), silt fences shall be installed around active soil piles, particularly in the vicinity of the Swamp River, to prevent turtles from nesting in them. All open earth works (e.g., trenches, ditches) shall be backfilled as soon as possible to prevent turtle entrapment. Excavated areas left open at the end of the work day shall be inspected in the morning, and if any turtles are trapped they will be removed. Post-construction measures to minimize the potential for impacts to reptile and amphibian movements shall include the use of Cape Cod curbs on main roads and driveways, use of speed bumps to slow traffic, and installation of turtle crossing signs. All such measures shall be incorporated into and detailed on the individual site plans.

*c. Indiana Bat Protection*

The Town Board also finds that the Project avoids impact to Indiana Bats to the maximum extent practicable. As part of the DEIS, the entire site was assessed and a woodland bat mist net survey was conducted by Bat Conservation and Management, Inc. The need for the survey was based on reports suggesting that maternal colonies might be present on or near the site. However, this situation was not borne out by the results of the survey. No females (only two males) were captured.

In addition, as described in the bat survey report:

A review of the literature about Indiana myotis summer habitat, maternity roost characteristics, and foraging behavior indicates that limited forest clearing is unlikely to significantly impact the quality of habitat for the species. Most maternity colonies for the species are found in disturbed habitat, and in areas fragmented by widely spaced clearings. Indiana myotis have been shown to be exceptionally adaptable to roost switching and selecting new roosts when old roosts are no longer available. The very ephemeral nature of their preferred roost spaces encourages this type of

plasticity. In one study, only 50 percent of the roost trees identified by radio-tracking were used in the following year.

While development is planned in the vicinity of the areas where the two males were found, that development is concentrated in previously disturbed areas where minimal tree clearing is required. In order to avoid disturbance of potential maternal colonies, the Town Board mandates as a condition of these Findings that tree clearing in these areas must be done during the fall and winter months (October through March), when bats would not be present on the site, which is the standard recommendation from the “Indiana Bat Project Review Fact Sheet.” The Town Board recognizes that a majority of mature forest would be preserved and would provide ample roosting opportunities for this species. Additional recommendations from Bat Conservation and Management, Inc. included protecting existing water resources and their vegetative buffers. These suggestions are intended to ensure the water resources can provide drinking sites and sources of insect prey. The Town Board finds that the protective measures of water bodies to be implemented during and after construction, as depicted on the site plan drawings and as described in the FEIS, will maintain substantial buffers around the site’s wetlands and waterways (e.g., at least 300 feet from fen wetland, at least 750 feet from vernal pools, 100 feet or more wetland buffers, preservation of the large lowland forests along Swamp River) and accord with the bat conservation recommendations. The Town Board recognizes that no additional surveys were recommended at the site by Bat Conservation and Management, Inc. In addition, the Project shall, to the maximum extent practicable and feasible, limit the amount of outdoor lighting, include motion sensors or timers for outdoor lighting, direct lights toward the ground and buildings, and employ shielded lighting to minimize nighttime lighting impacts consistent with the recommendations of the US Fish and Wildlife Service.

*d. New England Cottontail Protection*

The US Fish and Wildlife Service comments also noted that the New England cottontail is a candidate species being considered for addition to the Federal List of Endangered and Threatened Wildlife and Plants, and, if eventually proposed or actually listed, could necessitate additional consultation or coordination. The potential for impacts to the New England cottontail were assessed in the FEIS. As discussed in the FEIS, the New England cottontail is a species which has shown rapid decline in recent decades primarily due to loss of habitat as post-agricultural land becomes reforested or developed. The New England cottontail utilizes dense shrub-scrub habitat for feeding and breeding, while the Eastern cottontail seems better adapted to the more open fields, meadows and lawns typical of residential areas. In addition, destruction of the native shrub understory in many second growth forested areas by white tailed deer has further reduced the suitable habitat for this species. The shrub-scrub habitat on the project site is concentrated in the western portions of the site as part of the wetland complexes and will be protected under the proposed development plan. The Town Board finds therefore that if the New England cottontail is present on the site, it would likely inhabit the shrub-scrub habitat that will remain undisturbed. As such, the Project does not pose any significant adverse impacts to the New England cottontail.

*e. Reservoir Watershed*

The Town Board further finds that adverse impacts associated with the development proposed west of the reservoir have been minimized or avoided to the maximum extent practicable. In response to the Town Board's comments, as well as comments from the public, including organizations such as the Dutchess and Oblong Land Conservancies, and NYSDEC concerns regarding forest fragmentation near the reservoir, modifications have been made to the neighborhood west of the reservoir. The proposal for this area currently consists of 19 single-family lots ranging in size from approximately 1 to 2 acres. As acknowledged by the NYSDEC, the number of units in the reservoir hamlet has been significantly reduced. The modifications made since the publication of the DEIS reduced the density in this area from 49 lots to 19 lots. The modifications also reduced the extent of the neighborhood, pulling in development on its eastern side and reducing the overall development footprint. The neighborhood has also been planned around the pattern of existing disturbances, including open fields and existing gravel roads. While there will be some expansion of existing fragmentation in this portion of the site, the Town Board finds that it has been substantially reduced and limited to the maximum extent practicable by concentrating the units around existing disturbed area, including open former agricultural fields and a network of existing gravel roads.

Road S, which provides the primary access to the neighborhood west of the reservoir, follows a long time existing roadbed that leads to the reservoir. The parameters of the residential neighborhood's location and its basic lay-out have been guided by the existing framework of interior roads and the areas of former agricultural fields, which have reverted to mainly old field habitat. Portions of this area are already vegetated by a number of invasive species, most notably mile-a-minute vine and autumn olive. By utilizing portions of the site that were disturbed, the creation of new areas of fragmentation has been limited. The proposed road serving the residential lots has also been shortened in the revised layout, and only an emergency access road would be left in the vicinity of the reservoir. The emergency access road for the reservoir would also follow the existing gravel interior road. No new roads are proposed around the reservoir.

The Town Board recognizes that some expansion of existing fragmentation of the forested areas would occur in this portion of the site from the proposed 19 single family lots. However, the disturbance has been minimized by locating the development within previously disturbed areas and mitigated by the implementation of an invasive species control plan for mile-a-minute vine and autumn olive. The Site Plan shall provide that the majority of the existing mature second growth forest habitat would be preserved by the proposed layout. This mature second growth forest would remain intact on the Knolls of Dover site, and extends well off site to the south, east and north. Lawn areas, roadways and stormwater structures have been minimized to the greatest extent practicable. Consistent with NYSDEC recommendations, this area of the plan also incorporates the use of rain gardens, narrow pavement width roads with stabilized shoulders and vegetated swales, and woodland reforestation of sloped areas not required for development. As discussed above, the individual site plan for this area shall include the limit of disturbance line, and a detailed planting plan for areas to be re-vegetated, which shall specify native species. As recommended by the NYSDEC and specified in

the Design Guidelines, homeowners in the reservoir hamlet wishing to supplement trees on their lots shall be encouraged to utilize native plantings. A list of native tree types that would further enhance the habitat and complement the landscape design shall be provided during site plan review. For these reasons, the Town Board finds that the impacts associated with the neighborhood have been minimized or avoided to the maximum extent practicable.

The Town Board also finds that the stormwater management plan in this area would include a number of measures, including Low Impact Development (LID) concepts, designed to improve water quality, enhance the diversity of plants and habitat and provide long term soil stabilization. Consistent with the plans submitted by the Applicant, these measures, which will be detailed as part of the site plan applications, must include, at a minimum, the following:

1. Rain Gardens – These would be shallow depressions planted with native plants and soils, which permit stormwater to infiltrate into the soil and plants that would absorb nutrients. The plans submitted by the Applicant for site plan review must show roof and driveway drainage being directed to one or several rain gardens located on each home site. In this manner, the rain gardens would be customized to fit the specific conditions of each home site. Residents shall be provided by the Applicant with guidelines (following examples available through the University of Connecticut Cooperative Extension and Wisconsin Cooperative Extension) for maintaining and replanting rain gardens, so they understand that the plants have a purpose, should not be mowed or weeded excessively, and that they will replant with species that are tolerant of both wet and dry conditions.
2. Road Design – The road would include a narrow pavement width of 20 feet with stabilized shoulders and vegetated roadside swales to allow for infiltration and treatment of the road runoff. Higher volumes of runoff would be directed to extended detention stormwater basins for additional water quality treatment and stormwater peak flow attenuation.
3. Woodland Reforestation – The Applicant’s site plans must also show that, as part of the home site development, disturbed sloped areas not needed for homes must be reforested with native trees to provide for long term soil stabilization and habitat diversity. The Town Board also understands that, although not necessary as a mitigation, residents would be encouraged to supplement trees on their lots from a list of tree types that would be provided to them to further enhance the habitat and which may complement the landscape design of their homes.
4. Home Plantings – Again, although not required as mitigation, the Town Board recognizes that residents would be encouraged to create and maintain landscape plantings that include native plants and reduced lawn areas or lawn types, which do not require extensive irrigation, fertilization or chemicals. A resident planting guideline, which must be submitted to the Town Board for its comment prior to marketing, would be prepared by the Applicant and provided to all new residents of

Dover Knolls to outline suggested tree, shrub and ground cover plant types that are native to the area and do not require the need for irrigation.

The Town Board also finds that establishing a small residential presence in this location west of the reservoir would have a beneficial impact by reducing the incidence of trespassing and associated abuse, including hunting, partying, ATV-riding and trail cutting that has historically occurred in this area, despite the Applicant's best efforts. The new residents would create a concerned constituency whose presence can help detect and deter these types of activities, which have an adverse impact on the Town's goals of preserving environmentally significant open space.

*f. Marble Knolls Protection*

The NYSDEC and members of the public, such as the Dutchess Land Conservancy, also commented on the preservation of the marble knolls complex on the west side of the site. In response to comments by NYSDEC, the Town and others, the Modified FEIS Plan reduced the length of the proposed Road C on the west side of the Project site, resulting in the reduced density of development along the road. In the DEIS plan, the segment of Road C east of the Pleasant Ridge hamlet contained 34 residential units. This has been scaled back in the Modified FEIS Plan to 18, and all proposed development in the northeast corner of the West Parcel, where one of the largest and the highest quality marble knolls (as identified in the Hudsonia report) is situated, has been eliminated. Some of the other, smaller areas of marble knolls are located in and around the golf course. The Town Board notes that the proposed grading in these areas of the Project has been minimized to the maximum extent practicable. Grading with the golf course expansion areas will also be limited.

The Hudsonia report identified a complex of knolls of varying quality in the area near the proposed Road C. The two marble knolls identified as being of the highest quality were #1 and #9. The proposed road configuration completely protects #1 and requires only limited disturbance to #9, which is located at the west end of the road. The Hudsonia report identified four other high quality marble knolls on the site (#2, 6, 8 and 11) that were somewhat smaller. The proposed road configuration avoids significant disturbance to marble knolls #2 and #8. The north and south portions of marble knoll #6 would be disturbed under the Modified FEIS Plan. Marble knoll #11 is located south of Wheeler Road and would remain undisturbed. The report also indicates that marble knolls #3, #4, and #5 are of medium quality, but may helpful in maintaining connectivity. The proposed road configuration avoids two of these three, maintaining connectivity to knoll #2 as recommended in the report. Marble knolls #7 and #8 are adjacent to the fen and preservation of these in order to protect the fen and water quality was recommended by the report. These have also been largely avoided by the configuration set forth in the Modified FEIS Plan.

Beyond the modifications above, which have already incorporated into the Modified FEIS Plan, additional modifications to the plan have been identified that would further limit disturbance to the Marble knolls, as requested by the NYSDEC. This includes realigning a portion of the eastern half of Road C, and the shifting of house locations as

shown in the “Road C Alternative Plan.” This configuration would result in reduced disturbance to Marble knoll #6 (identified as a high quality knoll), and eliminate any disturbance of knoll #3 (preserving three out of three of the medium quality knolls). It would also further reduce the minor disturbances at the fringes of Marble knolls #2, #7 and #8.

The Town Board finds that the proposed Road C Alternative Plan avoids or minimizes adverse environmental impacts to the maximum extent practicable, balancing the environmental, social, economic and design aspects of this Project. The Town Board also notes that Road C generally follows the path of an existing interior road as shown on the Habitat Impact aerial mapping in the FEIS and illustrated on the Existing Conditions Map sheet accompanying the FEIS. In the end, the overwhelming majority of the Marble knolls habitat area on the Site will remain completely undisturbed. Linkages to nearby wetlands and forests, and connectivity between knolls, have been maintained and non-native species removal and selected clearing (particularly for marble knoll #9 where certain rare plant species were found), identified in the Hudsonia Report as recommended restoration efforts and which could increase overall habitat quality, will be implemented. As noted in the NYSDEC letter, “plans for active management of protected knolls are an important aspect of conservation, especially with regard to control of invasive species.” These programs will be implemented, in addition to the larger wetland restoration programs described in the FEIS. Moreover, consistent with the recommendation of NYSDEC, the Applicant’s Site Plan for the Marble Knolls Area shall also include a limit of disturbance line to ensure and demonstrate that this area is protected to the maximum extent practicable.

As discussed in greater detail in the following section of these Findings, the Project includes a wetlands and wetland buffers mitigation plan, which identifies several areas on the site that would be the subject of wetland creation, wetland enhancement and/or wetland buffer enhancement. The Town Board finds these measures to be sufficient to mitigate the Project’s impacts on wetlands and buffer areas. As part of the wetlands mitigation measures, the Applicant would provide a walking trail in the area of the existing track, which would traverse, and be adjacent to, the wetlands to connect to the Town’s Boyce Park that is north of the site. The current public access to the Swamp River, which is located on the north side of Wheeler Road, must be maintained and improved. The Town Board understands that the Applicant has also been in contact with the NYSDEC regarding preparing a plan for the control and/or eradication of the non-native, highly invasive mile-a-minute vine that has become established in several areas on the site.

*g. Summary of Impacts and Mitigation*

The Applicant’s Condominium Offering Plan must be consistent with the mitigation plan required in these Findings, sets forth that all wetland mitigation areas that shall remain in their rehabilitated state, and requiring that no fauna (exclusive of non-native invasive species), soil, or rock shall be removed or altered for any non-emergency purpose, and no activity shall otherwise take place within the mitigation areas without the express consent of the Board of Directors of the Homeowners Association. Yard waste shall expressly be prohibited from being dumped into the mitigation areas under any circumstances.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse impacts on natural resources to the maximum extent practicable, and that adverse impacts on natural resources would be avoided or minimized to the maximum extent practicable through the incorporation as conditions of those mitigation measures set forth herein. This finding is based on large part upon the fact that the Project has been designed to minimize areas of new disturbance and to avoid areas of sensitive habitats to the maximum extent practicable.

***Water Resources and Wetlands***

The Town Board, with the assistance of its professional consultants, finds that the Project avoids or minimizes adverse impacts on water resources and wetlands to the maximum extent practicable. The Modified FEIS Plan confines the majority of the proposed development to areas of the site that are already developed or previously disturbed. Therefore, the impacts to both wetlands and wetland buffers in the less-disturbed areas of the property are reduced or eliminated. Impacts to wetlands are minimal and many of these wetlands consist of channelized drainageways, which are currently surrounded by paved or otherwise developed or altered land.

The Town Board recognizes that overall, proposed wetland impacts have been reduced under the Modified FEIS Plan by 1.3 acres and the associated buffer impacts have been reduced by 2.0 acres from those proposed in the DEIS conceptual plan. The wetland mitigation program includes 4.32 acres of new wetland and 2.44 acres of wetland enhancement. The total area of wetlands (NYSDEC and ACOE) and the total area of wetland impacts is shown on the table below. As indicated, most of the on-site wetland and all of the vernal pools have been protected. Detailed planting and grading plans for the proposed wetland mitigation areas will be submitted to the Town Board, for its approval, during site plan review. In addition to the detailed wetland mitigation plans, a formal monitoring and maintenance plan will be submitted for the Town Board’s approval during site plan review.

**Table 7  
Wetland Impacts**

<b>Total Wetlands</b>	<b>NYSDEC Wetlands</b>	<b>NYSDEC Wetland Impact</b>	<b>NYSDEC Wetland Buffer Area</b>	<b>Buffer Area Impacts</b>	<b>ACOE Wetlands</b>	<b>ACOE Wetland Impacts</b>
184.5 ac.	165.5 ac.	0.33 ac.	105.9 ac.	7.03 ac.	177.0 ac.	2.68 ac.

The Modified FEIS Plan also provides additional buffers around the more sensitive wetlands on the property, beyond the 100-foot NYSDEC-regulated wetland buffers, which surround the NYSDEC freshwater wetlands on the property.

The Town Board recognizes that proposed development south of Pleasant Ridge Road has been redesigned and scaled back to provide greater protection of the fen wetland habitat that occurs in that area. Specifically, all development has been pulled at least 300 feet from the fen wetland on the site, and the stormwater management plan has been revised to further protect the hydrology of these sensitive areas.

The most sensitive vernal pool in the eastern portion of the site would remain part of open space, which shall be protected by a recordable instrument. This instrument must provide that the pool would be surrounded by unbroken uplands extending well beyond the 750-foot buffer that was recommended by Dr. Michael Klemens in his environmental assessment. No development is proposed within 750 feet of the remaining vernal pools on the east side of the property and none would be permitted. In addition to the standard regulatory wetland buffers, the individual site plans to be prepared for the Project shall also indicate the 750-foot buffers for the vernal pools, consistent with the environmentally sensitive resource mapping provided in the FEIS. The wetland in the far southwest corner of the site (ES-1) contains both a vernal pool and spotted turtle habitat. Dr. Klemens recommends a 750-foot buffer, with development impacts totaling less than 25 percent of the buffer. The Modified FEIS Plan reduces impacts within the 750-foot buffer of this wetland so that development within that buffer is less than 13 percent (4.9 acres of the 38.7 acre 750-foot buffer). The Town Board is satisfied with that revision.

The Town Board finds that the Project advances the Zoning Code's purpose of minimizing environmentally significant impacts to the Swamp River. The Modified FEIS Plan provides for the protection of the entire riparian flood zone adjacent to the Swamp River, with all proposed homes removed from the floodplain. In addition, all of the lowland forests along the Swamp River have been avoided and must remain undisturbed, providing important riparian habitat and water quality functions.

