

STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”)

FINDINGS STATEMENT

Project Sailfish

Lead Agency: Town of Montgomery Planning Board

Date Adopted: September 24, 2019

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Pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the NYS Environmental Conservation Law and its implementing regulations (6 NYCRR Part 617), the Town of Montgomery Planning Board (the "Planning Board") as the SEQRA Lead Agency makes the following findings.

1.0 INTRODUCTION

Name of Action: Project Sailfish

Project Sponsor: Bluewater Industrial Partners LLC ("BWI" or the "Applicant"), One Tower Bridge, 100 Front Street, Suite 570, Conshohocken, PA 19428. Contact: Don Chase and Steve Butte (484) 680-1967.

SEQRA Classification: Type 1

Lead Agency: Town of Montgomery Planning Board, 110 Bracken Road, Montgomery, New York 12549 (845) 457-2643. Contact: Suzanne Hadden, Planning Board Secretary
email: shadden@townofmontgomery.com.

Description of Action: The project consists of the development of a warehouse distribution center located on 187.7 acres of vacant land bordering on interstate highway I-84 and NYS Routes 17K and 747 in the Town of Montgomery. The warehouse distribution center would consist of a building containing 1,010,880 square foot of space and, among other things, 1,060 car parking spaces, 225 trailer parking spaces, wastewater treatment facility (WWTP), water-treatment facility and water tank, stormwater management basins and improvements, accessory driveways to and from the Site, lighting, landscaping, signage, and other related improvements. The Project requires a site plan approval and special exception use permit from the Planning Board ("Land-Use Applications"). The Project also includes a zoning map amendment from the Town of Montgomery Town Board to rezone approximately 77 acres of the Project Site from the IB Interchange Business Zoning District to the I-2 Industrial Park – Major Access Zoning District (the "Zoning Map Amendment") (collectively the "Project" or "Proposed Action").

Project Location: NYS Route 17K and NYS Route 747, Town of Montgomery, New York ("Project Site").

Tax ID No: Section 31, Block 1, Lots 64, 65.22, 89, and 70.2. These four lots will be consolidated into one lot to facilitate the Project. A subdivision is not required.

Date Draft Environmental Impact Statement ("DEIS") Accepted as Complete: December 5, 2018.

Date of Public Hearing on DEIS: January 7, 2019 and January 14, 2019

End of Public Comment Period on DEIS: January 28, 2019. After the end of the public comment period, the Planning Board continued to accept verbal and written comments from the public and agencies on the DEIS and the Project until the FEIS was deemed complete. In addition, the Planning Board held thirteen public hearings on the Project's Land-Use Applications. During those hearings, the Board also accepted written and verbal comments from the public and agencies on the DEIS, FEIS and the Project. Any substantive comments received before and after the close of the DEIS hearings were also responded to in the FEIS.

In total, the Planning Board afforded the public and agencies almost 8 months to comment on the DEIS and the Project before the FEIS was deemed complete.

Date Final Environmental Impact Statement ("FEIS") Accepted as Complete: August 1, 2019. The Planning Board afforded the public and agencies until August 27, 2019 – 27 days - to consider and comment on the FEIS after its completion. This significantly exceeded the minimum 10-days allowed by SEQRA (6 NYCRR 617.11(a)). SEQRA does not require a public hearing on the FEIS. However, during this period, the Planning Board held 3 public hearings and an extended written comment period on the Project's Land-Use Applications. During this comment period, the Board also accepted verbal and written comments on the FEIS. In fact, the vast majority of comments received related to the FEIS and the Project's environment impacts.

In total, the Planning Board afforded the public and agencies over 9 months to comment on the DEIS, FEIS, Land-Use Applications and the Project.

Throughout the document, as appropriate, measures and obligations referencing "the applicant" also includes the operator or owner or tenant.

2.0 DESCRIPTION OF THE PROPOSED ACTION

2.1 Project Description

The Project Site contains 187.7 acres and is proposed to be used for the development of a 1,010,880 square foot warehouse / distribution center, 1,060 car parking spaces, 225 trailer parking spaces, water treatment facility, water tank, stormwater management basins and improvements, accessory driveways to and from the Site, lighting, landscaping, signage, WWTP and other related improvements. The Project Site is currently vacant except for an abandoned historic house and related garage located along Route 747 and the remnants of an old dairy farm along Route 17K. The Site contains mostly woodlands and wetlands. A tributary of Tin Brook runs along the Site's eastern boundary.

The Applicant's objective is to develop a warehouse / distribution facility in the Town of Montgomery (the "Town"). The tenant will operate the warehouse as a fulfillment center, receiving in-bound bulk shipments of products from various vendors, suppliers and sellers, then packaging and shipping items directly to its customers, either through its own delivery network or through third-party shippers. The Project is proposed to expedite the delivery of products ordered online to customers in the Town of Montgomery and the surrounding region. The activities would take place inside the warehouse building in a secured environment, which is not open to the public. The warehouse building will operate 24/7/365 and is expected to be fully operational in the first half of 2021. The Project would employ up to 1,100 full-time employees, typically in multiple shifts. Seasonal increase in employment is expected

in the fourth quarter annually. The Project would also create a number of short-term construction jobs using a significant amount of local labor. The Town IDA has a local labor requirement that requires a minimum of 85% local labor. The Applicant has indicated that it has committed to this requirement, which would be the under the purview of the IDA.

As discussed in more detail below, the Project Site is located on land where the Town of Montgomery and Orange County planning policies encourage the type of development proposed by the Applicant. In fact, the I-84/NYS Route 747 interchange had been upgraded recently to facilitate the future development of distribution centers/industrial uses in this area to take advantage of the adjacent high-quality transportation corridor consisting of I-84, NYS Route 747, NYS Route 17K and its close proximity to I-87, Stewart International Airport and the nearby States of Connecticut and Pennsylvania.

The Project requires a variety of permits and approvals from local, New York State and federal agencies. A comprehensive list of these permits and approvals is contained in Table 1 of the FEIS including the following, among others: (1) from the Planning Board - a site plan and special exception use permit; (2) from the Town Board - a Zoning Map Amendment for part of the Site; (3) from the Town of Montgomery Zoning Board of Appeals ("ZBA") a minor area variance to slightly reduce the size of parking spaces from 9'x20' to 9'x18'; (4) from the New York State Department of Environmental Conservation ("NYSDEC") – a SPDES General Permit for Stormwater Discharges Associated with Construction Activity, SPDES Permit for Wastewater Discharges from the WWTP, Protection of Waters Permit, Freshwater Wetlands Permit and Water Quality Certification; (5) from the New York State Department of Transportation ("NYSDOT") – a Highway Work Permit; and (6) from the U.S. Army Corps of Engineers ("ACOE") – a Nationwide Permit to disturb federal wetlands. The Project also requires consultation with the New York State Historic Preservation Office ("SHPO") for potential impacts to cultural resources.

The Applicant is also seeking certain financial incentives from the Town of Montgomery Industrial Development Agency ("IDA") to facilitate the development of the Project. Even if such incentives are granted, the Project will generate substantial tax revenues for the Town of Montgomery, Orange County, the State of New York and the Valley Central School District, with limited community costs resulting from the Project.

The potential environmental impacts of the Project were reviewed in detail in the Draft Environmental Impact Statement ("DEIS") and in the Final Environmental Impact Statement ("FEIS") with the Town of Montgomery Planning Board serving as the lead agency under the State Environmental Quality Review Act ("SEQRA").

2.2 Purpose and Need

The purpose of the proposed distribution facility/warehouse is to serve as a fulfillment center for a prospective tenant. The proposed facility will be used for the temporary storage and ultimate distribution of goods to the surrounding areas. The prospective tenant does not have a facility in this mid-Hudson region. Such a facility is required to properly serve the tenant's customers. Without the proposed distribution facility/warehouse, the prospective tenants' customers will not be serviced in an efficient manner and delivery trailer trucks will be required to drive longer distances throughout the region. If constructed, products would be delivered to the proposed distribution facility/warehouse for sorting and distribution. From the distribution facility/warehouse, products would be delivered to the consumers through its own delivery network or through third-party shippers.

The location of the Project is perfect for the proposed distribution facility/warehouse. Being directly adjacent to a major interstate highway (I-84) means that delivery trailer trucks do not have to travel on local roads to access the Project. In addition, the size of the Project Site is large enough to accommodate this size facility and the related infrastructure. The locations of these facilities are limited by the number of parcels that are available, which are large enough to accommodate the requirements of this use. The need for this Project in this location is driven by: 1) the lack of a facility in the region to service the tenant's business in the area, 2) the size of the Project Site, and 3) the Project Site's location adjacent major thoroughfares.

The Proposed Action is consistent with the goals and objectives of the Town of Montgomery Master Plan and related planning studies and updates to the Master Plan. These plans/studies encourage future industrial development on the Project Site, citing the Town of Montgomery as a primary location for such development due to its proximity and easy access to two I-84 interchanges with NYS Routes 208 and 747, its proximity to I-87, Stewart International Airport and its location between the Cities of Newburgh and Middletown. Compared with nearby municipalities, vacant industrial land is more readily available for development in the Town of Montgomery. Moreover, the Project Site is located close to the I-84/Route 747 interchange which was expanded and upgraded recently to facilitate industrial and commercial growth in this area of the Town near Stewart International Airport.

A substantial tax base would be created on what is now vacant land. There would be initial permit and fee revenue generated for the Town during construction. The Project will create short-term jobs during construction and permanent jobs during Project operations.

As discussed in more detail below, the Planning Board finds that the Project is being developed consistent with the Town of Montgomery Master Plan and related planning studies and updates for encouraging industrial development on the Project Site and in this part of the Town.

Access to Public Sewer

No public sewers are available to serve the Project. The closest public sewer is located in the nearby Town of Newburgh. Pursuant to existing agreements with the City of Newburgh, the Town of Newburgh is not allowed to provide sewer service to properties located outside of the Town of Newburgh. As a result, the Project is not able to connect to this public sewer. The Planning Board investigated the potential to use a subsurface disposal system for the Project's sanitary waste water. As discussed in more detail below, the NYSDEC would not permit the use of such a system on the Project Site, and therefore the Planning Board had no choice but to abandon the consideration of that option. As a result, a small WWTP will be constructed on the Site to serve the Project. It will have the ability to be expanded and upgraded in the future to serve other properties in this area of the Town if desired by the Town of Montgomery. The WWTP will be offered for future dedication to the Town of Montgomery. The offer of dedication will be recorded in the Orange County Clerk's Office. BWI will pay the cost to construct and maintain the WWTP. No Town funds will be used to construct or maintain the plant. The Town is under no obligation to accept dedication or ownership of the WWTP. The Planning Board has recommended that the Town not accept the ownership or operation of this WWTP at this time.

2.3 Project SEQRA History

In accordance with the SEQRA, the following elements of the SEQRA process were undertaken for the Project:

- On February 21, 2018, the Project Sponsor initially applied to the Town of Montgomery Town Board to rezone a portion of the Project Site from IB to I-2 zoning to facilitate the Project.
- On March 16, 2018, the Project Sponsor applied to the Planning Board for site plan review for the proposed warehouse. The Project Sponsor also applied to subdivide the Project Site to reconfigure the existing lots lines on the Project Site to merge the existing four lots into two lots. These applications were accompanied by a variety of documents including Part 1 of the Full Environmental Assessment Form (“EAF”) and additional supporting documents. The subdivision is no longer necessary as the Applicant will consolidate all four lots into one lot.
- Subsequently, the Project Sponsor supplemented the Project’s site plan application with an application for a Special Exception Use Permit (“SEUP”) for the proposed warehouse. This supplemental application was accompanied by a variety of documents including a revised Part 1 of the EAF and additional supporting documents.
- On March 26, 2018 the Planning Board declared its intent to be the lead agency under SEQRA to conduct the environmental review of the Project.
- On April 2, 2018, the Planning Board, as the proposed SEQRA lead agency, referred the EAF, the applications and a Notice of Intent to be the lead agency to all other involved and interested agencies. No involved agencies objected to the Planning Board being the lead agency to conduct the environmental review of the Project under SEQRA.
- On May 14, 2018, the Planning Board designated itself as the SEQRA lead agency for the Project and issued a Positive Declaration determining that the Project may have the potential for a significant adverse environmental impact and that a Draft Environmental Impact Statement (“DEIS”) will be prepared and a scoping session will be conducted.
- On May 30, 2018, the Planning Board held a public scoping session to allow all involved and interested agencies and the public an opportunity to comment on the draft scope of the DEIS. Also, written comments on the draft scope were permitted to be submitted to the Planning Board until the close of business on June 4, 2018.
- On June 25, 2018, the Planning Board adopted the final written scope for the DEIS and sent it to all involved and interested agencies on July 2, 2018.
- On October 9, 2018, the Project Sponsor submitted a preliminary DEIS to the Planning Board and its consultants for initial review and comment on completeness of the DEIS.
- The Planning Board and its consultants used the final written scope and the standards contained in SEQRA to determine whether to accept the preliminary DEIS as adequate and complete with respect to its scope and content for the purpose of commencing public

review. To this end, the Board and its consultant provided the Project Sponsor with initial comments on the completeness of the preliminary DEIS.

- On November 27, 2018, the Project Sponsor submitted a revised preliminary DEIS to the Planning Board addressing the initial comments of the Board and its consultants.
- The Planning Board and its consultants reviewed the revised preliminary DEIS and recommended that it be deemed complete conditioned upon the Project Sponsor making certain minor revisions to the DEIS before it was circulated for public review.
- On December 5, 2018, the Planning Board deemed the DEIS complete conditioned upon the minor revisions being made as noted above and schedule a combined public hearing for January 7, 2018 for the DEIS and the Project's Land-Use Applications. The DEIS eliminated the need for a subdivision. The DEIS (including its appendices) contained over 4400 pages of information evaluating and studying the Project's potential impacts on the environment and proposed mitigation measures.
- On December 7, 2018, the complete DEIS was filed with the Planning Board and the Montgomery Free Library in the Village of Montgomery. Also, the complete DEIS, a Notice of Complete DEIS and notice of combined public hearing were sent to approximately 31 different agencies including 10 involved agencies and 21 interested agencies. The complete DEIS was also posted on the Town's website and hard copies of the complete DEIS were available for public review at the Town Hall. A computer was available at Town Hall to facilitate the public's review of the complete DEIS.
- On December 12, 2018, notices of the complete DEIS and the combined public hearings were published in the NYSDEC Environmental Notice Bulletin ("ENB").
- On January 7, 2018 and January 14, 2019 the Planning Board held duly noticed public hearings on both the DEIS and the Project's Land-Use Applications. The written public and agency comment period on the DEIS remained open until January 28, 2019. All written and verbal comments were accepted and transmitted to the Project Sponsor to be addressed in the Final Environmental Impact Statement ("FEIS"). The Planning Board received over 1200 verbal and written comments on the DEIS from the public and agencies.
- The Planning Board continued to hold public hearings on the Project's Land-Use Applications after the DEIS hearing was closed. Public hearings were held on the following dates: February 11, 2019, March 11, 2019, April 29, 2019, May 13, 2019, May 28, 2019, June 10, 2019, June 24, 2019 and July 8, 2019. During those hearings, the Planning Board continued to accept verbal and written comments on the DEIS from the public and agencies. The Planning Board also continued to accept written comments. The Board accepted both verbal and written comments on the DEIS for almost 7 months after the comment period had closed on the DEIS.
- On May 10, 2019, the Project Sponsor prepared and submitted a draft FEIS to the Planning Board and its consultants for review. As required by SEQRA, the draft FEIS consisted of the following: the DEIS including any revisions or supplements to it; copies of all substantive

comments received on the DEIS and their source (whether or not the comments were received in the context of a hearing); the lead agency's responses to all substantive comments. Some agency and public comments received on the DEIS resulted in Project revisions to avoid and minimize environmental impacts to the maximum extent practicable.

- The Planning Board and its consultants reviewed the draft FEIS and provided the Project Sponsor with initial comments on the adequacy, accuracy and completeness of the draft FEIS.
- On June 25, 2019, at least one member of the public was sent a copy of the draft FEIS pursuant to the New York State Freedom of Information Law ("FOIL").
- On July 5, 2019, the Project Sponsor submitted a revised draft FEIS to the Planning Board addressing the initial comments of the Board and its consultants.
- The Planning Board and its consultants further reviewed the revised draft FEIS and provided additional comments to the Project Sponsor on the completeness of the draft FEIS.
- On July 30, 2019, the Project Sponsor submitted another revised draft of the FEIS to the Planning Board and its consultants addressing the additional comments.
- On August 1, 2019, the Planning Board deemed the FEIS complete, adequate and accurate for public consideration. The Board provided that the public and agencies would have until August 27, 2019 to consider the FEIS. This is more than the 10 days required by the SEQRA regulations.
- The FEIS (including its appendices) contains over 3800 pages of information including responses to the substantive comments on the DEIS and clarifying and amplifying information in the DEIS.
- The FEIS was filed with the Planning Board, the Montgomery Free Library in the Village of Montgomery and the Josephine-Louise Public Library in the Village of Walden. Also, the FEIS and a Notice of Complete FEIS were sent to approximately 31 different agencies including 10 involved agencies and 21 interested agencies. The FEIS was also posted on the Town's website and hard copies of the FEIS were available for public review at the Town Hall. A computer was available at Town Hall to facilitate the public's review of the FEIS.
- On August 14, 2019, a notice of the FEIS was published in the NYSDEC Environmental Notice Bulletin ("ENB").
- On August 12, 2019, August 26, 2019, September 9, 2019, and September 24, 2019 the Planning Board held further public hearings on the Project's Land-Use Applications after the FEIS was deemed complete. During those hearings, the Planning Board accepted public comments on the FEIS, the Project's potential environmental impacts and measures to mitigate such impacts. The Board also continued to accept written comments on the FEIS up to August 27, 2019 and thereafter.

- The Planning Board conducted a comprehensive and detailed review of the Project and its potential environmental impacts and mitigation measures as part of the DEIS and FEIS. More than 31 local, State and federal agencies reviewed the Project's DEIS and FEIS and many provided comments which resulted in Project revisions and mitigation measures to avoid reduce and minimize environmental impacts to the maximum extent practicable.
- Approximately 30 experts and professional consultants reviewed the Project's DEIS and FEIS as part of the SEQRA process and provided comments which resulted in Project revisions to avoid and minimize environmental impacts to the maximum extent practicable. These experts included the following, among others: Town Planner, County Planner, Planning Board Engineer, Planning Board Attorney, Town Engineer, 3 traffic engineers, 2 stormwater control engineers, 2 noise engineers, 2 lighting experts, landscape architects, 4 wetland biologists, 2 archeological and cultural resource experts, 2 geotechnical engineers, 4 endangered/threatened species experts, 2 fire control experts and architects. The Coldenham Fire District also reviewed the Project multiple times and provided input. The Planning Board considered the input of these experts and professional consultants.
- The Planning Board's professional engineer, Andrew Featherston, PE, CPESC, CFM, CPSWQ, of Maser Consulting, P.A. conducted a comprehensive review of the Project. Mr. Featherston and engineers in his firm issued over a dozen letters contain almost 450 comments on the DEIS, FEIS and site plans for the Project. These comments resulted in revisions to the Project that reduced or avoided environmental impacts to the maximum extent practicable and provided environmental benefits and further protective measures.
- Over a dozen major studies were conducted as part of the DEIS and FEIS to evaluate the Project's potential environmental impacts and propose mitigation measures to reduce and minimize impacts. These studies included, among others: Traffic Impact Study, Geotechnical Study, Stormwater Pollution Prevention Plan, Water Supply Report, Archeological and Cultural Resource Reports, Acoustical Study, Wetland Reports, Phase 1 Environmental Site Assessment, Noise Impact Study, Bog Turtle Phase 1 Report, Flora and Fauna Surveys/Reports, Aquifer Test Plan and site plans containing over 85 drawings.

2.4 SEQRA Findings

Pursuant to the SEQRA regulations (6 NYCRR 617.11), these Findings must:

- A. Consider the relevant environmental impacts, facts and conclusions disclosed in the FEIS;
- B. Weigh and balance relevant environmental impacts with social, economic and other considerations;
- C. Provide a rationale for the lead agency's decision;
- D. Certify that the requirements of SEQRA have been met; and
- E. Certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse

environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

3.0 FINDINGS CONCERNING POTENTIAL ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

3.1 Land Use, Zoning, and Public Policy

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to Town of Montgomery and county land use, zoning and public policy in making the findings below.
- B. In sum, land uses within one-half mile of the Project Site are as follows:
 1. **North of the Project Site:** Along Stone Castle Road (on the north side of Route 17K are commercial and light industrial uses, including storage warehouses, light industrial uses, truck terminals, a truck rental facility, light manufacturing, and an auto auction facility. Only one residential use is located adjacent to the Site on the southside of Route 17K and another residential use directly across Route 17K from the Project Site in addition to a utility substation and active farm fields further to the north. Some residential uses exist a distance from the Site on the north side of NYS Route 17K west of Browns Road. A commercial use (Golf Carts Unlimited) is located at the northwest corner of NYS Route 17K and Browns Road. in the B-4 zoning district. The Colden Mansion ruins are located northeast of the intersection of Routes 747/Stone Castle Road/17K.
 2. **West of the Project Site:** Immediately west of the Project Site are several larger lots developed with single-family houses and agricultural uses. These lots are located in the I-2 - Industrial Park Major Access zoning district. These lots have frontage on Maple Avenue. On the western side of Maple Avenue, in the RA-2 zoning district, are lots primarily developed with single-family houses. These houses are over 1,500 feet from the Project Site. The Planning Board and ZBA recently approved a large commercial solar farm, referred to in the Zoning Law as a "Utility Scale Solar System," on property located immediately adjacent to the Project to the west. This commercial solar farm is permitted with a special exception use from the Planning Board. Lots with frontage on the south side of NYS Route 17K include approximately five single-family homes, and a professional office building, all located in the IB Commercial zoning district. West of Maple Avenue on 17K in the B-4 zoning district is the Dempsey Steel Pipe supply company.
 3. **South of the Project Site:** Interstate Route 84 forms the southern border of the Project Site. South of Interstate Route 84 is Stewart State Forest, located west of NYS Route 747, and east of Route 747 is Stewart International Airport, located in the Town of New Windsor. Development is limited in this area.. There are a handful of houses and an old commercial building located on the west side of Route 747, north of I-84 in the Town of Newburgh.
 4. **East of the Project Site:** Uses located on the south side of NYS Route 17K in the Town of Montgomery include a commercial building, Valero convenience store and gas station,

and a light industrial building (the Lerner Pavlick industrial building, approximately 144, 557 SF). Across NYS Route 17K from the Valero site is a Dunkin Donuts building, which has recently opened.

To the east side of the Town of Montgomery municipal boundary the primary land use is small lot affordable single-family houses located in the Town of Newburgh, though there is also Westchester Modular Homes Construction Corporation located between Route 747 and South Drury Lane. There are over 100 homes with access from Arbor Drive and Drury Lane within 2500 of the Site. Those single-family houses are not directly accessible to or from NYS Route 747 and are a distance from the Project Site. A handful of residences are located along the eastern and western sides of Route 747 near the Project Site all located in the Town of Newburgh.

- C. The Planning Board also received prior development applications for this Site and adjacent property that were withdrawn or abandoned by the applicants before the Planning Board completed its reviews including:
 - 1. 1998 DEIS: Verticon Non-Nuisance Industrial Distribution Center (1.1 million sf)
 - 2. 2009 DEIS: Hudson International Business Center (HIBC) (1.5 million sf)
 - 3. 2015 DEIS: Resorts World Hudson Valley Casino (1.7 million sf)

The Project is smaller in size than all of the previous development projects proposed for the Site.

- D. The existing conditions related to land use are set forth in the DEIS pages 3-1 to 3-9.
- E. Related to zoning, the Project Site is split zoned between the Interchange Business “IB” and the Industrial Park Major Access “I-2” zoning districts. The northern portion of the Project Site (tax lots 31-1-64 and 31-1-65.22) is located in the current IB zoning district. The southern portion of the Project Site (tax lots 31-1-70.2 and 31-1-89) is located in the current I-2 zoning district. The Project requires a rezoning of a portion of the current IB district to the I-2 zoning district. The Applicant has requested a zoning map amendment from the Town of Montgomery Town Board that will expand the size of the existing I-2 zoning district and reduce the size of the IB district. The amendment would still maintain the existing IB zoning along Route 17K and Route 747.
- F. The existing conditions related to zoning, including permitted uses and applicable area and bulk requirements within each zoning district, are set forth in the DEIS pages 3-10 to 3-17.
- G. Related to public policy, the Planning Board has reviewed the Town of Montgomery 1988 Master Plan, the Town’s 2010 Land Use Plan Update, the Town of Montgomery Land Use Plan & Zoning Report: 17K and 208 Intersection and Environs (December 2007), the Orange County Comprehensive Plan and the 2015 Orange County Economic Development Strategy, among others.
- H. The existing conditions related to public policy are set forth in the DEIS pages 3-20 to 3-21.
- I. The Project Site is approximately 5 miles away from the Villages of Maybrook and Montgomery, and over 3 miles to the Village of Walden.

Potential Impacts

Land Use

- J. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project is not anticipated to result in any significant adverse environmental impacts on land use because:
1. As a distribution center, the Project is appropriately located near major thoroughfares including Interstate Route 84, NYS Routes 17K and 747 and Stewart International Airport. I-87 is also a short drive to the east.
 2. Compared to other commercial, residential or institutional uses, warehouses have limited impacts on municipal services including the police and fire departments and school districts.
 3. The Project Site is isolated from other uses by setbacks, roadways, existing and proposed vegetation, topography and large wetland complexes.
 4. The existing land uses within one-half mile of the Project Site indicates the Proposed Action is generally consistent with nearby commercial development patterns. The Project is compatible with those commercial and industrial land uses in the immediate vicinity of the Project Site including the large solar farm to be built immediately to the west of the Site. The Project is currently located in an I-2 industrial and IB commercial zoning districts.
 5. With the Project Site having a lot area of 187.7 acres, there would be sufficient distance between the warehouse building and surrounding land uses including residential uses.
 6. The warehouse would be located in the center of the Project Site, which is over 1,000 feet north of residential uses to the south and I-84, over 300 feet east of the western agricultural uses, over 1000 feet from residential uses on Maple Avenue, approximately 900 feet south of NYS Route 17K, and approximately 1,000 feet west of NYS Route 747 and 1500 feet west of over 100 residential houses in the Town of Newburgh. However, the intersections of the Project's driveways onto Route 747 and Route 17K will be closer to these uses.
 7. To minimize impacts on the surrounding land uses, existing natural vegetation along the boundaries of the Project Site (including wetlands) would be left intact to serve as a buffer. The placement of the warehouse building in the center of the Project Site, significantly set back from other land uses, would be designed to minimize potential adverse visual and noise impacts from surrounding land uses and views from surrounding roadways, in addition to the screening and landscape vegetation that has been added to the west side of the warehouse site.

8. The Project Site contains 187.7 acres of land of which approximately 82 acres is being disturbed to accommodate the Project. The remaining 106 acres of land is not being disturbed. The majority of the Site is remaining in its natural state.
9. The access drive onto Route 747 will include landscaping at the entrance along both sides of the drive, in addition to the existing trees to remain along the perimeter of the Project Site. The landscaping along the drive and adjacent to the neighboring property will serve as a sound and aesthetic buffer, minimizing potential adverse impacts to the three single-family houses on the west side of Route 747 north of Interstate Route 84.

Accordingly, the Planning Board further finds that no significant adverse environmental impacts related to land use are anticipated from the Project.

Zoning

- A. The I-2 zoning district permits “[w]arehouses with three or more truck docks or bays.” However, the IB zoning district does not permit warehouses with three or more truck docks or bays.
- B. Both the I-2 and the IB zoning district would permit the WWTP as a “municipal works building” or as an accessory use to the warehouse. The applicant had originally submitted an application seeking special exception use permit for the WWTP as a “municipal public works building”, but will withdraw this application (see paragraph C below). This accessory use is limited to the specific facts and circumstances of this Project and does not establish any precedent for the use of WWTPs as accessory uses on other property or under other facts and circumstances.
- C. The Town of Montgomery Building Inspector determined that in the future, if the Town accepted an offer of dedication for the WWTP, it would be considered a “municipal public works building” under the Town’s Zoning Code and would be permitted on the Project Site because it would be operated and maintained by the Town for public use including other properties in the vicinity of the Project Site.
- D. To the extent the Town does not accept ownership of the WWTP and the WWTP only services the Project, the WWTP would be a necessary accessory use to the warehouse and permitted on the Project Site as noted above
- E. As demonstrated by the application and as noted in the DEIS, a portion of the proposed warehouse would be located in the IB zoning district, where it is currently not permitted and would require a zoning map amendment by the Town of Montgomery Town Board.
- F. The Planning Board has evaluated all potential impacts related to the Project including the zoning map amendment and finds that the Project is not anticipated to result in any significant adverse environmental impacts on land use because:
 1. A zoning map amendment is required by the Town of Montgomery Town Board as a part of the Project to permit the warehouse in the I-2 zoning district. On October 10, 2018, the Planning Board sent a letter to the Town Board stating, “the Planning Board is

generally in favor of this rezoning especially because the existing I-B zoning will be retained along NYS Route 17K and Route 747.” The Orange County Department of Planning also expressed no objection to the map amendment and concluded on October 9, 2018 that “the Department has received the local [zoning] law amendment and has found no evidence that significant intermunicipal or county wide impacts would result from its approval.”

2. The zoning map amendment will change the zoning designation on approximately 77 acres of the Project Site from the current IB Interchange Business Zoning District to the I-2 Industrial Park – Major Access Zoning District.
 - i. 173.3 acres of the Project Site would be located in the I-2 Zoning District.
 - ii. 14.4 acres of the Project site would be located in the IB Zoning District.

Accordingly, after the zoning map amendment, the warehouse would be located entirely within with I-2 zoning district and therefore permitted on the Project Site with a site plan approval and a special exception use permit (“SEUP”) from the Planning Board pursuant to the Town Zoning Law. The map amendment would continue to maintain IB zoned land along Route 17K and Route 747.