As noted above, the Applicant must prepare a stormwater management plan in accordance with the New York State Stormwater Management Design Manual, in order to improve the quality of stormwater runoff from the site, as well as meet or exceed the requirements set forth by the NYSDEC. In addition, strict erosion and sediment control measures, designed in accordance with the New York State Standards and Specification for Erosion and Sediment Control, must be implemented during and after construction in order to protect the on and off-site wetlands and watercourses.

The Town Board notes that the existing conditions on the site do not provide for any water quality treatment or detention of surface water runoff prior to discharging into the Swamp River or the wetlands throughout the site. Currently, the Great Swamp can potentially receive untreated runoff from the buildings, streets, parking lots, and a golf course, while other wetlands receive runoff from agricultural fields and the roads which border and bisect the site. The Town Board finds that the Project would substantially improve this situation.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse impacts on water resources and wetlands to the maximum extent practicable, and that adverse impacts on water resources and wetlands would be avoided or minimized to the maximum extent practicable through the incorporation as conditions of those mitigation measures set forth herein.

The Housatonic Valley Association has requested that detailed stormwater management and erosion control drawings be prepared as part of this process. This is not appropriate or typical for Master Development Plan review. These items will be, appropriately, designed

and drawn as part of the Town Board's site plan review. The level of detail and calculations provided in the FEIS stormwater management plan are appropriate and sufficient to allow for a determination of impact significance.

The Housatonic Valley Association also expressed concern that wetland crossings not inhibit wildlife passage. The Modified FEIS plan reduced the number of wetland crossings by eliminating the proposed section of road between Wetland Q and Wetland R in the northeastern section of the property. In addition, the dirt road bisecting Wetland N and Wetland E will no longer be improved, thereby removing changes to this wetland crossing. At other proposed wetland crossings, bridges or open bottomed culverts will be used where practicable to minimize the impact footprint. No disruption of the pathways for water or animals are proposed at wetland crossings.

### ***Community Services***

#### *a. Police Protection*

The Town Board recognizes that the Project would increase resident, employee and visitor population for the site and the Town. This increase could result in the potential for incremental demand for police services. During discussions with representatives of the Sheriff's Office and State Police, neither agency anticipated that the Proposed Action would generate a significant increase in calls for service or criminal activity. Both the Dutchess County Sheriff's Department and the New York State Police anticipate being able to serve the Proposed Action without significant additional staffing or equipment. Both agencies anticipate that the Project could result in increases in: traffic; traffic violations (such as speeding); the incidence of small break-ins; car and house alarms; and lock-outs, which they could handle with existing staff. Notably, the police also expect that the Project would greatly reduce the numerous calls related to dumping and trespassing that they currently receive.

#### *b. Fire Protection*

At full buildout, the Project would introduce a new residential population of approximately 3,412; an increase of approximately 40 percent of the Town's estimated population in the year 2000 of 8,565. Assuming a roughly proportionate increase in call demand, it is anticipated that the Project could increase the number of additional annual service calls by up to 40 percent.

The Town Board concludes that, given that the fire department's station in Wingdale is less than one mile from the center of the Project site, its response time to the site would be minimal. The new proposed construction would generally range from approximately two to four stories in height. This building scale is consistent with other structures in the Town and existing on-site structures, and does not present building types or heights that cannot be managed by the capabilities of the existing equipment. The Project would also remove the 10-story Sullivan Tower, which would eliminate the potential for high-rise firefighting. It is recognized that the increase in calls would place additional pressure on the fire department.

At full build-out the Project would be anticipated to generate annual property tax revenue of approximately \$221,000 for the fire district, which could offset the increased service costs or capital replacement needs of the fire department. This would represent an approximately 40 percent increase in the 2009 levy for the fire district. The proportionate increase in revenue would approximate the proportionate increase in service population and would offset potential increased capital costs should the increase in call volumes shorten the apparatus replacement schedule.

The Town Board understands that the fire department has noted that many of the existing hydrants on the site are not working. The Project would involve installation of a new water service distribution (the existing 1,000,000 gallon underground water storage tank would remain and be used to meet the Project's domestic water demand as well as provide fire protection), which would include new hydrants at spacing consistent with NYS Fire and Building Code. The new commercial, mixed-use and multifamily buildings would also be sprinklered (per applicable NFPA regulations) in order to provide additional fire protection and minimize potential stress on the fire department.

Given the proximity of the firehouse, code safety requirements, and the ability of existing equipment to service the types of buildings proposed, the Project would not create significant issues for the Town's firefighting capabilities. It is recognized and acknowledged that the increase in calls would place additional staffing pressure on the J.H. Ketcham Hose Company Inc. The increase would, however, be gradual as the Project is phased in and units are occupied. It would not be unreasonable for this Project to be occupied incrementally over the course of 10 to 20 years. The potential need for career firefighters could therefore be monitored and evaluated by the Town and the Hose Company as the Project gradually fills. The incremental nature of the build-out would also allow the Town and Hose Company to evaluate actual volunteer activity levels and experience with fire calls to the site and be positioned to more accurately assess the Project's impact on fire services and determine at what threshold point career services would be required.

In the event the Town eventually transitions to a degree of paid fire staffing, the Project's \$221,000 in annual property taxes for the fire district could be utilized to offset a portion of that cost. As detailed in the Chief's comments, and as recognized as early as 1993 in the Town's Master Plan, independent of the proposed Project, the Town would at some point likely face the need for a full-time EMS service and a part-time paid fire department.

The Proposed Action includes four-story buildings. The Fire Company currently has a 35-foot extension ladder (with operating height of approximately 30 feet) carried on the first due apparatus and a 75-foot aerial ladder truck which has a response time of between 7 to 10 minutes of the project site. While this equipment provides service to other four-story buildings in Dover Plains, as well as existing buildings on the Project site, the specific design of the project buildings may require additional equipment to ensure adequate fire safety. The Fire Company has been consulted and has provided comments on potential impacts. However, final details of any mitigation require additional consultation with the Fire Company regarding information specific to the design of individual buildings such as

access to each side of the buildings, location and size of parking areas, landscaping, driveways, and building frontage which information will be developed during the site planning process. It shall be a condition of site plan approval that the Town Board, in consultation with the Fire Company and Applicant, shall determine whether any additional fire equipment shall be needed to address any of the Project design details incorporated during such review.

*c. Emergency Services*

The Town Board recognizes that the increase in population from the Project would likely result in an approximately proportionate increase in the demand for emergency services of approximately 40 percent. The substantial increase in revenue to the Town could be utilized to augment the NDP and J.H. Ketcham contracts in order to pay for incremental increased service costs.

A portion of the Project's residential units are proposed to be age-restricted for households with members 55 years of age or older. Some of these may be more senior households, as in any balanced community. However, the age-restricted units are not specifically proposed or designed as supportive care facilities. As a result, the units would not be expected to result in concentrations of the frail elderly who may have more acute emergency and hospitalization needs.

Communities throughout the County are struggling with staffing and funding for emergency services as volunteer ambulance corps are disappearing. If staffing the department's volunteer nighttime emergency services shifts continues to be problematic, the Town Board would evaluate whether additional staffing is necessary to serve the potential service demands from the Project, as well as other growth in the area. The additional tax revenue from the Project could be utilized to help pay the costs for expanding NDP service. It is noted that the fire department's identified difficulty with volunteer staffing during the daytime hours is not unique to the Town of Dover and is a common condition throughout the region. This issue reflects changes in employment, household characteristics, and commuting patterns, and is not a factor that can necessarily be attributable to development projects.

*d. Parks and Recreation*

The Town Board's individualized determination regarding the Project's recreational requirements are set forth in this section of the Findings. As set forth herein, the Town Board finds that approximately 60 percent of the Project's overall recreation needs would be provided on site.

Initially, the Town Board finds that the Project would offer a wide array of recreation facilities within the approximately 63 percent of the Site designated as open space. Some of these facilities would be open to the public-at-large; others would be restricted to site residents, members and guests.

**Table 8  
Proposed Recreational and Open Space Amenities**

Proposed Amenity	Location	Size	
		Acres	Linear Feet
Golf Course	West Side	68.75	
Great Lawn	East Side	3.50	
Boat Launch	West Side	0.25	
Neighborhood Greens/Squares	All Neighborhoods	9.25	
Playfield	West Side	1.25	
Trails	East and West Sides		42,000
<b>Total Proposed Publicly Accessible Recreation Amenities</b>		83.00	42,000
Dedicated Open Space	Throughout Site	510	
Total		593.00	42,000

The recreation facilities open to the general public would include the various greens/commons sprinkled throughout the neighborhoods, a recreation field, the Swamp River boat launch, golf, fishing, hiking/biking trails, possible connecting trails to the Appalachian Trail, the reservoir, and possibly the restored Smith Hall.

The Town Board recognizes that the area currently occupied by the existing running track is part of a wetland complex. Therefore, it is proposed for restoration as a wetland area. As noted above, as part of the restoration, a nature walk/trail would be created by the Applicant, enhancing the educational function of the wetlands, providing a linkage to Boyce Park to the north, and providing a walking/jogging opportunity to replace usage of the track. A second major trail that the Applicant would provide would provide access from the east side of the site to the Appalachian Trail, with connections to other on-site trails, including those following the existing trails around the reservoir. The Applicant is aware of the process for creating a connecting trail to the Appalachian Trail and would be compliant with said process.

Opportunities for public fishing and canoeing would be available in the Swamp River. The Swamp River boat launch would provide an access point to the River for residents of the proposed development and the general public. Recreational use of the existing reservoir would also be open to the public, subject to use limitations consistent with the reservoir’s watershed management plan. Recreational uses such as fishing, canoeing or kayaking, and nearby hiking trails could be allowed by the Applicant.

The golf course is planned to remain available to the public and be privately maintained. Memberships would be available to the general public, although it is anticipated that there would be a preference for a portion of the memberships for HOA members and existing golf club members. It is envisioned that the course would also be open for play by the general public without memberships, subject to availability/capacity and a use fee. Occasionally, this facility could be made available to others for special events. Private

recreation facilities would include the small community buildings and swimming pools to serve Project residents on either side of Route 22.

The Town of Dover Recreation Department and other non-town organizations (e.g., Little League) offer a great diversity of recreation opportunities. The numbers of participants for most of these individual programs are currently relatively small. The Project would likely result in increases in participation levels for each program proportionate to the overall population increase associated with the Project. The Recreation Department has noted that its primary desire is to consolidate its offerings and facilities at Boyce Park. Currently, recreation programming occurs at sites dispersed throughout the Town.

The Town Board finds that, as described above, the indoor and outdoor recreation facilities proposed as part of the Dover Knolls Project are extensive and would serve residents of the new development and, in certain cases, the population of the Town of Dover as a whole.

The Project would have two community buildings serving the indoor and outdoor recreation needs of Project area residents. Facilities would include swimming pools, meeting rooms, movie screening/media rooms, exercise equipment and reading libraries. Formal outdoor open spaces located throughout the site would include play and sitting areas, suitable for active and passive recreation. The largest of these areas is an approximately 1.4-acre open lawn area in the western portion of the site. This area could be used for youth soccer, frisbee throwing and similar games. The project includes trails for walking, hiking/biking that are easily accessed from each proposed neighborhood. Another amenity is the site for a potential community garden, in the southwestern portion of the site.

The Town currently has approximately 35.8 acres of parkland suitable for active recreation programs. Additional acreage is available for passive recreation and hiking. Using a standard of 5.0 acres per 1,000 population, the Town would need approximately 42.5 acres to fully serve its population. With the additional population from the Project, demand for parkland would rise to approximately 61.0 acres. Considering the 35.8 acres of existing parkland suitable for active recreation programs, there would be a deficit of approximately 25.2 acres. As noted above, the Project contains a significant amount of open space land. However, not all of that land (such as the golf course) would be suitable for the needs of the Town's recreation programs. Of the total Project open space, the approximately 14.25 acres suitable for active open space would represent 56.5 percent of the unmet demand for active open space. If an allowance were to be made for access to the golf course and provision of a trail system, as proposed, the Town Board determines that approximately 60 percent of the Project's overall recreation demand would be met by on-site facilities.

The unmet demand (40 percent) would be met through assessment of the Town's recreation fees, currently set at \$3,000 per dwelling unit. Full assessment of the Town's recreation fees for the 1,376 dwelling units would be \$4,128,000. The unmet 40 percent would be \$1,651,200 which shall be paid in scheduled increments as building permits are

issued over the buildout, with an initial payment covering the fees for the first 220 units to be made at the time of site plan approval.

Not included in the above is the potential for future reuse of Smith Hall, as an active community center serving both Project and town residents. If reuse of that building were to come to fruition in Phase II of the development, through efforts of the Town, the Applicant and possible recreation facility users, the Smith Hall community center should replace all of the Phase II recreation fee requirements as described above.

*e. Library*

The Town Board finds that the Project would not cause adverse impacts to the Town library. The library has 5,778 registered borrowers. The Project is anticipated to generate a total population of approximately 3,412, or an approximately 40 percent increase in the Town total of approximately 8,565. The expected increase in borrowers would be expected to be less than 40 percent, due to the amenities provided onsite, and due to the fact that the library also serves patrons registered at other libraries in the Mid-Hudson Library system.

The Town Board currently allocates a minimum of \$225,000 to the library budget; however that amount could be modified. The Project is anticipated to generate approximately \$78,000 annually in tax revenue for the library. The Town Board finds that this increase in available funding is roughly proportionate to the expected increase in visitors and, therefore, would be sufficient to provide for proportionate increases in staffing, materials, and operating funding. In the event that additional dedicated library facilities are eventually determined necessary by the Town, the proposed Project offers a large quantity of space that could be available to be utilized as library or other municipal services annex.

*f. Schools*

The Town Board further concludes, with the assistance of its professional consultants, that the Project would not adversely impact the Town's schools. The Dover Union Free School District supplied its most recent enrollment figures from August 2009, which indicate a decrease to 1,562 students in 2009-2010 from 1,868 students in the 2001-2002 school year. The declining enrollment is a regional trend that is expected to continue for the next few years. In addition, the Superintendent has provided correspondence indicating that the District's current and projected excess building capacity would allow the District to absorb the Project's new students.

The Town Board notes that the Modified FEIS Plan further reduced the number of students the Project is projected to generate. While the total number of dwelling units has remained at 1,376, the reduction in density in the perimeter of the site and its relocation to the site's core have resulted in changes in the mix of proposed unit types. These modifications have resulted in a decrease in the number of projected school children from 539 to 449 students. This change is primarily a result of the loss of larger, single-family units, and an increase in the number of smaller, multifamily units. The estimated cost to educate the Project generated school children would be approximately \$3,129,530.

Utilizing current Town tax rates this is substantially less than the \$5,648,000 in school district taxes that would be paid by the Project at full build-out, creating a net positive fiscal impact of approximately \$2.5 million annually for the public schools.

*g. Home Owners Association/Condominium Association*

The Town Board finds that the Project would satisfactorily maintain common facilities through the creation of homeowners associations (“HOAs”). Prior to marketing units in any Hamlet or Neighborhood, or in the Town Center, the Applicant would form an HOA for each area. At a minimum, each of these neighborhood HOAs must be made responsible for managing the common areas and/or facilities within each discrete community, including private roads, stormwater basins, and local community greens or open areas. The Project must also have a Master HOA and open space management plan, which would be responsible for open spaces and/or facilities common to the entire Project, such as the Recreational Trail System, and the Reservoir, and which shall be set forth in a recordable instrument. Both the Dutchess and Oblong Land Conservancies expressed comments regarding the control and management of the open space and potential conservation easements. The Master HOA will likely contract with one or more entities, as appropriate to manage certain common facilities. Such an entity may very well be a land trust or other non-profit entity, depending upon their capabilities, experience and interest. However, the actual conferral of management responsibility over the common areas is not appropriate or necessary at the Master Development Plan stage.

The Applicant’s site plan shall set forth limit of disturbance lines and demarcate lot lines and open space boundaries.

Wheeler Road and Hutchinson Avenue are proposed for dedication to the Town. The remainder of the roads within the Project site, the utilities and the parking facilities would remain in private ownership and be maintained by the HOA. The exception to this would be a portion of the parking at the Metro-North station, which is expected to be transferred to Metro-North. If, for any reason, this parking area is not transferred to Metro North, the Town Center HOA must be made responsible for its upkeep. Stormwater management basins would also be owned and maintained by the HOA.

*h. Town Services*

The Town Board recognizes that the Project would result in increased demand for municipal services. As with all development, Town fees are structured in a manner to address the costs of services. Costs for the Building Inspector, for example, would be covered by various permit fees.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse impacts on community services to the maximum extent practicable, and that adverse impacts on community services would be avoided or minimized to the maximum extent practicable through the incorporation as conditions those mitigation measures that have been identified as practicable. The Town Board recognizes that an increase in population necessarily results in increased demands for community services. The Town Board’s finding is based on the fact

that, as detailed above, the Project amenities, anticipated revenue generation and proposed mitigation measures are sufficient to account for the costs to service and ensure that community service capacities are not overtaxed. The Fire Company has been consulted and has provided comments on potential mitigation. However, final details of the mitigation require additional consultation with the Fire Company regarding information specific to the design of individual buildings such as access to each side of the buildings, location and size of parking areas, landscaping, driveways, and building frontage which information will be developed during the site planning process. It shall be a condition of site plan approval that the Town Board, in consultation with the Fire Company and Applicant, shall determine whether any additional fire equipment shall be needed to address any of the Project design details incorporated during such review.

***Economic Conditions***

The Town Board recognizes that economic considerations per se are generally not within the scope of SEQRA review. The Town Board has, nevertheless, thoroughly evaluated the Project's potential economic impacts in connection with its responsibility under SEQRA to weigh and balance the relevant environmental impacts with social, economic and other considerations. The Town Board also appreciates the comments from the public regarding the fiscal analyses, which helped to clarify overall municipal cost estimates and the net fiscal benefits by unit type, and helped influence modifications to the proposed housing program. The Town Board accepts the FEIS's economic assessment for the modified FEIS plan. It concludes that the proposed Project is estimated to generate direct permanent employment of about 790 jobs with associated annual compensation of approximately \$27 million (including benefits). In addition, the Project is estimated to generate 2,940 jobs during the construction period (2,500 would be construction jobs, with the additional jobs for work such as engineering, financing, etc.).