3. As demonstrated on the record, the Project meets all SEUP criteria and site plan review standards set forth in the Town’s Zoning Law and is therefore meets the requirements of the Town’s zoning plan.
 4. With one exception, the Project complies with the zoning requirements in the Town’s Zoning Law and no variances are needed except to slightly reduce the size of the car parking spaces on the site. An area variance has been requested from the Town of Montgomery Zoning Board of Appeals (ZBA) to construct all car parking spaces 9’ x 18’ instead of 9’ x 20’ as required by the Zoning Law. The requested area variance will reduce impervious surfaces and wetland disturbances on the Project Site and will reduce or avoid environmental impacts in that regard. A pedestrian walkway has been provided through the parking lot to enhance pedestrian safety on the Site.
- G. The zoning map amendment will reduce the size of the IB land area to a narrow strip along Route 17K and limit future uses allowed in the IB zone like shopping centers, theaters and gas stations that could generate substantial impacts to the surrounding area than the Project if the Site remained in its current zoning. Other uses allowed in the I-2 District that are not allowed in the IB District include warehouses with three docks or more, non-nuisance machinery repair or service plants, airports, and hospitals, sanitariums, nursing homes and rest homes. The proposed warehouse as designed has the fewest potential adverse impacts compared with other I-2 uses not permitted in the IB district taking into account traffic, emergency services, fiscal impacts, etc.
- H. The IB business uses would generate traffic exclusively to and from Route 17K, having no other roadway to access. The zoning map amendment allows for site development to provide convenient access to Route 747, I- 84 and Stewart Airport, with Route 17K as a secondary access point limited to right-turn-in and right-turn-out movements only. Most site traffic will use the

access to Route 747 and I-84 avoiding more intense use of Route 17K, particularly given the limitations on the turning movements at the 17K access. From a circulation standpoint, the map amendment would create opportunities for access to two roads as opposed to an IB business use limited to Route 17K.

Public Policy

- I. The Project is in accordance with all stated public policy goals enumerated in Town and Orange County planning documents as noted below.
 1. **Town of Montgomery 1988 Master Plan:** The Town's Comprehensive Development Plan/Map (November 1988) called for the entire Project Site to be used for general industrial uses.
 2. On page 3-4 of the 1988 Plan (Section II), it states "those areas with good access to transportation networks should be considered for industrial and commercial development. The Town should take advantage of the new Route 84 interchange proposed for Stewart Airport by NY." (Master Plan page 3-4). As noted below, the Project has frontage on and excellent access to transportation networks on Routes 17K and 747 and will utilize the nearby I-84 interchange with NYS Route 747. The Project is consistent with this goal of the Plan.
 3. On page 2 of the 1988 Plan (Section II), it states that "new growth should be guided in such a manner as to reinforce the viability of the existing village centers; to encourage development in those serviced areas contiguous to existing centers; and to encourage sensible industrial, commercial and residential use in the land between villages, particularly in the Route 17K and I-84 corridors." If developed, the business land uses outside of the villages would run contrary to reinforcing the vitality of existing village centers. The Project Site given its size, access and location is more appropriate for I-2 uses and would not have the potential adverse impacts that many of the business special exception uses in the IB Zoning District would have upon the Route 17K corridor.
 4. On page 4 of the 1988 Plan (Section II) it states that "[d]evelopment as proposed by the plan should provide for a balanced economy where residential, commercial and industrial land uses supplement each other's needs and interests." Here, the business uses that would no longer be permitted under IB zoning would create more intense uses that would have greater adverse impacts, including traffic, lighting, noise, etc., on the surrounding area along Route 17K than the uses permitted in the I-2 zoning district that would cover the entire Project Site.
 5. On page 5 of the 1988 Plan (Section II), it is stated that commercial-industrial development should be encouraged in areas having access to major transportation arteries such as the I-84 interchange and the airports. Due to the growth of and demand for industrial land in the Montgomery area, additional industrial areas are proposed along Routes 84 and 17K. The Project Site is ideally located to address this recommendation and the rezoning from IB to I-2 is consistent with encouraging development with access to Interstate Route 84.

6. On page 7 of the 1988 Plan (Section III) it is stated that “the location of the Town midway between the growth centers of Middletown-Walkill and Newburgh-New Windsor on I-84 has spawned [industrial] uses. As a result of this activity and demand, additional lands along Route 17K, 84 and 208 are being proposed for industrial development.” The Project is consistent with this goal of the Plan.
7. On page 15 of the 1988 Plan (Section V) it states that “the proximity of Interstate Route 84 to the Stewart Airport lands ... provides a logical location for future industry in the Town. Easy access to I-84 ... and air cargo and passenger transport at Stewart and Orange County Airports are strong incentives for industrial growth which should be supported by the Town.” The Project is consistent with this goal of the Plan.
8. On page 15 of the 1988 Plan (Section V) it further states that “new industrial areas in the town are related to truck transportation and warehousing. Two such areas are in the process of developing at this time. One clustered around the I-84 and 208 interchange ... the other on the eastern edge of the town has brought five industries in the mid-eighties and others in the nineties. Truck and warehouse related facilities will offer the biggest support to Montgomery’s economic base in the future.” The Project is located in this eastern area of the town and will improve the Town’s economic base and tax revenues. The Project is consistent with this goal of the Plan.
9. On page 57 of the 1988 Plan (Section XII) it states that “industry in remote areas will be discouraged while industrial development along I-84 will be expanded.” The Project is consistent with this goal of the Plan.

The Town of Montgomery Land Use Plan & Zoning Report: 17K/208 Intersection and Environs (December 2007) identifies as “the new highway interchange (I-84 and Route 747) presents an opportunity to locate high-traffic development immediately adjacent and accessible to the highway and reduce truck traffic on local roads.” The business uses that would be permitted under the IB zoning would have accessibility limited to Route 17K and thus would not be consistent with the goal of reducing truck traffic on local roads. Changing the zoning to I-2 is consistent with the intent of the 17K/208 Report.

10. In 2007-2009, the Town prepared a number of studies and plans to suggest possible land-use objectives to be implemented in the Town including the area around the Route 17K/Route 747 intersection. Among other things, the studies recommended the repeal of the Gateway Overlay District around this intersection (which occurred in 2010 as discussed below) and the creation of narrow strip of IB zoning along both sides of Route 17K for commercial and business uses with industrial uses set back from the road in the I-2 zoning district behind these commercial areas so they are buffered. The Project and the proposed zoning map amendment are consistent with these objectives. As part of the zoning map amendment, a small strip of land along Rt. 17K will retain IB zoning. The dimension of the IB zoned area will be consistent with the surrounding IB zoned lots in terms of lot depth. The rezoning aligns the zoning district boundary with the neighboring Rt. 17K lots to the west consistent with The Town of Montgomery Land Use Plan & Zoning Report: 17K/208 Intersection and Environs December 2007) Conceptual Land Use Map.

11. In 2010, the Town adopted Local Law 1 of 2010 to amend Section X of the Master Plan and Local Law 2 of 2010 to implement parts of the 2007-2009 planning studies (the “2010 Plan Amendment”). The other sections of the 1988 Master Plan were not amended. The 2010 Plan Amendment stated the following: (i) a new road and interchange with Route I-84 was completed providing improved access to Stewart Airport and encouraging industrial development in the Coldenham area of the Town of Montgomery. (ii) Montgomery is a primary location for industrial development in Orange County due to its proximity to Route 84 interchanges on Route 208 and 747, Orange County Airport and Stewart Airport and the cities of Newburgh and Middletown. (iii) business uses should be provided between residential and future industrial uses to buffer existing and future residential areas from noise of industrial areas and highway traffic. (iv) most industrial areas, outside of development within Stewart Airport and along Stone Castle Road, will be limited to industrial park, trucking and warehousing development. It is the intent of the Master Plan to upgrade the level of industrial development by encouraging more industrial parks and recommending higher standards for landscaping and site planning. (v) the plan proposed to eliminate the Gateway district along Route 17K and replace it with a narrow strip of IB zoned land on either side of the highway from Maple Avenue and Brown’s Road to the Newburgh town line. It called for commercial lots in this area to be at least 400 feet wide in the narrow strip of new IB zoned land even though some wider lots existed along Route 17K. The proposed rezoning will create a narrow strip of IB land along Route 17K, consistent with the existing configuration of IB zoning on adjacent lots, which will buffer industrial land in the I-2 zone which will be setback from the highway, all in accordance with the 2010 Plan Amendment. The Project is consistent with the goals of the 2010 Plan Amendment.
12. **2015 Orange County Economic Development Strategy:** This strategy acknowledges that “manufacturing and technology in Orange County benefit from our unique ability to move goods quickly throughout the Northeast, the nation and the world; our large amounts of undeveloped industrial land suitable for factory location; and our proximity to the New York City market.” The proposed zoning map amendment would permit growth of undeveloped industrial land suitable for an e-commerce center – the fastest growing subsector of industrial uses – which is consistent with the surrounding industrial areas. The Project and the zoning map amendment are consistent with the Town of Montgomery and Orange County planning and land-use studies.
13. **2010 Orange County Comprehensive Plan:** In this plan, the Project is located in a Priority Growth Area. The plan proposed to “stage and direct growth into areas where it can be supported efficiently and at least cost.” As it is located in a Priority Growth area, the Project minimizes potential impacts as it is situated in an area the County Plan deems suitable for growth to occur.
14. As shown above, over the last 30 years, the Town’s planning documents have all recommended that the Project Site be used for industrial development. The Project and the proposed zoning map amendment are consistent with these recommendations. The Project expands the size of the existing I-2 zoning district and decreases the size of the existing IB zoning district along Route 17K to create a narrow strip of commercial land

along the road, consistent with the existing configuration of the IB zoning on adjacent lots. The strip of commercial uses along the road will buffer the industrial uses which would be set back off the road, all in accordance with the Town's Master Plan. The Site is an ideal location for the Project with excellent access to Interstate Route 84 from NYS Route 747 and Route 17K. The interchange of NYS Route 747 and Interstate Route 84 was upgraded and improved recently to facilitate industrial and commercial growth in the area around the interchange including the Project Site. The Project is consistent with those improvements. There is also easy access to Stewart International Airport nearby. Several previous development efforts were proposed at the Project Site to take advantage of the location, including other proposed warehousing uses.

- J. The Project's compliance with public policy documents was discussed in the DEIS starting on page 3-20 and in the FEIS starting on page 2-35, and has been further supplemented above.

Mitigation

Land Use

- K. Based on the above and information contained in the DEIS, FEIS and application materials, the Planning Board finds that no significant adverse environmental impacts related to zoning or land use will result from the Project and therefore mitigation measures are not necessary.

Zoning

- L. Based on the above and information contained in the DEIS, FEIS and application materials, the Planning Board finds that no significant adverse environmental impacts related to zoning will result from the Project and therefore mitigation measures are not necessary.

Public Policy

- M. Based on the above and information contained in the DEIS, FEIS and application materials, the Planning Board finds that no significant adverse environmental impacts related to public policy will result from the Project and therefore mitigation measures are not necessary.

Based on the foregoing, the Planning Board finds that as to Land Use, Zoning and Public Policy, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts in this subject area to the maximum extent practicable.

3.2 Visual Character

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to visual character and makes the below findings.
- B. The existing conditions are set forth in the DEIS pages 3-26 to 3-37.
- C. The Project Site contains 187.7 acres and is bounded by lots located in the I-2 Industrial Park – Major Access zoning district to the west, NYS Route 17K to the north, NYS Route 747 to the east,

and Interstate Route 84 to the south. Most of the Project Site is vacant, with development limited to an abandoned historical two-story house on Route 747 which will be relocated slightly on the Project Site just north of the Project's access drive.

- D. Lighting within the vicinity of the Project Site consists of exterior commercial and residential lights located along Maple Avenue and NYS Route 747, with cobra head style street lights located at the Maple Avenue/NYS Route 17K intersection and the NYS Route 747/NYS Route 17K intersection.
- E. The Planning Board also reviewed information related to the existing neighborhood and community character surrounding the Project Site and finds that there is a wide range of land uses within one-half mile of the Project Site. Among those uses include commercial, industrial, single-family houses and a mobile home park.
- F. Along Stone Castle Road, north of NYS Route 747 and the Project Site commercial and light industrial uses exist, including storage warehouses, light industrial uses, truck terminals, truck rental facility, light manufacturing, and an auto auction facility. The Colden Mansion ruins are also located on the northeast corner of the intersection of Route 747, Route 17K and Stone Castle Road
- G. West of the Project Site are several larger lots, greater than 20 acres in area, developed with single-family houses along Maple Avenue. A large solar energy facility has been approved next to the Project Site to the west, between the Site and Maple Avenue. The solar facility will be located on industrially zoned land. To the east in the Town of Newburgh are residential neighborhoods.
- H. South of Interstate Route 84 is Stewart State Forest, located on the south side of Interstate Route 84 west of NYS Route 747, and Stewart International Airport, located east of Route 747 in the Town of New Windsor. Development is limited in this area.
- I. Potential visual impacts of the Project were reviewed from the following public vantage points:
 - 1. Intersection of NYS Routes 17K and 747
 - 2. NYS Route 747 approximately 500 feet south of the intersection of NYS Route 17K.
 - 3. Intersection of NYS Route 17K and proposed access driveway.
 - 4. NYS Route 747 between Heritage Lane and proposed access driveway.
 - 5. Interstate Route 84.
 - 6. Maple Avenue, approximately 1,300 feet north of cul-de-sac.
 - 7. Maple Avenue, approximately 1,080 feet south of intersection with NYS Route 17K.
 - 8. NYS Route 17K, west of proposed access driveway near northwest corner of Project Site.
 - 9. NYS Route 17K approximately 500 feet west of the intersection of NYS Route 747.
- J. The Planning Board has reviewed visual simulations/photographs of the Project from each vantage point.
- K. There was also a review of potential adverse visual impacts from Stewart State Forest, located south of Interstate Route 84. In addition, the Planning Board also reviewed potential adverse

visual impacts from two roadways in the Town of Newburgh: 1) Winchell Drive, accessed from NYS Route 747 and located south of one of the Project's access driveways, and 2) Holiday Park, accessed from NYS Route 17K and located approximately one-half mile to the northeast of the Project Site.

Potential Impacts

- L. To assess the potential impacts, the Planning Board reviewed information in the DEIS and the FEIS, which included photographs of the study area collected at 30 viewpoints along public roads on April 18, 2018 (identified above).
- M. The timing of the photographs at the end of winter in a "leaf-off" condition aids in the portrayal of "worst case" visual impacts when views into the Project Site would be maximized. Nine viewpoints were selected for use in the development of visual simulations. The selected viewpoints represent the breadth of views into the Project Site from the closest adjacent roadways and where visual impacts would be considered the "worst case" scenario regarding potential adverse visual impacts.
- N. Computer generated visual simulations were reviewed at the nine selected viewpoints to represent visual changes that would result from the Project.
- O. The Planning Board reviewed the existing conditions photographs against the photo simulations of the Project.
- P. An explanation of the potential adverse visual impact, if any, from each viewpoint is provided as follows:
 - 1. The proposed access driveway from NYS Route 747 would experience a change in visual character due to the Proposed Action.
 - 2. Viewpoint 1: In the built condition, the warehouse cannot be seen from this viewpoint which is a minimum 1,620 feet from the proposed building.
 - 3. Viewpoint 2: In the built condition, the project cannot be seen from this viewpoint which is a minimum 1,220 feet from the proposed building.
 - 4. Viewpoint 3: Viewpoint 3 is generally west from Route 747 into the Project Site. The viewpoint is approximately 1,670 feet from the proposed warehouse. Viewpoint 3 represents the view of the proposed access driveway from Route 747. Although it is projected the elevation of the proposed warehouse would rise slightly above the existing tree canopies located to the sides of the access driveway, the addition of evergreens along the access drive will supplement the existing tree canopy and will minimize potential adverse impacts.
 - 5. Viewpoint 4: In the built condition, the Project Site is minimally visible and the proposed warehouse starts to be seen through the trees in winter, which is at least 2,000 feet from this viewpoint, as one approaches the entrance driveway to the north. The

Proposed Action would not be seen from this viewpoint during any season in which leaves remain on the deciduous trees.

6. Viewpoint 5: In the built condition, the Proposed Action is moderately visible in winter and the top of the proposed warehouse, which is at least 1,950 feet from this viewpoint, can be seen above the trees. The proposed warehouse elevation is visible slightly above the canopies of existing trees to remain. This viewpoint from I-84 is mitigated by several factors including the building design which limits windows and other reflective materials, by the use of earth tone building materials and colors (like tan and beige) and limited visibility to drivers traveling 65 mph on I-84. However, the Proposed Action would be minimally visible from this viewpoint during any season in which leaves remain on the deciduous trees.
 7. Viewpoint 6: In the built condition, the Proposed Action cannot be seen from this viewpoint which is at least 2,000 feet from the proposed warehouse.
 8. Viewpoint 7: In the built condition, the Proposed Action cannot be seen from this viewpoint, which is at least 1,920 feet from the proposed warehouse, during any season in which leaves remain on the deciduous trees.
 9. Viewpoint 8: In the built condition, the top of parapet of the proposed warehouse cannot be seen from this viewpoint during any season in which leaves remain on the deciduous trees. This view point is located a minimum of 1295 feet from the proposed warehouse.
 10. Viewpoint 9: In the built condition, the Proposed Action cannot be seen from this viewpoint which is a minimum 1,436 feet from the proposed warehouse.
- Q. From each of these viewpoints (as noted in the DEIS), the following highlights the potential visual impacts from various public roadways and key locations in the surrounding area of the Project Site.
1. **NYS Route 17K:** Viewpoints 1, 8, and 9 face south into the Project Site. The minimum distances from each viewpoint range from 1,436 to 1,620 feet from the proposed warehouse. The existing development at Viewpoint 1 and the forest in the background indicate the top of parapet on the proposed warehouse. Viewpoints 8 and 9 are characterized with vegetation in the foreground and the forest edge in the background. The proposed warehouse would not be seen from either viewpoint given the conditions present and that the top of parapet would not rise above the forest edge from these perspectives.
 2. **NYS Route 747:** Viewpoints 2, 3, and 4 face generally west into the Project Site. The minimum distances from each viewpoint range from 1,220 to 2,000 feet from the proposed warehouse. At Viewpoint 2, the forest in the background indicates the top of parapet on the proposed warehouse. Viewpoint is approximately 1,670 feet from the proposed warehouse. Viewpoint 3 represents the view of the proposed access driveway from Route 747. Although it is projected the elevation of the proposed warehouse

would rise slightly above the existing tree canopies located to the sides of the access driveway, the addition of evergreens along the access drive will supplement the existing tree canopy and will minimize potential adverse impacts.

3. **Winchell Drive:** Winchell Drive intersects with NYS Route 747 between Viewpoints 3 and 4. It is a residential street in the Town of Newburgh which accesses existing houses and an approved subdivision. All traffic from these houses would travel to and from NYS Route 747. Viewpoints 3 and 4 are located a minimum of 1,670 to 2,000 feet from the proposed warehouse. Winchell Drive does not have a direct view into the entrance driveway. The “worst case” scenario similar to Viewpoint 4 in that the Project Site may be minimally visible through the trees in the winter. When the leaves are on the deciduous trees, the proposed warehouse would not be seen from Winchell Drive. Any potential adverse impact is not substantial or significant, in the determination of the Planning Board.
4. **Holiday Park:** Holiday Park is a residential subdivision in the Town of Newburgh located east of Drury Lane off the south side of NYS Route 17K. There are two access points to Holiday Park, both from NYS Route 17K. At its closest point, Holiday Park is approximately one-half mile to the northeast of the Project Site. Viewpoint 2 from NYS Route 747 provides a general perspective similar to one Holiday Park would have. From Viewpoint 2 the top of parapet of the proposed warehouse cannot be seen when viewing the forest edge. On the south side of NYS Route 17K there is a Valero gas station at South Drury Lane and a light industrial building at the intersection of NYS Routes 17K and 747. Just south are tree canopies and the New York City Water Aqueduct right-of-way between Holiday Park and the viewpoints along NYS Route 747. The Holiday Park homes facing west have existing development and tree canopies between Viewpoint 1 and 2 in addition to the existing forest and vegetation between the proposed warehouse and viewpoints. There is a forested area south of Holiday Park. No substantial or adverse visual impacts are anticipated towards Holiday Park, in the determination of the Planning Board.
5. **Interstate Route 84:** During winter, the top of the proposed warehouse would be seen from Interstate Route 84. This elevation rises slightly above the existing tree canopy. When leaves remain on the deciduous trees, the potential visual impact would be minimized. Due to grade changes and existing vegetation, vehicles driving on Interstate Route 84 westbound would not have potential views of the Project Site. Interstate Route 84 eastbound traffic is situated further away from the Project Site by the wide median separating the east and west bound travel lanes. Taking into account the traveling speed along Interstate Route 84, grade changes, existing vegetation and the distance from the Project Site would not create any significant adverse visual impacts, in the determination of the Planning Board.
6. **Stewart State Forest:** Given its location relative to the Project Site, areas of Stewart State Forest that may have potential visibility of the Project would not result in any significant or negative visual impact, in the determination of the Planning Board, for the following reasons: The warehouse would be setback at least 1,500 feet from the south lot line and there is additional distance due to the Interstate Route 84 right-of-way. Furthermore, the existing forest and vegetation would further limit the potential for any

views of the Project from Stewart State Forest, which is at a substantially lower elevation. Combine the wooded conditions with grade changes, including Interstate Route 84, and in the determination of the Planning Board, there would be no adverse visual impact on views from elevated trails or improved public areas within Stewart State Forest, most of which is more than one-half mile away from the Project Site.

7. **Maple Avenue:** Viewpoints 6 and 7 provide visual perspectives from Maple Avenue. Given the distance of at least one-quarter mile between the warehouse and the viewpoints, combined with the existing forest and vegetation present, there would be no substantial adverse impact anticipated from Maple Avenue, in the determination of the Planning Board, as in neither case is the warehouse projected to be seen over the forest edge.
- R. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project will not result in any significant adverse environmental impacts related to visual character because:
1. Development surrounding the Project Site consists of commercial, trucking-related and industrial uses, limited residential development, agriculture, and vacant land. The warehouse will be located in the middle of a large site and set back considerably from public roads and adjacent land uses, and the entry drives for the site will be planted with screening vegetation.
 2. Views of the Project Site are limited due to the existing forest, topography and the distance the building is setback from structures and residences on adjacent properties.
 3. Locating the proposed warehouse toward the central portion of the Project Site, the potential for adverse visual impacts is significantly minimized because it is furthest away from potential visual receptors along Route 17K, Route 747 and residences along Maple Ave.
 4. As demonstrated by the building elevations, the proposed development's materials and earth tone colors (like tan and beige) are intended to reduce the building's visual presence within its surroundings.
 5. Visual impacts are mitigated by significant setbacks and landscaping as indicated on the Project site plans
 6. The WWTP is located nearest Route 17K, in an existing commercial corridor. In addition, a significant amount of new landscaping is proposed between the WWTP and Route 17k to buffer and screen the WWTP from the road. The WWTP is a one-story building containing only 1400 sf feet. The small size of the commercial building is not out of character with the existing commercial corridor along Route 17k. The WWTP is not expected to result in any significant adverse impacts to visual character along Route 17k, in the determination of the Planning Board; and the Planning Board will review the specific detailed architectural elevation of the WWTP building as part of site plan approval.

7. The Project's lighting is in compliance with Zoning Law Section 140-50-31 and will result in minimal lighting outside of Project Site boundaries. The Project's lighting plan has been reviewed and determined to be in compliance with Section 140-50-31 of the Town's Zoning Law by the Planning Board's lighting expert.
 8. Landscaping is in compliance with Zoning Law Section 140-50-31 and a significant amount of existing vegetation around the perimeter of the Project Site will remain and will not be disturbed. This perimeter vegetation will buffer and screen the Project from off-site views as demonstrated by the visual simulations.
- S. Potential visual impacts may result from the Project's increase in lighting, as compared to the state of the vacant Site which does not currently contain any lighting. Any such impacts have been mitigated by compliance with Zoning Law Section 140-50-31 of the Town's Zoning Law; see item R-7 above.
 - T. The lighting plans are designed in accordance with the Town's Zoning Law. The Applicant has worked with the Planning Board's lighting expert and a proficient lighting supplier to make sure that all luminaires themselves have physical shielding at all locations to minimize off-site glare. All lighting fixtures will be down directed and employ a modern LED lighting source with warmer color temperatures (2700K). All lighting levels meet the recommendations of the Illuminating Engineering Society of North America (IESNA) and will not create significant adverse sky glow. Accordingly, the Planning Board determines that it has reduced and avoided significant adverse visual impacts from the Project lighting.
 - U. The Planning Board also evaluated the Project's lighting for potential impacts on air traffic using Stewart International Airport located to the south of I-84 and Orange County Airport. No solar panels or other highly reflective material will be used as part of the Project that would create adverse glare for air traffic during the day. In addition, night lighting on the Project is directed downward not upward. All light fixtures have shielding in all locations to minimize off-site glare. No lighting is directed into the sky. As noted above, the Planning Board's lighting expert has determined that the Project complies with the lighting requirements in the Town's Zoning Code. This compliance demonstrates that the Project will not create excessive glare or excessive light pollution that will be harmful to the public or air traffic. As a result, there will be no adverse impact to air traffic. Finally, the FAA reviewed the Project and issued a determination of no hazard to air navigation. The FAA does not have site lighting standards for commercial properties unrelated to structural height.
 - V. Based on the considerable distance from the nearest residential building and existing forest and vegetation between any resident and the warehouse, no substantial adverse impacts to residential property due to lighting are expected, in the determination of the Planning Board.

Mitigation

- W. The following mitigation measures shall be required to ensure that no significant adverse visual impacts result from the Project:

1. **Project Site Driveway at NYS Route 747:** Project site plans show additional landscaping of evergreens to supplement the existing forest to minimize any potential adverse visual impacts in this location.
2. **WWTP:** Project site plans show a significant amount of new landscaping between the WWTP and Route 17k to buffer and shield the WWTP from the road.
3. **Proposed Site Lighting:** The following measures are incorporated into the Project's plans to mitigate potential adverse offsite lighting effects, such as glare:
 - a. Pole mounted lights along the access driveways are located on the sides closest to Project Site boundaries where appropriate. This setting allows the fixtures to be most effectively angled into the Project Site and shielded away from adjacent properties.
 - b. Light fixtures have shields to keep light directed on the areas intended to be illuminated.
 - c. Proposed light levels are focused on the parking and loading areas and access driveways. The lighted portions of the Project Site are limited to those areas requiring sufficient lighting for safety purposes.

Based on the foregoing, the Planning Board finds that as to visual character the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.3 Infrastructure and Utilities

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to infrastructure and utilities and makes the below findings.
- B. The existing conditions related to electricity is set forth in the DEIS at pages 3-61.
 1. The Project will require new electric service to the Site. The Project Site is located in the Central Hudson Gas & Electric (CHG&E) service area. Map review and utility investigations indicate that electric service is available and electric lines are located along the southern side of NYS Route 17K, which the Project has frontage along.
- C. The existing conditions related to natural gas is set forth in the DEIS at pages 3-62.
 1. The Project will require natural gas service to the Site for heating the warehouse building.
 2. Map review and utility investigations indicate that gas service is available.
 3. A gas line is located along the western side of NYS Route 747, on the Property frontage.

4. The Project Site is located in the Central Hudson Gas & Electric (CHG&E) service area.

Potential Impacts

Electric

- D. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project will not result in any significant adverse environmental impacts related to electricity because:
 1. The Project will require new electric service, resulting in an increase in the demand for this service, as with all development.
 2. The anticipated electrical load for the Project is approximately 7,000 amps, which includes power to serve all systems and all anticipated future tenant loads and required a three-phase service.
 3. CHG&E has indicated that it has sufficient capacity to serve the Project.
 4. A dedicated circuit will be provided to serve the Project.

Natural Gas

- E. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project will not result in any significant adverse environmental impacts related to natural gas because:
 1. The Project would require natural gas service, resulting in an increase in the demand for this service, as with all development.
 2. The anticipated gas demand for the Project is approximately 5 pounds per square inch (psi) and 21,000 cubic feet per hour (CFH).
 3. CHG&E has indicated that it has sufficient capacity to serve the Project.

Proposed Mitigation

Electric

- F. Based on the above and information contained in the DEIS, FEIS and application materials, no significant adverse environmental impacts related to electricity will result from the Project and therefore mitigation measures are not necessary.

Natural Gas

- G. Based on the above and information contained in the DEIS, FEIS and application materials, no significant adverse environmental impacts related to natural gas will result from the Project and therefore mitigation measures are not necessary.

Based on the foregoing, the Planning Board finds that as to electric and gas the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

Water Supply/Groundwater and Wastewater

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to water supply and wastewater and makes the findings below:
- B. The existing conditions related to water are set forth in the DEIS at pages 3-55 to 3-56.
- C. In 2008, a total of 12 test pits were performed throughout the southern and eastern portions of the Project Site. Groundwater was encountered in three of the 12 test pits at depths ranging from 7.5 feet to 9.5 feet below the existing ground surface.
- D. An additional geotechnical field investigation was performed in 2018. A total of 41 borings and 21 test pits were performed throughout the Project Site. The test pits were excavated to depths ranging from 10.5 feet to 14 feet. Groundwater was encountered in 9 of the 21 test pits at depths ranging from 1 foot to 9 feet below the existing ground surface.
- E. The Project Site is not located within a water district and municipal water service is not available to serve the Project. There are currently no water users on the Project site.
- F. The abandoned historic residential house located on the Project Site used private domestic wells to provide water to the house. The house will be moved slightly to the north to preserve it and to make room for the Project's access driveway to Route 747. The old wells will not be reused and if located during construction will be properly sealed and abandoned in accordance with applicable New York State Department of Health regulations. A new well will be provided to service the house by the applicant when the end use is agreed to by SHPO.
- G. A site visit revealed three test wells that were installed by Boyd Artesian Well Company of Carmel, New York as part of a previous development Project proposed on the Site. These wells will be used as part of the Project's water supply design.
- H. The Catskill Aqueduct, which conveys potable water to residents in New York City from reservoirs in the Catskill Mountains, is located to the east of Route 747 close to the entrance drive and related storm water basins for the Project. The Aqueduct is separated from the Site by Route 747 and is operated by the New York City Department of Environmental Protection (NYCDEP). The aqueduct will not be disturbed or affected by the Project. No work will be conducted over or adjacent to the aqueduct.
- I. The existing conditions related to sanitary sewer is set forth in the DEIS at page 3-57.
- J. The Project Site is not located within a sewer district and municipal sewer service is not available to serve the Project. The development of on-site wastewater treatment plant ("WWTP") is the only viable option for conveying and treating the wastewater generated by the Project.. The

Planning Board evaluated in detail the potential use of a subsurface disposal system to serve the Project instead of a WWTP. That evaluation is discussed in more detail below.

- K. The Project Site has an abandoned house on the property along Route 747. Any old wastewater system used by the house such as a septic tank and/or a disposal field will be abandoned and/or removed in accordance with Orange County and New York State Department of Health (NYSDOH) guidelines and all applicable laws. A new modern septic system will be provided by the applicant when the end use is agreed to by SHPO.

Proposed Impacts

Water Supply/Groundwater

- A. The Project Site cannot be developed without an on-site potable groundwater supply source since there are no other viable options for potable water supply. A non-transient, non-community, public water supply system is to be developed and permitted in accordance with DOH "Application for Approval of Plans for Public Supply Improvement" (DOH Form 348).
- B. Potable water is to be derived from an on-site groundwater supply well that is capable of providing at least 30 gpm flow output or twice the average daily demand. A back up groundwater supply well source with capacity to meet at least the average demand will also be available. The Project will also include a water treatment facility and water tank at the southern side of the Project Site.
- C. The threshold capacity of the Project's proposed ground-water wells would be less than 100,000 gpd and, therefore, no water supply permit will be required from NYSDEC.
- D. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project will not result in any significant adverse environmental impacts related to water because:
 - 1. The projected average potable water use for the Project is a maximum of 20,000 gallons per day (gpd) or 15 gallons per minute (gpm). The Project is not a manufacturing or processing facility that will use large quantities of ground water. Peak hourly use will be managed through on-site storage and associated conveyance.
 - 2. The fire suppression water supply source for the Project will be derived from the on-site groundwater supply wells that are connected to an associated on-site storage tank. The wells would supply the storage tank on an as-needed basis. The storage tank will accommodate 100 percent of the water supply for the Project's fire demand without any fill rate reliance from the wells. Wells will supply the storage tank on an as needed emergency basis.
 - 3. The proposed water supply system will be designed in accordance with "Ten State Standards for Water" and with New York Code Rules and Regulations (NYCRR) Part 5,

Subpart 5-1 – Public Water Supply Systems. A back-up water supply well will be provided to meet the average Project demand.

4. An evaluation was performed for off-site wells to determine if there was a potential for any impacts. A well along Maple Avenue, west of the Site, was monitored during a 72-hour pump test of the Project wells. Maple Avenue is more than 1500 feet from the proposed Project wells. The test revealed no impact to the off-site well from on-site pumping. Moreover, an on-site monitoring well located only about 60 feet from the pumping wells revealed only modest water level draw down.
5. It was established empirically that when pumping water from the Project wells at three times the average demand for the Project there was no appreciable water level changes (i.e., drawdown) that will extend beyond the Project Site boundary.
6. There was no water level change or impacts to nearby wetlands observed based on readings taken from the wetland gauge.
7. The Project's proposed use of groundwater is negligible compared to the available aquifer recharge. On-site aquifer testing performed at rates greater than three times the average daily demand for the Project demonstrates that the aquifer is capable of sustained yield in support of the Project without impacting other users of the water or the environment.
8. The safe yield of an aquifer is based on the amount of precipitation that recharges the aquifer. An average of approximately 384,000 gpd recharges the aquifer underlying the Project Site. Applying a safety factor of 70 percent brings the recharge to 268,800 gpd of water in the drainage area. A safe yield of 268,000 gpd is above the Proposed Action's average water supply demand of 20,000 gpd and peak demand of 40,000 gpd.
9. The water balance that was calculated established that the Project wells will divert water at a rate that will not exceed natural recharge of the aquifer and therefore the yield is deemed safe based on established practice.
10. Therefore, impacts to existing and neighboring users of groundwater for private potable water use is not anticipated because of the aquifer recharge at the Project Site and associated safe yield of the aquifer.
11. The overall water quality is deemed sufficient to support a potable use as confirmed by testing in accordance with 10 NYCRR Subpart 5-1 of the New York State Sanitary Code. Water treatment facilities will be designed and installed to ensure that water quality meets applicable drinking water standards. At a minimum, water quality treatment will include disinfection and removal of naturally elevated levels of selenium. At the discretion of the user, water may also undergo "softening" to improve odor or other aesthetic characteristics of water quality that are not health related.
12. The Project will not adversely impact the Tin Brook Aquifer. The Tin Brook Aquifer is described by the United States Geological Survey (Frimpter, Michael 1972) in the

Geological Survey Water-Supply Paper 1985 – “Ground-Water Resources of Orange and Ulster Counties New York” (pages 48-50). Wells in the Tin Brook Valley that draw water supply for municipalities are screened within unconsolidated sand and gravel deposits adjacent to Tin Brook and its tributaries. While the Project Site is located within the Tin Brook Watershed, it lies at an elevation well above the valley and is not underlain by an unconsolidated sand and gravel aquifer. The Project Site is underlain by the Normanskill Shale Formation, a consolidated fractured bedrock unit. The Project’s water supply is to be derived from relatively deep wells that are drilled into the Normanskill Shale Formation, and therefore will not derive water from the relatively shallow sand and gravel deposits of the Tin Brook Aquifer. Water level data collected during aquifer pumping tests of the Project’s water supply wells have empirically demonstrated that the zone of influence of the bedrock wells will not affect the unconsolidated deposits. Moreover, the amount of water required for the Project is only a small fraction of the natural recharge expected for the Normanskill Formation of 400,000 gallons per day per square mile, as derived from the Orange County Groundwater Authority in their 1994 groundwater study.

- E. On May 30, 2018, NYCDEP wrote a letter stating that “as the proposed project is adjacent to the Catskill Aqueduct, blasting, pile-driving or the use of heavy machinery or equipment is prohibited without the prior review and approval of NYCDEP.” The Aqueduct is separated from the Project Site by NYS Route 747. No Project work will be conducted over or adjacent to the Aqueduct. All Project work will occur to the west of NYS Route 747.
- F. The only construction work that will occur close to the aqueduct will be the construction of the Project’s access drive onto NYS Route 747 and its related storm water basins. The vast majority of the Site work will occur in connection with the warehouse building and its related parking lots which will be over 1000 feet away from the aqueduct, and separated by other actively used parcels of land.
- G. No blasting, pile-driving or vibration work is anticipated to occur. In the event blasting become necessary, it will be handled as discussed later in these Findings (see Section 3.7 below) . As a result, no impacts to the aqueduct will occur.

Sanitary Sewer/Wastewater

- H. The Planning Board has evaluated all potential impacts related to the Project and finds that the Project will not result in any significant adverse environmental impacts related to sanitary sewer because:
 - 1. The projected average wastewater generation for the Project is a maximum of 20,000 gallons per day (gpd). Only domestic waste water (sinks, toilets and floor washing) will be generated by the Project. No vehicle washing will occur on the Site as part of warehouse operations.
 - 2. The wastewater generated by the Project would be collected by a gravity sanitary-sewer system and conveyed to an onsite pump station where it would be pumped to a wastewater treatment plant (WWTP) to be built for the Project. The Project will use low flow toilets and urinals to reduce the amount of waste water

3. The WWTP will be constructed, operated and maintained by the Applicant at no cost to the Town and would serve only the Project Site.
4. The WWTP will utilize a Membrane Bioreactor (“MBR”). The MBR uses a combination of membrane filtration and a suspended growth bioreactor to efficiently remove organic and suspended solids. The MBR does not use a secondary clarifier or a settling tank to settle and separate the solids and nutrients such as nitrogen and phosphorous; instead, membranes are used for this purpose, thus producing a high-quality effluent that will meet the stringent permit requirements of the NYSDEC’s SPDES permit. The WWTP will also include UV disinfection to ensure that the effluent is disinfected prior to discharge.
5. The MBR will remove organic and suspended solids and nutrients such as nitrogen and phosphorus before discharge to the receiving waterway. The WWTP’s effluent is clear and clean enough that it may be reused for irrigation, livestock, swimming and other human contact after disinfection.
6. An MBR treatment system offers the following significant benefits over other, more traditional treatment technologies:
 - i. Produces a consistently high-quality effluent that meets or exceeds the State’s stringent effluent discharge criteria for intermittent streams;
 - ii. Has a small footprint that minimizes land disturbance;
 - iii. Is simple to operate due to fewer processes thus reducing room for operator error; additionally, latest generation MBRs can be easily automated thus allowing for remote operation and monitoring.
 - iv. Is modular in nature and can be expanded and phased to meet great fluctuations in flow;
 - v. Produces minimal sludge thus minimizing sludge hauling costs and potential spills during hauling.
 - vi. According to the MBR plant manufacturer, effluent is suitable for agricultural use, livestock swimming and human contact activities. The MBR plant is designed with redundant equipment, pumps and treatment trains to run 24/7/365. The dual train system allows the plant to continue to operate while one train is taken off line for maintenance and repair. The redundant systems make it highly unlikely that the plant will be taken completely off-line. The plant has an emergency generator to provide backup power in the event of a power outage.
7. The WWTP will be designed in accordance with the *Recommended Standards for Wastewater Treatment Works* (“Ten States Standards for Wastewater”), latest edition, and the *New York State Design Standards for Intermediate Sized Wastewater Treatment Systems*, latest edition.
8. The WWTP will be factory assembled requiring minimal field work, delivered to site as a prefabricated unit and enclosed inside a prefabricated metal building with a standing seam metal roof which is commonly found on high end residential and commercial

sloped roofs. The Planning Board will review the specific detailed architectural elevation of the WWTP building as part of site plan approval.

9. The WWTP will be located inside a building, which will be temperature controlled with an HVAC system and odor controls. No treatment activities will occur outside. Accordingly, odors outside the building would not be expected. When run properly, the WWTP is expected to operate with very minimal odors. An emergency generator will provide emergency power to the WWTP and the pump station. The generator will use diesel fuel in an above ground fuel tank which will be dual walled and have 110% containment capacity with a leak detection system. Given the infrequent use of the generator, impact to air quantity is not expected. The sludge from the WWTP will be stored inside the building and will be trucked off-site on a regular basis thus eliminating odor from the proposed WWTP.
10. Chemical storage with secondary containment will be located inside the building. Disinfection will be accomplished with ultra violet disinfection. Chemical feed equipment for phosphorous removal (alum) will be located inside the building. No other chemicals are proposed. Chemicals will not be stored outside.
11. The WWTP is designed to treat raw sewage generated by the Project and to discharge the effluent to the Tin Brook, a class B stream, in accordance with effluent limits provided by the New York State Department of Environmental Conservation (NYSDEC) in a SPDES permit. NYSDEC sets the effluent limits based on stream characteristics and to be protective of human health and the environment. Under the NYSDEC regulations, the best usage for Class B streams is swimming and other contact recreation. The effluent standards for the WWTP have been set by NYSDEC to meet these best usage criteria.
12. The treated effluent from the WWTP will be a high-quality, clear effluent that meets or exceed the NYSDEC disinfection and SPDES discharge requirements. The stringent SPDES permit limits will help preserve the water quality of the Tin Brook. As a result, no significant adverse impacts to Tin Brook, its aquatic life or downstream properties are expected from the discharge. The WWTP operator is required to monitor and record the WWTP's operations and discharge effluent to ensure that the WWTP is operating properly and in compliance with the NYSDEC SPDES permit limits. Compliance with these permit limits is enforced by NYSDEC.
13. The flow from the WWTP will be a fraction of the flow of the stream. Due to the intermittent characteristics of the Tin Brook, when the brook is dry, the effluent will percolate into the stream bed at the discharge location until it reaches groundwater and then mix with ground water.
14. All noise making equipment including pumps, blowers and compressors will be housed inside the building thus minimizing noise impacts. The emergency generator for the WWTP will operate only sporadically and will not constitute a significant noise impact. The gravity sewer system and wastewater pump stations will be subsurface and produce no discernible noise.

15. NYSDEC guidelines require 200-ft separation between WWTPs located inside a building and downwind from dwellings. This recommended distance is intended primarily to minimize the WWTP impacts of noise and odor on surrounding properties. The WWTP will be installed inside a prefabricated building, which will include ventilation and provision for odor control. Additionally, the WWTP will be located approximately 400-ft from the nearest property line and approximately 700-ft from the nearest residential dwelling. Therefore, no adverse impacts will be felt.
16. The WWTP will be located in the IB commercial zone adjacent to the I-2 industrial zone. The building design and appearance will be consistent with the commercial corridor and other commercial buildings along Route 17K. Also, the WWTP will be located 500 feet from Route 17k and further from adjacent property. As noted above, it will be well screened from Route 17K with dense new landscaping. No significant adverse impacts are expected from the location of the WWTP. The Planning Board will review the specific detailed architectural elevation of the WWTP building as part of site plan approval.
17. The WWTP, surrounding expansion area and related improvements will be offered for dedication to the Town of Montgomery to provide future sewer service to the eastern part of the Town when deemed necessary by the Town, if ever. The offer will be recorded in the Orange County Clerk's Office. The Town is under no obligation to accept the offer of dedication. If the Town ever accepts the offer, the Town would assume the ownership, operation and maintenance of the WWTP and would be responsible for its costs. These costs would be off-set by sewer fees paid by future users of the WWTP including the Project. The WWTP would be expandable by the Town to provide additional treatment capacity and waste-water treatment services to other properties in the Town at the Town's discretion, if accepted by the Town and if desired by the Town. However, at this time, the WWTP has been designed and constructed to treat the wastewater generated only by the Project with an area next to the WWTP to accommodate future expansion as may be planned and completed by the Town. Based on preliminary assessment by the NYSDEC, the Tin Brook can accommodate 100,000 gallons per day of treated effluent. The Planning Board is unaware of any plans for any future expansions of the WWTP by the Town and the Planning Board has made a recommendation to the Town Board that it not accept the operation and maintenance of the WWTP.
18. If the Town accepts the offer of dedication, the WWTP would be considered a "municipal public works building" under the Town of Montgomery Zoning Code which is a permitted use on the property with a special exception use permit and site plan approval from the Town of Montgomery Planning Board. If the Town does not accept the offer of dedication, the WWTP would be permitted on the Site as a valid accessory use to the proposed warehouse.
19. Sanitary sewage from the WWTP will be treated in accordance with all local, State and Federal laws and regulations. The Applicant will develop and submit an emergency action plan for the WWTP to be reviewed and approved by the Planning Board engineer to handle any emergencies at the plant.

Although not specifically identified as an alternative in the DEIS, the Planning Board conducted a detailed evaluation of the potential use of a subsurface sewage disposal systems on the Project Site (in place of the WWTP) to treat the sanitary wastewater generated from the Project. Based on the design flow, a subsurface sewage disposal system would encompass approximately 4 to 5 acres of land based on NYSDEC standards. Separation distances to property lines, buildings, water wells, surface waters, wetlands, and drainage systems as well as slopes greater than 15% must be factored in when locating and underground sewage disposal system. A system of this size would involve the need for additional tree clearing, land disturbance, potential wetland disturbance, and additional wetland adjacent area disturbance. Included as Figure Alt 1 in Appendix P of the FEIS is a plan that shows the site constraints, required setbacks for subsurface disposal fields and an approximate area required to accommodate the project effluent based on an average infiltration rate. This figure clearly demonstrates that there is not enough unrestricted land within the proposed limit of disturbance to accommodate a subsurface disposal field large enough to handle the effluent flows from this Project. This analysis represents a reasonable projection of infiltration rates that can be expected based on the existing soils.

In addition, on its own initiative, the Planning Board considered whether a subsurface disposal system could be installed under the parking lots on the Project Site, with the thought that the level areas that would be created by site grading for the creation of the parking lots might be able to be used for septic leachfield if the soil perc rate was sufficient. The Planning Board communicated with DEC on this matter, and was advised by NYSDEC that, based on the agency's design standards, an absorption field should not be used under a parking lot. Accordingly, the Planning Board concluded that a subsurface disposal system was not feasible for the Project Site. Given that the site constraints coupled with the large site area that would be needed to create a stand-alone subsurface disposal field was not feasible, and it was also not feasible to make use of the areas under the proposed parking lots for a subsurface field, the Planning Board determined that subsurface disposal was not a feasible option for the Project Site.

Proposed Mitigation

Water Supply/Groundwater

- A. A back up groundwater supply well source with capacity to meet at least the average demand will be provided.
- B. Based on the above and information contained in the DEIS, FEIS and application materials, no significant adverse environmental impacts related to water usage and water quality will result from the Project.

Sanitary Sewer/Wastewater

- C. The treated effluent discharged from the WWTP would meet or exceed the effluent requirements required by the State Pollutant Discharge Elimination System (SPDES) Permit issued by the NYSDEC. The WWTP would also include UV disinfection prior to discharge. The SPDES permit limits would help preserve the water quality of Tin Brook, a Class B stream.
- D. Based on the above and information contained in the DEIS, FEIS and application materials, in the determination of the Planning Board, no significant adverse environmental impacts related to wastewater will result from the Project.

Based on the foregoing, the Planning Board finds that the Project will not create any significant adverse environmental impacts as to this subject area, and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.4 Traffic and Transportation

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to traffic and transportation and makes the findings below.
- B. The existing conditions are set forth in the DEIS at pages 3-63 to 3-91.
- C. The Project Sponsor prepared a Traffic Impact Study (“TIS”) that was included in the DEIS and updated based on public and agency comments in the FEIS. As noted below, the TIS was a conservative study designed to evaluate potential traffic impacts from the Project.
- D. The Project Site is bounded by I-84 to the south, NY Route 747 to the east and NY Route 17K to the north.
- E. Maple Avenue is located west of the Project Site but separated by the Project Site by a large wetland complex wetlands, a planned commercial solar facility, agricultural fields and a handful of residential parcels. The Project Site has no direct connection to Maple Avenue.
- F. Currently the Project Site is vacant without any existing access points to any of the adjacent roadways. The Site had two previous access points – a residential driveway for the Haber House (now abandoned) on Route 747 and a residential/farm drive for a dairy farm and homestead (now abandoned) on Route 17K.
- G. The Project’s potential traffic impacts were evaluated by three or more different traffic engineers including the Planning Board’s consulting traffic engineer, traffic engineers at the NYSDOT and the Applicant’s traffic engineer.
- H. As a part of the DEIS, FEIS and TIS, the Planning Board evaluated potential impacts on the following roads:
 - 1. **Interstate 84 (I-84)** - I-84 is classified as an urban principal arterial interstate and is under New York State Department of Transportation (NYSDOT) jurisdiction. The roadway is a divided highway that has a general east-west orientation and generally provides two travel lanes, a left shoulder, and a right shoulder in each direction. The posted speed limit is 65 mph. While the I-84 mainline is not within the study area of this project, the ramps providing access to and from NYS Route 747 are within this Project’s study area. The posted speed limit for the ramps is 30 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
 - 2. **New York State Route 17K (NYS Route 17K)** - NYS Route 17K is classified as an urban principal arterial highway and is under NYSDOT jurisdiction. The roadway has a general east-west orientation and generally provides one travel lane and right shoulder in each

direction. The posted speed limit to the east and west of the immediate study area is 40 mph. The roadway does not provide for bicycle facilities, bus stops, or on-street parking within the Project vicinity; however, pedestrian crosswalks are provided at the intersection of NYS Route 17K and Colden Hill Road / Arbor Drive in the Town of Newburgh.

3. **New York State Route 207 (NYS Route 207)** - NYS Route 207 is classified as an urban minor arterial highway and is under NYSDOT jurisdiction. The roadway has a general east-west orientation and generally provides one travel lane and right shoulder in each direction. The posted speed limit to the east and west of the immediate study area is 40 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
4. **New York State Route 747 (NYS Route 747)** - NYS Route 747 is classified as an urban major collector and is under NYSDOT jurisdiction. The roadway has a general north-south orientation and generally provides one travel lane and right shoulder in each direction from NYS Route 17K to the I-84 westbound ramp. The roadway provides two travel lanes and right shoulder in each direction from the I-84 westbound ramp to International Boulevard. The roadway provides one travel lane and right shoulder in each direction from International Boulevard to NYS Route 207. The posted speed limit to the north and south of the immediate study area is 55 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
5. **Coldenham Road (County Road 75)** - Coldenham Road is classified as an urban major collector and is under Orange County jurisdiction. The roadway has a general north-south orientation and generally provides one travel lane and right shoulder in each direction. The posted speed limit within the immediate study area is 30 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
6. **Maple Avenue** - Maple Avenue is classified as an urban local road and is under Town of Montgomery jurisdiction. The roadway has a general north-south orientation and is approximately twenty feet in width. It has a dead-end created by I-84. The posted speed limit within the immediate study area is 30 mph. The roadway does not provide for bicycle facilities, bus stops, or on-street parking. Pursuant to the Town of Montgomery Zoning Law, commercial and industrial traffic is only allowed on the road within 1000' of NYS Route 17k.
7. **Browns Road** - Browns Road is classified as an urban local road and is under Town of Montgomery jurisdiction. The roadway has a general north-south orientation and generally provides one travel lane in each direction with no shoulders. The posted speed limit within the immediate study area is 30 mph. The roadway does not provide for bicycle facilities, bus stops, or on-street parking.
8. **Stone Castle Road** - Stone Castle Road is classified as an urban local road and is under Town of Montgomery jurisdiction. The roadway has a general north-south orientation and generally provides one travel lane and right shoulder in each direction. The posted

speed limit within the immediate study area is 40 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.

9. **Coldenhill Road/Arbor Drive** - Coldenhill Road/Arbor Drive is classified as an urban local road and is under Town of Newburgh jurisdiction. The roadway has a general north-south orientation and varies from twenty feet to thirty-two feet in width. The posted speed limit within the immediate study area is 30 mph. The roadway does not provide for bicycle facilities, bus stops, or on-street parking. Pedestrian crosswalks are provided at the intersection with NYS Route 17K.
 10. **Rock Cut Road (County Road 23)** - Rock Cut Road (CR 23) is classified as an urban minor arterial and is under County jurisdiction. The roadway has a general north/south orientation and generally provides one travel lane and right shoulder in each direction. The posted speed limit within the immediate study area is 30 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
 11. **International Boulevard** - International Boulevard is classified as an urban major collector and is under NYSDOT jurisdiction. The roadway has a general east/west orientation and generally provides two travel lanes and a right shoulder in each direction. The posted speed limit within the immediate study area is 45 mph. The roadway does not provide for pedestrian/bicycle facilities, bus stops, or on-street parking.
- I. As a part of the DEIS, FEIS and TIS, the Planning Board evaluated potential impacts on the following intersections:
1. **NYS Route 17K and Coldenham Road (CR 75)** - NYS Route 17K and Coldenham Road intersect to form a three-leg intersection under signal control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 2.4% to 6.4% heavy vehicles during the weekday peak hours.
 2. **NYS Route 17K and NYS Route 747 / Stone Castle Road** - NYS Route 17K and NYS Route 747 / Stone Castle Road intersect to form a four-leg intersection under signal control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 3.3% to 8.7% heavy vehicles during the weekday peak hours.
 3. **NYS Route 17K and Colden Hill Road / Arbor Drive** - NYS Route 17K and Colden Hill Road / Arbor Drive intersect to form a four-leg intersection under signal control. The intersection provides a pedestrian crosswalk crossing Route 17K from the northwest to the southwest corners of the intersection and crossing Arbor Drive from the southwest to the southeast corners of the intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 3.1% to 10.1% heavy vehicles during the weekday peak hours.

4. **NYS Route 17K and Rock Cut Road (County Road 23)** - Rock Cut Road and a business driveway intersect NYS Route 17K to form a four-leg intersection under signal control on three approaches. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 3.0% to 7.8% heavy vehicles during the weekday peak hours.
 5. **NYS Route 747 & I-84 Westbound Ramp** - NYS Route 747 and the I-84 westbound ramp intersect to form a diamond-shaped interchange under signal control. The southbound NYS Route 747 approach is a divided highway with a grass median and provides one through lane and one shared through/right-turn lane. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 2.3% to 6.5% heavy vehicles during the weekday peak hours.
 6. **NYS Route 747 & I-84 Eastbound On and Off Ramp** - NYS Route 747 and the I-84 eastbound on and off ramp intersect to form a partial cloverleaf-shaped interchange under signal control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 2.1% to 5.2% heavy vehicles during the weekday peak hours.
 7. **NYS Route 747 & NYS Route 207** - NYS Route 747 and NYS Route 207 intersect to form a three-leg intersection under signal control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 2.4% to 3.5% heavy vehicles during the weekday peak hours.
 8. **NYS Route 17k and Maple Avenue** - Maple Avenue and a driveway intersect NYS Route 17K to form a four-leg intersection under stop control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection.
 9. **NYS Route 17K and Browns Road** - NYS Route 17K and Browns Road intersect to form a three-leg intersection under stop control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection.
 10. **NYS Route 747 & International Boulevard** - NYS Route 747 intersects International Boulevard to form an unsignalized T-intersection under stop control. There are no pedestrian/bicycle facilities or bus stops provided at this intersection. Count data taken at the intersection indicates that traffic at the intersection consists of approximately 1.8% to 2.9% heavy vehicles during the weekday peak hours.
- J. The DEIS, FEIS and TIS also evaluated pedestrian activity and the Planning Board notes that the roadways and intersections within the Project study area do not provide dedicated pedestrian facilities. The intersection of NYS Route 17K and Colden Hill Road/Arbor Drive is the lone exception and provides pedestrian crosswalks from the southwest corner of the intersection to the northwest and southeast corners of the intersection.

K. The DEIS, FEIS and TIS also evaluated public transportation and the Planning Board notes that:

1. **Train Facilities** - Montgomery, New York (NY) is serviced by the MTA, Metro-North Railroad, a regional rail service that connects New York City to various surrounding counties in New York and Connecticut. The Port Jervis Line, which runs between Suffern, NY and Port Jervis, NY, is the line nearest to the Project study area; however, it is noted that there are no train stations within the study area. The nearest train stations which serve the Port Jervis Line are the Campbell Hall and Salisbury Mills-Cornwall stations, both of which are located at least 3 miles outside of the Project study area.
2. **Bus Facilities** - Shortline Bus Company services residents within the Project study area and provides buses to and from destinations such as New York City, Olean, NY, and Ithaca, NY. It is noted that there are no bus stops located within the Project study area. The nearest bus stop is located at the intersection of NYS Route 17K and NYS Route 208, approximately 2.5 miles west of the study area.
3. **School Bus Routes** – East Coldenham Elementary School is located along NYS Route 17K between N Drury Lane and Colden Hill Road and is the only school located within the Project study area. The next closest schools are located at least 1 mile outside of the study area. A total of seven (7) buses access the roads within the study area to pick up and drop off students to and from the elementary school. The scheduled stops for these buses' morning routes occur between 8:10 AM and 8:54 AM, which coincides with a portion of the AM peak hour of the roadway network (7:30 AM to 8:30 AM). Data for afternoon bus routes was unavailable, however, it is anticipated that the afternoon routes will be completed prior to the start of the PM peak hour of the roadway network, which occurs from 4:45 PM to 5:45 PM.

Valley Central Middle School is located approximately 3 miles west of the study area. Two (2) of the school's 28 morning bus routes are within the study area. All scheduled stops on these morning routes occur between 7:20 AM and 8:00 AM, which coincides with a portion of the AM peak hour of the roadway network. Data for afternoon bus routes was unavailable, however, it is anticipated that the afternoon routes will be completed prior to the start of the PM peak hour of the roadway network.

Valley Central High School is located approximately 3 miles west of the study area. Two (2) of the school's 33 morning bus routes are within the study area. However, it is noted that all scheduled stops on these morning routes occur between 6:20 AM and 7:00 AM, prior to the AM peak hour of the roadway network. Data for afternoon bus routes was unavailable, however, it is anticipated that the afternoon routes will be completed prior to the start of the PM peak hour of the roadway network. This Project is not anticipated to impact the established bus routes to the above schools.

L. A conservative capacity analysis was completed as a part of the DEIS, FEIS and TIS for all studied intersections. The analysis was reviewed by the Planning Board and located on Tables 10 and 11 of the FEIS.

- M. NYSDOT has reviewed and accepted the Traffic Impact Study and proposed mitigation measures to reduce or avoid significant adverse traffic impacts on the surrounding highway system.
- N. Accident history for the portions of NYS Route 17K was analyzed. This included an analysis of NYS Route 17K from Coldenham Road to Browns Road (Segment 1) and from N. Drury Lane to Rock Cut Road (Segment 2) to identify accident types, accident patterns, possible causes, and any possible recommendations to reduce the frequency of accidents in the study area. Accident data for the study area was compared to the accident rates along NYS Route 17K to the statewide average accident rates. The accident data indicated that the accident rate for Segment 1 was similar to the statewide average. However, the accident rate for Segment 2 was more than twice the statewide average. Nearly half of the Segment 2 accidents occurred at or near the intersection of Rock Cut Road, with the majority being rear-end accidents. Further review of the accident reports indicates that many accidents that occurred along Segment 2 could be attributed in part to weather conditions, distracted or negligent driving, collisions with deer, or mechanical failures of at least one involved vehicle. The identified causes are not directly attributed to any geometric deficiency. There were no pedestrian or bicycle-related accidents within the study area during the analyzed timeframe. The majority of site-generated traffic will not be conveyed along NYS Route 17K but is expected from Route 747 and I-84. The high accident rate for Segment 2 is an existing condition, rather than one caused by or that will be exacerbated by the Project. Therefore, the addition of the proposed development is not anticipated to adversely affect the accident rates along the analyzed segments.

It should be noted that the Applicant has agreed to install modems and disconnect switches at the four signalized intersections in the Route 17K corridor (as identified on page 2-121 of the FEIS). Installation of this equipment at these signals will provide the NYSDOT with the ability to more conveniently monitor and optimize the capacity of the signals to improve the conveyance and efficiency of through moving vehicles along Route 17K, which could potentially reduce the frequency of rear-end collisions at these intersections.

Potential Impacts

- O. The existing roadway network would experience an increase in traffic due to the vehicle volumes generated by the Project. Trip generation estimates for the warehouse are based on tenant-specific collected traffic data for similar facilities. The trip generation estimates for the Project during the morning and evening peak hours for seasonal and non-seasonal operations were enumerated in Table 12 of the DEIS.
- P. Directional distribution of warehouse traffic was evaluated based on existing roadway network and the expected travel patterns in the study area. The arrival and departure distributions were enumerated in Table 13 of the DEIS.
- Q. To conservatively assess potential traffic impacts, a 2% background traffic growth was applied to the study area in the TIS and accounts for the minimal volume increases experienced within the study area during peak hours as a result of nearby developments, such as the Medline warehouse, the residential development on Drury lane, and any change in tenancy of the nearby commercial buildings.