The Town Board, with the assistance of its professional consultants, concludes that, at full buildout, the Modified FEIS Plan would generate approximately \$7.7 million in permanent property tax revenue. Of this total, \$5.7 million would go to the school district, \$803,000 to the Town, \$221,000 would go to the fire district, and \$78,000 would go to the library. In addition to property taxes, the analysis conservatively estimates that retail uses would generate about \$834,000 in sales tax revenue for Dutchess County and \$889,000 for New York State, annually.

Using an average cost model (based upon average household municipal cost estimates prepared by the Dutchess County Economic Development Corporation), the Project would be expected to increase municipal service costs by approximately \$529,646 annually. This is less than the Project generated Town property tax revenue of \$803,000, resulting in an annual net surplus of approximately \$273,354. As described in the DEIS, the average cost model assumes that the share of the cost of providing services for a new development is proportionally the same as for existing residences and businesses. However, the Town Board and its consultants recognize that this approach likely overstates the Project's actual costs to the Town, as the Project would be responsible for providing some of its own services, which would reduce the impact on municipal costs. For example, the Highway Fund accounts for approximately 30 percent of the Town's total budget. However, most of the Project's

internal road network would be privately owned and maintained, resulting in a minimal increase in the linear feet of new roadway that would need to be maintained and plowed by the Highway Department.

In addition, there are a number of budget items that would not necessarily be affected by changes in service population, such as the Town Board, Budget, IT, Highway Superintendent, Garage, Association Dues, Historian, and Celebrations. The FEIS included a preliminary budgeting exercise undertaken by the Town Supervisor, using the 2010 budget as a baseline and assuming full build-out and occupancy of the Project, in order to provide a more detailed portrayal of the potential increased marginal costs for the provision of municipal services. The Project generated residents represent an approximate 40 percent increase in the Town population. For those budget lines that would be expected to have increased workload, the marginal cost would generally be less than the 40 percent average proportionate share represented by the new residents. As indicated in the FEIS, and as the Town Board concludes, the Projected General Fund and Highway costs would more likely approximate \$245,901, which is less than Projected by the average cost approach and less than the Project generated Town property tax revenue of \$803,000. The analysis also assumes proportionate increases for the Fire and Library funds and projects a total increase of approximately \$323,000. The Project is projected to generate approximately \$299,000 annually for these taxing jurisdictions. The Project would also likely result in additional non-property tax revenues for the Town. For example, new residents would pay for various fees, licenses and permits. The Town would also realize increased revenues from franchise fees (new Cablevision contracts) and taxes from home sales/resales, which would further off-set the marginal service costs and increase the likely annual surplus. These additional annual revenues are estimated at approximately \$164,000.

In addition to the average costs assessments of the phased and full build-out and the marginal cost analysis discussed above, the FEIS also included per-unit fiscal impact analyses by sample unit types (single-family homes, townhouses, and apartments) to respond to public comments. The Town Board finds that these analyses demonstrate that the Project will have a positive fiscal impact over its build-out.

The FEIS analysis of potential school district costs was based upon the changes to the program made as part of the Modified FEIS Plan, including the reduction of age-restricted units, as well as single-family units. The cost to educate Project generated school children would be approximately \$3,129,530. This is substantially less than the \$5,648,000 in school district taxes that would be paid by the Project, creating a net positive fiscal impact of approximately \$2.5 million annually for the public schools.

Based on the new employment, activity, and increased tax and associated other revenues, the Town board finds that the Project would result in positive economic impacts for the Town. The Town Board must weigh this finding, together with social and other essential considerations, with the Project's environmental impacts.

***Cultural Resources***

*a. Archaeology*

The Town Board, with the assistance of its professional consultants, concludes that, based upon the results of field testing set forth in the Phase 1B report, Project construction would not adversely impact potential significant archaeological resources.

Both the Phase 1A and 1B reports, which the Town Board and its professional consultants have reviewed, were submitted to the State Historic Preservation Office (“SHPO”). SHPO does not require a formal testing plan, however, standard recommendations were made for Archaeological Stage 1B testing. Materials requested by SHPO were forwarded to their office. In the May 14, 2007 letter from SHPO, Mr. Markunas states that “based on the review of the submitted report the SHPO does not have any further archeological concerns in the areas that were examined. Project changes would entail additional review, however, as the Project stands further archeological study is not warranted.” The Town Board accepts this finding.

As indicated on the mapping in the Phase 1A, the two cemeteries are located outside of the proposed areas of development and would therefore not be affected by the Project. The Applicant has had discussions with representatives from the NYS Office of Mental Health, who have indicated an intent to facilitate restoration of these cemetery sites. The Applicant is required to cooperate with the Office of Mental Health in this regard.

*b. Historic Resources*

The Town Board recognizes that Project development would result in the unavoidable demolition of some of the HVPC buildings identified as meeting the criteria for listing in the State and National Registers. These include four of the I-buildings, four of the H-buildings, and the dining hall in the main campus core, as well as several smaller farm and residential buildings towards the periphery of the Project site. Based on a site inspection, documentary research, and an evaluation of the buildings’ significance and integrity, the Phase II Historic Architectural Study concluded that those buildings previously identified as eligible for listing and proposed for demolition retain their eligibility for listing on the National Register of Historic Places. As noted in the FEIS and SHPO comment, implementation of the Project would therefore result in an unavoidable adverse impact on these resources. The Town Board concludes, however, with the assistance of its professional consultants, that from among reasonable alternatives, adverse impacts to eligible structures on the site would be avoided or minimized to the maximum extent practicable. First, the institutional buildings to be removed are generally set further back from Route 22, and the views of some of them from the public right-of-way are blocked by existing buildings. Moreover, the Project would require concurrence from and be subject to an agreement with SHPO setting forth procedures and measures to be taken in connection with those buildings identified as potentially eligible for registry and whose demolition is unavoidable.

An alternatives analysis was also prepared as part of the DEIS reviewing a scenario that did not require demolition of the potentially eligible buildings. The Town Board notes that retention of all potentially eligible buildings would adversely affect the traditional

neighborhood design concepts for the proposed development, given the awkwardly placed and odd-angled H buildings. Moreover, keeping these building would eliminate space needed for off-street parking in the area behind the two I-buildings on Route 22, which are planned for adaptive reuse in the proposed Project. Therefore, there would be no off street visitor or resident parking for the residential units and there would be no parking for Smith Hall or the Lady of Solace Church.

The Town Board understands that there are also significant building design challenges associated with adaptive reuse. It is difficult to achieve modern residential floor plans from the floor plates, interior spaces, and corridor alignments of historic buildings. Design compromises often result in undesirable living spaces, inefficient space usage, and inadequate natural light. Furthermore, the inclusion of integrated garage space is difficult in many historic structures, particularly those on this site. As a result, new residential products generally achieve a pricing premium over adaptive reuse products. This is supported by the findings of a case study of the price differentials for a group of comparables within the metropolitan New York region, which indicated new product sales values ranging up to 30 percent great than the adaptive reuse product.

In addition to the architectural design and land planning considerations, as part of the plan development and DEIS process, the Applicant's economic consultants, ERA, analyzed the financial feasibility of additional building reuse. The analysis included both an evaluation of the marketability of adaptive reuse properties relative to new product, and an analysis of the financial feasibility of adaptive reuse relative to new construction. The analysis concluded that residences in adaptive reuse buildings would be likely to trade at a discount to new product, and that the additional costs associated with adaptive reuse projects would not be market supportable at the site.

The Town Board notes that many of the buildings that are identified as eligible for listing would be protected and restored as part of the Project, including two of the I-buildings, the Administration building, the Storehouse, the Power Plant, the U-building north of Wheeler Road, the Director's Residence, Smith Hall, and some of the smaller staff residences. Notably, the large campus buildings to be retained and protected are clustered along the Route 22 frontage, maintaining the site's historic presence along this roadway, and preserving the key public historic visual component of the former HVPC facility.

Accordingly, the Town Board finds, following a review that made every effort to reconcile the Town's redevelopment goals for the former HVPC facility with preservation, and which considered alternatives to the proposed demolitions, that all feasible and prudent means have been undertaken to avoid adverse impacts on potentially eligible buildings.

**Table 9  
Building Inventory**

<b>Bldg.No.</b>	<b>Description</b>	<b>Construction Date</b>	<b>S/G/D*</b>	<b>Gross Square footage</b>	<b>Eligible for State or National Register</b>
1	Rizzolo Annex - Pt. Housing, offices	1931	D	64,964	No
2	Kitchen (C) WDC	1930	D	25,024	No
3	Patient Programming WDC	1924	D	69,025	No
4	Housing - DFY (F)	1928	D	143,270	No
5	Kitchen DFY (G)	1926	D	56,102	No
6	DFY (H)	1928	D	143,270	No
7	Staff Home	1927	D	3,240	No
8	Staff Home	1927	D	3,240	No
9	Staff Home	1927	D	3,240	No
10	Grounds, Safety, Firehouse	1918	D	17,378	No
11	DFY	1926	D	20,830	No
12	DFY Administration Office (R)	1930	D	20,458	No
13	Staff Apartments	1928	S	5,396	No
14	School of Nursing (P)	1927	D	25,752	No
15	Baseball Grandstand	1932	D	3,500	No
17	Laundry Distribution - WDC & Wass. DC	1924	D	51,296	No
18	Staff Apartments, Employee Daycare	1934	D	16,282	No
19	I-Building	1932	S	35,996	Yes
20	I-Building	1932	S	35,996	Yes
21	U-Building	1933	S	50,935	Yes
22	Storehouse	1934	S	111,515	Yes
23	Administration Building	1933	S	23,853	Yes
24	Kitchen	1934	D	73,174	Yes
25	Patient Housing - WDC	1934	D	137,100	Yes
26	Roberts Residence - Pt. Housing	1934	D	137,100	Yes
27	Bittle Residence - Pt. Housing	1934	D	137,100	Yes
28	Vacant	1934	D	137,100	Yes
29	MR Behavior Unit	1933	D	29,294	Yes
30	DOC Housing	1933	D	29,294	Yes
31	DOC Housing	1933	D	29,294	Yes
32	DOC Housing	1933	D	29,294	Yes
33	Staff Apartments	1932	S	10,924	Yes
34	Power Plant	1933	S	49,618	Yes
35	Smith Hall	1938	S	49,106	Yes
36	Staff Home	1890	D	3,160	No
37	Staff Home - Pt. Programming	1928	D	3,210	No
38	Staff Home	1890	D	5,540	No
39	Director's Residence/Manor House	1932	S	6,770	Yes
40	Garage	1932	G	610	Yes
43	Short Stop	1965	D	660	No
45	Garage	1928	D	450	No
46	Staff House	1890	S	5,040	Yes
47	Garage	1934	S	640	Yes

*Knolls of Dover Statement of Findings*

<b>Bldg.No.</b>	<b>Description</b>	<b>Construction Date</b>	<b>S/G/D*</b>	<b>Gross Square footage</b>	<b>Eligible for State or National Register</b>
48	Storage Barn	1928	G	6,960	No
50	Storage Barn	1915	G	1,296	Yes
51	Storage Barn	1900	D	900	Yes
52	Garage	1900	G	529	Yes
53	Crisis Residence	1900	D	5,860	Yes
54	Staff Home	1900	D	2,080	No
55	Storage Barn	1932	D	6,430	No
56	Storage Barn	1933	D	2,510	Yes
57	Storage	1932	D	2,480	Yes
58	Storage	1929	G	1,590	Yes
59	Pump House - Water System	1932	D	1,280	No
60	Clubhouse	1939	D	1,350	No
61	Tool Shed	1935	D	675	No
62	Digester Building - Sewer System	1932		288	No
63	Meter House - Sewer System				No
64	Disposal Beds - Pump - Sewer System	1935		1,810	No
65	Disposal Beds - Sludge - Sewer System	1932		8,970	No
66	Disposal Beds - Storage - Sewer System	1935		437	No
67	Greenhouse	1931	D	5,300	No
68	Staff Home	1900	D	3,460	No
69	Storage Barn	1939	D	300	No
70	Filter House - Water System	1932		2,590	No
71	Clear Wells				No
72	Aerator - Water System				No
73	Water Tank - Water System				No
74	Dam/Gate House - Water System	1918	G	447	No
77	Pump House - Water System				No
79	Guard Shack	1949	D	219	No
80	Land Fill Building	1970	G	900	No
81	Storage Barn	1954	D	2,450	No
85	Sullivan Tower - Pt. Housing, clinic	1964	D	211,012	No
91	Staff House	1953	D	2,178	Yes
92	Staff House	1953	D	2,178	Yes
93	Staff House	1953	D	2,399	Yes
94	Staff House	1967	D	1,200	No
95	Staff House	1968	D	1,200	No
96	Shed - Picnic Grove		D		No
97	Pavillion - Picnic Grove		D		No
99	Shed		D		No
103	Storage Barn	1954	G	4,000	No
107	Our Lady of Solace	1962	S	29,220	No
109	Blower House - Sewer System	1957		384	No
110	Equipment Garage		D		No

\* - S = Building to be Saved as part of Proposed Project; G = Building no longer existing; D = Building to be Demolished as part of Proposed Project.

*Potential Off-site Historic Resources*

The Town Board recognizes that the Project would possibly be visible from both the White School and the Hoag House and Barn Complex, which were identified in the DEIS. However, both have been considerably altered. In addition, numerous 20<sup>th</sup> century dwellings that post-date 1947 now surround both areas. The proposed new homes would be consistent with the existing single-family homes fronting onto both Hoags Corner Road and County Route 21. The proposed residential lot sizes would be similar in size to surrounding lots. Therefore, the Town Board, with the assistance of its professional consultants, concludes that development would be visually compatible with surrounding land uses and appropriate for the landscape, and would not significantly alter the existing viewscape from either site.

*Stone Walls*

The Town Board recognizes that the stonewall that partially bounds the cemetery is the only stone wall considered to have potential historic significance. The wall helps define, in a traditional rural fashion, the limits of a sacred space; it is an integral component of the landscape of the roadway. This section of the stonewall, which could be considered a historic resource, would not be affected by the Proposed Action.

The Town Board, with the assistance of its professional consultants, finds that the stonewall between the golf course and the former Dykeman property has been previously disrupted and partially dismantled. It has lost its integrity as a farm boundary wall. The Town Board concludes that it is not a historic resource, so that potential disturbance during the proposed reconfiguration of the golf course would not be a significant impact warranting the imposition of mitigation measures.

Stonewalls in the more elevated portions of the east side of the Project site do evoke the agricultural past of the Wingdale area, and might be considered historic resources. However, the majority of these walls would not be disturbed by the Proposed Action.

*Landscape*

There are three main landscaping features that dictate the public perspective of the HVPC campus: (1) the open vistas and contoured landscape of the Harlem Valley Golf Course on the west side of Route 22; (2) the corridor of rhythmic buildings and open spaces that line Route 22; and, (3) the allée of mature trees, plantings, and open lawn in front of the Administration Building. Each of these features, which are related to the development and continued use of HVPC, enhance the context of the historic resources but are not distinctive historic resources in and of themselves. The Master Development Plan submitted with the FEIS shows that each of these features would be maintained or recreated to a large extent, providing a continuity of the Project site's landscape and local viewscape.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse impacts on cultural resources to the maximum extent practicable, and that adverse impacts on cultural resources would be avoided or minimized to the maximum extent practicable through the incorporation of those mitigation measures set forth herein.

### ***Stormwater Management***

The Town Board, with the assistance of its professional consultants, finds that the Project would avoid or minimize adverse stormwater impacts to the maximum extent practicable. The redevelopment of the former HVPC site would increase the impervious surfaces on the site from approximately 60 acres to 111 acres. This increase in impervious area would cause an associated increase in stormwater peak flow rates and an increase in nutrient and contaminant loads discharging to surface waters. However, the Proposed Action proposes the implementation of both structural and non-structural best management practices to mitigate the potential impacts from the proposed development. The Town Board notes that the existing conditions on the site does not provide for any water quality treatment or detention of surface water runoff (including buildings, roads, parking lots, and a 9-hole golf course) prior to discharging into the Swamp River. As such, the Town Board concludes that the Project would decrease the quantity and improve the quality of stormwater flowing from the HVPC site to the Swamp River.

As noted above, it is a condition of these Findings that the Project stormwater quality meet or exceed the requirements set forth in the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-10-001 or current permit) regarding post-development stormwater quantity and stormwater quality. The Town Board notes that the Project would include a combination of Stormwater Management Practices (SMPs), including the installation of stormwater ponds and stormwater wetlands, to detain and treat the site's stormwater runoff. The SMPs must be designed to treat the entire runoff from 90 percent of expected rain events, as defined by the New York State Stormwater Management Design Manual. The SMPs must also provide detention for storm events up to and including the 100-year storm.

The Modified FEIS Plan removed all stormwater basins from the wetland buffers and 100-year flood zone boundary, with the exception of the redevelopment area between the Swamp River and Route 22, where water quality measures are proposed in previously disturbed areas. Beyond these changes in basin locations, the general treatment methodology, goals, and types of stormwater quantity and quality management measures utilized remain the same as detailed in the DEIS.

The Town Board recognizes that, as shown in the Master Development Plan submitted with the FEIS, and as recommended by the Housatonic Valley Association, Low Impact Development ("LID") techniques have also been incorporated in the Proposed Action. Elements of LID that have been incorporated in the current plan include: the clustering of units in distinct hamlet areas; preserving a greater percentage of site-wide open space area and the reduction of land clearing area; the use of roadside swales, detention ponds, porous pavement, and rain gardens where appropriate, to capture and collect stormwater runoff, thereby preserving wildlife corridors and minimizing the need for a closed pipe drainage system; creation of a naturally vegetated buffer system along the existing wetland areas; the incorporation of the existing wetland ecosystem into the stormwater drainage design; the use of sidewalks on one-side of the street where practical to reduce impervious surfaces; and the

use of reduced road widths in the outer lying portions of the development site to reduce impervious area and Project stormwater runoff volumes. Hydrodynamic separators may be considered in areas not adjacent to wetlands and watercourses. The LID elements shown in the plans submitted with the FEIS must be incorporated in all site plans submitted in conjunction with site plan review.

The Town Board finds, therefore, that the proposed stormwater management plan is comprehensive and appropriate and would properly minimize the potential for adverse impacts related to stormwater to the maximum extent practicable.

The Housatonic Valley Association has requested that detailed stormwater management and erosion control drawings be prepared as part of this process. As noted above, this is not appropriate or typical for Master Development Plan review. These items will be, appropriately, submitted by the Applicant, for the Town Board's approval, as part of site plan review. The level of detail and calculations provided in the FEIS stormwater management plan are appropriate and sufficient to allow for a determination of impact significance.