R. Construction

1. During temporary site construction activity, construction personnel are anticipated to total approximately 750 workers, with an average daily construction worker population of 150 people per day and a maximum daily construction worker population of 200 people per day (equating to an average of 150 passenger vehicles per day).
 2. A total of 4,000 concrete truck deliveries are anticipated during the period of construction (estimated 100 trucks per day assuming 8-week duration). A total of 400 steel deliveries are anticipated over an 8-week period (estimated 10 trucks per day) and a total of 325 precast concrete deliveries are anticipated over a 7-week period (estimated 9 trucks per day). If all construction activity occurs at the same time there would be approximately 150 passenger vehicles per day and 119 trucks per day.
 3. Development of traffic control plans for construction of the site driveways and site-related roadway improvements will be coordinated with the NYSDOT. Construction vehicle volumes are anticipated to be significantly lower than the site generated trips that will be added to the roadway network during the AM and PM peak hours under the Build condition. The AM and PM peak hours under the Build condition represent the worst-case scenario of impacts caused by site-generated traffic, therefore, the addition of construction-related vehicles is not anticipated to significantly impact the roadway network. Construction traffic accessing the site via Route 17K will not be limited to right turn in/ right turn out movements. During the initial stages of construction and until the access drive onto Route 747 is completed, the access drive from Route 17K is the only access point into the site. The applicant will apply for a temporary access permit from NYSDOT and that application will include traffic control measures to ensure construction traffic can enter and exit the site without adversely impacting the traffic along Route 17K.
- S. The capacity analysis determined each intersections' operational level of service ("LOS") under the "build condition." Those levels of service were compared to the "no-build condition" and are as follows:
1. **NYS Route 17K & Coldenham Road (CR 75)** - This signalized intersection operates at an overall LOS B during both the weekday morning and evening peak hours under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS B during both the weekday morning and evening peak hours. Therefore, levels of services will not change and no significant adverse impacts will result.
 2. **NYS Route 17K & NYS Route 747 / Stone Castle Road** - This signalized intersection is expected to operate at an overall LOS B during the weekday morning peak hour and an overall LOS C during the evening peak hour under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS B during the weekday morning peak hour and overall LOS C during the weekday evening peak hour.

The Planning Board finds a signal timing adjustment is necessary to address the minor deterioration of the northbound left-turn movement from a LOS C during the evening peak hour under the No-Build condition to a LOS D under the Build condition. NYSDOT has reviewed and accepted this proposed mitigation which will be paid for by the Applicant. Therefore, with the proposed mitigation, no significant adverse impacts will result in the determination of the Planning Board and NYSDOT.

The minor delay created at this intersection is estimated to increase by 4.3 seconds during the AM peak hour and 7 seconds during the PM peak hour. The northbound through/right turn lane is estimated to experience a 1.9 second increase in delay during the AM peak hour and 0.8 second increase in delay during the PM peak hour under the Build condition compared to the No-Build condition. This equates to approximately 1 additional queuing vehicle in this lane during both the AM and PM peak hours. Therefore, the impact of the traffic generated by the proposed warehouse on this movement is minimal and not significant or adverse.

3. **NYS Route 17K & Colden Hill Road / Arbor Drive** - This signalized intersection is expected to operate at an overall LOS A during both the weekday morning and evening peak hours under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS A during the weekday morning and evening peak hours. Therefore, no significant adverse impacts will result.
4. **NYS Route 17K & Rock Cut Road (CR 23)** - This signalized intersection is expected to operate at an overall LOS C during both the weekday morning and evening peak hours under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS C during the weekday morning and evening peak hours. Therefore, no significant adverse impacts will result.
5. **NYS Route 747 & I-84 Westbound Ramp** - The signalized intersection is expected to operate at an overall LOS C during both the weekday morning and evening peak hours under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS C during the weekday morning and evening peak hours.

The Planning Board finds that a signal timing adjustment is necessary to address the deterioration of the northbound left-turn movement from a LOS D during the evening peak hour under the No-Build condition to a LOS E under the Build condition. The minor signal timing adjustments will allow the northbound left turn movement to maintain a LOS D, or better, during the weekday morning and evening peak hour under the Build condition. NYSDOT has reviewed and accepted this proposed mitigation which will be paid for by the Applicant. Therefore, no significant adverse impacts will result in the determination of the Planning Board and the NYSDOT.

6. **NYS Route 747 & I-84 Eastbound On and Off Ramp** - This signalized intersection is expected to operate at an overall LOS B during both the weekday morning and evening peak hour under the No-Build condition. Under the Build condition, the intersection is expected to continue to operate at a LOS B during the evening peak hour.

The Planning Board finds that a minor timing adjustment is necessary for the intersection to continue to operate at an overall LOS B during the weekday morning peak hour. NYSDOT has reviewed and accepted this proposed mitigation which will be paid for by the Applicant. Therefore, no significant adverse impacts will result in the determination of the Planning Board and NYSDOT.

7. **NYS Route 747 & NYS Route 207** - This signalized intersection is expected to operate at an overall LOS B during the weekday morning peak hour and a LOS C during the weekday evening peak hour under the No- Build condition. Under the Build condition, the intersection is expected to continue to operate at an overall LOS B during the weekday morning peak hour and overall LOS C during the weekday evening peak hour.

The Planning Board finds that a signal timing adjustment is necessary to address the deterioration of the westbound through/right-turn movement from a LOS C during the evening peak hour under the No-Build condition to a LOS D under the Build condition. NYSDOT has reviewed and accepted this proposed mitigation which will be paid for by the Applicant. Therefore, no significant adverse impacts will result in the determination of the Planning Board and NYSDOT.

8. **NYS Route 17K & Maple Avenue** - All movements at this stop-controlled intersection are expected to operate at a LOS A during both the weekday morning and evening peak hours under the No-Build condition, with the exception of the northbound left-turn, thru, and right-turn movements, which are expected to operate at a LOS C during both the weekday morning and evening peak hours under the No-Build condition. Under the Build condition, all movements are expected to continue to operate at an overall LOS A during both the weekday morning and evening peak hours, with the exception of the northbound left-turn, thru, and right-turn movements, which are expected to continue to operate at a LOS C during both the weekday morning and evening peak hours under the Build condition. Therefore, because no change is occurring to LOS at this intersection, no significant adverse impacts will result.

NYS Route 17K & Browns Road - All movements at this stop-controlled intersection are expected to operate at a LOS A during both the weekday morning and evening peak hours under the No-Build condition, with the exception of the southbound left and right-turn movements, which are expected to operate at a LOS D during the weekday morning peak hour and a LOS E during the evening peak hour under the No-Build condition. Under the Build condition, all movements are expected to continue to operate at an overall LOS A during both the weekday morning and evening peak hours, with the exception of the southbound left and right-turn movements, which are expected to operate at a LOS E during the weekday morning peak hour with an 8.5 second increase in delay and a LOS F during the weekday evening peak hour under the Build condition with a 15 second increase in delay. The increases in delay equate to no more than one additional queuing vehicle at this approach. No volume is added to the east bound left turn movement from Route 17K as a result of the Project. Current delays at this intersection are an existing condition that are not being significantly exacerbated by the Project primarily because the majority of new traffic generated by the Project will not use Route 17k but will arrive and depart from the Project Site from

Route 747 and the I-84 interchange which is less than 2000 feet from the Site entrance. Furthermore, the projected vehicle volumes at this intersection under the Build condition are not high enough to meet minimum volume thresholds to warrant a traffic signal.

The Planning Board finds that the impacts to this intersection will be minor and result in minor queuing on the side street approach that will not impact flow along NYS Route 17K. NYSDOT has reviewed the minor impacts to this intersection and concluded that no mitigation is required. Accordingly, no significant adverse impacts will result in the determination of the Planning Board and NYSDOT.

NYS Route 747 & International Boulevard - All movements at this stop-controlled intersection are expected to operate at a LOS E, or better during both the weekday morning and evening peak hours under the No-Build condition with most movements operating at LOS A. Under the build condition, all movements are expected to continue to operate at a LOS E or better with most remaining at LOS A during both the weekday morning and evening peak hours, with the exception of the westbound left-turn movement during the weekday evening peak hour. The westbound left will operate at a LOS E during the AM peak hour and a LOS E during the PM peak hour under the No-Build condition and currently is experiencing delays unrelated to the Project. With the Project, the westbound left will continue to operate at LOS E in the AM peak hour and LOS F in the PM peak hour with a 9 second increase in delay, which equate to no more than one queuing vehicle at this approach. Furthermore, the projected vehicle volumes at this intersection under the Build condition are not high enough to meet minimum volume thresholds to warrant a traffic signal. The Project does not significantly exacerbate the existing delays at this turning movement. NYSDOT has reviewed the minor impacts to this intersection and concluded that no mitigation is required. The Planning Board finds that the left-turn volume is minimal and the impact to this movement will result in a minor delay and minor queuing that will not impact flow along NYS Route 747. Accordingly, no significant adverse impacts will result in the determination of the Planning Board and NYSDOT.

9. **NYS Route 747 & Main Site Driveway** - The main site driveway is proposed to intersect NYS Route 747 to form a T-intersection under signal control. Warrant analysis for the proposed signal was included in the TIS and reviewed by NYSDOT and the Planning Board. NYSDOT has conceptually approved the installation of a signal at this intersection. The eastbound site driveway approach will provide a left-turn lane and a right-turn lane. The northbound NYS Route 747 approach will provide a left-turn lane and a through lane. The southbound NYS Route 747 approach will provide a through lane and a right-turn lane. Under existing conditions, NYS Route 747 provides one through lane and right shoulder in both the northbound and southbound directions. Therefore, widening along NYS Route 747 will be necessary to provide the proposed northbound left-turn and southbound right-turn lanes to serve the Project, while maintaining existing shoulder widths. Analysis indicates the northbound left-turn lane will require a storage length of 300 feet to accommodate the anticipated 95th percentile queue for vehicles turning left into the site. The Planning Board notes that all anticipated widening will occur within the NYS Route 747 right-of-way. Overall this intersection will operate at LOS C or better during both the weekday morning and

evening peak hours under the Build condition. The signal will provide gaps in traffic flow that will allow businesses and residents along this stretch of Route 747 to more easily access the roadway especially for left turning movements. The Applicant will pay for all roadway widening. NYSDOT has reviewed the proposed widening and conceptually accepted it.

10. **NYS Route 17K and Proposed Site Access Driveway** - A new right-in, right-out only driveway will be constructed onto Route 17K. It will not significantly interfere with east bound traffic on Route 17K. In fact, this unsignalized driveway will operate at LOS A during the Build Condition with the exception of the north bound right turn lane which will operate at LOS B. No left turns will be allowed into the driveway from Route 17K westbound. For this reason, the new driveway will not have any impact on this westbound traffic. This access drive will meet the required sight distances and maintain adequate spacing to driveways on nearby lots. There is no pattern of accident history at the location of the new access drive. Locating a driveway on Route 17K will provide a secondary access point to the Project Site as required by the New York State Fire Code and as requested by the Town of Montgomery Police Department. It will also provide a direct access to the Site by the Coldenham fire district which is located just north of the intersection of Route 17K and Coldenham Road. Most of the Project traffic is not expected to use Route 17K but will use Route 747 and I-84, thus further reducing impacts to Route 17K and the access drive in that location. The Route 17K driveway will serve as the initial construction entrance to the site, and during that initial construction period, the driveway would not be a right-turn-in and right-turn-out intersection, but would be subject to the requirements of a temporary DOT permit for the same, and subject to all requirements and conditions that shall be established by DOT. However, as soon as the access driveway to Route 747 is completed (about 4 months after the start of construction), the Route 747 main driveway will serve as the primary construction entrance to the Site. The NYSDOT has reviewed and conceptually agreed to this new access drive.

T. Sight Distance

1. Sight Distance evaluations were completed for the proposed site driveways intersecting NYS Route 747 and NYS Route 17K. Sight distance is based on the methodology provided in the American Association of State Highway and Transportation Officials (AASHTO) *A Policy on Geometric Design of Highways and Streets* 2011 (Sixth Edition), and the NYSDOT Highway Design Manual (last revised September 2017).
2. Stopping sight distances were evaluated at the site driveways, and the driveway accessing NYS Route 17K was evaluated for intersection sight distance.
3. Because the proposed main site driveway accessing NYS Route 747 is proposed as a signalized intersection, intersection sight distance was not evaluated at this driveway, in accordance with the NYSDOT Highway Design Manual. Sight distances were evaluated based on both posted speed limits and the 85th percentile speeds of the roadways.

4. The sight driveway accessing Route 17k would have available sight distances to meet required standards noted above. As a result, no significant adverse impacts related to sight distance will occur.

U. Turning Radii

1. Emergency service vehicles will access the site via both the main site driveway proposed along NYS Route 747, and the right-in/right out driveway proposed along NYS Route 17K.
2. It is noted that the Coldenham Fire District is located along Coldenham Road (CR 75), approximately 400 feet north of NYS Route 17K; therefore, the proposed site driveway along NYS Route 17K will provide the Coldenham Fire District with direct access to the site. The site driveways have been designed (including lane widths, curb radii, etc.) to accommodate emergency vehicles.
3. Internal site circulation will also be designed for emergency vehicles to safely and efficiently maneuver through the site.
4. As a result, no significant adverse impacts related to vehicle turning radii will occur.

V. In response to public and agency comments including NYSDOT and the Planning Board's traffic engineer, adjustments to the Project's site plans were made. These changes included, among other things, the redesign of the internal four-way intersection at the north end of the building, widening some of the access driveways to 26' and modifications to the internal pedestrian walks ways and landscape islands.

W. The site generated trips associated with the 15 approved single-family residential lots along S. Drury Lane were incorporated as background growth in the No-Build condition. The Project Sponsor has conservatively applied a 2% compounded background growth rate along Route 17K, even though the NYSDOT established a negative growth rate (-0.66%) for that roadway. Therefore, the trips associated with those lots, which equate to less than 1 trip every 10 minutes in any one direction, have been reviewed and evaluated as part of its overall traffic impact analysis by the Planning Board and NYSDOT.

X. Pedestrian counts were collected within the study area. Given the limited pedestrian activity along Route 747 and Route 17K, no pedestrian accommodations are necessary (or will be required) for the Project. The count data indicated there was little to no pedestrian activity at Route 747/Route 17K intersection during the AM and PM peak hours. However, the above-described signal timing adjustments will maintain sufficient time for pedestrians to cross the intersection, as determined by the Planning Board and NYSDOT.

Y. The NYSDOT has reviewed the updated TIS and concluded that the traffic mitigation measures proposed for the Project adequately and properly mitigate any impacts on the State's transportation system. The Planning Board's traffic engineer has also reviewed the updated TIS and concluded that all traffic issues have been properly addressed. The NYSDOT has

conceptually approved the Project's access driveways onto Route 17K and Route 747. NYSDOT also reviewed the FEIS and found no issues.

- Z. Traffic from another large warehouse proposed in the Town by Medline Industries is not expected to have any significant adverse cumulative impacts on traffic in the study area. The Medline warehouse is located far enough from the Project's study area (approximately 6 miles) that any traffic generated by that warehouse (if ever approved) that could potentially travel through the study area would be minimal. The conservative 2% background traffic growth that was applied to the study area in the TIS accounts for any minimal volume increase in the study area as a result of nearby developments including the Medline warehouse or tenant changes in existing buildings.
- AA. No parking will be allowed along the Project's access drives and aisles and the signage plans will show no parking/standing signs in these areas. This will facilitate vehicle flow around the Site.

Proposed Mitigation

- BB. Based on the potential traffic impacts discussed above, mitigations measures shall include the following:
 - 1. **NYS Route 747 & I-84 Westbound Ramp** - A signal timing adjustment is recommended for this intersection to address the deterioration of the northbound left-turn movement from a LOS D during the evening peak hour under the No-Build condition to a LOS E under the Build condition. As discussed above, the minor signal timing adjustment would allow the northbound left turn movement to maintain a LOS D, or better, during the weekday morning and evening peak hours under the Build condition.
 - 2. **NYS Route 747 & I-84 Eastbound On and Off Ramp** – As discussed above, a signal timing adjustment is recommended for this intersection to continue to operate at an overall LOS B during the weekday morning peak hour.
 - 3. **NYS Route 17K & NYS Route 747 / Stone Castle Road** - A signal timing adjustment is recommended for this intersection to address the deterioration of the northbound left-turn movement from a LOS C during the evening peak hour under the No-Build condition to a LOS D under the Build condition. As discussed above, the minor signal timing adjustment would allow the northbound left turn movement to maintain a LOS C during both the morning and evening peak hours under the Build condition.
 - 4. **NYS Route 747 & NYS Route 207** - A signal timing adjustment is recommended for this intersection to address the deterioration of the westbound through/right-turn movement from a LOS C during the evening peak hour under the No-Build condition to a LOS D under the Build condition. As discussed above, the minor signal timing adjustment would allow the northbound left turn movement to maintain a LOS C during both the morning and evening peak hours under the Build condition.
 - 5. **NYS Route 747 & Main Site Driveway** - Installation of a traffic signal at this intersection of NYS Route 747 and the proposed main site driveway would allow for safe and

efficient conveyance of site-related and non-site related traffic through the intersection. As discussed above, widening along NYS Route 747 will be necessary to provide the proposed northbound left-turn and southbound right-turn lanes at this intersection, while maintaining the existing shoulder widths. All widening would occur within the NYS Route 747 right-of-way. NYSDOT has conceptually approved the installation of a signal at this new intersection and the associated road widening.

CC. In addition to the mitigation measures noted above, the Applicant has also agreed to install modems and disconnects at four-signalized intersections along Route 17K. These devices will allow NYSDOT to remotely adjust the timing of the signals, in real time, to improve traffic flow along Route 17K. Having this ability allows NYSDOT to react quicker to avoid traffic congestion because the signal timing can be adjusted remotely from their office and without the need to send personnel to an intersection to make the changes. This additional equipment at these signalized intersections will allow NYSDOT to better monitor and control traffic flow along this section of Route 17K and improve traffic conditions in the corridor. The Applicant will pay for all mitigation measures.

DD. An easement will be provided to allow NYSDOT to access signal equipment on the Project Site including but not limited to loop detectors, signal pole and signal cabinet. Additional right-of-way will also be provided to clean-up the existing property lines and ROW lines.

Based on the foregoing, the Planning Board finds that as to traffic and transportation the Project will not create any significant adverse environmental impacts and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

3.5 Community Facilities and Services

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to community facilities and services and makes the findings below.
- B. The existing conditions related to police, fire and emergency medical services are set forth in the DEIS at pages 3-97 to 3-100.

Police

1. Information regarding the Town of Montgomery Police Department was received from Chief Arnold Amthor and was provided to the Planning Board in the DEIS.
2. The Town of Montgomery police station is located on Bracken Road adjacent to Town Hall. The police department consists of 14 full-time and 22 part-time officers and operates on a 24 hour per day, seven day per week basis. According to Town budget documents, the 2018 budget for the police department is \$2,187,458. The police department has primary jurisdiction over the unincorporated sections of the Town, comprising about 12,000 residents, including the Project Site.
3. There are three villages within the Town boundaries, the Villages of Montgomery, Walden, and Maybrook, each having its own police department.

4. The Town of Montgomery does assume responsibility for overnight patrols in Maybrook since their police department does not operate between 11:00 p.m. and 7:00 a.m.
5. Among the 14 full-time personnel include the chief and a lieutenant. New York State law defines “part-time” officers as working 50 percent of the full-time equivalent officers.
6. The part-time officers have the same training and certification as full-time officers. There are six investigators among the 22 part-time officers. The Town Police Department also employs six dispatchers, five court officers, and one animal control officer.
7. The Police Department has 13 cars, 10 marked vehicles and three unmarked vehicles. As of June 2018, eight police vehicles have over 147,000 miles traveled.
8. Typical police response times given the proximity of the Project Site to the police station would be approximately five minutes, depending upon the location of the nearest patrol car, time of day and number of calls for service.
9. The Town of Montgomery Police Department responds to an average of 300 calls per month, approximately 3,600 incidents per year, which results in approximately 450 to 500 arrests per year. Calls from warehouse and light industrial sites result in a wide range of incidents, including and not limited to domestic violence, theft, traffic incidents.
10. In addition to the local police force, Troop F of the New York State Police provides coverage to a five-county region (Rockland, Orange, Ulster, Sullivan and Green Counties) and employs approximately 500 personnel.
11. NYS Troopers located at the Montgomery station are responsible for five towns, including Montgomery. The State Police have fewer than 30 troopers at the station and two to three cars per shift. State Police availability is limited to situations where the Town Police Department requires substantial backup and reinforcement.

Fire

12. The Project Site is located within the Coldenham Fire District, one of four fire districts within the Town of Montgomery. Fire Chief Matthew Hunt provided information about the fire services that are necessary to serve the Project.
13. There are 67 active members of the Coldenham Fire District, which is a 100 percent volunteer fire department. All members respond to the station on an as needed basis.
14. The Coldenham Fire District has one fire station located at 511 Coldenham Road, approximately one mile from the Project Site.

15. Based upon the distance from the Fire Station, response time is estimated to be five to 10 minutes based on the time of day, traffic volume, and weather conditions.
16. All members are required to report to the firehouse and respond on apparatus. All volunteer fire companies within the Town abide by a written mutual aid agreement to coordinate firefighting efforts when circumstances warrant it.

Emergency Medical Services

17. The Town of Montgomery and its incorporated villages are provided with emergency services through the Town of Montgomery Volunteer Ambulance Corps (TOMAC).
18. TOMAC is located at 22 South Montgomery Street in Walden. TOMAC currently has 50 members, 30 volunteers and 20 paid staff.
19. Funding for TOMAC consists of donations and revenues generated by the TOMAC ambulance taking jurisdiction and billing for services rendered.
20. TOMAC is a Basic Life Support Agency and its Emergency Medical Technicians (EMTs) provide care with assistance from CPR and first aid trained member volunteers. TOMAC drivers are certified in Emergency Vehicle Operations; responding to over 2,000 calls per year.
21. TOMAC has three ambulances. Operations consist of one to two crews, depending on demand.
22. Each crew has two or three members, including the driver. The peak operations occur 6:00 a.m. and 6:00 p.m. Monday through Friday and weekends. Response time is approximately 10 to 15 minutes, depending on where the call is relative to the TOMAC location and the demand at that particular time.
23. TOMAC has a mutual aid agreement with each of the regional fire districts serving the Town of Montgomery, including the Coldenham Fire District. In the event of an emergency, the Coldenham Fire District provides first response with an EMT until the TOMAC ambulance arrives.

Recreation

- C. The existing conditions related to recreation is set forth on the DEIS at page 3-103.
 1. Most of the Project Site land area is classified as vacant, with development limited to a vacant two-story house having approximately 2,473 square foot of living area on Route 747. There is no impact on recreation facilities based on the existing conditions.

Solid Waste Disposal

- D. The existing conditions related to solid waste disposal is set forth on the DEIS at page 3-103.

1. Residents and commercial property owners in the Town of Montgomery must contract with private haulers for the removal of municipal solid waste (MSW) and recyclable materials or bring their solid waste and recyclables to one of the County transfer stations.
2. The Town does not provide yard waste collection or bulk waste pick-up. Currently there is no solid waste generated at the Project Site.

Potential Impacts

Police

- E. The Planning Board finds that, based on correspondence between the Project Sponsor and the Police Chief, the police department has sufficient manpower resources to service the additional calls that would be generated by the Project.
- F. This opinion from the police chief is based on potential activity observed at other warehouse and industrial sites in the Town of Montgomery.
- G. In addition, the Project Sponsor will implement security measures for the Project Site, including but not limited to gates and guardhouses, video surveillance, alarms, fenced areas, loss prevention program to prevent theft, and internal training of its staff. Such security measures would be fully implemented and function on a 24/7 basis and will reduce the demand for police services to the Project Site.
- H. While there is no anticipated need for additional police manpower at the Project Site, it is acknowledged that the Project may increase the demand for police services due to the new facility operations at the Project Site. However, the tax revenue generated by the Project will be a net positive for the Town and will address and off-set any potential increase in costs to the Police Department.
- I. Based on the 2018 Town budget of \$12,311,555.29, approximately 17.8 percent (\$2,187,458) is directly budgeted for the Police Department payroll, equipment, and expenses.
- J. As required by the NYS Building Code and the police department, two points of access to the building and operational areas have been provided from two different public roads - NYS Route 747 and NYS Route 17K – to facilitate emergency access to the Project Site by providing alternate points of access to the Project.

Fire

- K. The Coldenham Fire District concluded that the district would be able to properly handle any fires at the Project Site. This conclusion is based on the following:
 1. The Project includes 360-degree access to the building to ensure that the proper fire trucks and apparatus can reach where they need to be situated. Large paved surfaces around the warehouse building allow for safe operation of aerial fire apparatuses.

2. The Project complies with the applicable standards of the National Electric Code and the New York State Uniform Fire Prevention and Building Code. A monitoring service would be connected to the fire alarm system to notify the fire district. The building is equipped with ventilation systems to expel smoke and fumes in the event of a fire.
3. The proposed warehouse would be equipped with sprinklers and a water storage tank for firefighting purposes as described in the DEIS. The Project includes an on-site storage tank for fire suppression activities that will accommodate 100 percent of the water supply for fire demand without any fill rate reliance from the on-site wells.
4. All standpipes in the building will be labeled and kept free from obstructions. Access drives are designed to accommodate fire and related emergency vehicles. On-site hydrants have been located to avoid unnecessary hose lays that may block other apparatus from setting up at the scene.
5. The fire district has reviewed and commented on the Project's site plans and building plans multiple times and been actively involved in the design of the Project. If requested, the fire district will be provided with final floor plans and layouts of the building. The district will have access to the building during and after to construction to become familiar with its layout.
6. The Project will pay taxes to the fire district which will off-set any increased costs the district may have for providing fire protection services to the district.
7. One of the stormwater management ponds on the Project Site has been converted into a wet pond with a holding capacity of between 250,000 and 500,000 gallons of water that could be used for firefighting purposes depending on the level of water in the pond.
8. After reviewing the FEIS, the Coldenham Fire District requested that a battery-powered cart be available and dedicated at the warehouse for the fire department to use during a fire or EMS emergency at the warehouse. The cart would allow fire and EMS personal and equipment to quickly get to any point on the building or Site. The Applicant will provide this cart, at its expense, for the fire district inside the main entrance to the building adjacent to the alarm panel. Furthermore, the fire district requested that a stand-pipe kit and tools be provided on the cart and at the fire station to facilitate fire response at the Site. The Applicant will provide these kits, at its expense, for the fire district's use. The fire district also requested that in the event of a serious accident at the Site, adequate room should be provided outside the warehouse building (free of any vehicles) to land a medical helicopter. The fire district agreed that the traffic circle located on the access drive from Route 17K will be available for emergency medical helicopter landings as directed by emergency personnel. Lastly, it should be noted that bulk storage of lithium batteries will not occur on the Site. The items above have been discussed with the fire district and the district has advised the Planning Board that all of its concerns have been addressed and the Project will not have any significant adverse impacts on fire response to the Site.

Emergency Medical Services

- L. TOMAC noted that the Project should provide adequate emergency access, both outside and inside the warehouse, including the hallways which should be constructed in accordance with New York State Building Codes and that access points are clearly marked. All of these concerns have been addressed in the Project's plans.

Recreation

- M. The Project does not anticipate any substantial use or impact on Town recreation facilities. There are no residents proposed due to the Project nor is it anticipated the creation of jobs at the Project would create significant impacts on Town recreation facilities. No recreational facilities are located on or adjacent to the Site that could be used by employees of the Project. The Site is privately owned and will not be open to the public for any recreational uses.

Solid Waste Disposal

- N. The Project is estimated to generate approximately 45 tons of solid waste per month. According to the Development Impact Assessment Handbook, an industrial use could generate 0.00138 tons of solid waste per employee per day, and an office or retail use could generate 0.001 tons of solid waste per employee per day. Therefore, the Project with approximately up to 1,100 expected manufacturing/warehouse employees and 100 anticipated office employees could be expected to generate approximately 1.48 tons of solid waste per day or approximately 45 tons per month.
- O. Solid waste will be stored in enclosed dumpsters and compactors on Site. It shall be removed from the Site by a private hauler and brought to Orange County Transfer Station 2 in the Town of Newburgh. According to the Orange County Solid Waste Management Plan (SWMP) (most recent draft dated December 2010), Transfer Station 2 is able to handle 500 tons of solid waste per day. It is noted in the 2010 SWMP that the County has sufficient capacity to handle the quality of solid waste and recyclable materials generated in the County. The waste generated by the Project would amount to approximately 0.3 percent of the station's existing capacity.
- P. All construction waste and debris would also be stored in dumpsters onsite and removed regularly by a private hauler for disposal at the Orange County transfer station. No solid waste would be buried or disposed of on site.
- Q. No hazardous waste or materials as regulated by the State or federal government will be stored in or distributed from this facility. There will be no manufacturing or processing at this facility. It will not distribute bulk sales of chemicals or hazardous materials. Any proposed tenant must have separate and special warehouse facilities, not proposed for this site, for handling these materials.

Mitigation

Police, Fire, Emergency Medical Services, Recreation and Solid Waste Disposal

Based on the above and information contained in the DEIS, FEIS and application materials, the Planning Board has determined that no significant adverse environmental impacts related to police service, fire service, emergency medical services, recreation or solid waste disposal will result from the Project and therefore no further mitigation measures are not necessary.