The Housatonic Valley Association has expressed concern regarding the potential for impacts to the reservoir from stormwater discharge. Stormwater runoff conveyed to Stormwater Basin/Water Quality Basin E10A will be treated to permitted water quality requirements prior to discharge to the reservoir. Water from the reservoir cannot be consumed without prior treatment, as is currently provided. Similarly, any future consumption of the reservoir water through the public water system will first be routed through a Water Treatment Plant to provide potable water for public consumption which may be improved to accommodate changes in water demand, current regulatory requirements and/or improvements to efficiency of operations. Due to the age of the treatment plant, it is anticipated that it would require these improvements regardless if the Project is developed.

### ***Traffic and Transportation***

The Town Board, with the assistance of its professional consultants, finds that the Project effectuates the Dover Zoning Code's purposes related to traffic and transportation, encouraging pedestrian activity and reducing automotive traffic, improving transportation facilities in areas designated for intense development, reducing traffic congestion on major roads by establishing a pattern of settlement and circulation that reduces the need for driving, providing alternative routes between destinations, and encouraging walking, bicycling, and the use of commuter rail and other forms of transportation.

#### ***Traffic***

The Town Board, with the assistance of its professional consultants, concludes that the Project avoids or minimizes adverse traffic impacts to the maximum extent practicable through the incorporation of those mitigation measures set forth herein. To estimate the amount of traffic to be generated by the Project during each of the peak hours, the Applicant's consultant developed Hourly Trip Generation Rates and Anticipated Site Generated Traffic Volumes, which the Town Board and its consultants have reviewed, based on information published by the Institute of Transportation Engineers (ITE) as

outlined in their report titled, “Trip Generation”, 8th Edition, 2008.

The following table summarizes the Full Development Trip Generation, which the Town Board accepts, for each of the peak hours.

**Table 10  
Full Build-Out - Hourly Trip Generation Rates**

	<b>ENTRY</b>	<b>EXIT</b>	<b>TOTAL</b>
	<b>VOLUME</b>	<b>VOLUME</b>	<b>VOLUME</b>
<b>WEEKDAY PEAK AM HIGHWAY HOUR</b>	<b>294</b>	<b>501</b>	<b>795</b>
<b>WEEKDAY PEAK PM HIGHWAY HOUR</b>	<b>713</b>	<b>580</b>	<b>1293</b>
<b>SATURDAY PEAK HOUR</b>	<b>683</b>	<b>608</b>	<b>1291</b>

Source: Institute of Transportation Engineers (ITE), “Trip Generation”, 8<sup>th</sup> Edition, 2008.

\*ITE Average Trip Rates were utilized to provide a consistent trip rate between development stages. In addition, it was determined that the average rates would be appropriate in lieu of any interplay credits between the residential, office and retail uses.

The Project includes the reconstruction of the Route 22/Wheeler Road intersection to accommodate additional turning lanes, as well as signal timing changes at the Route 22/Pleasant Ridge Road intersection. The Town Board concludes that the Project would not significantly affect the roadway system in the vicinity of the site with these proposed improvements. At a few locations, the Level of Service (LOS) capacity analysis calculations indicate that operating conditions by 2020 for some movements may include LOS E and F (as defined in the DEIS). These locations include:

- Route 22 and Rural Avenue (south leg)
- Route 22/55 Split
- Route 22/55 and Furlong Road
- Route 22/55 and Hurds Corner Road/Old Pawling Road
- Route 22/55 and North Quaker Hill Road

The Applicant shall monitor these locations for signalization since the modeled traffic volumes from regional growth and the other specific projects identified for the No-Build may not be realized. The Applicant shall submit a Traffic Monitoring Report prior to initiating Phase 2 of the Project, describing build traffic conditions at such time and analyzing whether there is a need for potential upgrading of these intersections. The Town Board finds that volumes on the side roads are relatively modest compared to the traffic on Route 22, and it may be difficult to meet warrants that would justify a traffic signal. The analyses, which the Town Board accepts, indicate that if these future volumes are realized, with signalization, these intersections would all operate at acceptable conditions.

The County Planning Department expressed concern about the width of Route 22 and Main Street sections in regards to their ability to naturally slow traffic and promote walkability. The Town Board agrees that, in an ideal situation, the new intersection with Wheeler Road (the new Main Street) should be as narrow as possible. The crossroad, however, is a State highway, which accommodates significant volumes. In addition,

turning lanes are required in order to allow for proper traffic safety and movements. The intersection will have a number of other visual cues, which the Town Board finds will help identify this as a community area, and help slow traffic approaching the intersection, including new buildings and activity at the corners of the intersection, pavement markings, a planted median, and reactivated and infill buildings along the Route 22 frontage.

The Town Board recognizes that it is not uncommon for the side road approach for unsignalized intersections to operate with delays while the major road operates at better Levels of Service. Since the Levels of Service are based on future traffic projections, the intersections are proposed to be monitored at the end of Phase 2. If Traffic Signal Warrants are met, they must be forwarded to the NYSDOT. Based on future traffic projections, it appears that Traffic Signal Warrants would not be met based on the side road peak hour volumes for the following: Route 22 and Rural Avenue (south leg); Route 22/55 and Hurds Corner Road/Old Pawling Road; and Route 22/55 and North Quaker Hill Road intersections. Based on the projected side road peak hour volumes, it appears that Traffic Signal Warrants could be met for the Route 22/55 split, and the Route 22/55 and Furlong Road intersection.

In addition, with the exception of the turning lane improvements to the NYS Route 22/55 and Wheeler Road intersection, there is no need to widen NYS Route 22 to a multi-lane roadway within the Project area. However, at certain locations there may be a need for turning lanes and/or signalization. South of the Project area, especially just north of I-84, there is currently a need for a multi-lane roadway. The New York State Department of Transportation (NYSDOT) has a preliminary design underway for NYS Route 22 between I-84 and County Route 65 (PIN # 8130.64) scheduled in 2015. A Design Report has not yet been started. The traffic information relating to this Project as well as the other developments in the area can be used by the NYSDOT in their study.

As part of the site plan approval process, the Applicant would address detailed intersection geometry, driveway and sight distance comments presented by the Dutchess County Department of Public Works, Highway Systems Management Division.

*Sensitivity Analysis of NYS Route 22/55 and Wheeler Road*

Based on the results of the capacity analysis for the full development, separate left turn lanes and separate right turn lanes are required on both the NYS Route 22/55 northbound and southbound approaches, as well as separate left turn lanes on both the Wheeler Road eastbound and westbound approaches. These improvements must be built during Phase 1.

A sensitivity analysis was conducted at the NYS Route 22/55 and Wheeler Road intersection for development Stage 1A to determine if the above improvements are required for this preliminary stage of development. Based on the results of the analysis, the existing intersection can accommodate the Stage 1A development prior to the above improvements being constructed. Therefore, these improvements must be put in place prior to the start of construction for Stage 1B.

*Parking*

The proposed neighborhood residential units are generally self-supporting in that the units supply spaces in garages, which are generally setback from the front of the homes, tucked underneath for certain townhome and duplex configurations, or accessed from rear alleys. On-street parking is also provided along roadways in the neighborhood areas in order to provide space for visitors, consistent with traditional neighborhood design principles.

Consistent with the Zoning Code's purpose of encouraging businesses in hamlets, the commercial uses are concentrated in the Town Center, where they are served by surface parking areas located to the rear of the buildings. The Town Board, with the assistance of its professional consultants, finds that this configuration allows for a vibrant, active and pedestrian friendly downtown and is intended to provide an environment where visitors would park once and leave their car while potentially making visits to multiple businesses. Similar to municipal lots in established downtowns, usage of the lots would be shared by all of the businesses in the Town Center. The largest surface lots would be located to the south of Wheeler Road near the proposed grocery store. On-street parking would also be provided to supply additional parking for visitors to the Town Center and to encourage slower vehicle speeds. It is expected that Our Lady of Solace, and potentially Smith Hall, would receive periodic use for community events. The large surface lots proposed on the south side of Wheeler Road would be available to accommodate visitors for these uses, as well. The Applicant shall consider the use of pervious paving in parking areas where appropriate.

The projected parking needs of the Town Center components have been calculated using typical design standards of 4 spaces per 1,000 square feet for commercial uses, 3 spaces per 1,000 feet for community or amenity spaces, and 1.5 spaces per Main Street dwelling unit. As detailed on the parking configurations and parking space counts on Drawing Sheet SP-0.1, the total number of conveniently available parking in the Town Center exceeds the projected combined recommended parking. The Town Board, with the assistance of its professional consultants, accepts this finding. The Town Board also notes that this calculation does not take a shared-parking credit, which is often utilized to reduce projected parking demand for mixed-use Projects with components anticipated to have differing peak parking time periods.

*Public Transportation*

The Project fulfills one of the Zoning Code's main objectives by taking full advantage of rail transportation access available in the Town. The Project site is traversed by the Metro-North Harlem line, a commuter rail service, with the Harlem Valley/Wingdale station located in the heart of the Project at the intersection of NYS Route 22 and Wheeler Road. Travel time from the Harlem Valley/Wingdale station to White Plains is just over one hour and express service available during peak travel hours to Grand Central Station in Midtown Manhattan is 1¾ hours. Current weekday rail service consists of 13 southbound trains, including four during the morning peak commute

period, and 14 northbound trains, with five during the afternoon peak commute period. The site also receives very limited service from the Dutchess County LOOP bus system.

The majority of the Project dwellings (949) are within a 10-minute walk radius of the railroad station. This is consistent with the purposes of the Town Zoning Code, as well as transit-oriented design principles generally, which encourage denser development around mass transit. As noted by the County Planning Department, the Project's shifting of more housing into the Town Center has helped further the TOD principles and orientation of the plan. The County has suggested that Roads C, E and S be reduced in length in order to increase the percentage of units within the ½ mile radius. The Board notes that total removal of these roads would only affect approximately 4percent of the Project units and would not markedly change the TOD character of the project. Additional sidewalks were also recommended by the County Planning Department. The areas along Wheeler Road and Road D do not include traditional sidewalks. They include, however, trail/bike path connections, which are consistent with the natural character of these areas and provide proper connectivity between hamlets and the station. The Town Board does find, however, that additional connectivity within the edge of the Town Center on the east is appropriate and requires that the site plan drawings incorporate a sidewalk on Road K.

While it would be desirable to have a station building structure near the existing platform, Metro-North has not indicated a willingness to fund or manage such a facility. The Town Board does not believe the Applicant should be required to undertake this additional expense. In the event that a station building becomes a viable proposition in the future, the Town Board supports the creation of such a facility to enhance the existing train station. In the interim, the Board finds that the rehabilitated Power Plant and Storehouse buildings will provide an opportunity for commercial spaces (e.g., coffee shop, café) that will serve similar functions (e.g., place to get a coffee or newspaper and be sheltered from the elements) and improve the existing station experience.

The Town Board finds therefore that the Project's potential adverse impacts on traffic and the potentially affected transportation network have been mitigated to the maximum extent practicable, including by incorporating those mitigation measures set forth herein. As stated above, given that the modeled traffic volumes from regional growth and the specific Projects identified for the No-Build are very conservative and may not be realized, monitoring of the identified Route 22 intersections for signalization is appropriate. The Town Board also finds that the Project's transit-oriented nature would encourage and support public transportation usage.

### ***Air Quality***

A mobile source air pollution modeling report was prepared as part of the EIS. All results of the modeling were below their respective one hour standard of 35 ppm and eight hour standard of 9 ppm. Therefore, mobile sources from the operation of the Project would not significantly impact air quality.

The Town Board recognizes that the short-term use of heavy equipment operations at the site would result in a temporary minor increase in pollutant emissions from the various equipment used in the construction process for a several year phased duration. However, the major concern during the construction operation would be the control of fugitive dust during site clearing, excavation, demolition and grading operations. Fugitive dust is essentially airborne soil particles caused by heavy equipment operations entraining the soil into the air. To a lesser extent, some fugitive dust emissions would arise from wind erosion of the exposed soil after the groundcover is removed. All construction related air quality impacts would be of relatively short duration and generally not in proximity to public receptors. The Town Board finds that the phasing of the Project would reduce the intensity of any impacts. In addition, the Applicant must employ best construction management practices to reduce soil erosion and possible sources of fugitive dust. This must include, at a minimum, the daily use of water/spray trucks in dry periods and anti-tracking pads at construction entrances.

As discussed in greater detail in the section of these Findings pertaining to Hazardous Materials, the Applicant is responsible for the safe handling and disposal, pursuant to all applicable legal requirements, of any asbestos containing materials that are disturbed. Prior to initiating the design of any structure rehabilitation/demolition or roadway construction, the Applicant must determine whether any asbestos containing materials, which may currently exist as building, structure, roadway and/or utility components of the affected Project Site, would be disturbed as a result of the proposed work. If asbestos containing materials are identified and determined to require abatement, the Project design must incorporate provisions for asbestos abatement and waste disposal in accordance with all OSHA standards and guidelines.

The EIS also modeled carbon emissions and footprints for the operations of several development scenarios. This included: (i) the Proposed Action (with a mix of unit-types, a traditional downtown and transit-oriented design); (ii) a similar mix and configuration without transit usage; (iii) a scenario with conventional suburban single-family home residential development, and; (iv) use of the facility as a hospital (its prior use). As shown by the calculations in the EIS, which the Town Board accepts, the Project would result in the lowest relative quantity of emissions as compared to other potential development patterns for the Site. It would reduce greenhouse gas (“GHG”) emission by approximately 28 percent as compared to a conventional suburban development, and nearly 75 percent compared to the prior use of the facility as a hospital.

While natural gas does not currently exist at the project site, NYSEG has indicated that, pending their financial analysis on the feasibility of the rate of return on the required investment in development and delivery, natural gas could be made available to the project. The Applicant shall continue to actively solicit having natural gas brought to the site throughout the development period. As an alternative to pipeline gas for the early phases of the project, and consistent with recommendations from the NYSDEC, the Applicant has indicated that it will consider the economics of piping gas from a local propane/air system to the structures. Such a system would remain in place until such time as economics allow the extension of pipeline gas to the site. The benefits of a propane/air system include the ability to utilize natural gas burning appliances and therefore a future conversion to natural gas

would be seamless on the part of the homeowners. The Applicant has also indicated that it will consider the feasibility of purchasing a certain percentage of “green power” (electricity generated by the use of renewable or sustainable sources, such as wind, solar, and hydropower).

It is noted that natural gas results in substantially less CO<sub>2</sub> emissions than fuel oil on a “per-btu-basis.” The Natural Gas Supply Association (in the United States) states that natural gas’ CO<sub>2</sub> emissions are 40 percent less than fuel oil on a per-btu-basis; USEPA puts the differential at 27 percent to 30 percent less than fuel oil on a per-btu-basis. However, the substitution of natural gas for fuel oil is largely limited to heating and/or air conditioning needs and so, is only one factor in calculating this project’s GHG emissions. A sample run of emissions calculations performed with the substitution of fuel oil for the natural gas component resulted in an approximately 5.6 percent increase in pounds per year of CO<sub>2</sub> emissions. Since a comparable increase could be expected across each development scenario, there would be no change in their relative ranking in terms of emissions (i.e., even if natural gas does not become available in the area, the Project would still prevail in comparison to other development scenarios because those scenarios would also have to be re-calculated using fossil or fuel oil.)

The compact, mixed-use, and transit-oriented nature of the Project incorporates elements that intrinsically reduce GHG emissions. The Project design itself would reduce the amount of vehicle miles traveled and reduce GHG impacts from mobile sources compared to traditional development. The Project is also composed predominantly of multifamily and attached dwelling units, which are smaller than conventional large-lot single family homes and, consequently, have reduced space heating/cooling needs and electrical demand. This results in reduced greenhouse gas impacts related to energy generation. In addition, the Project includes most of the applicable mitigation measures identified by NYSDEC, including, but not limited to, items such as the use of high efficiency HVAC systems, incorporation of window glazing, gray water reuse, use of rapidly renewable building materials, brownfield redevelopment, incorporation of transit-oriented development principles, and shared parking, among others, which shall be included as conditions to Site Plan. The Project also identifies a large number of green building components, efficient mechanical systems, and technologies, which will be used to further reduce energy usage (and related GHG).

The Town Board finds, therefore, that the Project’s potential air impacts have been avoided or minimized to the maximum extent practicable, including through the incorporation of the mitigation measures set forth herein.

### ***Noise***

The DEIS modeled noise impacts from both the operational phase and construction phase of the Project. As shown by the modeling results, which the Town Board accepts, the Project would not cause a significant increase in sound levels at sensitive existing receptors, with sound increases ranging from below the range of human detection to barely audible. The construction period modeling indicated that the southwest corner of Route 22/55 at the Wingdale Metro North train station in the center of the Project would experience a temporary increase in L(eq) SPL of 25 dB(A) to 89.8 dB(A) during construction. Also, the existing

residence along Hoag Corners Road would experience a temporary increase in  $L_{(eq)}$  of 35 dB(A) to 84.8 dB(A) during construction of residential areas at the site's western end. This is the inevitable result of temporary occurrence of construction equipment, out-of-doors in these areas. Since this noise increase would be temporary, the Town Board concludes that no permanent features need to be incorporated in the Project to mitigate for it.

To minimize adverse noise impacts from Project construction, consistent with the Town Code, construction must be limited from 7:00 a.m. to 9:00 p.m.

In terms of source controls (i.e., reducing sound power levels construction equipment), all contractors and subcontractors must be required to properly maintain their equipment and have the appropriate manufacturer's noise reduction devices, including a muffler that is in good working order. The Town Board notes that these types of controls are, in any event, often necessary to comply with Occupational Health and Safety Administration (OSHA) rules to protect workers from hearing loss.

To the maximum extent feasible, the Applicant should also implement line-of-sight controls between equipment and receptors for loud equipment, such as generators, compressors, trailers, concrete handling equipment, etc. These measures, which are left to the Applicant's discretion, could include placement of such equipment behind barriers such as plywood, vehicles, soil piles, temporary buildings or within or behind excavated areas.

Moreover, to the maximum extent feasible, simultaneous exterior work should be scheduled and conducted to occur consecutively at sensitive locations in order to diminish peak noise levels. The Town Board recognizes that the predicted peak sound/noise levels from the modeling are also the result of more than one "site" being worked outdoors at one time. In the case of the southwestern corner of Route 22/55 at the Wingdale Metro North station, for example, all four "corners" were assumed to have work occurring simultaneously. In the case of the Hoag Corners Road receptor, work was assumed to be occurring north and south of Wheeler Road simultaneously.

The above measures would act to decrease the predicted peak construction  $L_{(eq)}$ 's and reduce the differential increases at the same time.

As a result of public comment on the DEIS, an additional analysis was prepared to address vehicular traffic associated with construction activities for the FEIS. The analysis of the vehicular traffic associated with construction activities, which the Town Board accepts, found that noise from the associated roadway traffic would be more than 9 dB(A) lower than the construction sound sources and would not have a significant impact on noise levels beyond those provided in the DEIS.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse noise impacts to the maximum extent practicable, and that adverse noise impacts would be avoided or minimized through the incorporation as conditions of those mitigation measures set forth herein.

***Hazardous Materials***

Upon review of the record, and in consultation with the Town's consultants, the Town Board finds that certain mitigation measures, which are detailed below, are required to ensure that potential adverse impacts related to the Project from hazardous materials are minimized or avoided to the maximum extent practicable. Any documentation provided to the NYSDEC shall also be provided to the Town at the same times it is submitted to NYSDEC.

*a. Ash Fill Area*

The Town Board recognizes that NYSDEC has already overseen the remediation of the ash fill at the site, but, nevertheless, in an excess of caution, mandates certain mitigation measures to address any residual quantities of ash. Environmental due diligence consisted of the performance of a Phase I Environmental Site Assessment (the "Phase I ESA") by experienced environmental professionals, which included, among other things, a review of historic records and regulatory databases. The Town Board has reviewed the Phase I ESA in consultation with its professional consultants. According to the Phase I ESA, a former ash fill area was remediated pursuant to an Order on Consent between the NYSDEC and State Office of Mental Health ("OMH"), which included the removal of approximately 20,000 cubic yard of ash fill. The previous investigation and remediation was conducted with oversight provided by the NYSDEC.

The Town Board requires as a condition of these Findings that the Applicant submit a Soil Management Plan ("SMP") and Construction Health and Safety Plan ("CHASP") with its Building Permit Application, which must be followed to the extent that residual quantities of ash are identified during development activities. These procedures must consist, at a minimum, of the following: (a) retaining a Part 364 permitted environmental contractor to excavate, characterize, transport and dispose of any impacted soils at the appropriately-licensed disposal facility, (b) appropriate health and safety monitoring, erosion and sediment controls, recordkeeping, and other contingency remediation requirements; and (c) backfilling the excavations with clean fill material. In addition, any imported fill material must contain documentation or be tested to confirm that it is appropriate for the intended use.

In addition, the SMP must also include procedures to ensure the proper testing, handling and disposal requirements for any fill material, ash and/or contamination that is encountered during site development. All impacted material must be properly manifested prior to transportation off-site to an appropriately-licensed disposal facility. The SMP must also include a contingency plan to address any contamination, including procedures for spill reporting, delineation, and remediation, to be documented during the development activities.

The Town Board also mandates certain mitigation measures in connection with excavation of the areas of the site that were formerly used for landfilling/disposal activities. The DEIS identified the potential for methane accumulation in these areas.

The FEIS identified mitigation measures, including a CHASP to minimize human exposure and potential hazards, which would be submitted to the Town as part of the Building Permit Application. The mitigation measures set forth in the FEIS provide for air sampling during earth moving activities in areas of former landfilling, if any, together with the application of soil aeration techniques to address the accumulation of methane gas, which are over one percent of the lower exposure limit, and sub-slab ventilation systems to remove methane accumulation, where necessary.

In consultation with its professional consulting team, the Town Board reviewed the mitigation measures proposed in the FEIS, and concludes that they are required as conditions of these Findings.

*b. Dump No. 2*

The Phase I ESA reported that groundwater data collected in or about 1991 identified the presence of tetrachloroethylene (PCE), iron, lead and manganese. The reported detected groundwater concentrations were considered insignificant enough to warrant removal of the dump from the New York State Solid and Hazardous Waste Site (“SHWS”) list.

No development is proposed for this area. In addition, in response to direct inquiry by the Applicant’s representative, NYSDEC has not indicated any basis to impose further regulatory or investigatory requirements for this area at this time. The Town Board finds therefore, that no mitigation is warranted in connection with Dump No. 2.

*c. Sewage Screenings Dump Area*

Based on the presumed nature of the materials discarded at the sewage screenings dump area, the Phase I ESA concluded, and the Town Board accepts, that it is unlikely that these materials have leached contaminants to the ground and/or significantly impacted the site. The Town Board requires the Applicant to remove these materials, if such area is disturbed during construction, and properly dispose of them in accordance with applicable regulations. The Town Board further requires that, in the event that soil impacts (e.g., visible staining) are noted, the Applicant must conduct soil testing in accordance with the SMP, and, as necessary, follow the SMP’s handling and disposal requirements.

*d. Underground Storage Tanks and Spills*

NYSDEC records included in the Phase I ESA, which the Town Board has reviewed in consultation with its professional consultants, show that the former owner/operator previously closed fifteen (15) aboveground storage tanks (“ASTs”) and nineteen (19) underground storage tanks (“USTs”). The Phase I ESA further indicated that twenty-two (22) spills were reported by the former owner/operator of the site, and that twenty (20) of those spills were closed by the NYSDEC.

*(i) Closed ASTs and USTs and Spills*

The former ASTs and USTs and spills were closed by the prior owner/operator, and there is no record that NYSDEC required further investigation at that time. The Town Board, after careful consideration and consultation with its professional consultants, concludes that mitigation measures are nevertheless required because the lack of closure reports presents the remote possibility that contamination from the former ASTs and USTs and reported spills may be discovered during excavation. Therefore, the Town Board requires the Applicant to develop an SMP and CHASP, as discussed above, to prevent potential impacts to construction workers and the community during site development in the event that any contaminated soil is encountered during the excavation of such areas. The SMP and CHASP must address management of soil/fill imported to and exported from the site, and must include a contingency plan to address areas of former ASTs/USTs and reported spills, and/or ASTs/USTs, which theoretically could be encountered during construction activities, including appropriate health and safety monitoring, erosion and sediment controls, recordkeeping, and any other contingency remediation requirements. The Applicant is further required to inform the Town Building Inspector if USTs or other contamination are encountered during site development, and to provide documentation of spill reporting or other agency notifications, as appropriate.

*(ii) Open Spill Numbers*

Of the 22 reported spills, only two (2) remain open under NYSDEC records. NYSDEC has reportedly agreed to close one of the open spills upon the abandonment of monitoring wells and a former remediation system. The other open spill was reported to be only two gallons. The Town Board recommends that the Applicant close both spills. Based on a successful closure, the Town Board finds that the two open spills do not present a potential significant adverse impact.

*e. Infrastructure*

As set forth above, the Applicant is required to follow the SMP and CHASP in the event that conditions discovered during construction indicate impact to the subsurface environment from prior operations.

The Town Board accepts the Applicant's proposal in connection with removing and abandoning existing tunnels at the site, subject to certain conditions. Most of the former HVPC buildings were previously heated via steam generated at the Power Plant, which was transmitted via a system of tunnels that extends throughout the facility's main campus. The tunnels also contain electric and water lines and served as connecting corridor tunnels between buildings. The Applicant will be removing and abandoning certain tunnels within the Project area. The Town Board accepts this proposal subject to the following conditions:

- The Applicant shall not place, store or dispose of any contaminated materials in any of the tunnels;
- The Applicant must remove and remediate all asbestos in accordance with regulatory requirements before abandoning or removing the applicable tunnels;
- Where tunnels do not conflict with proposed buildings, roads or utilities, the tunnels can be abandoned in place and filled solid with clean fill, recognizable uncontaminated construction and demolition (C&D) debris (as defined and regulated under 6 NYCRR Part 360-7.1(b)(1)), or uncontaminated concrete grout; and
- Where tunnels conflict with proposed construction, the Applicant may remove them in accordance with its reasonable discretion.

The Applicant is required to remove all debris related to the demolition of buildings and tunnels (if necessary) in accordance with a Demolition Waste Management Plan, which must include procedures to segregate and properly dispose of debris that is not suitable for reuse on-site.

*f. Polychlorinated Biphenyls (PCBs)*

The Town Board has evaluated the comments and information concerning a report that that PCB-containing transformers were disposed of on-site by the prior owner/operator. The Town Board finds that this report is uncorroborated and conflicts with information provided by individuals who worked at the HVPC. Information contained in subsequent environmental reports, including the Phase I ESA, establish that PCB-transformers were disposed of off-site as indicated by manifest documents.

In addition, wells located south of Dump No. 2 did not indicate the presence of PCBs in the groundwater. If PCBs were improperly disposed of on-site in the 1960's or 1970's, they would likely have been detected in the water samples taken on the site. In any event, groundwater in the vicinity of Dump No. 2 is not intended for potable use. There are also no plans to develop the area, which includes Dump No. 2.

The Town Board finds that there is sufficient information available to determine that no mitigation is warranted at this time, as there does not appear to be a risk of direct or indirect exposure to PCBs resulting from the Proposed Action. The Applicant must notify the Town and the NYSDEC promptly in the event that PCBs are discovered in the groundwater at any time in the future, and appropriate remedial action must be conducted.

*g. Asbestos*

Various suspect asbestos containing material ("ACM") was identified throughout most of the buildings on-site, including, but not limited to, floor tile, ceiling tile, pipe insulation, boiler insulation, fireproofing and roofing materials. The suspect materials were reported to be in good to fair shape, except for areas which were damaged by vandalism and/or

water damage. In addition, due to the ages of the buildings, except for the Manor House (building 39), which was recently renovated, other building materials may also contain asbestos.

The Applicant is required to conduct the applicable asbestos survey prior to demolition or renovation activities to determine if ACM is present in strict accordance with 12 NYCRR Part 56. Where ACM is present, the Applicant must retain a New York State-licensed contractor to remove the asbestos in accordance with Federal and State regulations.

*h. Pesticides/Organic Compounds*

Based upon information provided by Mr. Jim Napoli, who is with the Dutchess County Department of Health (“DCDOH”), the presence (or absence) of pesticides in soil at the golf course does not currently require investigation or remediation. The Town Board, in consultation with its professional consultants, accepts this conclusion.

*i. Radon*

The Wingdale area is classified by the USEPA as a Zone 1 radon risk area. The Applicant is required to perform the applicable radon testing prior to the construction of any building at the site. To the extent warranted by the radon testing results, sub-slab depressurization systems or passive radon ventilation systems must be installed by the Applicant in those buildings as necessary to protect future occupants from potential radon exposure.

*j. Lead*

Interior paints associated with the majority of the unoccupied/inactive buildings on the property show moderate to severe evidence of chipping/peeling paint. The exteriors of the on-site residences and several smaller structures were painted, with the painted surfaces in fair to poor condition, similar to the interior surfaces. The lead contents of the paints are unknown, but due to the ages of the buildings, the presence of lead-based paint is probable. Therefore, the Applicant is required to conduct the applicable lead paint surveys prior to any renovation/demolition activities, and to handle and dispose of all lead contaminated materials in conformance with all applicable regulations.

For these reasons, the Town Board concludes that the Project avoids or minimizes adverse impacts related to hazardous materials to the maximum extent practicable, and that adverse impacts related to hazardous materials would be avoided or minimized to the maximum extent practicable through the incorporation as conditions of those mitigation measures that have been identified as practicable.

**Construction**

*a. Air Quality*

The Town Board, with the assistance of its professional consultants, concludes that, given the scale of the Project site and that most construction activity would occur in the interior of the site, and relatively distant from neighboring uses, Project construction would not

cause significant air quality impacts warranting mitigation. As noted above, in the section of these Findings concerning Air Quality, all construction related air quality impacts would be of relatively short duration and generally not in proximity to public receptors. As set forth above, a condition of these Findings is that the Applicant employ best construction management practices to reduce soil erosion and possible sources of fugitive dust, which must include, at a minimum, the daily use of water/spray trucks in dry periods and anti-tracking pads at construction entrances.

*b. Noise*

Temporary, localized noise increases may also be expected from demolition and construction activities and vehicles during the construction period. The level of noise impact would depend on the equipment and activity involved and would decrease with distance from the construction site. Noise levels of “heavy” construction equipment ranges from 79 to 92 dBA at 50 feet. The USEPA reports noise levels at housing Projects range from a high of 88 to a low of 75 dBA from grading through finishing operations (USEPA, Construction Noise Control Technology Initiatives, Table 2.2).<sup>1</sup>

When evaluated against typical sound levels, the sound levels presented above are relatively low. The noise levels would be attenuated by a variety of mechanisms. The most significant of these is the diversion of the sound waves with distance. In general, this mechanism would result in a 6 dBA decrease in the sound level with every doubling of distance from the source. Additional reductions in noise are achieved through absorption by the atmosphere.

All activities would be subject to Section 107 of the Town’s Code, which prohibits construction, demolition or excavation between after 9:00 PM and before 7:00 AM. As previously mentioned with air quality impacts, the size of the Project site and the concentration of construction activity towards the interior would be expected to minimize the potential for significant noise impacts on surrounding uses. In addition, equipment is not generally operated continuously or simultaneously. There would be times when no equipment is operating and noise would be at ambient levels.

*c. Blasting*

The Town Board recognizes that rock removal may be required to complete construction of the Project. While it is anticipated that some bedrock may be removed with excavators or other power equipment, rock blasting is anticipated. Blasting noise is of very short duration (less than one second) and is typically heard as a dull rather than sharp type of sound. The use of explosives for blasting is regulated by Section 69 of the Town Code, which, among other things, requires permitting from the Town.

Consistent with the Town Code, blasting shall only be carried out by a person who is licensed in the State of New York to handle and detonate explosives. All personnel who may handle or use explosives must have appropriate training and safety instructions. Warning signs would be posted at suitable locations.

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<sup>1</sup> Construction equipment noise levels are provided in the Federal Highway Administrative Highway Construction Noise: Measurement Prediction and Mitigation, Appendix A.

Prior to the start of blasting, a qualified licensed professional engineer/seismologist experienced in blasting (“PE/S”) must be employed by the Applicant to prepare and certify a detailed Blasting Plan, as well as supervise and be responsible for the monitoring and conducting of all blasting activities, if any

In preparation for blasting operations, rock-drilling equipment would be employed to establish the hole patterns in which the explosives would be placed. Drill rigs typically generate sound levels between 80 to 100 dBA at a distance of 50 feet. A typical rock crusher generates approximately 94 dBA. If necessary, noise attenuation at the site of the drilling would be determined in consultation with the PE/S based on background noise levels and a range of dBA considered to be acceptable as per industry standards.

The rock that is blasted or excavated on the site would be processed on-site using a rock crusher to create fill or other construction aggregates. Any processing of on-site material would comply with the municipal noise code and the contractor would be prohibited from crushing any rock imported to this site, unless the additional material is required for the construction of the project's roadways and foundations. All structural rock fill must be properly compacted. Rock crushing operations would be located centrally to the site to minimize potential impacts to adjacent residential land uses.

*d. Traffic*

The Town Board concludes that upgrading the Wheeler/Route 22 intersection, as part of Phase 1B of the development, would be sufficient to accommodate the construction worker traffic.

Project implementation would generate construction-related traffic, including construction worker commuting and the delivery of materials and equipment. The numbers and types of vehicles would vary depending on the construction phase. Deliveries would generally be made on flat-bed or box trucks, with delivery routing having trucks entering the site from Route 22 at Wheeler Road. Typically, construction workers arrive on-site prior to the AM peak hour and depart before the PM peak hour, limiting the potential impact of employee traffic.

During the morning peak hour (i.e., 7:30 to 8:30 AM), approximately 45 to 50 vehicles could be expected, most of which would arrive and depart from the Route 22/Wheeler Road intersection. The AM traffic is considerably heavier southbound than northbound. In contrast, it is anticipated the much of the construction traffic would be reversed, with heavier traffic coming in a northbound direction in the AM peak. During the evening peak (i.e., 4:30 to 5:30 PM), construction traffic would be minimal given typical afternoon quitting times for construction workers. However, during the mid-afternoon periods, construction workers leaving the site could be delayed on Route 22 in response to school bus traffic. The Town Board, with the assistance of its professional consultants, concludes that improvements to the Route 22 intersections, including, upgrading of the Wheeler/Route 22 intersection as part of Phase 1B of the development, would be sufficient

to accommodate the construction worker traffic from each phase of development, since the improvements are based residential and commercial traffic from full development of the site, plus a growth factor plus potential traffic from other developments in the Harlem Valley.

As indicated above, the maximum number of construction vehicles and construction worker trips in the peak hours would not exceed the projected traffic volumes from Phase I or from full buildout of the Project. However, improvements to the intersection of Route 22 and Wheeler Road would be undertaken in Phase I (prior to the construction of Phase 1B).

*e. Construction Site Security/Public Safety*

The storage of large quantities of building materials, construction vehicles and other construction equipment on-site throughout the construction process increases the potential for on-site vandalism. The Project site is currently monitored by a private security service. Adequate security service must be maintained during (and after) construction of the Project.

*f. Erosion and Sediment Control*

As discussed above, the Applicant is required to prepare an erosion and sediment control plan in conformance with Chapter 65 of the Town Code and the NYSDEC Stormwater Management Design Manual (April 2008). In addition, construction practices must be designed based on the NYSDEC Standards and Specifications for Erosion and Sediment Control (August 2005).

Again, best management practices would also be employed on-site to control soil erosion, sedimentation and fugitive dust.

The Town Board finds that construction impacts are of a temporary nature and that the Project includes appropriate mitigation measures, which are set forth herein, to minimize these impacts to the maximum extent practicable.

***Infrastructure***

While the MC District provisions written in 1999 state that the HVPC site “contains serviceable buildings and water and sewer infrastructure,” the Town Board concludes that this is no longer the case. Significant work is required to create infrastructure that would support the mixed-use redevelopment that the Town has long desired for the site. The Town Board finds that this infrastructure would be provided in a manner that avoids or minimizes its adverse impacts to the maximum extent practicable.

*a. Sanitary Sewage*

The proposed Project is anticipated to generate approximately 407,380 gpd of sanitary flow. This figure includes a 20 percent flow reduction for the use of water conservation fixtures. The proposed Project’s anticipated average daily design flow (407,380 gpd)

represents only 34 percent of the existing facility's wastewater treatment plant design capacity of 1.2 MGD. The precise capacity of an upgraded wastewater treatment plant will be determined during the design phase of the plant upgrade, and will be commensurate with the Project's projected flow. Consideration for the expansion of the plant capacity to satisfy regional needs is beyond the scope of review for this Project.