Based on the foregoing, the Planning Board finds that as to community services and facilities, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.6 Soils and Geology

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to soils and geology and makes the findings below.
- B. The existing conditions are set forth in the DEIS at pages 3-105 to 3-117.
 - 1. Soil data was obtained from the United States Department of Agriculture (USDA) Soil Conservation Service (SCS) Soil Survey for Orange County. The different soil types occurring on the Project Site are discussed in the DEIS.
- C. Regional Geology
 - 1. The 1970 “Bedrock Geological Map of New York” published by the United States Geologic Survey was reviewed. As shown in Figure 40: Bedrock Map of the DEIS, the site is part of the Normanskill Formation which consists of shale, argillite, or siltstone.
 - 2. The 1989 “Surficial Geologic Map of New York” published by the New York State Geological Survey were reviewed and contains.
 - a. *Till (t)*: This soil is typically variable in texture, ranging in consistency from clay to silt to sand to gravel with boulders and cobbles. The soil is a product of deposition beneath glacier ice. The soil can be as thick as 180 feet.
 - b. *Lacustrine silt and clay (lsc)*: This soil is typically laminated silt and clay deposited by glacial lakes, generally found to be calcareous. This soil can be as thick as 300 feet.
- D. Geotechnical Investigations
 - 1. Multiple geotechnical field investigations were performed on the Project Site. The first investigation was completed in 2008. A total of 12 test pits were performed throughout the southern and eastern portions of the Project Site.

2. Groundwater was encountered in three of the 12 test pits at depths ranging from 7.5 feet to 9.5 feet below the existing ground surface. Bedrock was not encountered.
3. An additional geotechnical field investigation was performed in 2018. A total of 7 borings and 21 test pits were performed throughout the Project Site. The test pits were excavated to depths ranging from 10.5 feet to 14 feet.
4. Groundwater was encountered in 9 of the 21 test pits at depths ranging from 1 foot to 9 feet below the existing ground surface. Bedrock was not encountered.

E. Site Slopes

1. Slopes vary across the Site. A slope analysis was performed and the slopes were broken down into three categories: 0-15 percent, 15-25 percent, and greater than 25 percent.
2. In general, Site slopes range from zero to 15 percent and a small percentage of the Project Site has slopes greater than 25 percent.

F. Agricultural Districts, Soils and Lands

1. Farmland located in Orange County Agricultural District #1 is located adjacent to the Project Site to the west; however, the Project Site is not located within the Agricultural District or any other agricultural district. The Project Site is not currently used for farming. An Agricultural Data Statement was prepared for the Project and circulated to farming operations within the Ag District as required by the NYS Ag & Markets Law.

Potential Impacts

- G. The Project will disturb approximately 82 acres of the 187 acre Site , which includes 0.3 acres of disturbance within the New York State Department of Transportation (“NYSDOT”) right-of-way.
- H. The Project will result in the removal of natural vegetative cover material, disturb approximately 82 acres, or 44 percent of the Project Site, and create a total of 50 acres of impervious area.
- I. Approximately 43% of the areas that are 0-15% slope will be disturbed (total of 67.8 acres).
- J. Approximately 51% of the areas that are 15-25% slope will be disturbed (total of 9.0 acres).
- K. Approximately 41% of the areas that are greater than 25% slope will be disturbed (total of 5.2 acres).
- L. The Project will create approximately 13.6 acres of steep slope areas (>25%). The created steep slopes would be stabilized using erosion control matting to minimize excessive soil erosion and slope instability.

- M. The proposed soil cuts on the Project Site are approximately 813,250 cubic yards and the proposed fills on the Site are approximately 800,950 cubic yards; resulting in a net cut of approximately 12,300 cubic yards.
- N. Site grading has been adjusted in an effort to balance the Site from a cut to fill perspective. Based on the revised grading scheme, the anticipated export has been reduced significantly from 130,000 cubic yards to approximately 12,300 cubic yards. There will be a comparable reduction in construction truck traffic associated with disposing of these excess fills. The anticipated number of truck trips required to dispose of the excess material has been reduced from 6,500 trips to approximately 615 trips. This adjustment reduces potential impacts in that it:
1. Reduces the potential of sediment and silt along the roadways from trucks transporting fill material;
 2. Reduces the noise levels during construction as a result of the reduced number of trucks traveling along the areas roads;
 3. Reduces construction truck trips on adjacent highways; and
 4. Reduces the overall length of construction.
- O. There is a potential for soil erosion and sedimentation associated with the construction activities, which are avoided by diverting runoff away from the work area; limiting the exposure of the work area to the extent that can be managed; installing sediment and erosion control measures, such as silt fence, temporary sediment basins, fiber rolls, and temporary swales; and temporary stabilization of exposed soils.
- P. A variety of erosion and sediment control measures (including enhanced control measures discussed later in these findings) will be used during construction within each stage to manage the transport of sediment prior to reaching the temporary sediment basins. These measures generally include the following:
1. Stabilized construction entrance;
 2. Dust control;
 3. Temporary soil stockpiles;
 4. Silt fencing;
 5. Temporary seeding;
 6. Stone or proprietary inlet protection barriers;
 7. Stone check dams;
 8. Water bars;
 9. Fiber rolls;
 10. Sediment filter bags, and
 11. Erosion control matting.
- Q. A comprehensive Stormwater Pollution Prevention Plan (“SWPPP”) has been prepared for the Project to manage erosion and sediment concerns during construction. The erosion and sediment control measures in the SWPPP have been designed in accordance with the *New York State Standards and Specifications for Erosion and Sediment Control*. The SWPPP has been reviewed and approved by the Town’s stormwater control engineer. The SWPPP is discussed in more detail later in these findings.

- R. The Project Site appears to not have been actively farmed since circa 1984. In addition, the Site is not located within an Agricultural District.
- S. The Project will not result in the loss of active farmland. Some lots adjacent to the Project Site to the west are in an agricultural district and are actively farmed. Most of these farm fields are separated from the Project Site by a large wetland complex. One smaller field is located adjacent to the Site. The Project does not interfere with the farm operations on farm land to the west or prevent the continued farming of that land. It should be noted that a commercial solar facility has been approved recently for construction on the adjacent farm land. The solar facility would remove this land from agricultural production.
- T. The Geotechnical Investigations did not encounter any bedrock on the Project Site. Over 41 soil borings were conducted in the areas to be disturbed on the Project Site and no bedrock was encountered. As result, blasting is not expected as part of the Project's construction.
- U. A Phase I Environmental Site Assessment (ESA) was performed on the Site and did not identify any contaminated or hazardous materials. This conclusion was based on a visual inspection of the Site; review of environmental databases and historic information; contact with federal, state, and local agencies; and the findings of the subsurface investigation. In addition, soil, vapor, and groundwater testing was conducted on the Project Site and did not identify any concerns.

Mitigation Measures

- A. **Blasting Plan** – In the unlikely event bedrock is encountered unexpectedly during construction, and in the event that such bedrock is not rippable shale that could be mechanically removed, making blasting necessary, the blasting work must follow Best Management Practices. The work would be subcontracted to a properly licensed blasting contractor and would be supervised by a geotechnical engineer. Pre-blast condition surveys would be conducted for buildings and other vibration sensitive structures within approximately 250 feet of blasting, and vibration monitoring would be conducted during construction. Surrounding property that may be impacted will be monitored, protected and insured against all damage. Blasting would occur during normal construction hours set forth below. Any potential blasting would be conducted in accordance with all applicable laws.
- B. **Erosion Control Measures & Best Management Practices** - The following erosion control measures will be implemented as part of the SWPPP to mitigate any potential impacts:
 - 1. Seeding and other slope protection would be implemented immediately following construction of the cut. Temporary erosion control measures must be provided during construction activities and maintained until permanent erosion control measures are functional.
 - 2. Excavation of cut slopes would be limited during the wet season to minimize erosion.
 - 3. Concentrated surface water or significant sheet flow would not be discharged onto temporary or permanent slopes.
 - 4. Groundwater seepage, if encountered during construction, would be collected and discharged in accordance with the SWPPP.

5. Surface water runoff would be properly contained and channeled in accordance with the SWPPP.
 6. Removal of existing natural vegetation would be minimized and limited to active construction areas.
 7. Surface water and drainage from impervious surfaces would be directed to appropriate stormwater facilities.
 8. A qualified inspector (employed by the Town and paid for by the Project Sponsor) will be on site bi-weekly and during all rain events during site clearing, regrading and stabilization to monitor and adjust erosion control plans to prevent siltation of the wetlands and water courses.
 9. Cut slopes or fill slopes will be compacted and stabilized in such small sections as can be handled with the equipment on site.
- C. **Site Clearing** – The following guidelines will be followed for removal of the topsoil within the Project Site:
1. Topsoil shall be completely stripped from the proposed warehouse building footprint and 10 feet beyond the building limits.
 2. Topsoil shall be completely stripped in pavement areas receiving less than 5 feet of new fill.
 3. In pavement areas receiving more than 5 feet of new fill to raise grades, the topsoil layer shall be left in place subsequent to removal of vegetation and root mats and performance of subgrade preparation procedures recommended below.
 4. The topsoil shall be stockpiled and protected from erosion. Topsoil should be evaluated by landscape architect for re-use in landscape areas.
 5. Prior to commencement of grading or fill placement, any miscellaneous trash, debris, or other unsuitable materials shall be hauled offsite for disposal. Trees can be chipped and used as mulch.
 6. All clearing and stripping activities shall be performed in strict accordance with the approved soil erosion and sediment control plan prepared for the Project.
- D. **Best Practices** - All site preparation and earth work shall be completed in accordance with best practices as outlined in the DEIS at pages 3-124 to 3-129.

Based on the foregoing, the Planning Board finds that as to soils and geology, the Project will not create any significant adverse environmental impacts and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

3.7 Surface Water Resources

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to surface water and makes the findings below.
- B. The existing conditions are set forth in the DEIS at page 3-129 to 3-135.
- C. Streams and Wetlands

1. A wetland and waterbody delineation was conducted in 2018. As discussed in detail below, four wetlands were identified on the Project Site.
 2. The east branch of Tin Brook, a NYSDEC Class B stream, is located within the eastern portion of the Project Site. The west branch of the Tin Brook is located off-site to the west.
- D. Floodplains - The Flood Insurance Rate Map (FIRM) Community Panel Number 36071C0120E with an effective date of August 3, 2009 was reviewed. Based on that map, a small portion of the Project Site is within special flood hazard area Zone A and the majority of the Project Site is within other areas Zone X. Special flood hazard area Zone A is defined as “no base flood elevations determined. Other areas Zone X is defined as “areas determined to be outside the 0.2% annual chance floodplain”. All of the proposed development and disturbances will be occurring in other areas of Zone X. No development is proposed within special flood hazard area Zone A. No impacts will occur to any flood plains on the Project Site.
- E. Additional existing conditions related to drainage are set forth in the DEIS at pages 3-59.
1. The vast majority of the Project Site is vacant land and has naturally occurring drainage patterns. It does not have any existing man-made drainage collection or stormwater management systems. The Project Site contains a ridgeline that divides the property. Runoff from the western portion of the Site flows overland into Wetland B (described below) and continues offsite to the west branch of Tin Brook.
 2. Runoff from the eastern portion of the Site flows overland into Wetland A (described below) or the east branch of the Tin Brook, which is a tributary to the Wallkill River. The Tin Brook flows under NYS Route 17K through a 66-inch diameter corrugated metal pipe and continues offsite to the north.
 3. Locations of Wetlands A and B on the Project Site are noted on the site plans in Appendix L of the DEIS.
- F. Pre-Development Conditions Analysis
1. The USDA Soil Conservation Service Publication Technical Release (TR-55) “Urban Hydrology for Small Watersheds” has been used to analyze the pre-development rainfall runoff rates and volumes.
 2. The overall watershed was broken down into smaller watersheds, or sub-catchments to allow for analysis of runoff conditions at several locations. Each of these locations is defined as a Design Point (DP) to compare the effects of the proposed development.

Potential Impacts

Water Pollution Sources

- G. Stormwater runoff from developed land is recognized as a possible contributor of pollution that can adversely affect the quality of downstream receiving waters if not properly controlled.
- H. Development of the Project Site will create impervious areas, which can alter the hydrologic characteristics of a watershed and could have impacts on water resources, because pollutants and sediment carried by stormwater runoff could degrade the water quality of receiving waters downstream.
- I. The potential pollution sources during construction include exposed and unstable soils, and after construction include sediment, debris, litter, and potential contaminants on driveways and parking lots.

Proposed Watershed and Drainage Patterns

- J. Based on the studies in the DEIS and the FEIS, the Project will not have any potential adverse impacts on watershed and drainage patterns.
 - 1. Stormwater runoff outside the development will continue to flow overland in the same direction as in the existing conditions.
 - 2. Stormwater runoff within the development will sheet flow to the onsite drainage collection system within the paved roads and parking areas.
 - 3. Localized low and high points have been created to aid in the collection of stormwater runoff.
 - 4. The collected runoff will be directed to the stormwater management facilities for water quality treatment.
 - 5. The treated stormwater will be detained and released in a controlled manner to reduce or avoid impacts.
 - 6. Modifications to the Project's stormwater management system have been made to address technical comments from agencies, the public, the Planning Board and the Board's stormwater engineer. These changes resulted in an overall reduction in the size of some of the stormwater management practices and reduction in the overall Project disturbance.

Stormwater Runoff

- A. The Project's potential stormwater impacts and proposed management of storm water run-off have been addressed and evaluated by two (2) professional engineers, including the Applicant's professional engineer and the Planning Board's professional engineer, Andrew Featherston, PE., CPESC, CFM, CPSWQ. The Planning Board's engineer is an expert in stormwater control management and maintains the following related certifications: Professional Engineer ("PE"),

Certified Professional in Erosion and Sediment Control (“CPESC”), a Certified Flood Manager (“CFM”) and a Certified Professional in Stormwater Quality (“CPSWQ”).

- B. Stormwater Pollution Prevention Plan (“SWPPP”) has been prepared to properly manage storm water run-off on the Site during and after construction. The SWPPP complies with all Town and NYSDEC stormwater standards. The Planning Board’s engineer has reviewed the SWPPP and found it to be acceptable.
- C. Stormwater will not automatically be discharged off-site. Instead, it will be collected on-site and conveyed to series of stormwater control and treatment practices such as catch basins, pipes, swales, and stormwater management basins, among others. These practices have been designed to detain, treat, and release the peak runoff at a rate equal to or less than what existed prior to construction of the Project. As a result, there will be no increase in the peak runoff rate and water quality mitigation is provided in accordance with the applicable stormwater regulations.
- D. The stormwater management system provides water quality treatment for all impervious areas. The impervious area on this Project can be broken down into three categories: building which is approximately 23 acres, pervious pavement which is approximately 1.2 acres and impervious pavement and sidewalks which are approximately 24.8 acres. The treatment of stormwater runoff to ensure water quality is maintained is accomplished primarily through the use of bioretention basins which are filtering practices approved by the NYSDEC. The design of these bioretention areas as described in the DEIS, SWPPP and the FEIS are in conformance with the NYSDEC criteria. The swale along the top inlet will have a rip-rap lined discharge point at the bottom to prevent washout of the bioretention area. These practices provide water quality treatment for the type of pollutants expected for this type of development including salt. Further, the stormwater controls will maintain and not increase the current peak flow from the site. Accordingly, no further analysis is warranted related to the flows related to the 66” culvert conveying the Tin Brook under Rt. 17K.
- E. The stormwater collection system was analyzed for the 25- and 100-year storm events. During the 25-year storm event, the proposed stormwater collection system has adequate capacity to collect and convey the stormwater runoff associated with the 25-year storm. During the 100-year storm event, the proposed collection system can convey the 100-year storm.

Stormwater Quality and Quantity

- F. The SWPPP and Project plans have been designed in accordance with the NYSDEC stormwater control regulations including “New York State Stormwater Management Design Manual” and the SPDES General Permit for Construction Activities.
- G. The Town is a Municipal Separate Storm Sewer System (MS4) municipality. As required by NYSDEC regulations, the Town must review and approve the SWPPP prior to coverage being obtained under NYSDEC’s SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).

- H. An individual stormwater permit is not required from NYSDEC for this Project, because it meets all of the coverage requirements under the NYSDEC's SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).
- I. In addition to the NYSDEC stormwater control regulations, the Town of Montgomery enacted Local Law No. 1 of 2005, entitled "Stormwater Management and Erosion and Sediment Control" to establish minimum stormwater management requirements and controls. These requirements were also incorporated into the SWPPP and stormwater management design. Local Law No. 1 of 2005 directs that the NYSDEC Stormwater Management Design Manual and New York Standards and Specifications for Erosion and Sediment Control be used as the official guides and specifications for stormwater management in the Town. The law states that "Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by the Town's law." As noted herein, the Planning Board and its professional engineer find that the Project meets the standards set forth in these documents and is therefore compliant with the Town's local law,
- J. The stormwater runoff will be collected and conveyed to the stormwater management practices for both water quality and water quantity control. The stormwater management practices improve the water quality by capturing and treating runoff from small, frequent storm events that tend to contain higher pollutant levels.
- K. The Project will implement Best Management Practices (BMPs) to minimize the water quality impacts.
- L. The loading docks generate stormwater hotspot runoff. A stormwater hotspot is defined as a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff. For projects identified as a stormwater hotspot, runoff reduction cannot be provided through infiltration, unless an enhanced treatment that addresses the pollutants of concern is provided. Bioretention practices can accept stormwater hotspot runoff as long as an impermeable liner is provided. The bioretention practices that will be receiving stormwater hotspot runoff will have an impermeable liner and underdrain system.
- M. Infiltration based practices cannot be used to treat stormwater hotspot runoff or installed in fill sections. Bioretention basins have the ability to provide water quality treatment of stormwater "hotspot" runoff. In addition, bioretention basins have the ability to provide runoff reduction whether or not they have underdrains unlike infiltration based practices which would require changing to another runoff reduction practice if the design requirements cannot be met. During construction, stormwater testing will be performed in the areas where non-hotspot runoff will be treated to determine whether or not the bioretention underdrains can be eliminated.
- N. As noted above, the Town of Montgomery adopted Local Law No. 1 of the year 2005. An objective of this law, among other things, was to "minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable". However, the law contains no technical requirements for reducing stormwater volume but directs compliance with the NYSDEC Stormwater Design Manual. As

discussed below, the proposed SWPPP and stormwater practices are compliant with Local Law No. 1 of the year 2005.

- O. The water quality volumes for the Project have been determined based on the methodology described in the *NYS Stormwater Management Design Manual*, latest revision.
- P. Relative to stormwater runoff volume control; although reducing the entire volume of stormwater leaving a site is not required either the Town's local laws or the NYSDEC regulations, the reduction of runoff volume is accomplished for this Project to the maximum extent practicable through the application of green infrastructure techniques, standard stormwater management practices with runoff reduction capacity, and good operation and maintenance. The updated SWPPP does provide for these types of practices and achieves a runoff reduction volume (RRV) as defined in the NYSDEC's "Stormwater Management Design Manual" of approximately 45% of RRV.
- Q. The stormwater management practices provide approximately 1.5 million cubic feet (or ±11 million gallons) of total storage volume. This storage volume is used to attenuate the post-development peak runoff rates so, as mentioned above, they are less than or equal to the pre-development peak runoff rates. This design allows for the storm events to be released over a period of time so that the rate of runoff is equal to or less than what existed prior to construction. As demonstrated in the SWPPP, the required water quantity controls have been provided and the stormwater runoff volume has been minimized to the maximum extent practicable through the use of stormwater management practices including permeable pavement, bioretention basins and significant new landscaping and tree plantings which reduce stormwater volume by evapotranspiration.
- R. The NYSDEC's "Stormwater Management Design Manual" does not require the post-development stormwater volumes to be less than or equal to pre-development stormwater volumes. The NYSDEC only requires the post-development peak runoff rates to be less than or equal to the pre-development peak runoff rates. This criterion has been met through the implementation of the Project's stormwater management practices.
- S. In response to public comment, on July 1, 2019, Dominik Greene, who is the Hazard Mitigation Coordinator / Emergency Planner for the Orange County Department of Emergency Services commented that "Route 17K over the Tin Brook did not flood in either Hurricane Irene or Tropical Storm Lee." This was made in response to a public comment suggesting that this area of Route 17k near the Tin Brook had flooded during these storm events.
- T. Snow from all paved areas will be placed in the stormwater management basins. These areas have adequate volume to handle a significant amount of snow fall and provide an area where, when the snow melts, the discharge is controlled.
- U. Salt will be used on the Project Site, as needed during winter months, for snow and ice events to ensure public safety. Salt will be used only in quantities necessary to protect public safety. Salt is regularly used on the adjacent public highways such as Route 17K, Route 747 and I-84 to ensure public safety. Salt is proposed on the Site versus sand because sand will adversely impact the stormwater bioretention areas and porous pavement by reducing their infiltration capabilities.

Because this facility involves a significant amount of truck traffic, the need to keep the pavement clear is a safety priority: however, in areas where the traffic is reduced such as parking areas that accommodate the seasonal peak parking demand the need to salt the pavement is reduced. Also, less salt is generally required on porous pavement which allows for infiltration of rainwater. The use of salt on the site will be managed by the tenant.

V. To reduce potential impacts from road salt used during the winter months at the Project Site, the Planning Board evaluated a report prepared by the Dutchess County Environmental Management Council and the Carey Institute of Ecosystem Studies entitled “Road Salt, The Problem, The Solution, and How to Get There” (2010). This report concluded that the impacts of road salt on the environment can be significantly reduced and recommended best management practices that, if followed, would achieve this reduction. These Best Management practices include the following which the Applicant will implement at the Project Site:

- Apply a 23% salt brine solution to pretreat areas before the onset of ice and snow storms. It is estimated that this practice alone could yield a 75% reduction in salt applied.
- Pre-wet salt before applying. This allows the salt to better stick to pavement which will minimize spray and kick-up of salt grains
- Calibrate equipment to measure exactly how much salt is being applied, facilitating more accurate and efficient deicing, with less salt used.
- Use automated spreader controls which allow salt truck operators to program salt application rates so that the amount of salt being applied changes with ground speed, which reduces bounce and scatter.
- No salt will be stored on the Project Site.
- Require the contractor to use modern snow plows designed to reduce the amount of road salt needed to maintain ice-free pavement. These would include Live Edge Blades or Flexible plow blades both designed to conform to uneven surfaces thus reducing the overall amount of salt needed.
- Do not structure the snow management contract based on the amount of salt applied. This encourages contractors to over salt areas. Any contract with a snow management company must legally obligate the contractor to follow the best management practices above.

Mitigation

Stormwater Management

- W. The Stormwater Pollution Prevention Plan (“SWPPP”) and project plans have been designed in accordance with the New York State Stormwater Management Design Manual and the SPDES General Permit for Construction Activities.
- X. The Town of Montgomery enacted local law 1 of 2005, which is now Section 85 “Stormwater Management and Erosion and Sediment Control” of the Town of Montgomery Zoning Law, establishes the minimum stormwater management requirements and controls. These

requirements were also incorporated into the into the SWPPP and stormwater management design.

- Y. The Project includes the use of “green” infrastructure stormwater practices. The practices were designed in accordance with the *New York State Stormwater Management Design Manual*. These green practices include, among other things, biorientation basins, porous pavement and wet stormwater management ponds:
1. **Bioretention Basins:** The bioretention basins would be landscaped with a variety of plants, which help reduce water quantities through evapotranspiration and increased water percolation through their root systems. The plants also help remove pollutants and nutrients in the water. The bioretention basins would be located outside of the 100-foot NYSDEC wetland adjacent area to take advantage of the natural, undisturbed land which would aid in reducing the velocity, amount, and temperature of the discharged stormwater prior to flowing into the onsite wetlands and streams.
 2. **Porous Pavement:** Porous pavement is a permeable paving that provides an alternative to conventional asphalt and concrete surfaces and are designed to convey rainfall through the surface into an underlying reservoir where it can infiltrate, thereby reducing stormwater runoff and volume from the site. Porous pavement will be used in a portion of the car parking area.
 3. **Stormwater Management Ponds:** One of the stormwater management ponds would be a wet pond sized to minimize the amount of clearing and grading to the greatest extent feasible. The ponds would be located outside of the 100-foot NYSDEC wetland adjacent area to take advantage of the natural, undisturbed land which would aid in reducing the velocity, amount, and temperature of the discharged stormwater prior to flowing into the onsite wetlands and streams.
- Z. The stormwater drainage system for the entire site was designed to separate the roof drainage from the “hotspot” runoff from the fleet storage and loading dock areas to the greatest extent practical. The bioretention basins accepting the “hotspot” runoff will be lined with an impermeable liner.
- AA. Inspections of the Project’s stormwater control measures will be performed in accordance with the SWPPP, accompanying plans, latest revision of the NYSDEC’s “New York State Standards and Specifications for Erosion and Sediment Control”, and latest revision of the “New York State Stormwater Management Design Manual”.
- BB. When the soil disturbance is less than 5 acres, the inspections conducted by the qualified inspector will be performed at the interval of one site inspection every 7 days. When authorized by the Town and the soil disturbance is more than 5 acres, the inspections conducted by the qualified inspector will be performed at the interval of two site inspections every 7 days. All construction inspections will be performed in accordance with the NYSDEC’s SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).
- CC. There will be a series of qualified professionals inspecting the sediment and erosion control measure during construction to ensure that they are functioning properly:

1. As required by the SWPPPP, the Applicant will employ a qualified professional to make routine inspections of the sediment and erosion control measures. The Applicant will also have a dedicated crew to repair and maintain the sediment and erosion control measures;
 2. The Town will hire a qualified professional to oversee the entire site from a Sediment and Erosion control perspective. The cost of the Town inspector will be paid for by the Applicant. The frequency of inspections is discussed in more detail below.
- DD. After construction, the maintenance and inspection frequency of the stormwater management practices and site infrastructure is provided in the updated SWPPP. In addition, a legally binding Stormwater Maintenance Agreement will be implemented between the Town of Montgomery and the Applicant as required by law and recorded with the Orange County Clerk. This agreement will obligate the Site owner to operate and maintain the stormwater management system including all landscape material critical to the function of the stormwater management system in perpetuity. This is a binding agreement between the Town and the Owner that allows the Town to perform the necessary maintenance at the expense of the owner should the owner fail to do so. The Planning Board Attorney and Engineer will approve the final version of the agreement.
- EE. The stormwater management practices will have signage that will identify each practice in accordance with the NYSDEC's "Stormwater Management Design Manual". A detail for the signage is provided on the Project Plans. In addition, the maintenance and inspection frequency of the site elements and stormwater management practices are provided in the SWPPP.
- FF. The Applicant will be required to post a performance bond as a condition of the Project's site plan approval to ensure the proper construction of the stormwater control practices in accordance with the SWPPP until a certificate of occupancy (CO) is issued for the warehouse.
- GG. The Applicant will be required to post a maintenance bond as a condition of the Project's site plan approval to ensure the continued proper performance, maintenance and repair (if any) of the stormwater control measures for two years after a CO is issued for the warehouse.

Erosion and Sediment Control Plan

- A. The Project's erosion and sediment control measures have been designed in accordance with the *New York State Standards and Specifications for Erosion and Sediment Control* and the Town of Montgomery requirements.
- B. The Project's SWPPP and plans identify erosion control, sediment control, and pollution prevention measures to be implemented during and after construction to minimize erosion and sediment impacts.
- C. A construction sequencing schedule and phasing plan (Figure 51: Construction Phasing Plan in the DEIS) will be implemented. The purpose of the construction sequencing schedule and phasing plan is to reduce run-off by limiting the overall site disturbance and allow previously

disturbed areas to be temporarily stabilized before construction in another part of the Project Site begins.

D. Temporary erosion and sediment control measures to be used during construction include the following, among others:

1. **Stabilized Construction Access** - Before construction, the stabilized construction access shall be installed to reduce the tracking of sediment onto adjacent roadways. Construction traffic must enter and exit the Project Site at the stabilized construction access. The stabilized construction access shall be maintained in good condition to control tracking of sediment onto rights-of-way or streets. All sediments and soils spilled, dropped, or washed onto the public rights-of-way shall be removed immediately. Periodic inspection and needed maintenance shall be provided after each substantial rainfall event.
2. **Dust Control** - Water trucks or other approved water source shall be used, as needed, during construction to reduce fugitive dust generated on the Project Site. Dust control shall be provided in compliance with the applicable local and state dust control requirements.
3. **Temporary Soil Stockpile** - Materials, such as topsoil, shall be temporarily stockpiled (if necessary) on Site during construction. Stockpiles shall be located away from storm drainage, water bodies or courses, and shall be properly protected from erosion in accordance the details provided in the SWPPP.
4. **Silt Fencing** - Before and during construction, silt fencing shall be established along the perimeter of all areas to be disturbed as a result of the construction upgradient of water courses or adjacent properties. These barriers may extend into non-impact areas to ensure adequate protection of adjacent lands. Clearing and grubbing shall be performed only as necessary for the installation of the sediment control barrier. To ensure effectiveness of the silt fencing, daily inspections shall be performed by site personnel. Maintenance of the fence shall be performed as needed and when directed by a qualified inspector.
5. **Temporary Seeding** - Within seven days after construction ceases on any particular area of the Site, all disturbed areas where no construction will occur for longer than 14 days shall be temporarily seeded and mulched to minimize erosion and sediment loss. Other stabilization methods maybe approved by the Qualified Inspector.
6. **Inlet Protection** – Inlet protection shall be installed around existing and proposed catch basins (once installed) to keep sediment from entering the drainage system. During construction, the inlet protection measures shall be replaced as needed to ensure proper function of the structure.
7. **Check Dams** - Check dams shall be installed within drainage ditches to reduce the velocity of stormwater runoff, promote settling of sediment, and reduce sediment transport off site. The stone check dams shall be inspected at least every seven days.

Damage shall be repaired upon discovery. Sediment accumulated behind the stone check dams shall be removed, as necessary, to allow the channel to drain through the stone check dam and prevent large flows from carrying sediment over or around the dam. Stones shall be replaced to maintain the design cross section of the structures.