The Town Board finds that modifications associated with treatment facility upgrade plan can generally be accommodated within the existing footprint of the facility, and the area of the existing sludge beds. Therefore, no significant visual impacts are anticipated as a result of the upgrade, and any such impacts would be no greater than what currently exists on the site. Some temporary removal of vegetation may be required during construction and staging of equipment and materials, and some removal of the overgrowth around the structures may be undertaken for security purposes. No construction-related impacts are expected in the vicinity of the Swamp River, which is approximately 400 feet east of the facility. Again, any substantial construction would be subject of an erosion and sedimentation control plan. Upgrades to the treatment facility will be phased to meet the proposed development's construction phasing and would provide additional capacity to allow the facility operator to make adjustments as required to meet the increasing loadings. Because the build-out would occur over an extended period of time, the operators would be able to adjust operations to ensure compliance with the SPDES permit intermittent stream effluent limits.

The Town Board finds that the existing collection system is not adequate to provide service to the proposed Project due to its existing routing and high water infiltration into pipes and manholes. The Project therefore must construct a new network of sewer mains. The new sewer mains would extend through the eastern and western portions of the Project site to service the proposed buildings, as well as the existing buildings to be retained and modernized. The proposed system would include a series of new sanitary sewer pump stations designed to convey sewage to the area of the existing wastewater treatment plant. Force mains are proposed in select locations of the development area. New piping and manholes would be constructed in phases to accommodate the Project. The existing pump station located in the old power house (Building #34) would be retained until such time as construction activities require its relocation.

To the extent permitted by NYSDEC, effluent can be reused for irrigation. Treated effluent can be, for example, piped to an irrigation pond or holding tank for possible reuse as irrigation water on the golf course. Reuse of treated effluent (if permitted by NYSDEC) may require the use of rapid rate sand filtration of the effluent. During site plan review, the Applicant will be required to submit plans for such water reuse system to NYSDEC for approval.

*b. Water Supply*

The Town Board finds that the existing water distribution system appears to consist primarily of cast iron pipe, and, in light of recent water main breaks and the age of the system, it is inadequate to support all of the new development. Further, while the existing

reservoir can supply water to the Project, it cannot meet the total Project demand. A Reservoir Safe Yield Analysis was conducted and determined that under drought conditions the safe yield capacity of the reservoir would be limited to approximately 170 GPM or approximately 250,000 GPD. Thus, a community water supply system comprised of a series of groundwater supply wells would be installed to meet the Project's estimated water demands. Well testing programs conducted in accordance with regulatory agency requirements have identified six (6) potential well sites capable of producing a sufficient water supply to meet the project's demands. Combined, the six (6) wells have been determined to yield approximately 738 GPM or 1,062,000 GPD. This combined total exceeds the project's estimated maximum day demand of approximately 622 GPM or 900,000 GPD calculated as twice the average day demand, which as been estimated at approximately 311 GPM or 450,000 GPD. NYSDEC and Health Department regulations will require the Applicant to demonstrate that the project's maximum day demand can be met even if the system's "best well" is taken out of service. The Applicant's "best well" (Well 18) has been demonstrated to yield approximately 323 GPM or 465,000 GPD.

A backup Well 18A will be drilled in close proximity to Well 18 and as such, would be expected to yield the same 323 GPM as Well 18 by tapping the same aquifer conditions. The Reservoir could also serve as an additional backup water supply source in the event that the Applicant is unsuccessful in developing either back-up Well 18A or other alternative back-up well supply sources. Based on this information, the Town Board concurs that a community well-based water system is appropriate and acceptable, and that the reservoir is appropriately identified as a potential back-up supply.

Water Treatment Plant upgrades will be phased into operation as required by the regulatory agencies. Given the phased construction and long-term nature of the Project, it is understood that development of the water supply sources may also be phased. Approval by the regulatory agencies for the development of the necessary quantity of well sources to supply each phase or stage of construction shall be obtained prior to the issuance of building permits for each related phase or stage of construction.

Thus, the water supply plan anticipates that the Project's water demand would be met by the development of new groundwater well sources, with the existing reservoir available as a supplemental back-up to the proposed groundwater supply system. There are no plans to pump water from the Swamp River.

As part of a September 2009 supplemental well testing program, a network of monitoring wells was installed and observed to determine whether the operation of the onsite ground water supply well system would have an adverse impact on neighboring private wells, on and off-site wetlands, or on and off-site water bodies. The results of the 72-hour drawdown test conducted as part of the supplemental well testing produced no apparent drawdown on the shallow monitoring wells, including the wetland points, the stream points, and the two land fill wells. The conductivity monitoring of the pump test wells and the Swamp River indicates that there is no direct connection between the underlying bedrock aquifer and the surface water in the vicinity of the proposed production wells. The FEIS also includes a compliant response and remediation plan, which is a document

describing the actions that would be triggered if it is discovered that a private well user is in danger of losing the use of their well due to the operation of the Project production wells. The Town Board finds this plan to be acceptable and shall be implemented, as required.

A base flow analysis of the Swamp River was also conducted in the DEIS. It determined that the impact of water withdrawals from the Project on the flow rate of the River might be expected to result in a reduction of approximately 0.1 cfs. (The total flow of the River is 23 cfs under normal conditions, and is estimated to be approximately 11.5 cfs during droughts.) The Town Board concurs with the assessment and finds, therefore, that the Project would not result in significant adverse impacts related to Swamp River flows.

Water quality analyses were also completed as part of the supplemental well testing program. The test samples were collected at the very start of the pumping test and just before the conclusion of the pumping tests. With the exception of Well C-shallow, which evidenced concentrations of naphthalene (2.6 ug/l) well below the drinking water standards (50 ug/l), all post-test samples had no volatile organic compounds (VOC). The Town Board recognizes that both pump test wells' pre-test samples had toluene and Well 18 had tetrachloroethene (PCE). The Town Board, after analyzing the matter with its professional consultants, notes that these compounds could be from materials and equipment, such as electrician's tape, pipe joint material, and thread lubricants, needed to setup the wells for testing. The Town Board recognizes that pump test wells are not normally sampled at the start of the pumping test precisely because it is very likely that anomalous results are obtained. Again, both wells' samples were free of the volatile compounds and metals at the end of the pumping test, which better represents the aquifer water quality.

Some commentators, including the NYSDEC, expressed concern regarding the alleged contamination found in Well No. 18 (including TCE up to 16 ppb), the proposed location of the mechanical backup well (Well No. 18A), and the source of the contaminants. Water quality samples were collected before and after the most recent pumping test in November 2009 and no TCE contamination was found within Well No. 18. The actual contaminant found in the Well No. 18 pre-test sample was Tetrachloroethene (PCE), also known as Perc, not Trichloroethene or Trichloroethylene (TCE). There was no evidence of PCE in any of the post-test samples collected. Also discovered in the Well No. 18 pre-test sample were traces of Toluene. The Town Board, with the assistance of its professional consultants, concludes that the well test equipment, including electricians tape, steel casing paint and possibly the thread cutting lubricants are the source of this contamination. Similar to PCE, there was no evidence of any Toluene in any of the post-test samples collected. The Town Board notes that both contaminants are, in any event, treatable should they be detected in any future sampling.

The Town Board recognizes that nothing in the water testing data, which identified low levels of organic compounds, indicates an issue that prevents the use of the wells for a potable supply. In an excess of caution, however, and even though the pre-test detected levels of Tetrachloroethene (PCE) and Toluene are below the maximum allowable limits for a potable water supply, the Town Board mandates as a condition of these SEQRA

Findings that said wells be retested as part of the State Department of Health Subpart 5-1 requirements for testing of public water systems. If these contaminants are found again, then treatment must be undertaken. Such treatment may be accomplished either within the same process identified for iron and manganese removal by capping the filter media with a 2-foot layer of granular activated carbon (GAC) or by a separate treatment train using GAC filters in series. If treatment is necessary, an alternative means shall only be permitted with the consent of the State DOH.

As with Well No. 18, the water yield from the proposed mechanical backup well would be treated to the same standards required by Part-5 of the NYS Sanitary Code. In addition, as a backup to the backup supply source, the Applicant has use of the existing reservoir as an alternative water supply source.

The Town Board also concludes that the ash fill area would not compromise the potability of water from Well No. 18. The driller's logs reveal that the local geology in the ash fill area consists of stratified layers of silt/clay overlying fine to coarse silty sand and gravel, which in turn overlies the marble bedrock. The clay layer is a low permeability formation that acts as an aquatard and isolates the upper soil (with the ash) from the lower gravel zone and bedrock. Additionally, this location is a typical aquifer discharge area characterized by a valley bottom river and surrounding highlands. These areas generally have upward groundwater gradients, which are demonstrated in the supplemental pumping test results. Given these factors, the ash layer in the upper four (4) feet is isolated from the lower portion of the aquifer. Therefore, the use of wells in this area is not expected to result in the downward migration of any contaminants that might be present in the ash fill area into the groundwater supplied aquifer. Furthermore the pH of the groundwater within the ash fill area has been demonstrated to be close to neutral [pH 7] a condition that generally would not promote the release of metals from the ash into the ground water.

The NYSDEC also requested additional information on the apparent presence of a key indicator organism of a ground water under the direct influence (GWUDI) of surface water. The Surface Water Treatment Rule and the Interim Enhanced Surface Water Treatment Rule classify some ground-water sources as "ground water under the direct influence of surface water" (GWUDI), and ground waters classified as GWUDI must follow the same treatment guidelines as surface-water sources. The microscopic particulate analysis (MPA) method is the most widely used method to identify GWUDI. MPA testing found indicators of the possible presence of microscopic organisms but no such organisms were found in any of the tests conducted. The Town Board, with the assistance of its professional consultants, concludes that no treatment is required for GWUDI.

*c. Electrical Supply*

The Town Board recognizes that the extent of construction would impact the existing system in many areas, and the impacts of construction on the existing system and requirements to upgrade the system to current codes and standards would eliminate a majority of the existing electrical distribution systems. Proper disposal of unused equipment and materials must be undertaken in accordance with the applicable Federal,

State and local laws.

A new high voltage distribution system would be provided by NYSEG, as the Project is built out. Within the development site, the new electrical system would be an underground conduit and wire distribution system with pad mounted switches and transformers. The existing substation located south of the power house would be removed as part of the proposed Project.

At the initial phase of the Project, NYSEG would provide a simple radial electrical distribution system for the distribution on site.

The Town Board concludes that any additional electrical needs for the Project could be met without risk of significant adverse environmental impacts. The Town Board recognizes that, at some time in the future, as loads in the Town of Dover and the site exceed the existing medium voltage feeders' capacity, NYSEG may provide additional feeders from the existing Dover Substation to meet the Project's electrical consumption demands, or NYSEG may provide a new, smaller substation on the Project site. The Town Board finds that there is adequate area to locate such facility, which at this stage is purely conceptual, without posing any significant adverse impacts that have not been studied in this SEQRA review. One area that could be used for the substation would be adjacent to the existing sanitary sewer plant and west of the Swamp River. As indicated on the Site Drawings accompanying the FEIS, this location is not within regulated wetland or buffer areas. Any future proposals for a substation should similarly be sited outside of regulated areas. If there are no viable alternatives, then appropriate measures to minimize and mitigate unavoidable impacts must be implemented. The new substation could be served from a tap of the existing 145 KV distribution system routed parallel to New York State Route 22. The 145 KV distribution system would be extended to the new substation location by NYSEG, and it is anticipated that they would use an overhead pole line extending from Route 22 over the Swamp River.

Consistent with the Zoning Code's purpose of encouraging the conservation of energy, the Town Board requires that all electrical, mechanical, and plumbing systems shall be designed to be compliant with the New York State Energy Code. Energy Star appliances and energy efficient lighting should be utilized on the Project site where feasible.

*d. Natural Gas*

The Town Board recognizes that NYSEG has indicated that natural gas may be available for the Project, pending their financial analysis on the feasibility of the rate of return on their required investment in the development and delivery of gas to the Project site. NYSEG's extension of gas service could be possible from the existing Iroquois Natural Gas Transmission Main, located approximately one mile north of the site. The new gas main could be installed along the north side of NYS Route 55 and would require construction of a new pressure reducing station and gas distribution main connection at the transmission line. The location of this connection is not known at this time. It is expected that most if not all of the new gas distribution mains that would be required to provide gas

service to the site would be constructed within the limits of existing right-of-way and thus would be expected to provide minimal disturbance to any adjoining wetland systems. On-site gas distribution and service mains would be designed to share common utility trenches with the new on-site electric and communication distribution network.

The Town Board finds that the Project includes satisfactory provision for infrastructure. It concludes that the Project avoids or minimizes adverse impacts related to infrastructure to the maximum extent practicable, and that adverse impacts related to infrastructure would be avoided or minimized to the maximum extent practicable through the incorporation as conditions of those mitigation measures set forth herein.

#### **D. Project Phasing**

The Project is proposed to be developed in two phases. The first phase would include a site plan application for development that includes land on both sides of Route 22. On the east side of Route 22, the site plan would include the proposed grocery store and adjacent buildings and parking on both sides of Main Street, the parking area to south, which would serve the Main Street shops, the grocery store, the existing church and Smith Hall; and the Administration building and associated great lawn along Route 22. As a result of public comments on the DEIS, the Main Street area of Wheeler Road on the east side of Route 22 is included in Phase 1 of the modified FEIS plan. On the west side of Route 22, the first phase site plan would include the Power Plant and Storehouse; a replacement bridge across the Swamp River; the relocation of some of the existing golf holes; and the western residential neighborhoods. This phase would also include the supporting infrastructure improvements necessary to serve the new development. The second phase would consist of a site plan application for the remainder of the east side commercial and residential development.

In total, the first phase would include approximately 455 residential units and approximately 200,000 square feet of commercial space, representing 33 percent of the Project's total residential component, and 85 percent of the Project's total commercial component. The public amenities anticipated to be provided in the first phase include the upgraded golf course, the great lawn in front of the Administration building, the Swamp River boat launch, a recreation field on the west side, and the various greens/commons and trails associated with the neighborhoods developed in that phase. In addition to the installation of roads and utility service lines through the neighborhoods to be developed initially, the first phase also includes substantial infrastructure work including the improvement of the Route 22/Wheeler Road intersection, reconstruction of the Wheeler Road bridge, well installation, upgrades of the water and wastewater treatment plants, and installation of utility service mains, which would also serve the second phase. The first phase is anticipated to occur over a period of approximately five years, assuming positive real estate market conditions emerge.

The second phase is currently anticipated to occur over a period of five years. It would involve the build-out of the remaining 921 residential units and approximately 36,000 square feet of commercial space on the east side. Public amenities to be provided in the second phase would include the establishment of the additional trails with possible linkages to Boyce Park and the Appalachian Trail, access to the reservoir, potential reuse of Smith Hall, and the various greens/commons associated with the neighborhoods developed during that phase.

During the interim period between completion of Phase I and commencement of Phase II, certain areas on the east side of Route 22 would have newly constructed buildings proximate to buildings planned for, but not yet demolished. This includes the H-buildings to the south of Wheeler Road and buildings on the east side of Hutchinson Avenue, generally between Wheeler Road and Smith Hall.

The two phases have been sequenced as proposed in order to both establish the nucleus of the new community and Town Center, while allowing for the generation of revenue from residential units on the west side to help off-set the up-front infrastructure expenditures and address the costly demolition and redevelopment activities necessary on the east side.

The Town Board concludes that any adverse impacts related to Project phasing have been avoided or minimized to the maximum extent practicable.

### **E. Alternatives Considered**

In addition to the Proposed Action, the Town Board mandated analysis of several alternatives in the Scoping Document. As a result of comments on the DEIS, included from the NYSDEC and the public, the Town Board required the analysis of an additional Conservation Alternative in the FEIS. Below is a brief description of each Alternative:

#### *Alternative A: No Action Alternative*

This alternative presents a scenario where the Project site remains in its current decaying and blighted condition. This alternative is not preferable as it would not result in the redevelopment, environmental remediation, employment and tax revenue generation that is currently desired by the Town.

#### *Alternative B: Development Under the Existing Underlying Zoning*

This alternative assumes development of the Project site in accordance with the use and density requirements of the underlying zoning districts. The Project site's underlying zoning districts consist of: Commercial/Industry/Office-Mixed Use (CO), which is located on both sides of Route 22 north of Wheeler Road; Hamlet Mixed Use (HM), located generally in the center of the Project site; Hamlet Residential (HR), located in the northeastern section and southern section of the Project site; Rural (RU), located in the eastern portion of the Project site; and, Suburban Residential (SR), located in the western portion of the Project site. Although the MC Overlay encourages comprehensive site planning for the site, which disregards these underlying districts, it is possible that a plan could be devised for separate developments in each underlying district. The four tax parcels that compose the site could also be developed independently, which would similarly frustrate comprehensive site planning.

Single-family and/or multifamily residential uses are permitted by right or special permit in all of the underlying districts. Office, retail, light industry and warehouse uses are permitted by right or special permit in the HM, HR and CO districts. In order to develop a statistical estimate of the amount of development under this alternative, an analysis was performed

assuming residential development in all zones except the CO, and commercial development in the area of the site zoned CO.

The requirements of the existing underlying zoning would generate approximately 996 residential units and approximately 892,000 square feet of commercial development. This includes 63 units on the Dykeman parcel, which is approximately the same number for that site if developed under current zoning (i.e., without the MC overlay).

As detailed below, the Town Board concludes that this type of disjointed plan is not a feasible or preferable development program. It could not be supported by the market and would not enable the rehabilitation of the site. For example, the areas in the underlying districts zoned for CO commercial use include an approximately 200 acre area north of Wheeler Road to the east and west of Route 22. Of this total, approximately 100 acres are potentially buildable. With very limited access to Route 22, it is unlikely that a large amount of commercial development could be realized in this locale, despite its CO zoning. Given competition from existing retailers outside the retail trade areas and anticipated future retail competition nearby, relatively limited vehicular access to the site, and relatively low population density in eastern Dutchess County, the site faces a challenging environment for commercial development. An alternative with such a large commercial component could not realistically be supported by the market and actually realized on this site. As noted in the market study prepared as part of the DEIS, existing spending within the entire retail trade area could support approximately 1 million square feet of retail. This alternative would represent almost complete absorption of this spending in one isolated location. This is unrealistic and would be devastating to other regional business, would overwhelm the existing character of Dover, and frustrate development of a community at a scale consistent with other traditional communities in the region.