8. **Temporary Sediment Basins and Traps** - Temporary sediment basins and traps shall be constructed to intercept sediment laden runoff, reduce the amount of sediment leaving the disturbed areas, and protect drainage ways, properties, and rights-of-way. Temporary sediment basins shall have a minimum capacity for 7,200 cf per acre disturbed. Temporary sediment basins and traps shall be inspected at least every seven days. All damage caused by soil erosion and construction equipment shall be repaired upon discovery. Accumulated sediment shall be removed from the sediment basin or trap when it reaches 50 percent of the design capacity and must not exceed 50 percent. Sediment must not be placed downstream from the embankment or adjacent to a stream or floodplain.
 9. **Dewatering** - Dewatering, if required, must not be discharged directly into wetlands, water courses, water bodies, and drainage system without appropriate protection. Proper methods and devices shall be used to the extent permitted by law, such as pumping water into temporary sediment basins, providing surge protection at the inlet and outlet of pumps, floating the intake of the pump, or other methods to minimize and retain the suspended solids.
- E. Permanent erosion and sediment control measures to be used after construction include the following:
1. **Establish Permanent Vegetation** - Disturbed areas not covered by impervious surfaces shall be seeded as required by the SWPPP. All areas at final grade shall be seeded and mulched within 7 days after completion of the major construction. All seeded areas shall be protected with mulch or hay. Final site stabilization is achieved when all soil-disturbing activities have been completed and a uniform, perennial vegetative cover with a density of 80 percent has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.
 2. **Rock Outlet Protection** - Rock outlet protection shall be installed at the locations as shown in the SWPPP. The installation of rock outlet protection will reduce the depth, velocity, and energy of water, such that the flow will not erode the receiving water course or water body.
- F. Pollution prevention control measures during construction shall include the following, among others:
1. Construction equipment maintenance areas shall be protected from stormwater flows and shall be supplied with appropriate waste receptacles for spent chemicals, solvents, oils, greases, gasoline, and any pollutants that might contaminate the surrounding habitat or water supply.

2. Equipment wash-down zones shall be within areas draining to sediment control devices. The use of detergents for large-scale (e.g., vehicles, buildings, pavement surfaces) washing will not be used.
 3. Material storage locations and facilities during construction (e.g., covered storage areas, storage sheds) shall be on-site and shall be stored according to the manufacturer's standards. Chemicals, paints, solvents, fertilizers, and other toxic material shall be stored in waterproof containers. Any runoff containing such materials shall be collected, removed from the Site, treated and disposed of at an approved solid waste or chemical disposal facility.
 4. Hazardous spills shall be immediately contained to prevent pollutants from entering the surrounding habitat or water supply. Spill kits shall be provided on Site and shall be displayed in a prominent location for ease of access and use. Spills greater than 5 gallons shall be reported to the NYSDEC Response Unit. In addition, a record of the incidents or notifications shall be documented and attached to the SWPPP.
 5. Portable sanitary waste facilities shall be provided on site for workers and shall be properly maintained.
 6. Dumpsters or debris containers shall be on Site and shall be of adequate size to manage respective materials. Regular collection and disposal of wastes must occur as required.
 7. Temporary concrete washout facilities shall be a minimum of 50 feet from storm drain inlets, open drainage facilities, and watercourses. Each facility should be away from construction traffic or access areas to prevent disturbance or tracking. A sign shall be installed adjacent to each washout facility to inform concrete equipment operators to use the proper facilities. When temporary concrete washout facilities are no longer required for the work, the hardened concrete shall be removed and disposed of. Materials used to construct the temporary concrete washout facilities shall be removed and disposed of. Holes, depressions or other ground disturbance caused by the removal of the temporary concrete washout facilities shall be backfilled or repaired, seeded, and mulched for final stabilization. Wastewater discharges from washout of concrete is prohibited.
 8. Discharges from dewatering activities, including discharges from dewatering trenches and excavations, shall be managed by appropriate control measures.
- G. The Project's SWPPP and the stormwater practices proposed for the Project are in compliance with all Town and New York State regulations, including compliance with New York's Stormwater Management Design Manual. Notwithstanding with this compliance, to be overly conservative, the Planning Board's stormwater control engineer has recommended that the following enhanced stormwater control measures be utilized at the Project Site as part of the SWPPP to ensure that stormwater will be managed above and beyond the control measures typically required by the Town and NYSDEC stormwater regulations. The Applicant has agreed to employ these enhanced control measures as part of the Project. These measures include the following:

- Provide oversized sediment basins. Generally, the sediment basins are sized based on a contributing drainage area that is 100% greater than the actual drainage area. As noted above, temporary sediment basins shall have a minimum capacity for 7,200 cf per acre disturbed.
- Disturbed areas shall be stabilized immediately upon completion of the required grading activity and such stabilization shall be completed within 7 days. The Applicant will supply an adequate amount of water during this time period to establish vegetation to a 90% cover.
- Disturbed areas shall be stabilized temporarily with a bonded fiber matrix hydraulically applied seed and mulch.
- Where necessary, install slope crest protection (perimeter swale) measures to divert flow from impacting disturbed slopes. Install Geosynthetic Turf Reinforcement Matting available from Profile Products or equal on the embankments of sediment basins immediately following construction.
- Install Geosynthetic Turf Reinforcement Mats available from Profile Products or equal along permanent swales once fine grading is completed.
- Final slopes shall be stabilized with hydraulically-applied erosion control flexible growth medium with seed, soil amendments and fertilizer available from Profile Products or equal.
- If necessary, provide water skimmers connected to the outlet riser pipe in sedimentation ponds.
- Install sediment filter bags on the downstream end of all outlet pipes.
- Stabilize access roads (including construction entrances) with gravel, mulch or mats to prevent dirt from being tracked onto Route 17K or Route 747.
- Provide a dedicated crew to repair and maintain sediment and erosion control measures during construction on a daily basis including sweeping any dirt that may inadvertently be tracked onto Route 17K and Route 747 from construction vehicles. Any deficiencies will be corrected immediately.
- The Applicant will use floating skimmers to discharge sediment pond storage rather than perforated pipe at the base of the sediment basins surrounded with stone.

H. Construction inspection and maintenance shall:

- i. Be in accordance with the SWPPP, accompanying Project plans, latest revision of *New York State Standards and Specifications for Erosion and Sediment Control*, and latest revision of the *New York State Stormwater Management Design Manual*.
- ii. Inspection reports must identify and document the maintenance of the erosion and sediment control measures.
- iii. Inspections shall be completed by a qualified professional. The professional will inspect the erosion and sediment control practices and pollution-prevention measures to ensure that they are being maintained in an effective operating condition at all times. The inspections will be conducted as follows:
 - a. For construction sites where soil disturbance is on-going, the trained contractor must inspect the measures within the active work area daily. If deficiencies are identified, the contractor will begin implementing corrective

actions within one business day and must complete the corrective actions by the end of the day.

- b. For construction sites where soil disturbance activities have been temporarily suspended (e.g., winter shutdown) and temporary stabilization measures have been applied to all disturbed areas, with Town permission, the trained contractor can stop conducting the maintenance inspections. The trained contractor must resume conducting the daily maintenance inspections as soil disturbance resumes.
 - c. For construction sites where soil disturbance has been shut down with partial project completion, with Town permission, the trained contractor can stop conducting the maintenance inspections if all areas disturbed as of the Project shutdown date have achieved final stabilization and all post-construction stormwater management practices required for the completed part of the Project have been constructed in conformance with the SWPPP and are operational.
- I. The NYSDEC stormwater regulations prohibit more than 5 acres of soil from being exposed at any one-time during construction unless a waiver is granted by the Town as the MS4 community. Due to the size of the warehouse and the earthwork needed to develop the proposed project, it is desired that more than 5 acres of soil be disturbed at any one time for this Project. It should be noted that other large projects in the Town have similarly sought and have been granted such a waiver. Accordingly, the Applicant has sought a waiver from the 5-acre requirement. To limit the amount of soil disturbance at any one time, the construction has been broken into phases with the guidance and input of the Planning Board's engineer. The largest area of disturbance in any on phase is 13.9 acres. To allow some flexibility for variable field conditions, the applicant intends to request a waiver of the 5-acre requirement to allow for a maximum disturbance at any one time on the site to 18 acres. Based on correspondence with Natalie Browne of NYSDEC Region 3, 18 acres was noted as a maximum open area to receive this waiver from this DEC region. As such, the Town did not want to exceed this previously established soil disturbance limit.

Sediment and erosion control measures beyond those that are shown on the plan may be required to be implemented during construction as the Site is continually developed and varying field conditions are encountered. The Town Planning Board has developed its own "Enhanced Erosion Controls" based on the New York State Standards and Specifications for Erosion and Sediment Control. This is in part due to the size of these projects, steep slopes and silty soils. The Planning Board has further consulted with manufacturers and with other municipalities with large projects under construction towards developing these Enhanced Erosion Controls.

Currently the earthwork operations are broken down into 6 phases, some of which have as many as 5 sub-phases. Each phase is independent of the other and can stand alone from an earthwork perspective. Although the Phases can be implemented sequentially 1 through 6, they do not have to be performed in order. Each Phase (and all sub-phases), however, must be completed before proceeding to another Phase. This is because the earthwork operations have been arranged so that excess earth (cut) from the Phase being performed is to be placed within the same Phase (as fill) and stabilized prior to proceeding to the next Phase. At no time shall the

overall area of disturbance be permitted to exceed 18 acres and all sub-phases of a single Phase must be completed prior to another Phase being started.

- J. Compliance with the SWPPP including the Project's stormwater control plans and mitigation measures discussed above and the New York State and Town of Montgomery stormwater management laws and regulations are enforced by the NYSDEC and the Town as the MS4 community during and after construction. Substantial fines and penalties and stop-work orders will be assessed for violations of the State and Town stormwater regulations.

Based on the foregoing, the Planning Board finds that as to surface water resources the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.8 Wetlands

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to wetlands and makes the findings below.
- B. The existing conditions are set forth in the DEIS at pages 3-146 to 3-155.
 - 1. The Project Site contains freshwater wetlands regulated by New York State and the federal government. Wetlands were delineated during 2018 consistent with State and federal wetland delineation methodology(s), including the Federal United States Army Corps of Engineers (ACOE) guidelines as specifically referenced in the 1987 Corps of Engineers Wetlands Delineation Manual and the 2012 Northcentral and Northeast Regional Supplement, version 2.0.
 - 2. The wetland boundaries were delineated by wetland scientists using wetland boundary flags and were subsequently surveyed.
 - 3. Based on the field investigation, four potential wetland areas displayed possible indicators for wetland parameters. Each wetland is described in more detail below.
 - 4. The wetland delineations were field inspected by both the NYSDEC and the ACOE. Both agencies approved the delineation and a Freshwater Wetland Validation was issued by NYSDEC on August 9, 2018 and included in the DEIS. The ACOE also confirmed the location of all federal wetlands in a written jurisdictional determination.
- C. Wetland A
 - 1. Wetland A contains 47.82-acres and was mapped and validated by NYSDEC as Freshwater Wetland WD-47 along the eastern boundary of the Project Site. This wetland meets the State's definition of a wetland. Because Wetland A is regulated by the NYSDEC, includes a 100-foot regulated adjacent area (buffer) extending landward from the wetland boundary.

2. The wetland is a palustrine forested/scrub shrub/emergent wetland complex situated in the eastern portion of the Project Site. Wetland A is adjacent and connected to the east branch of Tin Brook.
3. Wetland A is also a federal wetland regulated by ACOE. This wetland meets the federal definition of a wetland. Federal wetlands do not contain any regulated buffers.

D. Wetland B

1. Wetland B contains 5.48-acres under NYSDEC jurisdiction and 5.68 acres under ACOE jurisdiction and is part of a much larger palustrine forested/scrub-shrub wetland situated along the western boundary of the Project Site. This wetland meets both the State and federal definitions of a wetland.
2. This wetland is mapped by NYSDEC as Freshwater Wetland WD-46. Wetland B is drained by and connected to a branch of Tin Brook. The western branch of Tin Brook is located offsite approximately 150 feet from the western boundary of the Project Site.
3. A small portion of Wetland B (delineated by Flags B16 through B45) was found not be a wetland under State law (a non-jurisdictional area) by NYSDEC based on their field inspection and confirmed by NYSDEC's wetland validation. However, this area was determined to meet the federal definition of a wetland (a jurisdictional area) by ACOE.
4. Wetland B is a State mapped and regulated freshwater wetland. Therefore, Wetland B would include a 100-foot adjacent area (buffer) extending landward from the jurisdictional wetland boundary.

E. Wetland C (isolated wetland)

1. Wetland C contains 0.45-acres and is a palustrine scrub-shrub/emergent wetland located at the central portion of the Project Site, adjacent to a dirt access road that parallels the ridgeline (or spine) of the Project Site.
2. Wetland C does not have any connection to any surface water of the United States. The wetland is a man-made feature which formed in an old excavated borrow pit. Evidence that this wetland was created in an upland area includes adjacent fill piles and debris throughout the wetland and within the general vicinity.
3. This isolated wetland does not meet the State definition of a wetland. Based on the Freshwater Wetland Validation issued by NYSDEC, Wetland C is a non-jurisdictional wetland and is not subject to regulation by NYSDEC.
4. The ACOE also confirmed this isolated wetland by a jurisdictional determination. This wetland does not meet the federal definition of a wetland and is not regulated by ACOE.

F. Wetland D (isolated wetland)

1. Wetland D contains 0.06-acre and is a palustrine forested wetland located in the western portion of the Project Site, formed in a natural topographic depression.
2. This wetland is dominated by a forested over-story but also contains little to no (sparse) understory. Wetland D does not have any connection to any surface water of the United States.
3. This isolated wetland does not meet the State definition of a wetland. Based on the Freshwater Wetland Validation issued by NYSDEC, this is a non-jurisdictional wetland and is not regulated by NYSDEC.
4. The ACOE also confirmed this isolated wetland by a jurisdictional determination. This wetland does not meet the federal definition of a wetland and is not regulated by ACOE.

G. Surface Waters

1. The NYSDEC Surface Waters Map identifies the eastern branch of Tin Brook as a Class B surface water, flowing northerly along the eastern portion of the Project Site within Wetland A.
2. The onsite portion of Tin Brook (the east branch of Tin Brook) enters the Site from its southeastern portion and continues northerly along the eastern portion of the Site through Wetland A. The brook discharges offsite to the north beneath NYS Route 17K and eventually drains downstream to the Wallkill River.
3. Pursuant to *6 NYCRR 608.1(aa)*, Tin Brook is considered a protected stream subject to NYSDEC jurisdiction under the Protection of Waters Program.
4. Tin Brook is also a water of the United States and therefore is subject to ACOE Jurisdiction. At the federal level, Tin Brook appears to be a Relatively Permanent Water (RPW) as flow occurs year-round or continuous at least seasonally.
5. There are several, man-made linear ditches which carry drainage from offsite to the east, through the Project Site and ultimately draining into Tin Brook.
6. There is also a man-made ditch along the northwestern edge of Wetland A, which parallels Tin Brook and may have been used for agricultural purposes to divert water from Tin Brook.

Potential Impacts

- H. Impacts to regulated wetlands and wetland adjacent areas are shown on Drawing WP-101 in Appendix G: Wetland Report & Plans of the DEIS. Impacts to wetlands and wetland adjacent areas/buffers have been avoided and minimized to the maximum extent practicable through Project design.

- I. The Project will result in 0.45 acres of disturbance to “Wetland A” and 0.30 acres of disturbance to its adjacent area/buffer associated with the construction of the NYS Route 747 access driveway.
- J. The entrance road to the Site from NYS Route 747 would also cross the Tin Brook. This crossing would include two bottomless arch culverts (65-foot wide) to span over Tin Brook. From upstream to downstream, the culverts would be approximately 10 and 12 feet high, respectively. No work will occur in any branch of Tin Brook. Thus, following DEC measures to minimize and avoid significant adverse impacts from the stream crossings, the Planning Board expects no such impacts to the brook.
- K. The construction of the two (2) outfalls from stormwater basins would result in 0.10 acres of temporary impacts to wetland adjacent areas/buffers.
- L. The construction of the outfall pipe from the WWTP would temporarily impact 0.01 acres of wetlands and 0.01 acres of wetland adjacent area/buffers.
- M. The Project would also result in 0.10 acres of permanent adjacent area impacts associated with the internal circulation road on the south east.
- N. All disturbance activities in wetlands and spanning Tin Brook require permits from NYSDEC and ACOE. All disturbance activities in State wetland adjacent areas/buffers require a permit from NYSDEC.
- O. On July 25, 2019, the ACOE issued a letter authorizing the Project Sponsor to utilize Nationwide Permit No. 39 (Commercial and Institutional Developments) to disturb 0.46 acres of federal wetlands for the Project and to create 1.77 acres of new wetlands as compensation and mitigation subject certain conditions.
- P. The following NYSDEC permits are required for the Project’s wetland and wetland buffer disturbances and for crossing Tin Brook:
 - 1. Protections of Waters Permit
 - 2. Freshwater Wetlands Permit
 - 3. Section 401 Water Quality Certification

Mitigation

- Q. The four stormwater outfalls will be constructed outside the wetland adjacent areas without an outfall or riprap apron in the wetlands. Instead, the upland area would be excavated and each outfall and associated apron constructed within the excavated upland footprint, to completely avoid direct wetland impacts and buffers.
- R. To reduce direct impacts to Wetland A from the access driveway to NYS Route 747, the Applicant selected the narrowest possible location of the wetland for the road crossing. In addition, retaining walls will be used along both sides of the drive to minimize impacts to the wetlands and adjacent areas.

- S. Using walls reduces impacts by 0.38 acres, which is almost 46 percent of the impact when using the typical earthen embankment road construction technique.
- T. The two bottomless arch culverts (65-foot wide) to span over Tin Brook, 45-foot wide, will result in decreased impacts to both wetlands and Tin Brook.
- U. Also, because such a large arch culvert would be used to cross Tin Brook, the wetlands under the arch opening (which occupies 2,925 sq. ft.) would not be filled. Thus, this opening will allow light to penetrate beneath the culvert and allow wetland vegetation to continue to grow and the area to continue functioning as a wetland and allow Tin Brook to flow unimpeded.
- V. Retaining walls are being used along the perimeter of the development in areas where it comes near the wetland adjacent area/buffer. The use of walls has significantly minimized potential impacts to adjacent areas/buffers.
- W. All NYSDEC and ACOE permits and approvals will be required prior to any wetland or adjacent area/buffer disturbances.
- X. All temporarily disturbed wetlands and adjacent areas shall be restored immediately following completion of the disturbing activity.
- Y. 1.77 acres of new wetlands will be created/restored on-site to replace and off-set any wetlands disturbed by the Project and to mitigate any permanent wetland impacts. The following on-site wetland compensation areas will be created by the Project Sponsor and are shown on the wetland mitigation plans contained in the FEIS:
 1. Creation of 1.03 acres of new wetlands which is more than twice the amount of wetlands disturbed by the Project (a ratio of 2.3:1 - creation to permanent impacts);
 2. Restoration of 0.74 acres of formerly filled wetlands (a ratio of 1.6:1 - restoration to permanent impacts);
 3. The new wetlands will be seeded and planted with native hydrophytic trees, shrubs and plants to eventually mature into a forested wetland ecosystem. Over 2,000 trees and shrubs and over 10,000 wetland herbaceous plants will be planted in the wetland mitigation area.
 4. When combined, the overall/combined ratio of created wetlands to disturbed wetlands will be 3.9:1. Due to the anticipated quality of the wetland compensation areas, the Project would more than compensate and mitigate for the unavoidable impacts to freshwater wetlands.

Based on the foregoing, the Planning Board finds that, as to wetlands, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.9 Cultural Resources

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to cultural resources and makes the findings below.
- B. The existing conditions are set forth in the DEIS at page 3-161 to 3-197.
- C. At least 10 cultural resource studies were conducted on the Project Site and were reviewed by NYSOPRHP's State Historic Preservation Office (SHPO) and examined by the Planning Board as a part of the DEIS and FEIS including:
 - 1. Two separate Phase IA Cultural Resource investigations.
 - 2. Several Phase IB and Phase II Archaeological surveys (Greenhouse 1998, 2002; CityScape 2008, 2009) have been conducted on the southern and eastern portions of the Project Site. The most recent Phase IA Cultural Resource survey (Berger 2014) includes the entire Project Site.
 - 3. A Phase 1B archeological survey was conducted in May 2018 on the portions of the Project Site that were not covered by previous archeological studies. The Phase 1B consisted of shovel tests in a grid pattern across the study area to determine the presences or absence of archeological resources. The Phase 1B survey identified the locations of eight possible prehistoric sites warranting further investigation.
 - 4. A supplemental Phase IB archeological survey was also conducted for the two wetland mitigation areas (discussed above) on the east side of the Site and the ruins of a former dairy farm and barn/silo area along Route 17K. No potentially significant archeological sites were identified in this survey. Also, the farm ruins are located outside the Project's limits of disturbance and will not be affected. The silo dates from the early 20th century and is not considered historically significant by SHPO.
 - 5. Based on the results of the Phase IB survey and supplemental Phase IB survey, a Phase II archeological investigation was required and conducted in 2018 to evaluate eight possible pre-historic sites for the presence of potentially significant archaeological resources and their eligibility for listing on the National Register of Historic Places. The Phase II determined that five sites did not contain archeological artifacts that would result in making those sites eligible for listing on the National Register of Historic Places. However, the Phase II recommended that the remaining three possible pre-historic sites be further investigated with machine testing in a supplemental Phase II survey.
 - 6. In early 2019, a supplemental Phase II survey was conducted to evaluate the three remaining possible pre-historic sites. The survey did not encounter any evidence of significant archeological features or artifact concentrations. As a result, the Phase II determined the three remaining sites did not contain any archeological artifacts making those sites eligible for listing on the National Register of Historic Places. No further archeological testing was recommended on the Project Site.

7. The archeology studies noted above were conducted by registered professional archeologists in accordance with the standards established and approved by the SHPO, and results submitted to and reviewed by SHPO.
- D. The following historic sites in the community near the Project Site were discussed in the DEIS and FEIS: Marwin-Mathieu Homestead, the Hawkins Homestead, the Colden Mansion, the Colden Canal and the Colden Cemetery. None of these resources are on the Project Site or adjacent to it and none will be affected by the Project.
- E. Based on the foregoing extensive studies, only one historic resource was identified on the Project Site:
1. The Arnot-Haber House, located on the Project Site along NYS Route 747, was determined eligible for listing on the National Register of Historic Places by SHPO in 1999 under criterion C for its architectural significance.
 2. The Arnot-Haber House has been abandoned and vacant for some time. The interior rooms are strewn with trash and debris and in some places the rooms are impassable due to debris accumulation.
 3. There is no running water in the house. The heating system is not functioning in the house and it has not been inhabited for some time.
 4. Water has begun to enter the house through the roof. The house has been unmaintained for years. The grounds around the house are overgrown with vegetation and are also unmaintained. There is a variety of debris around the outside of the house include old storage trailers, piles of brush and other trash.
 5. The Arnot Haber House is located in the Town of Montgomery IB commercial zoning district and new commercial uses are gradually being developed along this commercial corridor to take advantage of the recently developed NYS Route 747/I-84 interchange down the street from the house.
 6. No other historic resources eligible for listing or listed on the National Register of Historic Place were identified on or adjacent to the Project Site. No historic districts or other historic structures are located on or adjacent to the Project Site.
- F. All of the cultural resource studies/surveys noted above were submitted to the New York State Historical Preservation Office (“SHPO”) for review and consultation as required by Federal and State law.

Potential Impacts

- G. No significant archaeological sites were identified in the numerous archeological studies/surveys conducted on the Project site. No archaeological sites are eligible for listing on the National Register of Historic Places on the Project Site. Therefore, no significant adverse impacts will occur to archeological resources as a result of the Project.

- H. With respect to archeology, on May 5, 2019, SHPO concluded in a letter that “based on this and previously submitted information, this office has no further archeological concerns regarding the proposed project.”
- I. With respect to the Arnot-Haber House, on June 24, 2019, SHPO concluded in a letter that “we have also reviewed a survey of the historic resources within the project’s area of potential effect. Of the identified historic sites, only the Arnot-Haber House would be adversely impacted by the project. The [Project] currently calls for this building to be demolished as part of the project’s access road development. To minimize the immediate impact to this historic resource, the project sponsor has proposed relocating the Arnot-Haber house roughly 60-feet to the north of its present location. The new site retains the exact same orientation and would be on the historic parcel associated with the building. Based on these facts, the **NYSHPO believes that the entire undertaking would have no adverse effect on historic or archaeological resources.** Our determination is conditioned upon the following:
- The relocation will be undertaken by a reputable relocation firm and will progress in consultation with the NYSHPO.
 - A rehabilitation plan for the Arnot-Haber house that adheres to the Secretary of the Interior’s Standards for Rehabilitation will be prepared and presented to the NYSHPO for review and comment prior to the physical relocation of the building.
 - The rehabilitation plan, which will place the house back into a state of modern utility, will be fully executed within 2-years of relocation.
 - Appropriate access, parking area, septic, well and buffering will be developed as part of the plan based on the end use.
 - Applicant will provide ongoing upkeep and maintenance of the building before relocation, post relocation and post rehabilitation for a period of 5-years (post rehabilitation) or until an appropriate long-term tenant arrangement can be made.
 - Applicant will first seek historic preservation groups, historical groups, museum or other similar tenants to utilize the house before residential tenants.
 - Documentary photographs chronicling the relocation and rehabilitation of the building will be prepared and submitted to the NYSHPO upon completion of the work.”

Mitigation

- J. No mitigation measures are necessary related to archeology because no significant adverse impacts will result from the Project.
- K. To protect and preserve the Arnot-Haber House, the Applicant has agreed to implement the mitigation measures listed above in SHPO’s June 24, 2019 letter. The Planning Board will require an enhanced level of protection, such that the Applicant will provide ongoing upkeep and maintenance of the building before relocation, post relocation and post rehabilitation for a period of 5-years (post rehabilitation) or until an appropriate long-term tenant arrangement can be made, whichever is later, to ensure the building’s well-being. As a result, the Project will not have an adverse impact on this historic resource.

Based on the foregoing, the Planning Board finds that as to cultural resources, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.10 Noise

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to noise and makes the findings below.
- B. The existing conditions are set forth in the DEIS page 3-170 to 3-174.
 - 1. The Town of Montgomery does not have a noise law. The Town mentions noise briefly and qualitatively in the Zoning Law and prohibits noise beyond the limits of the lot that is considered “dangerous or prejudicial to the public health, safety, or general welfare.”
 - 2. NYSDEC has a policy titled “Assessing and Mitigating Noise Impacts” that provides guidance for analyzing and minimizing the acoustical impact applicable to SEQRA review. Guidelines require comparison of the average ambient sound level to proposed site sound emissions. NYSDEC states that an increase in ambient sound level by 0- to-3 dB should have no appreciable effect on receptors and an increase of 3-to-6 dB is tolerable but may have potential for an adverse noise impact only in cases where the most noise sensitive of receptors are present. Increases of greater than 6 dB require closer scrutiny while increases of 10 dB deserve consideration of avoidance and mitigation measures in most cases.
 - 3. The Project Site is currently vacant (except for the vacant Haber House discussed above) and does not generate any significant noise.
 - 4. The Site is surrounded by I-84, Route 747, Route 17K and near Stewart International Airport. These highways and airport generate significant existing ambient noise on the Project Site and in the surrounding neighborhood.
 - 5. The Site is also located in a commercial industrial area with existing noise sources. Based on the existing zoning map, the Project Site is split into two zones. The northern half is located in the IB Interchange Business Zone, while the southern half of the Project Site is in the I-2 Industrial Park – Major Access Zone. The land-uses around the Project Site are noted above.
 - 6. The warehouse will be significantly set back from any sensitive noise receptors like residences with large areas of intervening topography and vegetation. It is at least 1600 feet from most dwellings.
- C. Sound Level Survey
 - 1. A Noise Impact Study was prepared to evaluate the Project’s potential noise impacts and included in the DEIS. The study was reviewed by the Planning Board.

2. To determine appropriate criteria for NYSDEC guidelines, a thorough ambient sound survey was carried out to document noise including traffic noise in the area.
3. Statistical noise levels were measured over periods of 10 minutes at six measurement locations (as shown in the DEIS). Each measurement location was selected to characterize the ambient noise around nearby receptors. Morning, afternoon, and nighttime surveys were carried out to typify noise during these periods.
4. Noise sources noted during the surveys include traffic flow on Interstate Route 84 and NYS Route 17K, aircraft, and sporadic fauna noise. Local car passbys were observed during measurement locations on NYS Route 747 and Maple Avenue. Seasonal insect noise was especially prominent at Location 2 during the nighttime survey.
5. Measured noise levels are included in the Noise Impact Study and the DEIS and have been reviewed by the Planning Board.

Potential Impacts

- D. Acoustical modeling software, specifically CadnaA, was used to create and analyze sound level contours for the Site. The model takes into account relevant parameters between the noise source and receptor positions of interest to predict how sound would propagate. In addition to distance attenuation, the model accounts for the effects of terrain, various types of ground cover, shielding by structures, and building reflections. The modeling software provides A-weighted sound emission contours (in 1 dB increments) for an ear-height elevation typical of a standing observer, five feet above grade. Calculations are carried out in octave frequency bands.
- E. An acoustical impact analysis was carried out for the Project. This analysis included noise from Project traffic on surrounding roads and noise from trailer docks only on the west side of the building, trailer parking to the south, and car vehicle parking on the north, east, and south sides of the warehouse. Truck activity is primarily concentrated to the west and south of the building. Car activity occurs on the north, east, and south sides of the warehouse. The analysis also included HVAC equipment on the roof of the warehouse.
- F. **Cumulative Hourly Average Site Sound Emissions** – The study compared the Project’s cumulative hourly sound emissions for each study location against the ambient conditions. The difference between the Project’s sound emissions and the ambient sound levels were provided in the DEIS. Results from this comparison indicate that there is no significant adverse impact to existing ambient conditions. Noise from the warehouse/distribution facility would be lower than ambient conditions by margins of 2-to-18 dB(A). These findings show site sound emissions comply with NYSDEC guidelines and are therefore will not be significant or adverse.
- G. **Maximum Sound Levels** – Maximum sound levels were also evaluated. Heavy truck activity can routinely contribute maximum sound levels of about 79 dB(A) at 50 feet, at a source height of eight feet above grade. This includes sound from movement, coupling/decoupling and back-up alarms. Personal vehicles, such as cars and light trucks expected in the north, east, and south parking lots, traveling at low speeds are better typified by maximum sound levels of 59 dB(A) at 50 feet. Vehicles were distributed across the site under the worst-case scenario. HVAC noise

was also added to the cumulative evaluation. Based on modeling, maximum sound levels will potentially range from 41 to 53 dB(A).

Results show that anticipated maximum site sound levels are typically well below existing maximum ambient sound levels. There was only one increase of 3 dB(A) at Location G, compared to existing conditions. The increase is minimal and would result in no negative acoustical impact. This is consistent with the NYSDEC Guidelines and therefore not significant or adverse.

- H. The Project is designed so that trucks, cars, and HVAC sound emissions would be adequately quiet at nearby residences and minimize acoustical impacts.

Mitigation

- I. Even though no significant adverse noise impacts are expected from the Project, to be conservative and to minimize potential complaints from vehicle back-up alarms, the Project will equip switcher engines for all tenant trucks with smart, ambient sensing, multi-frequency back-up alarms. This type of alarm is commonly called a “shusher” alarm due to the type of noise it produces. These devices reduce annoyance generated from constant level, pure tones from “beeping” back up alarms. The reduction in annoyance is accomplished in two ways:
 1. A broadband “shushing” sound is less intrusive and annoying than a pure tone “beeping” sound since, at a distance, it can blend in easier with other ambient sounds.
 2. The smart, ambient-sensing feature allows back-up alarms to operate safely and effectively at far lower sound levels than typical brute-force, constant level devices. The smart alarms sample ambient background noise and adjust the warning signal to be 5-to- 10 dB.

Third party trucks backing up to the docks may not be equipped with “shusher” alarms, but as described under Section G above, the project even without mitigation would not be expected to create any significant adverse noise impacts.

- J. Even though no significant adverse noise impacts are expected from the Project, to be conservative and to minimize potential complaints, the Project’s landscape plans have been modified to include: (1) a solid row of evergreen trees screen along the western edge of the truck court and loading docks; and (2) vegetative screening along southerly property line in the area of the adjacent residences to further screen these properties and provide an added level of noise attenuation. Furthermore, (3) HVAC units will have their exhaust directed upward.
- K. To minimize receptor exposure to temporary construction noise during this phase, the following construction mitigation measures shall be implemented:
 1. Limit all heavy equipment operation to non-noise sensitive daytime hours.
 2. As feasible, limit the number of equipment operating near one receptor at a given time. Avoid exposing any one receptor to high sound levels for an extended period of time.
 3. Place stationary equipment, such as generators, compressors, and office trailers, away from any receptors.
 4. Avoid having construction parking or laydown areas near any receptors.

5. Specific noise issues will be individually evaluated for tailored noise mitigation recommendations should traditional methods above not be sufficient.

Based on the foregoing, the Planning Board finds that as to noise, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.11 Flora and Fauna

Existing Conditions

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to flora and fauna and makes the findings below.
- B. The existing conditions are set forth in the DEIS at page 3-197 to 3-212.
- C. Threatened, Endangered, Rare & Special Concern Species
 1. No endangered or threatened plant or animal species were observed onsite during any of the field investigations conducted for this assessment.
 2. Plants considered exploitably vulnerable by NYSDEC pursuant to 6NYCRR Part 193.3 (Protected Native Plant(s), March 31, 2018) and found onsite include cinnamon fern (*Osmunda cinnamomea*) and Christmas fern (*Polystichum acrostichoides*).
 3. While Exploitably Vulnerable Plants are not afforded any regulatory protection, 6 NYCRR Part 193.3(e) states it is a violation for any person anywhere in New York State to pick, pluck, sever, remove, damage by the applications of herbicide or defoliant or carry away without the consent of the owner of any protected plant.
 4. The U.S. Fish and Wildlife Service (USFWS) identified the following threatened, endangered, proposed and candidate species that may be present in the area of the Project: Indiana Bat, Northern Long-eared Bat (mammals), Bog Turtle (reptile), Dwarf Wedge Mussel (clam) and Small Whorled Pogonia (flowering plant).
 5. According to New York State Natural Heritage Program only one State-listed endangered species, the Indiana Bat, has been identified within 1.5 miles of the Project Site. Two previous studies have been conducted at the Project Site to determine the presence of the Indiana Bat, as follows:
 - a. "Federal Protocol Survey for Indiana Bats at the HIBC Site.", September 2008 which was a mist net survey conducted for the Hudson International Business Center Project.
 - b. "Acoustic Surveys for Endangered Bats on Resorts World Hudson Valley Project, Orange County, New York, October 2014.

Neither study captured or recorded the Indiana Bat. Two Northern Long-eared Bats were caught during the 2008 mist net survey. However, based on the results of the 2014 acoustic survey, no Northern Long-eared Bats were detected on the Project Site and the USFWS issued a letter dated October 28, 2014 stating they agree with the results of the acoustic survey that suggest the presence of either species is unlikely and that they consider the negative results of the 2014 surveys valid for up to five years. In 2019, the USFWS stated that given the results of the prior surveys on the Project Site, the agency found the Indiana Bat extremely unlikely to occur on the Site. If tree clearing is not completed before March 2020, then updated surveys would be recommended.

6. The Bog Turtle was identified by the USFW as possibly present in the area of the Project. A Phase I Bog Turtle Survey (habitat assessment) was conducted at the onsite wetland areas by LaBella Associates, D.P.C. in August 2018.
7. In addition, a previous Phase I Bog Turtle habitat assessment was conducted at the southern part of the Project Site and in the wetlands found to the west of the site by Bagdon Associates (now known as LaBella Associates) in 2008.
8. A 3.5 acre emergent/mixed emergent scrub-scrub wetland was identified as potential bog turtle habitat by Bagdon in the offsite wetland to the west. A Phase II survey (presence/absence) conducted by Bagdon of this wetland determined this wetland contained some of the habitat components for bog turtles but does not represent “fen conditions” known to be optimal bog turtle habitat. The Phase II study did not find any bog turtles in this area and concluded that it is very unlikely bog turtles inhabit the site based on their assessment and extensive search effort. Based on the results of both assessments there is no suitable bog turtle habitat at the Project Site or on adjacent land.
9. Based on the Dwarf Wedgemussel Fact Sheet published by the NYSDEC, typical habitat for this mussel includes running waters, from small to large rivers. Portions of Tin Brook may provide suitable habitat for this mussel, however, during several field visits which included inspections of the brook and man-made drainage ditches, neither an appropriate habitat nor any individuals of the dwarf wedgemussel were encountered.
10. The whorled Pogonia prefers acidic soils with a thick layer of dead leaves often on slopes near small streams. After numerous site visits, the small whorled Pogonia was not found onsite. Based on the plant’s habitat requirements, it is not likely to be found onsite. Therefore, the Proposed Action will not impact this plant.
11. Two bird species (Cooper’s hawk and the vesper sparrow) listed by the NYSDEC as Species of Special Concern were previously observed on or near the Project Site but were not encountered or observed during any wildlife surveys.

D. Vegetative Community Types

1. The NYSDEC Environmental Resource Mapper was reviewed for the potential presence of rare plants or animals, and significant natural communities near the Project Site. The mapping indicates the Project Site is not located within any areas of rare plants, rare animals, or significant natural communities.
 2. A diversity of ecological communities is found on the Project Site. These are composed primarily of second-growth forest, overgrown former agricultural fields and former lawn and trees around the Haber House.
 3. Wetlands are primarily situated in the eastern portion of the Project Site. These include forested, scrubs/shrub and emergent communities.
 4. A list of plant species identified during 2018 field investigations and during previous investigations conducted by wildlife biologists is included in Table 41: Vegetative Species List of the DEIS and has been reviewed by the Planning Board.
- E. A variety of wildlife was observed on the Project Site during numerous field visits. Fauna on the Project Site included the following:
1. **Mammals** - The dominant mammals observed during numerous site visits include eastern gray squirrel (*Sciurus carolinensis*) chipmunks (*Tamias striatus*), ground hogs (*Marmota monax*) and whitetailed deer (*Odocoileus virginianus*). A listing of mammals observed, expected, or potentially occurring onsite is provided in Table 42: Mammal Species in the DEIS, which has been reviewed by the Planning Board.
 2. **Birds** - A large number of bird species were observed or are expected to be present onsite based on available habitat. These include both migrant and resident species. Waterfowl and waterbirds were also observed in the open water/wetlands in the southeast section of the property. Waterbirds, mainly Great blue heron (*Ardea Herodias*), were encountered hunting along the Tin Brook and/or flying across the Project Site. A list of bird species encountered or expected to be found onsite is listed in Table 43: Bird Species in the DEIS, which has been reviewed by the Planning Board.
 3. **Reptiles, Amphibians, and Fishes** - Reptiles and amphibians were observed in the wetlands and upland portions of the Project Site. Green frogs (*Rana clamitans*) and bullfrogs (calls and individuals) were observed in Tin Brook. Spotted Turtles (*Clemmys guttata*), a species of Special Concern in New York State, were not observed on the Project Site. Due to the similar habitat requirements of the Bog and Spotted Turtle, it is unlikely Spotted Turtles occur in the wetlands on the Project Site. Reptiles/amphibians either observed during the field investigations or potentially occurring onsite are listed in Table 44: Reptile and Amphibian Species in the DEIS, which has been reviewed by the Planning Board.
- F. **Invasive Species** – Online resources including the Invasive Plant Council of New York State List of Invasive Plant species was reviewed to compile a list of invasive species located on-site. Several of the common invasive species located on-site include autumn olive (*Elaeagnus umbellata*), black locust (*Robinia pseudoacacia*), black swallowwort (*Cynanchum louiseae*), Japanese

stiltgrass (*Microstegium vimineum*), common reed (*Phragmites australis*), common buckthorn, garlic mustard (*Allaria petiolate*), Japanese barberry (*Berberis thunbergii*), multiflora rose (*Rosa multiflora*), Norway maple (*Acer platanoides*), and purple loosestrife.

Potential Impacts

Threatened, Endangered, Rare & Special Species of Concern

- G. No endangered or threatened plant or animal species or their habitat were observed onsite during any of the field investigations conducted for this assessment. As a result, no significant adverse impacts are expected to these species.
- H. NYSDEC's Natural Heritage Program noted that the Indiana Bat has been documented within 1.5 miles of the Project Site and that the main impact of concern for bats is the removal or cutting of potential roost trees. NYSDEC and USFWS biologists determined there would be no impacts to the Indiana bat, provided tree clearing at the Project Site occurs during the winter between October 1 and March 31.

General Wetland and Aquatic Wildlife Impacts

- I. The Project requires filling and construction (permanent impacts) in 0.45 acres of wetland habitat. The Project will also result in 0.02 acres of temporary wetland impacts to install the discharge pipe for WWTP. Potential impacts to wetlands were previously discussed in detail earlier in these findings.
- J. Construction fencing will be installed to delineate the boundaries of the Project's disturbance. The fencing will limit wetland disturbance to the areas noted on the Project plans and will prevent construction equipment from inadvertently straying beyond the boundaries.
- K. The entrance road to the Site from NYS Route 747 would also cross the east branch of the Tin Brook. This crossing would include two bottomless arch culverts (65-foot wide) to span over Tin Brook and adjacent wetlands. From upstream to downstream, the culverts would be approximately 10 and 12 feet high, respectively. No work will occur in any branch of Tin Brook. Thus, there will be no impacts to the brook or aquatic wildlife. The height and width of the access drive over Tin Brook will allow wildlife to travel unimpeded through the wetland.
- L. The wildlife inventory and survey investigations did not identify the presence of any rare or protected species of herpetofauna, birds, mammals, or fish within the wetlands on Site or within the stream.
- M. Filling and grading of only 0.45 acre of wetland would have minimal impacts to aquatic and semi-aquatic wildlife found at this location.
- N. An open work area will provide escape routes for mobile wildlife species to avoid construction activities. As such, wildlife losses during clearing and filling activities are expected to be minimal. The large areas of adjacent wetlands will provide more than ample habitat for the small number of individuals that would be forced to relocate from lost habitats.

- O. An outfall from the WWTP would extend through the 100-foot wetland adjacent area and then through Wetland A and discharge directly into the east branch of the Tin Brook (as required by the NYSDEC). The excavation of the trench for the sanitary conduit would result in 0.01 acres of temporary adjacent area impacts and 0.02 acres of temporary impact to Wetland A. These minimal impacts are temporary because both areas will be returned to pre-existing grades and the disturbance reseeded with native upland and wetland seed mixes. No significant wildlife impacts are expected from this minimal disturbance.
- P. As discussed above, the small discharge from the WWTP will be a high-quality, virtually crystal-clear effluent that is suitable for irrigation, wildlife, swimming and human contact. It will comply with the effluent limits established by the NYSDEC for Tin Brook to be protective of human health and the aquatic environment. As a result, the WWTP discharge will not have any significant adverse impacts on aquatic wildlife.
- Q. As discussed above, the Project will create/restore 1.77 acres of new wetlands on-site to replace and off-set the .047 acre of wetlands that will be permanently disturbed by the Project. The new wetlands will be created in existing upland habitat which be impacted by the construction of the new wetlands. This upland habitat includes 0.74 acres of former wetlands which had been filled decades ago.
- R. The wetland creation/restoration areas would be planted with numerous native trees, herbs, and shrubs and will become highly functional wetland habitat. Any wildlife in these areas would be temporarily displaced during construction. The creation of the new habitat will not result in any significant adverse impacts to wildlife.

General Upland/Terrestrial Wildlife

- S. Two small isolated wetlands will be filled as a result of building construction. Combined, both wetlands are approximately 0.5 acres. Neither wetland is regulated by the ACOE or NYSDEC. These two areas are not connected to other wetlands or surface waters. One wetland formed in man-made borrow pit, the other in a small natural depression. No vernal pool wildlife species in any life stage were observed in these wetlands. The creation of new wetlands on site will compensate for any unforeseen, adverse impacts to these small-isolated wetlands
- T. Over 80 acres of upland habitat including successional hardwood forest, successional shrubland, former residential areas (mowed lawn with trees), and successional old field will be cleared to build the warehouse. However, over 100 acres of contiguous forest and wetland habitat will remain on the Site and will not be disturbed. The Project also maintains the 100' upland buffer around all the wetlands on the site and therefore maintains the relationship for species using both wetlands and uplands. Also, the Project's landscaping plans contains hundreds of native trees and shrubs which were suggested by the Board's landscape architect to provide future upland habitat for wildlife.
- U. The site clearing would occur during the winter (between October 1 and March 31) and thus direct impacts to wildlife will be avoided including impacts to all bat species which hibernate in caves located off-site. Any wildlife using the areas to be cleared on site in the winter would be

lost or displaced and could use the remaining open space and habitat on the Project Site and for avian life, on surrounding land including Stewart State Forest.

- V. Lighting in the Site's parking lots can also pose a potential indirect impact to bats outside the winter months. LED lighting offers no particular benefit to most woodland bat species and does not provide the UV light needed to attract insects, however, to minimize potential impacts to bats, the proposed light fixtures will have zero up-light and will be down directed, and further will be a warmer color temperature, at 2700K. They will also be shielded to eliminate glare and will concentrate the light where needed on the pavement. As a result, light spillover into adjacent wooded areas will be minimized and no significant lighting impacts to wildlife are expected.
- W. The Project would directly impact approximately 82.0 acres of the 187.7 acres of the Project Site. 105.7 acres of the Site would be retained as open space. This open space would be located along the eastern, western and southern boundaries of the Site which includes wetlands that are protected from future development by federal and State law .
- X. The remaining open space will also serve as a possible habitat link for avian wildlife to Stewart State Forest located on the other side of I-84. More than 50% of the site will remain undisturbed for wildlife. The wetland areas on the eastern and western sides of the Site will provide significant wildlife corridors.
- Y. Remaining open space on the Site coupled with significant open space located in the Stewart State Forest (located nearby) will provide suitable habitat for wildlife displaced by the Project.

Mitigation

General Site-Wide Measures

- Z. Clearing will be phased with initial Project Site clearing of on-site forested areas to be conducted in the winter months when wildlife populations are at their lowest levels and lowest activity.
- AA. 80.5 acres of forested habitat will remain after completion of the Project as continued habitat for wildlife displaced by the Project.
- BB. 570 shade trees and evergreen trees will be planted on-site to replace some forested habitat lost from the Project. An extensive landscaping plan is included in the FEIS.
- CC. Lighting fixtures used along the outer portions of development and generally throughout the Project Site, will be focused downward.
- DD. To minimize noise impacts, switcher engines for tenant trucks will be equipped with smart, ambient sensing, multi-frequency "shusher" back-up alarms. Noise study showed that even without the use of "shushers" or other mitigation measures, the operating site back-up alarms would have no adverse impact on noise. Incorporating the "shushers" and the additional tree screening will provide additional protection.
- EE. Best management practices implemented as part of the site-specific SWPPP will control run-off

into aquatic habitat.

- FF. Post-construction stormwater management provisions of the SWPPP shall be implemented and will provide effective control and treatment of stormwater before it is recycled to groundwater or released to on-site habitats.

Measures for Wetland/Aquatic Wildlife

- GG. Refueling, maintenance, and/or cleaning of equipment would be avoided in areas near wetlands or watercourses.

- HH. Stormwater management controls including soil erosion and sediment controls as identified in the SWPPP and use of associated Best Management Practices (BMP's) shall be implemented.

- II. Over 2,000 trees and shrubs and over 10,000 herbaceous plants will be planted in the wetland mitigation area to compensate and mitigate for wetlands disturbed by the Project. The proposed on-site wetland mitigation areas shall be constructed to provide 1.77 acres of early forested, and scrub-shrub wetland habitats.

- JJ. Mitigation measures for impacts to wetland habitats are discussed in more detail above.

1. Soil erosion BMP's shall be implemented during the construction of the Project as part of the SWPPP. These include without limitation: (1) Placement of silt fencing and hay bales at the outlets to minimize siltation and sedimentation of the receiving wetland area and (2) Rip rap aprons placed at the downstream end of each outfall.
2. As noted above, the entrance road crossing into the site from NYS Route 747 would include two bottomless arch culverts (65-foot wide) to span over Tin Brook and adjacent wetlands. From upstream to downstream, the culverts would be approximately 10 and 12 feet high, respectively. No work will occur in any branch of Tin Brook. Thus, there will be no impacts to the brook or aquatic wildlife. The height and width of the access drive over Tin Brook will allow wildlife to travel unimpeded through the wetland, and also minimize wetland disturbance.

Measures for Upland/Terrestrial Wildlife

- KK. At the southern end of the Project Site, between the stormwater basin and the trailer parking lot, a 55+/- foot wide strip of land would be vegetated with native plants and kept open as a wildlife corridor.

- LL. A fence shall be installed around only the truck parking lot for site security instead of the entire site. This limited fencing will not impede wildlife movement on and around the site.

- MM. Graded slopes adjacent to the development would be seeded with an upland meadow seed mix and planted with trees and shrubs.

- NN. One stormwater pond will be a wet pond and will be planted with native vegetation to create open water aquatic habitat which will be suitable for wildlife.
- OO. Additional landscaping will be provided around the Project Site which will provide some additional habitat for wildlife.

Based on the foregoing, the Planning Board finds that as to flora and fauna, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

3.12 Fiscal and Economic Impacts

Existing Conditions

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to fiscal and economic impacts and makes the findings below.
- B. The existing conditions are set forth on DEIS at page 3-225 to 3-228.
 - 1. The Project Site consists of four parcels with a lot area of approximately 187.7 acres. Existing development is limited as the Project Site is primarily vacant, except for the Haber House, a vacant single-family house located along Route 747.
 - 2. The taxable assessed value of the Project Site is \$891,800. No tax exemptions are recorded for any of the Project Site parcels. Most of the assessed value is attributed to the land at the Project Site.
- C. Local Labor Force
 - 1. According to Workforce Facts and Figures (revised November 2017) from the Orange County Partnership, the county labor force is drawn from an area including Orange, Dutchess, Rockland, Sullivan and Ulster Counties, Pike and Wayne Counties in Pennsylvania, and Sussex County, New Jersey. Many of these counties are along the Interstate 84 corridor adjacent to the Project Site.
 - 2. As of 2016, the civilian labor force in the counties noted is approximately 564,000, of which approximately 30,000 persons were actively seeking work. The County is experiencing a 1.3% growth rate and has continued population gain in the 20 to 24-year old age group.
 - 3. Over 20% of the County workforce commutes to Orange County. This data indicates a substantial labor force from which the warehouse/distribution development can draw potential employees.

4. The 2014 American Community Survey data indicates that Orange County has 170,035 residents age 16 or older in the workforce. Approximately 66% (111,883) work in Orange County. The Orange County economy employs over 177,000 people, meaning that over 60,000 people from the surrounding area commute to Orange County for work opportunities. The largest industries in Orange County are health care, retail trade, and educational services.

Potential Impacts

Fiscal Impact on Town & Other Taxing Jurisdictions

- D. Property Taxes - The Project is estimated to generate annual property tax revenue of approximately \$2.56 million under standard taxation. The Project Site generates annual property tax revenue of approximately \$44,838, the increase in property tax revenues is estimated at over \$2.5 million.
- E. Tax Revenues – Potential Tax Abatement:
 1. Over the 10-year period, the RPTL 485-B Exemption would result in an estimated \$19,959,000 in additional tax revenue based on the proposed improvements.
 2. Over the 10-year period, the IDA Enhanced tax abatement would generate an estimated \$11,756,000 in tax revenue based on the proposed improvements.
 3. Over the 15-year period, the IDA Super Enhanced tax abatement would generate an estimated \$17,634,000 in tax revenue based on the proposed improvements.
- F. Town of Montgomery – Even considering the project-induced public service cost of \$47,113 to the Town of Montgomery, the project would result in a projected annual net tax revenue of \$234,664 to the Town.
- G. Coldenham Fire District – Even considering the project-induced public service cost of \$1,468 to the Coldenham Fire District, the project would result in a projected annual net tax revenue of \$152,617 to the fire district. Note that the Coldenham Fire District is an exempt agency and not included in any of the potential tax abatements.
- H. Valley Central School District - Without residential construction and no school aged children, there is no direct cost to the Valley Central School District. Therefore the project would result in projected annual net tax revenues to the school district of approximately \$1,779,000.
- I. Orange County – Not all County services are necessarily attributable to non-residential development or warehouse and distribution facilities. The estimated cost attributed to the County is projected to be \$52,828, which compares with projected annual net tax revenues of \$295,431 to the County.
- J. Overall Projected Net Fiscal Impact – The Project represents a positive fiscal impact for all taxing districts, representing a projected net gain of over \$2,460,000. As set forth above, the tax

revenue from the Project will more than offset any increase in municipal cost to provide services to the Project.

- K. The tax revenue amounts highlighted above are based on an assessed value of \$51 million per the DEIS. The Planning Board recognizes that the Project Sponsor's has an application with the Town of Montgomery IDA with a slightly higher assumed valuation of \$55.6 million.

Local Labor Force

- L. Construction Jobs – Approximately 300 to 400 jobs will be created for a 12-month duration, salaries ranging from \$38,000 to \$68,000.
- M. Sales Tax Receipts – The Project will result in approximately \$3,250,000 in sales taxes (before abatements). The Orange County portion of the sales tax is approximately \$1,500,000.
- N. Long Term Employment – It is projected that up to 1,100 employees will be employed by the Project. Salaries are expected to range from \$30,000 to \$60,000 with robust benefit packages offered. The projected employees would have roles in managerial, supervisory, safety, security, information technology, and human resource capacities in addition to roles in receiving, handling, packing, and transportation. Seasonal increase in employment is expected annually in the fourth quarter. Employees would typically reside within 30 minutes of the Project Site. The Project will utilize local labor force in the region to address work and there is adequate labor force in the region to address workforce concerns. The Project is expected to increase jobs in the County.
- O. Truck Related Employment – Truck drivers are not transient employees. They are independent contractors, often from larger trucking companies, who arrive on Site to pick up and/or drop off their cargo then depart the Project Site.

Mitigation

- P. Based on the above, the Project will create substantial tax revenue for local jurisdictions and a significant number of construction and permanent jobs for the area. Due to these positive fiscal benefits, no mitigation measures are required.

Based on the foregoing, the Planning Board finds that as to fiscal and economic impacts, the Project will not create any significant adverse environmental impacts and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

3.13 Air Quality

Existing Conditions

- A. The Planning Board reviewed the information within the DEIS and the FEIS related to the existing conditions of the Project Site in relation to air quality and makes the findings below.
- B. The existing conditions are set forth on DEIS at page 3-237 to 3-239.

C. Emission Sources

1. There are no substantial stationary sources of air pollution near the Project Site.
2. The primary routine sources of air pollutants and emissions on site are due to off-site vehicular activity.
3. Ambient air quality in the area meets State and Federal Ambient Air Quality Standards "AAQS" for all air pollutant parameters, which include carbon monoxide (CO), nitrogen dioxide (NO₂), ozone, respirable particulate matter (PM_{2.5} and PM₁₀), sulfur dioxide (SO₂), and lead.

Potential Impacts

Short Term (Construction):

- D. Construction of the Project is a source of dust emission that may have a temporary impact on air quality.
- E. Construction disturbance is associated with land clearing, drilling, , excavation, earth moving, and construction of the Project. Vehicle travel on unpaved portions of the Site or on adjacent roadways may also generate dust particles.
- F. Exhaust generation due to vehicle idling during the construction process is likely to occur but will be short term and temporary in nature and therefore not result in any impacts.

Long Term (Operational):

- G. The operation of the Project will have a minimal impact on air quality. The primary energy source for heating the warehouse is natural gas, which is clean burning.
- H. Back-up generators are subject to NYSDEC regulations.
- I. There are no anticipated regulated air emissions from the warehouse building operations. No air permits are required from the NYSDEC.
- J. The Proposed Action would not cause any adverse air quality impacts and would not result in any violations of National AAQS.
- K. Based on the NYSDOT Environmental Procedures Manual, Air Quality Project Environmental Guidelines (2001), no significant adverse vehicle emissions are expected from the Project on adjacent roadways because all intersections will operate efficiently with overall levels of service C or better. Accordingly, due to the efficient operations of all intersections, the additional cars and trucks that will be on the road as a result of the Project will not have any significant adverse air impacts from vehicle emissions. In addition, all trucks and construction equipment will be

equipped with modern exhaust and pollution control devices to reduce and limit particulate, nitrates and other air pollutants.

- L. The NYSDEC regulations prohibit trucks (both diesel and non-diesel) from idling for longer than 5 minutes. The Project must comply with this law which is enforced by NYSDEC police as well as local, county and state police/sheriff.

Mitigation

M. Mitigation measures shall be used to minimize the potential of dust during construction:

1. Follow all measures in the Soil Erosion and Sediment Control Plan in the SWPPP to assist in minimizing soil erosion.
2. Any disturbed earth shall be wet down with water, as necessary, to control dust.
3. After construction activities, all disturbed areas shall be covered and/or vegetated to provide dust control on site.
4. All trucks carrying fill or other unconsolidated materials shall be covered with tarps to ensure that debris and dust would be fully contained during transport.
5. Soil and dirt stockpiles shall be enclosed with silt fencing when not in use.
6. A stabilized construction access point shall be established at the site entrance. Tires and truck bodies, as necessary, would be washed to minimize tracked mud and dust onto adjacent streets.

N. Since there are no significant adverse air impacts anticipated from the operation of the Project, no measures to mitigate air quality impacts are required.

Based on the foregoing, the Planning Board finds that as to air quality, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

4.0 CONSTRUCTION IMPACTS

This section will describe the potential impacts anticipated due to construction of the Project.

Potential Short-Term Impacts

Relocation and Demolition

- A. The Project would require the relocation of one vacant residential building which is located off NYS Route 747 and the demolition of a silo located at the northern portion of the Project site near NYS Route 17K.

- B. Before demolition begins, the structures will be assessed for any asbestos containing material (ACM). If identified, materials will be removed by a properly licensed asbestos abatement contractor in accordance with all applicable federal and state laws
- C. The demolition debris will be trucked off the Site and disposed of in a properly licensed C&D disposal facility.

Site Preparation

- D. Originally, approximately 130,000 cubic yards of excess earth was to have remained after grading activities and was proposed to be removed from the site. However, based on comments received on the DEIS, the Applicant adjusted the grading plan for the Project site so only approximately 12,300 cubic yards of earth had to be exported for the Site. This is a significant reduction in soil export and it reduces the potential impacts of site grading by reducing the number of truck trips off site for soil export.
- E. Import of fill material will be minimized to the maximum extent practicable, both common and structural, by processing as much existing material as possible on site.

Noise

- F. Noise levels at a given location are dependent on the type and quantity of construction equipment being operated, the acoustical utilization factor of the equipment (i. e., the percentage of time a piece of equipment is in operation), the distance from the construction site, and any shielding effects (from structures such as buildings, walls or barriers).
- G. All construction noise on the exterior of the building will be temporary in nature (less than 12 months) and therefore not result in any significant adverse impacts. The Project will employ the noise mitigation measures discussed above and below during construction to avoid or reduce impacts.
- H. In general, construction work will occur from 7:00 am to 5:00 pm with the majority of the work to be completed by 3:30 pm daily. Some Saturday work may occur with the same hours, but not every week. No work will occur on Sundays or national holidays. Longer days may occur infrequently during slab pours.

Air Quality

- I. Based on the geotechnical report, blasting is not expected to be needed to remove bedrock. However, if it is determined to be necessary, blasting will be conducted as described above.
- J. Dust from construction may occur but will be mitigated to the maximum extent practicable through mitigation measures discussed above and below

Stormwater

- K. The Project has been planned and designed to include the implementation of erosion control, sediment control, and pollution prevention measures including enhanced controls outlined in the Stormwater Pollution Prevention Plan (SWPPP) and site plans. Stormwater impacts are expected to be minimal. Stormwater impacts from the Project are discussed in detail above.

Traffic

- L. Construction personnel are anticipated to total approximately 750 workers, with an average daily construction worker population of 150 people per day and a maximum daily construction worker population of 200 people per day (equating to an average of 150 passenger vehicles per day). Initially, construction vehicles will use the access drive onto Route 17K until the primary access drive onto Route 747 is completed, which is expected to be 4 months after construction starts. Most construction vehicles will use the Route 747 access drive as soon as it is completed.
- M. A total of 4,000 concrete truck deliveries are anticipated during the period of construction (estimated 100 trucks per day assuming 8-week duration).
- N. A total of 400 steel deliveries are anticipated over an 8-week period (estimated 10 trucks per day) and a total of 325 precast concrete deliveries are anticipated over a 7-week period (estimated 9 trucks per day).
- O. Including these calculations, in addition to other construction vehicles, construction traffic will be less than traffic from operation of the warehouse which is evaluated in the Traffic Impact Study and determined not to have any significant impact.

Mitigation

Construction Management Techniques

- P. The following measures will be implemented to control the possible exposure of harmful substances and materials to stormwater runoff:
 1. Material resulting from the clearing and grubbing operation shall be stockpiled away from storm drainage, water bodies or watercourses and surrounded with adequate erosion and sediment control measures.
 2. Soil stockpile locations shall be exposed no longer than 7 days before seeding.
 3. Equipment maintenance areas shall be protected from stormwater flows and shall be supplied with appropriate waste receptacles for spent chemicals, solvents, oils, greases, gasoline, and any pollutants that might contaminate the surrounding habitat or water supply.
 4. Equipment wash-down zones shall be within areas draining to sediment control devices. The use of detergents for large-scale (e.g., vehicles, buildings, pavement surfaces) washing is prohibited.