*Alternative C: Development Under the Existing MC Overlay District Zoning with MC Overlay Extended onto the Dykeman Parcel*

This alternative examines the potential development scenario utilizing the existing MC Overlay District requirements, with the MC Overlay District extended onto the former Dykeman parcel. It evaluates the potential development statistically, based on the MC Overlay zoning controls, and a plan previously submitted by the Applicant in 2004.

Based on the MC Overlay zoning, this Alternative would include up to 1,524 residential units and approximately 1,338,000 square feet of commercial development. However, as discussed earlier, the existing MC District regulations include formulas related to the mix of commercial and residential development. In particular, under the present Code, no more than 50 percent of the gross floor area of all development may consist of residential development, except that age-restricted senior housing shall be excluded from this calculation. In addition, the existing Code requires that no more than 30 percent of the floor area of all development may consist of residential units with three or more bedrooms. Assuming an average floor area of 2,500 square feet per unit, this alternative would require  $(1,338,000 / \text{avg unit size } 2,500 \text{ sf} = 535)$  that approximately 989 of the residential units be age-restricted with the remaining 535 units having no occupancy restrictions. In this scenario, age-restricted units would account for approximately 65 percent of the units. This alternative would be similar to

the proposal for the site initially presented in 2004, which proposed 1,457 dwelling units and approximately 1.3 million square feet of floor area designated for commercial and institutional uses. It was deemed inconsistent with the Town's objectives by the previous Town Board. In addition, the balance of age-restricted housing would be above the levels the market study indicates could be supported, and would preclude the establishment of a diverse community consistent with traditional neighborhood design principles.

Most importantly, the Town Board concludes that this zoning alternative suffers from the same defects as the Existing Underlying Zoning alternative in relation to the amount of commercial development that can be supported in the areas market demographics, but to an even more severe degree. This alternative would significantly exceed the entire amount of potential space throughout the entire trade area that could be supported by the existing trade activity, as documented by the ERA market study, which the Town Board accepts. As a result, this alternative could not be realized on this site. This is not a reasonable and feasible alternative for consideration.

*Alternative D: Lower Density Development Including 18-Hole Golf Course and Reduction in Residential/Land Disturbance*

This alternative examines a scenario including an 18-hole golf course and a reduction in the amount of area devoted to residential development. Exhibit V-4 in the DEIS presents a conceptual plan indicating the approximate additional land area that would be required to accommodate an 18-hole golf course (note that this plan is schematic and does not represent an actual golf hole routing plan, but rather is intended to provide a reasonable indication of the land requirements for a course). As can be seen, expansion of the golf course would necessarily require the elimination of some of the areas that would be devoted to residential development under the Proposed Action. This includes the neighborhood in the northwest corner, a significant portion of the neighborhood on Wheeler Road near the bridge, and a portion of the neighborhood near the intersection of Hoags Corners Road. In total, this would be anticipated to result in a reduction of approximately 200 units on the west side of the property. This would result in a total unit count of approximately 1,176, with no change in the commercial program.

The cost to construct an 18-hole golf course is estimated at approximately \$12 million. This would increase the already substantial site development and infrastructure costs while reducing the potential for revenue generation with 200 fewer units, which would otherwise help to absorb these costs. This alternative would provide a level of residential development comparable to that available under the existing zoning, and which has historically, given the lack of activity under the existing zoning, proved to be insufficient to facilitate redevelopment of the site. Add the costs necessary to double the size of the golf course to those economics and, the Town Board concludes, this is not a reasonable and feasible alternative for consideration. It should also be noted that increasing the golf course to 18 holes may also place the continued affordability of play in jeopardy. The greens fees for an upgraded 18-hole course would be significantly increased. In 2006, the Harlem Valley Golf Association polled its members, and the majority preferred that the course remain a nine-hole course.

The Scoping document also required that this alternative consider a reduction in the number of housing units and removing units from environmentally sensitive areas, and regulatory buffers. The Modified FEIS Plan already has taken into account the required regulatory buffers, as well as identified sensitive habitat areas.

The Town Board further notes that the Project has also clustered residential development within those buildable areas within a ½ mile radius of the train station to the maximum extent practicable without increasing building heights to four stories or greater. However, the extensive wetlands associated with the Great Swamp and the need to avoid development in those areas competes to some degree with typical transit-oriented design principles, which seek to focus intense development within a five to ten minute walk from mass transit stations. As a result, the Town Board concludes that many of the feasible site planning and design considerations from this alternative have already been folded into the Master Development Plan for the Proposed Action.

*Alternative E: Increased Commercial Development*

This alternative examines a configuration that maintains the Project's mixed-use character, with a variety of residential, commercial and civic uses, but with an increase in the amount of commercial square footage. In order to accommodate an increase in commercial space, a Master Development Plan has been developed that would include a large-format retail building to the south of the Administration Building. This building would be situated opposite the proposed grocery store, across an expanded shared surface parking area. The inclusion of the additional retail space would result in a reduction of approximately 106 residential units in the Town Center area. In total, this alternative would include approximately 1,270 residential units and 378,400 square feet of commercial space.

The large-format store could have an adverse effect on the ability to attract small retail uses on the Project's Main Street. The Town Board concludes that such a store would adversely impact the goal of creating a vibrant, mixed-use town center in proximity to the train station.

*Alternative F: Adaptive Reuse of the Existing HVPC Buildings*

This alternative required consideration of the preservation and adaptive reuse of the existing buildings on-site in order to accommodate the redevelopment Project. The Town Board recognizes that the Applicant's design team considered the potential for building reuse during the creation and refinement of the Master Development Plan, and ultimately identified which of the existing buildings could be protected and restored as part of the development of a viable Project. These include two of the I-buildings, the Administration building, the Storehouse, the Power Plant, the U-building north of Wheeler Road, the Director's Residence, Smith Hall, and some of the smaller staff residences. The large campus buildings that would be retained and protected are along the highly visible Route 22 frontage, and would maintain the site's historic presence and preserve the key public historic visual component of the former HVPC facility. The Town Board finds that these buildings serve as organizing elements and are compatible with the Project's overall urban design concept, which is intended to create an active downtown core along a new "Main Street" surrounded by compact, walkable residential neighborhoods at a scale consistent with other traditional settlements in the region.

The Town Board concludes that the large, and at times forbidding, institutional buildings towards the rear of the campus conflict with this urban design concept, and their retention would damage the functional viability of the Master Development Plan and otherwise frustrate the Town's goal of redeveloping the HVPC site. For example, the large H-shaped buildings which served as patient dormitories and Division for Youth detention facilities are oriented at angles that would not reinforce activity along the new downtown Main Street. In addition, their unusual floorplates and individual building configurations are not conducive to reuse for either residential or active commercial uses, such as a grocery store, which has been identified as a community priority. Their configuration would also impact the ability to create an open community, where residents are connected more closely to neighborhood street life through individual entrances, porches, and smaller village-scale architecture. The somewhat massive and looming scale of the larger institutional buildings (and potential stigma attached with the dormitories) would be inconsistent with the creation of the desired neighborhood feel. Retaining the current campus configuration would also restrict the ability to develop the convenient parking necessary to support significant residential or commercial redevelopment within the existing buildings or Smith Hall and Our Lady of Solace Church.

The Town Board understands that there are also significant building design challenges associated with adaptive reuse. It is difficult to achieve modern residential floor plans from the floor plates, interior spaces, and corridor alignments of historic buildings. Design compromises often result in undesirable living spaces, inefficient space usage, and inadequate natural light. Furthermore, the inclusion of integrated garage space is difficult in many historic structures, particularly those on this site. As a result, new residential products generally achieve a pricing premium over adaptive reuse products. This is supported by the findings of a case study of the price differentials for a group of comparables within the metropolitan New York region, which indicated new product sales values ranging up to 30 percent greater than the adaptive reuse product.

The Town Board also notes that the marketability of adaptive reuse product was another important factor during the design and analysis process. The Town Board finds, for example, that it is unlikely that there would be enough buyers for units in the large, three-story H-buildings, for example. Units in these large buildings might be marketable in more urban locations (e.g., SoHo in New York City), but would be questionable in Dover. The Town Board concludes that the adaptive reuse of all buildings on the site is infeasible, and would undercut the Town's longstanding goal of redeveloping the HVPC site in a manner that benefits the entire community.

*Alternative G: Conservation Alternative*

As a result of comments received from the NYSDEC, a Conservation Alternative was presented in the FEIS. As indicated, the conservation alternative removes development from additional environmental features, including marble knolls, wetlands, steep slopes, flood plains, and buffer areas for vernal pools and bog turtle habitats. Although the Proposed Action in the DEIS was designed to minimize the effects on such areas, the Town Board recognizes that there would still be some unavoidable impacts to steep slopes and wetlands in the area around the golf course and at some scattered locations, which have been avoided or

minimized in the Modified FEIS Plan, including through the mitigation measures required herein. In fact, the Modified FEIS plan was revised based primarily in accordance with the Conservation Alternative.

By reducing the amount of development and the Project's footprint NYSDEC correctly states that site generated traffic and the carbon footprint would be reduced. The Town Board finds, however, that this alternative creates an unmarketable and otherwise untenable Project, including eliminating a significant part of the plan to create a downtown area with mixed uses along both sides of Main Street. It also eliminates about half of the Project's single family homes, which affects the balance sought for the proposed housing program, and the return from sale of single family homes, the most upscale product being considered by the applicant. The Town Board finds that the reduction of the total program that this creates would affect the ability of any developer to manage the large clean-up and infrastructure costs and is not a program that any developer could pursue.

In sum, incorporating the entire Conservation Alternative "as is" is infeasible, and is inconsistent with SEQRA's requirement that conservation goals be balanced with social, economic and legitimate governmental objectives, including the redevelopment of the HVPC site, as contemplated by the Town Code. Without potential adjustments to densities in Town Center, this alternative results in a plan with approximately 970 dwelling units and 200,000 square feet of commercial development, representing reductions of approximately 30 percent and 20 percent respectively when compared to the Proposed Action. Such a plan is not viable.

While the Conservation Alternative is not a viable plan, it did positively influence the design of the Modified FEIS Plan, helping to minimize overall disturbance and wetland impact. It also helped to refine and improve the active invasive species management program and open space plan for the Proposed Action.

*Alternative H: Road C*

The modified FEIS plan reduced the length of the proposed Road C on the west side of the Project site, resulting in the reduced density of the accompanying development along the road. In the DEIS plan, the segment of Road C east of the Pleasant Ridge hamlet contained 34 residential units. This has been scaled back in the Modified FEIS Plan to 18, and all proposed development in the northeast corner of the West Parcel, where one of the largest and the highest quality marble knolls (as identified in the Hudsonia report) is situated, has been eliminated. Some of the other, smaller areas of marble knolls are located in and around the golf course. The Town Board notes that the proposed grading in these areas of the Project has been minimized and grading with the golf course expansion areas would be limited.

The Hudsonia report identified a complex of knolls of varying quality in the area near the proposed Road C. The two marble knolls identified as being of the highest quality were #1 and #9. The proposed road configuration completely protects #1 and requires only limited disturbance to #9, which is located at the west end of the road. The Hudsonia report identified four other high quality marble knolls on the site (#2, 6, 8 and 11) that were

somewhat smaller. The proposed road configuration avoids significant disturbance to marble knolls #2 and #8. The north and south portions of marble knoll #6 would be disturbed. Marble knoll #11 is located south of Wheeler Road and would remain undisturbed. The report also indicates that marble knolls #3, #4 and #5 are of medium quality, but may be helpful in maintaining connectivity. The proposed road configuration avoids two of these three, maintaining connectivity to knoll #2 as recommended in the report. Marble knolls #7 and #8 are adjacent to the fen and preservation of these in order to protect the fen and water quality was recommended by the report. These have also been largely avoided by the configuration set forth in the Modified FEIS Plan.

Beyond the modifications above, which have already been incorporated into the Modified FEIS Plan, the Town Board understands that NYSDEC staff requested that the Applicant revisit the proposed development in the Road C area in relation to the marble knolls. The Applicant identified modifications that could be made to further limit the disturbance of marble knolls. This alternative includes some realignment of the eastern half of the road and shifting of house locations. This alternative configuration would result in reduced disturbance to knoll #6 and elimination of disturbance of knoll #3. It would also further reduce the minor disturbances at the fringes of #2, #7 and #8.

The Town Board finds that the proposed Road C shown in the Modified FEIS Plan avoids or minimizes adverse environmental impacts to the maximum extent practicable.

#### **F. Cumulative Impacts**

NYSDEC requested that the Applicant review the cumulative impacts of 12 proposed development projects in the region, ranging from as far north as the Towns of Pine Plains and Milan, and as far south as the Town of Pawling. The Town Board notes that SEQRA does not require cumulative impacts analysis in connection with planned or anticipated development or use of land that is unrelated to the Action under consideration. Nevertheless, as part of its effort in the instant environmental review, and in response to the NYSDEC comments, the Town Board has required evaluation of this issue.

Initially, the Town Board notes that, unlike most of the proposed projects the Knolls of Dover Project entails the redevelopment of an existing facility rather than the development of undisturbed raw land. The development plan has been modified to pull development away from the sensitive habitats on the site and to concentrate development primarily in previously disturbed portions of the site. A majority of the currently-undeveloped areas of the site would remain as open space, including portions of the site which presently serves as important habitat and dispersal corridors for wildlife and migratory birds. It is not known whether the other proposed projects listed in the NYSDEC comment are adhering to the same development practices that are being utilized at the Knolls of Dover site, given the variety of project locations, and individual site conditions.

The Town Board has further considered the following information, which is provided to further consider potential cumulative impacts of the 12 identified regional Projects, located in the Town of Dover, Town of Pawling, Town of Amenia and Town of Pine Plains.

First, five (5) of the projects referenced by NYSDEC are a significant distance from the proposed development:

- The proposed Carvel project is located approximately 26 miles north of the Proposed Action in the Towns of Pine Plains and Milan;
- The proposed Silo Ridge and Keane Stud Ridge are located approximately 15 miles north of the Proposed Action in the Town of Amenia;
- The proposed Brady Brook and Jucca Company projects are located approximately 7 miles south of the Proposed Action in the Town of Pawling.

Given these distances, the cumulative impacts of these projects on the Knolls of Dover Project are limited. The DEIS analyzed the potential impact of proposed development in the region on area roadways, including Route 22, which links these projects together; the lone exception is the Carvel project, which is proximate to the Taconic State Parkway. Beyond any traffic impacts to the Route 22 corridor, the significant distances would likely preclude any cumulative impacts to wildlife, habitats and other natural features.

The remaining seven (7) projects identified by the NYSDEC are geographically closer to the subject site. Each of the projects was mapped in reference to several environmental features, such as NYSDEC designated wetlands, waterbodies, streams, topography and Critical Environmental Areas (CEA). The seven projects include: Ketcham's Corners in the Town of Dover, Stony Brook in the Town of Dover, Country Squire in the Town of Dover, the Furnia Subdivision in the Town of Dover, Wind Rose in the Towns of Dover and Pawling (while the Applicant recognized that the Wind Rose application was withdrawn, the Project was retained to provide a more conservative analysis), Deerfield Estates in the Town of Pawling and Madison Woods in the Town of Pawling.

If all seven of the projects were approved and developed, they would combine to total approximately 410 new residential units and 10,000 square feet of new commercial space on approximately 1,467 acres of land within the Towns of Dover and Pawling. In comparison, the Towns of Dover and Pawling had a reported total of 6,367 housing units in the 2000 Census. Thus, if all 410 new residential units were to be approved and constructed it would represent an approximate 6 percent growth in the residential inventory of the Towns.

Collectively the seven projects might be expected to generate sewer and water demands of approximately 195,750 GPD and 215,325 GPD respectively. This estimate is considered conservative since the residential component of the demand estimate assumes development of all 410 residential units and is further based on an assumed hydraulic loading of 475 GPD/residence, the equivalent of a four bedroom home. The demand estimate for the new 10,000 square feet of commercial development is based on an assumed 0.1 GPD/commercial square foot. Both unit flow estimates are based on suggested design flow rates outlined in NYSDEC's 1988 Design Standards for Wastewater Treatment Works Intermediate Sized Sewerage Facilities. Calculation of the combined sewer flow estimate is as follows:

$$(410 \text{ residences} \times 475 \text{ gpd/residence}) + (10,000 \text{ SF commercial} \times 0.1 \text{ gpd/SF commercial}) = 195,750 \text{ gpd}$$

For further comparison, the normal average flow of the Swamp River at Dover Plains is estimated at 6.6 CFS or 4,270,000 GPD. Thus, if all seven developments were in fact to be constructed and their treated effluent discharged to the river, it would be expected to represent less than 5 percent of the flow through the Swamp River.

The 215,325 GPD estimate of combined water demand is based on the estimated sewer demand plus an additional 10 percent to account for water consumption. By multiplying the 195,750 GPD sewer demand estimate by 110 percent, the 215,325 GPD water demand estimate is obtained. The recharge available over 1,467 acres of development area should be sufficient to accommodate the water demands.

Not included in the twelve (12) projects above, but equally important, is the proposed Cricket Valley Energy Center (“CVEC”). While not referenced by NYSDEC, this project would include the construction of a natural gas electricity plant in the Town of Dover. The site is located approximately 2½ miles north of the Project site, to the west of Route 22. A portion of the proposed site is within the Great Swamp CEA. Given the nature of the proposed use, the project could result in site specific impacts to air quality. The project could contribute to impacts to water quality, wildlife and habitats. Lead Agency status for the SEQRA review of the CVEC project may be taken by the Town Board or the NYSDEC. The Lead Agency would have to assess the environmental impacts of the instant Project in conjunction with their review of the CVEC.

As described above, since several of the projects would involve development of greenfield sites they could contribute to cumulative impacts to environmental features, habitats and wildlife species within the Significant Biodiversity Area. These impacts could be of particular concern if the sites were developed as conventional subdivisions that did not effectively cluster new development in order to minimize disturbance to significant natural features, such as is being done with the instant Project. In addition to removing development from environmentally sensitive areas to the greatest extent practicable, the Town Board is requiring the Applicant to undertake several environmentally sustainable and low impact development (LID) features, which would mitigate potential long term impacts to wetlands, habitats and other natural features on-site. The Town Board assumes that the various approval agencies reviewing the other projects in the region would adhere to the same standards for assessment of potential impacts and require the same type of avoidance or mitigation measures proposed as the Town Board has required in connection with the Project. If the other regional projects are compelled to undertake the same practices as required for the Project, cumulative impacts to wetlands, plants, wildlife, wildlife corridors and habitats would be avoided or minimized to the maximum extent practicable.

### **G. Summary of Requirements, Conditions, and Mitigation Measures**

There are a number of specific requirements, conditions and/or mitigation measures related to the Proposed Action and program here as established by the Town Board in this Findings Statement, or as recommended by various Interested and Involved governmental Agencies and the public. These measures have been included in the Project to either avoid or minimize

impacts or to provide mitigation where a significant adverse impact has been identified. These provisions shall constitute express conditions of any future Project approvals and obligations of the Applicant, including, but not limited to, future Site Plan approvals, which shall be enforceable by this Board, or its designated representatives, and memorialized in future legal and/or Project documentation. These measures are:

## **Land Use and Visual Resources**

### *Design Guidelines*

- All building plans, and construction and development of the Proposed Action on the Site, shall be in substantial conformance with the adopted Knolls of Dover Design Guidelines and the standards established therein, including, but not limited to, location for land uses, street layout and design, lot and building dimensional standards, architectural standards, block configuration, parking and alley treatments, open space and buffers, stormwater management, curbs, streetscapes, and building materials and colors.
- All Site Plans for the Project shall comply in all material respects with the Master Development Plan.

### *Lighting and Landscaping*

- All future site plans shall include shielded pedestrian scale lighting and cut-off luminaires to minimize light trespass and glare.
- The Applicant shall submit with its Site Plan Application(s) a Resident Planting Plan encouraging all future residents to plant primarily native landscaping, as well as limit the use of irrigation, fertilization and chemicals.

## **Geology and Stormwater Management**

### *SWPPP and Erosion Control*

- The Applicant shall submit with its Site Plan Application(s) a Stormwater Pollution Prevention Plan (SWPPP), which shall set forth measures, including, but not limited to, the use of best management practices design to avoid erosion, prevent construction materials from mixing with stormwater, and trap sediment laden runoff or other pollutant material prior to its discharge to other protected on-site and off-site areas, as well as pre- and post-construction inspection and maintenance program details. The SWPPP shall also set forth a soil stabilization program to manage disturbance on slopes in excess of 15 percent.

### *Low Impact Development (LID)*

- The Applicant's Site Plan(s) shall incorporate the LID elements described in the Master Development Plan and FEIS. The elements of LID included in the Site Plan shall include: the clustering of units in distinct hamlet areas; preserving open space area and the reduction of land clearing area pursuant to the Master Development Plan; the use of roadside swales, detention ponds, porous pavement, and rain gardens, where appropriate, to capture and collect stormwater runoff; the creation of a naturally vegetated buffer system along the existing wetland areas; the incorporation

of the existing wetland ecosystem into the stormwater drainage design; the use of sidewalks on one-side of the street where practical to reduce impervious surfaces; and the use of reduced road widths in the outer lying portions of the development site to reduce impervious area and Project stormwater runoff volumes. Hydrodynamic separators may be considered in areas not adjacent to wetlands and watercourses.

*Porous Pavement*

- The SWPPP shall, subject to agreement and approval by the MTA, incorporate the use of porous pavement in the portion of the parking lot between the Power Plant and the Swamp River.
- The Applicant shall consider the use of porous pavement in parking areas where appropriate.

**Natural Resources, Water Resources and Wetlands**

*Marble Knolls Area*

- The Applicant's Site Plan(s) shall provide that all grading activities in proximity to the smaller areas of marble knolls located in and around the golf course be minimized. Consistent with the recommendation of NYSDEC, the Applicant's Site Plan for the Marble Knolls Area shall also include a limit of disturbance line to ensure and demonstrate that this area is protected to the maximum extent practicable.
- The Applicant shall implement the removal and selected clearing of non-native species, identified in the Hudsonia Report as a restorative measure, particularly for Marble Knoll #9, where a number of rare plant species were identified.
- An alternative configuration of Road C was presented in the FEIS. The Applicant shall incorporate the alternative configuration of Road C in its Site Plan(s). This modification to Road C shall avoid or minimize adverse environmental impacts to the maximum extent practicable and the majority of the Marble Knolls habitat area will remain undisturbed.

*Invasive Species*

- The Applicant shall submit with its Site Plan Application(s) a control plan for non-native, highly invasive mile-a-minute vine.

*Indiana Bats*

- Tree clearing in the vicinity of the areas where male bats were found during the DEIS study shall only be done during the fall and winter months (October through March) in order to eliminate the potential for disturbance of any potential maternal colonies. The Town Board recognizes that no additional surveys were recommended on-site by Bat Conservation and Management, Inc.
- The Applicant shall, to the maximum extent practicable and feasible, limit the amount of outdoor lighting, include motion sensors or timers for outdoor lighting, direct lights toward the ground and buildings, and employ shielded lighting to minimize nighttime lighting impacts, consistent with the recommendations of the US Fish and Wildlife Service.

*Turtle Nesting*

- Silt fences shall be installed around active soil piles, particularly in the vicinity of the Swamp River to prevent turtles from nesting in them; all open earth works (e.g., trenches, ditches) shall be backfilled as soon as possible to prevent turtle entrapment; any excavated areas left open at the end of the work day each morning shall be inspected, removing any trapped turtles; and other measures, including, but not necessarily limited to, Cape Cod curbs on main roads and driveways, speed bumps to slow traffic and turtle crossing signs, shall be implemented to reduce the potential impacts to reptile and amphibian movements.

*Creation of New Wetlands and Wetland Enhancement*

- The Applicant shall create 4.32 acres of new wetland, and 2.44 acres of wetland enhancement in accordance with the description herein and the applicable regulatory requirements. All details of created wetlands or wetland enhancements shall be provided as part of the Site Plan approval process. The Applicant's Site Plan(s) shall include the provision of at least a one-hundred foot (100-foot) adjacent area to wetlands and watercourses, for critical areas identified during the environmental impact statement process as Environmentally Sensitive Areas.
- The Applicant shall not disrupt the pathways for water or animals at wetland crossings. Wetland crossings, bridges, or open bottomed culverts will be used where practicable to minimize the impact footprint.

*Reservoir Area*

- The Applicant's Site Plan(s) shall include only an emergency access road in the vicinity of the reservoir, which shall follow the existing gravel interior road. No new roads are proposed around the reservoir.
- The Applicant's Site Plan(s) shall include the preservation of the majority of the existing mature second growth forest habitat, consistent with the layout presented in the modified FEIS plan.
- To the extent not covered by the SWPPP prepared for the Project, the Applicant's Site Plan(s) shall include a stormwater management plan for the reservoir area, which shall provide measures designed to improve water quality, enhance the diversity of plants and habitat and provide long term soil stabilization.
- Consistent with NYSDEC recommendations, the Applicant's Site Plan for the Reservoir Area shall include the use of rain gardens, narrow pavement width roads with stabilized shoulders and vegetated swales, and woodland reforestation sloped areas not required for home development. The Site Plan for this Area shall also include the limit of disturbance line showing that building envelopes have been minimized to the maximum extent practicable, and a detailed planting plan for areas to be re-vegetated, which shall specify native species. As recommended by the NYSDEC and specified in the Design Guidelines, homeowners in the reservoir hamlet wishing to supplement trees on their lots shall be encouraged to utilize native plantings. A list of native tree types that would further enhance the habitat and complement the landscape design shall be provided during Site Plan review.

*Tree Plantings*

- The Applicant's Site Plan(s) shall provide that disturbed sloped areas in excess of 15 percent, which are not used for homes, shall be reforested with native trees to provide for long term soil stabilization and habitat diversity. The Applicant shall encourage residents to supplement trees on their lots from a list of tree types, which will be provided to them to further enhance the habitat and which may complement the landscape design of their homes.

**Community Services**

*Recreation Fees and Off-Site Recreation*

- On-site recreational amenities would provide for approximately 60 percent of the Project's recreational impacts. The unmet demand would be mitigated through a proportionate assessment of the Town's recreation fees of \$3,000 per dwelling unit. The required \$1,651,200 recreation fee shall be paid in scheduled increments as building permits are issued over the buildout, with an initial payment covering the fees for the first 220 units to be made at the time of site plan approval.

*Community Garden*

- The Applicant's Site Plan Application(s) shall designate, if appropriate, certain areas in the southwestern portion of the Project site, previously used for agriculture for use as a community garden. The Applicant is encouraged to make this community garden open to all residents of the Town of Dover.

*Trails*

- The Applicant's Site Plan(s) shall include a network of walking trails which shall be preserved through Restrictive Covenant, which shall be reviewed by the Town Attorney for form, and be recorded in the County Office of Land Records.

*Fire Protection*

- The Fire Company currently has a 35-foot extension ladder (with operating height of approximately 30 feet) carried on the first due apparatus and a 75-foot aerial ladder truck which has a response time of between 7 to 10 minutes of the project site. While this equipment provides service to other four-story buildings in Dover Plains, as well as existing buildings on the Project site, the specific design of the project buildings may require additional equipment to ensure adequate fire safety. The Fire Company has been consulted and has provided comments on potential impacts. However, final details of any mitigation requires additional consultation with the Fire Company regarding information specific to the design of individual buildings such as access to each side of the buildings, location and size of parking areas, landscaping, driveways, and building frontage which information will be developed during the site planning process. It shall be a condition of site plan approval that the Town Board, in consultation with the Fire Company and Applicant, shall determine whether any additional fire equipment shall be needed to address any of the Project design details incorporated during such review.

*Sprinklers*

- All multifamily, mixed use and commercial buildings shall be provided with sprinklers.

*Workforce and Senior Housing*

- The Applicant's Site Plan Application(s) shall provide detailed program guidelines and procedures for age-restricted and workforce housing.

*Homeowners' Association/Condominium Association*

- Prior to marketing residential units in any Hamlet or Neighborhood, or in the Town Center, the Applicant shall form an HOA for each area pursuant to all applicable legal requirements. At a minimum, each of these neighborhood HOAs shall be made responsible for managing the common areas and/or facilities within each discrete community, including, private roads, stormwater basins, and local community greens and open space areas.
- The Project shall also have a Master HOA and open space management plan, which would be responsible for open spaces and/or facilities common to the entire Project, such as the Recreational Trail System, and the Reservoir, and which shall be set forth in a recordable instrument.
- The Applicant's Site Plan shall set forth limit of disturbance lines and demarcate lot lines and open space boundaries.

**Cultural Resources**

*Building Reuse and Demolition*

- Prior to the demolition of any eligible or registered historic buildings on the Site as part of the Proposed Action, the Applicant shall enter into a Memorandum of Agreement or equivalent documentation with the State Historic Preservation Office (SHPO) to, among other things, document the history of the Site through a photographic display or other means as agreed upon by the parties.

**Traffic and Transportation**

*Traffic Monitoring*

- The Applicant shall submit a Traffic Monitoring Report prior to initiating construction of Phase 2 of the Project, describing build traffic conditions at such time, and analyzing whether there is a need for potential upgrading of certain intersections along Route 22.
- The Applicant shall coordinate with Dutchess County Department of Public Works regarding issues related to abutting County roads, including sight distance studies.

The results of the Applicant's discussions with the County shall be set forth in the Applicant's Site Plan(s) for Phase I.

*Pedestrian Circulation*

- The Applicant's Site Plan(s) shall include trail/bike path connections to increase connectivity on-site between the hamlets and Town Center. While traditional sidewalks will not be present in the western portion of the site in the vicinity of Road D and Wheeler Road, the trail/bike path connections will provide proper connectivity between the hamlets in the western portion of the site and the train station.
- The Applicant shall incorporate in its Site Plan(s) a sidewalk along Road K to provide increased connectivity within the edge of the Town Center on the eastern portion of the site.

**Air Quality**

*Greenhouse Gases*

- The Applicant shall continue to actively solicit having natural gas brought to the Site throughout the development period. The Applicant shall also investigate piping gas from a local propane/air system to the structures to remain in place until such time as economics allow the extension of pipeline gas to the site.
- The Applicant shall also investigate the purchase of a certain percentage of "green power" (electricity generated by the use of renewable or sustainable sources, such as wind, solar, and hydropower).

**Hazardous Materials**

*Soil Monitoring*

- The Applicant's Site Plan Application shall include a Site Management Plan ("SMP") and Construction Health and Safety Plan ("CHASP"), which shall control the characterization and removal of soil during construction. These procedures should consist of the following: (a) retaining a Part 364 permitted environmental contractor to excavate, characterize, transport and dispose of any impacted soils at the appropriately-licensed disposal facility, (b) appropriate health and safety monitoring, erosion and sediment controls, recordkeeping, and other contingency remediation requirements; and (c) backfilling the excavations with clean fill material. In addition, any imported fill material must contain documentation or be tested to confirm that it is appropriate for the intended use. In addition, the SMP shall also include procedures to ensure the proper testing, handling and disposal requirements for any fill material, ash and/or contamination that is encountered during site development. All contaminated material shall be properly manifested prior to transportation off-site to an appropriately-licensed disposal facility. The SMP shall also include a contingency plan to address any contamination, including procedures for spill reporting, delineation, and remediation, to be documented during the development activities. All RECs and PECS shall be addressed in a phased approach in compliance with all applicable regulations during construction.

*PCB, Lead Paint, Asbestos and Radon*

- The appropriate PCB, lead-paint and asbestos surveys shall be conducted prior to construction and demolition activities and any necessary removal conducted in compliance with all applicable regulations. The appropriate radon testing shall be performed at sites prior to construction and if necessary, sub-slab depressurization systems or ventilation systems shall be installed.

*Tunnels*

- The Applicant shall remove and abandon certain tunnels within the Project area, subject to the follow conditions:
  - The Applicant shall not place, store or dispose of any contaminated materials in any of the tunnels;
  - The Applicant must remove and remediate all asbestos in accordance with regulatory requirements before abandoning or removing the applicable tunnels;
  - Where tunnels do not conflict with proposed buildings, roads or utilities, the tunnels can be abandoned in place and filled solid with clean fill, recognizable uncontaminated construction and demolition (C&D) debris (as defined and regulated under 6 NYCRR Part 360-7.1(b)(1)), or uncontaminated concrete grout; and
  - Where tunnels conflict with proposed construction, the Applicant may remove them in accordance with its reasonable discretion.

**Construction**

*Rock Crusher*

- Any processing of on-site material shall comply with the Town noise code. The crushing of any rock imported to the site shall be prohibited, unless the additional material is required for the construction of the project's roadways and foundations. All structural rock fill shall be properly compacted. Rock crushing operations shall be located centrally to the site to minimize potential impacts to adjacent residential land uses.

*Construction and Demolition Debris*

- The Applicant's Site Plan Application(s) shall include a Demolition Waste Management Plan. The Plan shall require procedures to segregate and properly dispose of debris from demolition of buildings and/or tunnels that is not suitable for reuse on-site. Only clean fill, recognizable uncontaminated construction and demolition (C&D) debris (as defined and regulated under 6 NYCRR Part 360-7.1(b)(1)), or uncontaminated concrete grout may be used as backfill on the Project site.

*Construction Protocols*

- The Applicant shall include, with the submission of construction drawings to the Town Building Inspector for each Phase, a blasting protocol, traffic management plan, and building demolition plan.
- The Applicant shall implement an erosion and sediment control plan which conforms to the Town Code, the NYSDEC Stormwater Management Design Manual, and practices designed pursuant to NYSDEC's Standards and Specifications for Erosion and Sediment Control.
- All activities on-site shall be subject to Section 107 of the Town's Code, which prohibits construction, demolition or excavation after 9:00 PM and before 7:00 AM, except in the case of urgent necessity in the interest of public safety.
- Consistent with the Town Code, blasting shall only be carried out by a person who is licensed in the State of New York to handle and detonate explosives. All personnel who may handle or use explosives shall have appropriate training and safety instructions. Warning signs shall be posted at suitable locations.
- Prior to the construction of Phase 1B, the Wheeler/Route 22 intersection shall be upgraded to accommodate the construction worker traffic.

**Infrastructure**

*Wells*

- In connection with its application for a Water Supply Permit and Water Quality Certification, the Applicant shall, among other things, conduct well testing programs in accordance with the regulatory agency requirements, and which shall be subject to the review of the NYSDEC and NYSDOH, confirming that the six (6) potential well sites described in the FEIS are capable of producing a sufficient water supply to meet the Project's demands, including, but not limited to producing a yield in excess of the Project's estimated maximum day demand of 622 GPM or 900,000 GPD, or twice the average day demand of approximately 311 GPM or 450,000 GPD.
- Consistent with NYSDEC and Health Department regulations, the Applicant shall demonstrate to those Agencies' satisfaction that the project's maximum day demand can be met even if the system's "best well" is taken out of service.
- If the findings of the NYSDOH final determination on the water supply application classify the ground water source as "ground water under the direct influence of surface water," the Applicant shall install appropriate treatment.
- If contaminants are found as part of the NYSDOH Subpart 5-1 requirements for testing of public water systems, remedial action shall be taken to the satisfaction of NYSDOH. Such treatment may be accomplished either within the same process identified for iron and manganese removal by capping the filter media with a 2-foot layer of granular activated carbon (GAC) or by a separate treatment train using GAC filters in series.
- The Applicant shall also implement, as required, the Compliant Response and Remediation Plan included as an Appendix to the FEIS.

**Conclusion**

The Town Board hereby certifies that the requirements of 6 NYCRR Part 617 have been met and complied with in full. After due consideration and pursuant to Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 of the relevant environmental impacts, facts and conclusions disclosed in the FEIS, and after weighing and balancing the relevant environmental impacts with social, economic, and other considerations, the Town Board of the Town of Dover, as Lead Agency, certifies, for the reasons set forth in these Findings, that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives, the Project is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts would be avoided or minimized to the maximum extent practicable by incorporating those mitigation measures that are set forth herein;
2. The Project is one that appropriately balances potential adverse impacts against potential beneficial impacts in the forms of creation of additional housing opportunities, generation of tax revenues, and the overall redevelopment of a vacant and deteriorating facility that currently exerts a blighting influence on the community with a mixed-use development consistent with traditional neighborhood design principles;
3. The written findings statement contains the facts and conclusions utilized by the Town Board to make its decision.