5. Material storage locations and facilities (e.g., covered storage areas, storage sheds) shall be on-site and shall be stored according to the manufacturer's standards in a dedicated staging area.
6. Chemicals, paints, solvents, fertilizers, and other toxic material shall be stored in waterproof containers.
7. Runoff containing such materials shall be collected, removed from the Site, treated and disposed of at an approved solid waste or chemical disposal facility.
8. Hazardous spills shall be immediately contained to prevent pollutants from entering the surrounding habitat or water supply.
9. Spill kits shall be provided on Site and shall be displayed in a prominent location for ease of access and use.
10. Any spills shall be reported to the NYSDEC Response Unit as required by NYSDEC regulations.
11. Portable sanitary waste facilities shall be provided on site for workers and shall be properly maintained.
12. Dumpsters or debris containers shall be on Site and shall be of adequate size to manage respective materials. Regular collection and disposal of wastes must occur as required.

Earthwork

- Q. Best management practices would be employed to mitigate potential impacts to air quality and storm water quality, including:
1. Those mitigation measures discussed above.
 2. As soon as grading operations for an area are completed, the area would be temporarily stabilized until it can be paved, landscaped or otherwise completed.
 3. Wetting the soil surfaces to control fugitive dust.
 4. Covering trucks and stored materials with a tarp, and proper maintenance of equipment.
 5. Soils will be stabilized with tackifiers, geotechnical fabrics, natural ground covering, and the establishment of seed beds.
 6. Haul roads within the site would be stabilized with tackifiers, geotechnical fabrics and stone ballast as required to also minimize dust. Stabilized construction entrances would be used at all construction entrances to the Site to minimize trucks tracking soil onto public roads.

Noise

- R. Whenever possible, equipment will be located away from occupied neighboring property.
- S. All noise from construction equipment shall be properly maintained and muffled in compliance with the EPA's noise emission standards. Construction hours will be limited to those discussed above.

Blasting

- T. Based on the above, blasting is not anticipated and therefore no mitigation measures are necessary. If blasting is required, it will be completed as discussed above

Hazardous Material & Contamination

- U. Based on the above, there will be no impacts related to hazardous materials or contamination and therefore no mitigation measures are necessary.

Stormwater Management & Best Management Practices

- V. A SWPPP has been prepared and shall be implemented during project construction to detain, treat, and release stormwater runoff at a rate equal to or less than what existed prior to construction of the Project.

Traffic

- W. The daily construction vehicle volumes will be significantly less than the volumes that will be generated by the Site under the build condition, and therefore will have less of an impact than what is analyzed in the Traffic Impact Study.
- X. Any potential impacts related to construction traffic will be temporary in nature and therefore not result in any long-term mitigation measures being required.

Based on the foregoing, the Planning Board finds that as to construction impacts, the Project will not create any significant adverse environmental impacts and will avoid or minimize adverse environmental impacts to the maximum extent practicable.

5.0 ALTERNATIVES

The SEQRA regulations (6 NYCRR Part 617) require that reasonable project alternatives be evaluated. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable". As described in Section 617.9 (b)(5)(v) of the SEQRA regulations, an EIS must contain a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of Project Sponsor. Off-site alternatives are limited to those properties owned or controlled by the Project Sponsor. The Project Sponsor does not own or control any other properties in the Town of Montgomery.

SEQRA requires analysis of the no action alternative, and otherwise prescribes the range of other alternatives that may be evaluated as appropriate to a given action. The no action alternative analysis should evaluate both the adverse and beneficial changes to the Project Site that are likely to occur in the reasonably foreseeable future, in the absence of the proposed action.

The discussion that follows presents a range of “reasonable” alternatives as appropriate with regard to the nature of the Project, which include alternative project siting (location), alternative project design (layout/scale/extent), and no action. These alternatives to the proposed action are evaluated in the DEIS in furtherance of a comparative assessment of each alternative explored.

5.1 No Action

A no-build alternative would leave the Project Site in its current state. The no-build alternative would not serve the objectives of the Project Sponsor. Further, the no-build alternative is not a likely long-term alternative as the privately-owned parcel has more value following development. The no-build alternative would have the following effects on identified impacts and mitigations:

- A. Project Description - The “No Action” alternative would result in the Project Site remaining vacant in its existing condition. This alternative does not meet the goals and objectives of the Project Sponsor.
- B. Land Use, Zoning, and Public Policy - The Project Site would retain its existing lot configuration. The zoning district boundary between the IB and I-2 Zoning Districts would not be amended. This would result in several public policy goals, objectives, and policies not being addressed at the Project Site because commercial and industrial growth would not occur at the Project Site.
- C. Visual Character - The Project Site would retain its current visual character. However, without the Project, the abandoned and vacant house at the Project Site and the trash and debris surrounding it would not be cleaned up and would remain an eye sore in the area.
- D. Infrastructure and Utilities – Given the undeveloped nature of the Project Site, the No Action alternative would continue the existing condition having no infrastructure or utilities present.
- E. Traffic and Transportation – Under the No Action scenario, less traffic would result from the project, however, traffic mitigation and roadway improvements would not be constructed.
- F. Community Facilities – Under a No Action alternative, the existing conditions at the Project Site would remain and police, fire, and EMS services would also remain stable.
- G. Soils and Geology – Without the Proposed Action, there would be no disturbance at the Project Site.
- H. Surface and Groundwater Resources – Without the Proposed Action, the Project Site would remain undisturbed. There would be no stormwater controls at the Site or Stormwater Pollution Prevention Plan.

- I. Wetlands – The No Action alternative would result in the Project Site remaining in its current primarily vacant condition without impacts to existing wetlands. The creation of additional mitigation wetland areas would not be constructed.
- J. Cultural Resources – The Arnot-Haber House is National Register Eligible and would remain abandoned and run-down under the No Action Scenario. The house would eventually become derelict and potentially become a fire and safety hazard that could require demolition. The trash and debris surrounding the house would not be removed and would remain an eye sore in the area.
- K. Noise – Under a No Action alternative, the soundscape in the vicinity of the Project Site would remain similar to existing conditions, including noise from Interstate Route 84, NYS Routes 17K and NYS Route 747 and Stewart International Airport. Local traffic noise could expect to increase over time relative to growth of the surrounding area.
- L. Water Supply – Without the Proposed Action, the on-site wells would remain in place and would not be used. There would be no water usage at the Project Site.
- M. Wastewater – The No Action alternative would result in no wastewater treatment plant being built to service the Project Site and potentially serve other properties in the area if desired by the Town in the future.
- N. Flora and Fauna – The No Action alternative would result in no changes to the existing flora and fauna found on the Project Site. Forested upland and forested wetland vegetative communities onsite would continue to mature and expand. Wildlife would be dominated by species that prefer mature upland forest, forested wetland or flooded marsh.
- O. Fiscal and Employment Impacts – The No Action alternative would result in the Project Site remaining in its current vacant condition. From a fiscal perspective, there would be no additional costs to the Town. The only additional revenue would come from periodic tax increases. There would be no significant increase in fees, tax revenues, jobs or other economic growth to the State, County, Town, school district or fire district.
- P. Air Quality – Without the Proposed Action, air quality conditions on and adjacent to the Project Site are anticipated to remain similar to the existing conditions.

5.2 Alternate Site Layout

Although some potential impacts of the alternative layout of warehouse development (“Alternative Layout”) (discussed below) and the Proposed Action are the same, the Proposed Action is preferred as it creates fewer potential impacts than the Alternative Layout. Among the potential impacts of the Alternative Layout include requiring additional variance relief for loading docks facing a street frontage and potential visual impacts of the loading docks facing the street frontage. The Alternative Layout compares with the Proposed Action as follows:

- A. Project Description – The Alternative Layout Warehouse Development plan would have the same 1,010,880 square foot warehouse building with 1,060 car parking spaces and 275 trailer

parking spaces. The car parking spaces would have a dimension of 9 feet by 20 feet as opposed to the proposed 9 feet by 18 feet. Loading docks would be located on both the eastern and the western sides of the warehouse. While the Alternative Layout use is the same as the Proposed Action, there are several potential impacts that make the Proposed Action the preferred approach.

- B. Land Use, Zoning, and Public Policy – The alternate warehouse building layout would be identical to the Proposed Action, except that the 9 feet by 20 feet parking spaces would increase the impervious coverage by approximately 20,000 square feet and would require an additional 2,500 square feet of stormwater management area. This would result in a larger impact on the environment but eliminate the need for a zoning variance for parking. However, a variance would be required for the loading docks on the east side facing Route 747 which would not comply with the Town’s Zoning Law.
- C. Visual Character – The Alternative Layout would add one-half acre of impervious coverage around the building, leaving less unpaved area available for landscaping.
- D. Infrastructure and Utilities – The Alternative Layout would have an additional 20,000 square feet of impervious area and would have to address any stormwater impacts resulting from the increase of having 9 feet by 20 feet parking spaces as opposed to 9 feet by 18 feet parking spaces.
- E. Traffic and Transportation – Overall, the Alternative Layout does not substantially differ from the Proposed Action in terms of traffic and transportation concerns. However, having loading docks on both the east and west sides of the warehouse building increases the potential for additional truck traffic.
- F. Community Facilities - The potential impacts of the Alternative Layout are substantially the same as the Alternative Layout
- G. Soils and Geology – The Alternative Layout and the Proposed Action would have the same impacts regarding soils and geology.
- H. Surface and Groundwater Resources – The Alternative Layout and the Proposed Action would have the same impacts regarding surface and groundwater resources.
- I. Wetlands – The Alternative Layout and the Proposed Action would have the same impacts regarding wetlands.
- J. Cultural Resources – The Alternative Layout and the Proposed Action would have the same impacts regarding cultural resources.
- K. Noise – The Alternative Layout and the Proposed Action would have the same impacts regarding noise.
- L. Water Supply – The Alternative Layout and the Proposed Action would have the same impacts regarding water supply.

- M. Wastewater – The Alternative Layout also includes a WWTP to serve the Project Site and potentially serve other properties in the area if desired by the Town in the future. The Alternative Layout and the Proposed Action would have the same impacts regarding wastewater.
- N. Flora and Fauna – The Alternative Layout add almost one-half acre of additional impervious coverage, removing unpaved areas that reduces the area for flora and fauna.
- O. Fiscal and Employment Impacts – The Alternative Layout and the Proposed Action would result in the same impacts regarding fiscal and employment issues.
- P. Air Quality – The Alternative Layout and the Proposed Action would have the same impacts regarding air quality.

5.3 Alternate Site Layout Based on Existing Zoning

Alternative site layouts were considered based on existing zoning. This analysis demonstrated that the Proposed Action with the proposed zoning map amendments is the preferred method because:

- A. The existing irregular configuration of the I-2 lots would affect building placement in attempting to meet the bulk and coverage requirements of the I-2 zoning district. The warehouse would have to be further to the western portion of the Project Site (nearer residential uses) and reduced in size.
- B. The two required access points from this alternative would result in greater wetland impacts.
- C. The lots as configured have not been developed over the last 20 years. All previous projects that were considered for the Project Site have not moved forward.
- D. The existing zoning configuration has not facilitated development as encouraged and envisioned in the Town Master Plan and related updates and planning studies. As-of-right zoning does not further the goals and objectives of the Town, nor would it meet the market objectives of the Applicant.

5.4 Alternative Location for Proposed Action

- A. There is no alternative location available that the Applicant has control over or the ability to develop the Project as designed.

5.5 Alternative Access Option to Lot(s) Fronting Route 17K

Alternative access options were considered for the Rt. 17K frontage. Neither alternative access option to lots fronting NYS Route 17K would create any substantial benefit regarding access, aesthetics, or improved design. For the reasons noted above, moving the driveway either north or south creates difficulties that do not merit moving the driveway from its proposed location.

This analysis demonstrated that the Project with the proposed access points and frontage is the preferred method because:

- A. The location of the existing access drive is to provide adequate area for the development of the wastewater treatment plant (WWTP) and the stormwater management basins on both sides of the Site access driveway.
- B. The proposed driveway also balances two concerns 1) locating it a comfortable distance from the residence to the west and 2) approximately 1,130 feet from the intersection of NYS Routes 17k and 747 while also maintaining acceptable sightlines in each direction.
- C. Alternate access provided by moving the access driveway east of its proposed location would have an adverse effect on the proposed location of the WWTP and the stormwater management basin closest to NYS Route 17K and cause for its relocation further away from the WWTP's discharge area.
- D. Alternate access provided by moving the access driveway west of its proposed location would also have an adverse impact on the proposed stormwater management configuration because it would result in a substantial redesign of the stormwater management basins situated to address the site stormwater management needs and keeping a sufficient distance from wetland buffer areas.
- E. Moving the entrance to the west would likely result in further road improvements being necessary to Route 17K.

The Planning Board finds that the Project with the minimization and mitigation measures set forth above, is the most appropriate Alternative. The Project has minimized and mitigated environmental impacts to the greatest extent practicable and the nature and economic benefits of the Project outweigh any remaining environmental impacts.

6.0 POTENTIAL GROWTH-INDUCING ASPECTS

This section describes the potential for the Project to induce growth primarily based on anticipated increases in local expenditures that would be made by new employees of the Project through the local purchases of goods and services.

Effects on Local Economy

- A. The Project would provide a positive economic impact both locally and regionally because:
 - 1. Local jurisdictional authorities would benefit from permit, review, and development fees related to the Project.
 - 2. Town infrastructure will be expanded for future development.
 - 3. Approximately 300 to 400 construction jobs for 12-month duration would be created providing salaries ranging from \$38,000 to \$68,000.

4. Sales tax receipts based on the purchase of approximately \$40,000,000 to \$50,000,000 in taxable goods and services. The overall 8.125% tax rate would generate approximately \$3,250,000 to \$4,100,000, allocated to Orange County and New York State. The Orange County sales tax rate is 3.75%, which would generate for the County approximately \$1,500,000 to \$1,875,000.
5. Long term beneficial impacts in terms of additional property tax revenue for the Town, Highway Department, County, fire district and school district are noted above.
6. A large portion of the generated income would be spent in Orange County. While it cannot be specifically projected how much of this revenue would be spent locally, it is likely a substantial portion of this total would provide a boost to the local economy and sales tax revenues.

Local Labor Market

- B. The County is experiencing a 1.3% growth rate and has continued population gain in the 20 to 24-year old age group.
- C. Over 20% of the County workforce commutes to Orange County. This data indicates a substantial labor force from which the warehouse/distribution development can draw potential employees.
- D. Short Term Employment – Approximately 300 to 400 jobs for the 12-month construction period. Salaries for these jobs range from \$38,000 to \$68,000.
- E. Long Term Employment – Approximately up to 1,100 employees, working in two shifts daily. These employees would generate income that would positively impact the local community as businesses provide goods and services to the proposed warehouse/distribution facility and its employees. Approximately five (5%) to ten (10%) percent of the projected employees would have roles in managerial, supervisory, safety, security, information technology, and human resource capacities in addition to roles in receiving, handling, packing, and transportation.

Existing Public Transportation Facilities

- F. Demand for alternative transportation may be created for those employees that do not have or choose not to drive their own vehicles.

Housing Needs and Affordable Housing

The Project is not expected to generate a significant need for housing. Over 90% of the projected employees are expected reside within 30 minutes of the Project Site. As discussed in the DEIS, there is sufficient existing and anticipated housing units to address potential demand created by the Project.

- G. Several affordable housing projects are anticipated to move forward and in varying degrees of development, including the following:

1. City of Newburgh

- Newburgh CORE, Phase 1 – RUPCO, 45 rehabilitated units.
- Newburgh CORE, Phase 2 – RUPCO, 56 units.
- Lander Street acquisition – RUPCO, acquisition and rehabilitation of three occupied existing Pathstone projects totaling 84 units.
- Mid-Broadway mixed-use- Robert Sanborn, 91 new units over supermarket.

2. City of Middletown

- Bella Vista II – Warwick Properties: 45 rehabilitated units.
- Canal Street Adaptive Reuse: 60 units and office space in a converted warehouse. In conceptual phase.
- Main Street Mixed Use: approximately 12 rehabilitated units over storefronts. Orange County Community Development has programs such as the Affordable Rental Production Program for developers and HOME program for home buyers. These programs to encourage affordable housing development are part of a continuing effort to address the issue.

Mitigation

- H. Based on the above, there will be no impacts related to the fiscal, economic or labor impacts of the Project and therefore no mitigation measures are necessary.
- I. The demand for alternative transportation is mitigated by the following alternatives:
1. Bus Routes – Coach USA/ShortLine operates bus service to Montgomery along State Route 17K from Middletown and Newburgh. Buses could stop at the NYS Route 17K entrance to the Project Site on both sides of the street. Coordination may be required between the bus company, Town, and the owner/operator of the Project Site to have a bus stop established at the Project Site NYS Route 17K entrance.
 2. Guaranteed Ride Program – Commuters are able to contact the program to arrange alternative transportation in the event of an unexpected situation. Employers are able to participate to create options on behalf of their employees. Participation is subject to limitations proscribed by the NYSDOT.
 3. Carpool – NYSDOT has its Ridematch system accessible from its website. There you can register and sign up for a carpool available for your region. The service is also accessible via telephone.
 4. Vanpool – This option offers the opportunity for commuting in vans seating 7 to 15 persons. The 511NY Rideshare program offers free commuter vanpool services including ride matching, corporate vanpool formation, route planning and assistance.
 5. Ridesharing – Employees may utilize Uber and Lyft ride sharing opportunities.

- J. Based on the above, there will be no impacts related to housing as a result of the of the Project and therefore no mitigation measures are necessary.

Based on the foregoing, the Planning Board finds that as to growth inducing aspects, the Project will not create any significant adverse environmental impacts and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

7.0 UNAVOIDABLE ADVERSE IMPACTS

Construction and operation of the Project will require the irreversible and irretrievable commitment of certain human, material, environmental, and financial resources. Adverse impacts that cannot be avoided are identified below:

- A. Approximately 83 acres of disturbance to the Site for tree removal, grading, excavation, construction, paving, and landscaping.
- B. Replacement or disturbance of onsite soils during the course of development.
- C. Increase in the amount of impervious surface (a total of approximately 50± acres).
- D. Alteration of on-site storm water runoff patterns although there will be no increase in the peak rate of runoff or decrease in the quality of stormwater leaving the Site.
- E. Discharge of treated wastewater to an on-site NYSDEC Class B stream tributary to Tin Brook, which becomes a NYSDEC Class A waterbody approximately 6 miles downstream from the Site. The discharge will be allowed pursuant to a SPDES permit issued by the NYSDEC and will be protective of human health and the environment.
- F. Permanent impacts to 0.45 acres of on-site wetlands/waters (Tin Brook). These impacted wetlands are primarily emergent and scrub-shrub type wetlands. All of these areas are regulated by the USACOE and the NYSDEC.
- G. Permanent impacts to 0.36 acres of wetland adjacent areas/buffers associated with the Route 747 access drive and internal circulation driveway.
- H. Generation of traffic. During the construction phase, trucks, machine transport vehicles, supply vehicles, and work crew vehicles would add to the present traffic. Once the Project is complete, there will be additional trips generated by truck traffic and employee traffic.
- I. Relocation of the Haber house on the Project Site, an abandoned and vacant house determined eligible for listing on the National Register of Historic Places. The house will be preserved and stabilized for re-use with oversight from SHPO.
- J. Impacts to cultural resources associated with conducting data recovery on the Site (e.g. archeological and soil testing).

- K. While data recovery is a mitigative measure, undertaking data recovery and subsequent development over the Site eliminates the ability of the Site to be further studied.
- L. Increase in dust particles generated at the Site during construction.
- M. Increase in ground water usage and wastewater generation.
- N. Increase in solid waste and recyclable material generated at the Site.
- O. Increase in noise and lighting generated at the Site; and
- P. Increase in energy usage, specifically electricity and heating fuels and fuels for construction equipment.
- Q. As discussed above, increased use of salt (with best management practices) during the winter months on the Site to ensure public safety.

The Planning Board finds that with the implementation of these mitigation measures, the Project is expected to result in positive, long-term overall economic, fiscal and social impacts that will offset the adverse effects that cannot otherwise be avoided.

8.0 IMPACTS ON ENERGY USE

8.1 Energy Use

Energy consumption will occur during the construction and operation of the Project. During the construction phase, energy will be used to power equipment and various construction vehicles. Once construction is complete, the Project would require energy for heating, air condition and electricity.

The primary source of energy for heating would be natural gas. In addition to heating, natural gas would be used to operate ventilation and HVAC systems. Electricity would be used to provide lighting and energy for warehouse and accessory office operations. Electricity and natural gas will be provided by Central Hudson. A hydrogen fuel cell station is proposed on the west side of the warehouse building. Hydrogen is to power the warehouses forklifts.

It is acknowledged that energy consumption will increase from the Project. However, new building construction will help reduce energy consumption by complying with the New York State Energy Conservation Construction Code. This may also include the use of solar energy on the Project Site in the future.

Warehouse and distribution facilities are more successful as they increase efficiency by reducing the number of truck trips and maintain fuel economy. The use of hydrogen fuel cells for forklifts also reduces the energy impacts from the Project. Modern truck routing management programs would likely be used to reduce mileage. NYSDEC regulations prohibit the idling of truck engines for more than five minutes before shutting down the engine when parked at a loading dock.

Motion sensors would be used in appropriate locations to avoid lighting areas that are not in use.

Temperature set points would be reviewed based on specific needs, including and not limited to storage types, comfort of personnel, etc., to maximize energy conservation potential.

Based on the foregoing, the Planning Board finds that the Project will not create any significant adverse environmental impacts as to energy use and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

8.2 Future Physical Risk Due To Sea Level Rise, Storm Surge & Flooding

As required by the Community Risk and Resiliency Act (CRRRA) of 2014, the State mandates that in many specified state programs, sea level rise and some other climate related risks be considered. CRRRA does not demand any particular outcome. The Town of Montgomery has not adopted any local law regarding consideration of climate risk.

- A. Future Physical Risk Due to Sea Level Rise and Storm Surge – Given the location of the Project, neither sea level rise nor storm surge would have direct impacts on the Project Site. The Project Site is not located on the ocean or significant inland waterbody. The New York State Sea Level Rise Task Force Report to the Legislature dated December 31, 2010 refers to the state’s marine coastline, not to inland coastlines.
- B. Future Physical Rise Due to Flooding – The Flood Insurance Rate Map (FIRM) Community Panel Number 36071C0120E with an effective date of August 3, 2009 was reviewed. According to Panel 120 of 630, a small portion of the property is within Special Flood Hazard Area (SFHA) Zone A and the majority of the property is within other areas of Zone X (see Figure 65: Floodplain Map). SFHA Zone A is defined as “no base flood elevations determined. Zone X is defined as “areas determined to be outside the 0.2% annual chance floodplain.” All of the proposed development and disturbances would be occurring in other areas of Zone X. No development is proposed within Zone A.
- C. Based on the above, no mitigation measures are necessary to address future physical risk at the site due to flooding, sea level rise, or storm surge.

Based on the foregoing, the Planning Board finds that the Project will not create any significant adverse environmental impacts as to this subject area and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

9.0 IRREVERSIBLE & IRRETRIEVABLE COMMITMENT OF ENVIRONMENTAL RESOURCES

Land development, whether residential commercial, or industrial, results in open lands being converted and built upon. Construction of impervious surfaces and the attendant human, mechanical, and industrial activities alter the landscape and the pre-development environment. Like any development, the Project will cause the short-term and long-term commitment of environmental resources.

On the Project Site, areas of existing undeveloped land will be committed to the development of a distribution / warehouse building, drives, parking areas, and landscaped areas. In the areas of proposed development, existing soils will be altered and replaced with paved surfaces. Consequently, in the areas of proposed development, existing forests, open fields, and other plant communities supporting wildlife

habitat will be lost. Wetland areas will be impacted, although mitigation is proposed as compensation at a 3.9:1 ratio.

Construction of the Project would require the commitment of building materials such as sand, aggregate, concrete, wood, asphalt and other building materials typically used in the construction of warehouse facilities. There would be an irretrievable commitment of energy resources such as gasoline and diesel fuel for the operation of construction equipment during the construction of the Project.

The long-term demand for water and energy resources at the site will increase when the proposed land uses are operational. The Project would result in the long-term commitment of these resources for the operation of the Project. However, the amounts of water and energy used in operation of the Project would be relatively small in relation to regional consumption, and sufficient quantities of water and other resources are anticipated to be available locally and in the region to accommodate this demand.

Based on the foregoing, the Project will not create any significant adverse environmental impacts as to this subject area, and will avoid or minimizes adverse environmental impacts to the maximum extent practicable.

9.1 Other Issues

Supplemental Environmental Impact Statement

- A. The Planning Board evaluated whether the preparation of Supplemental Environmental Impact Statement (“SEIS”) was necessary to further evaluate the Project. The Planning Board finds that there is no need for an SEIS based on its comprehensive review of the DEIS, FEIS and related Project documents. It makes the following findings below:
- B. Pursuant to the SEQRA regulations, the lead agency “may” require a supplemental EIS, in the event that “specific significant adverse environmental impacts” have been identified as arising from: (a) changes proposed for the project; (b) newly discovered information; or (c) a change in circumstances related to the project, and that these issues were not addressed or inadequately addressed in the EIS. *See* 6 NYCRR 617.9(a)(7).
- C. The objective of a supplemental EIS is to provide involved agencies and the public with information about potentially significant environmental effects of an action that were ***omitted*** from discussion in the earlier EIS. *See Eadie v. Town Board of Town of North Greenbush*, 7 N.Y. 3d 306 (2006); *Muir v. Town of Newburgh*, 49 a.d.3d 744 (2d Dep’t 2008).
- D. No new changes have been proposed by the Project Sponsor that would result in any new potentially significant environmental impact that were omitted from the DEIS and FEIS and not previously evaluated.
- E. The DEIS, FEIS, Project document and public and agency comments have not resulted in any newly discovered information about new environmental impacts that were not sufficiently addressed in the exhaustive environmental review of the Project performed in the DEIS and FEIS. While certain studies (like the traffic study and SWPPP) were updated in the FEIS in direct response to public and agency comments on the DEIS, the updated studies merely amplify and

clarify information about the Project and its impacts that were previously discussed in the DEIS. The FEIS does not contain any new studies of new environmental impacts that were omitted or un-studied in the DEIS or FEIS.

- F. There has been no change in circumstances related to the Project that would result in any new potentially significant environmental impacts that were not previously studied. While minor revisions have been made to the Project as a result of public and agency comments on the DEIS and FEIS over a 9-month period, those revisions were specifically designed to further reduce or avoid environmental impacts to the maximum extent practicable and resulted in a number of environmental benefits and protective measures. This is precisely how the SEQRA process was designed to work – to incorporate the consideration of environmental factors into the Project’s planning, review and decision-making process at the earliest possible time with vigorous input from the public and interested and involved agencies.
- G. The Planning Board finds that all potentially significant adverse environmental impacts have been identified and comprehensively studied by the Planning Board in the DEIS containing over 4400 pages of information, in the FEIS containing over 3,800 pages of information and other related Project documents.
- H. As discussed above, the Planning Board allowed for extensive agency and public comment on both the DEIS and FEIS and the comment periods established by the Board significantly exceeded SEQRA’s public comment requirements:
 - 1. The DEIS was deemed complete on December 5, 2018 and notice of completion was filed on December 7, 2018. The public comment period on the DEIS ended on January 28, 2019. The public had 52-days to comment on the DEIS - where only 30 days are required under the SEQRA regulations. Two public hearings were held on the DEIS during that period.
 - 2. Despite closure of the public comment period on the DEIS, the Planning Board kept the public hearing open related to the site plan and special exception use permit and continued to accept comment on the DEIS, which comments were responded to in the FEIS to ensure all public comments are addressed. The Planning Board held 11 public hearings where it also received comments on the DEIS. The Board accepted comments on the DEIS almost 7 months after the comment period had closed on the DEIS.
 - 3. The FEIS was prepared and deemed complete on August 1, 2019 and the public was given until August 27, 2019 to comment on the FEIS. The Board also held public hearings on August 12, 2019, August 26, 2019, September 9, 2019 and September 24, 2019 where comments on the FEIS were received. The Board provided the public and agencies with almost 30-days to comment on the FEIS - where only 10 days of public review is required under SEQRA. In fact, during that period, numerous verbal and written comments were received on the FEIS.

4. The Planning Board has therefore significantly exceeded the public comment mandated timeframe in the SEQRA regulations.
- I. The agencies and public had numerous opportunities to comment on the DEIS and FEIS and had multiple opportunities to comment on any information contained in the FEIS and to identify any additional studies that they believe were needed to evaluate any impacts the Planning Board failed to adequately study or omitted from study. No public or agency comments have brought forth new information or new environmental impacts that were not previously considered by the Planning Board. Throughout the SEQRA process, the agencies and public continued to provide comments on environmental impacts that had already been previously identified and studied in great detail.
- J. Based on the findings above, the Planning Board determines that it has exhaustively reviewed the Project's potential environmental impacts and an SEIS is not warranted at this time.

Interconnection to Maple Avenue

- A. Certain members of public asked the Planning Board to require a possible interconnection road between the Project Site, Maple Avenue and other industrial zoned land along Maple Ave to the west. The purpose of the road would be to facilitate access to Route 747 to the east
- B. A possible interconnection road was thoroughly examined in the DEIS and FEIS.
- C. The Planning Board finds that this interconnection is not feasible for the following reasons:
 1. The Project Sponsor does not own the land adjacent to Maple Avenue or between the Project Site and Maple Avenue. Thus, any interconnection to Maple Avenue would require consent from the adjacent property owners to cross through their land, which would lead to unnecessary land disturbance.
 2. A private road would create a number of legal complications including the need for private access easements and road maintenance agreements to ensure a safely maintained roadway and related storm water facilities. Thus, it would be harder to ensure that the access roadway is properly maintained as opposed to having all access drives on the Project Site, utilized by only the Project Sponsor.
 3. The proposed construction of a solar facility on the large parcel separating the Project Site from Maple Avenue makes interconnection difficult. Neither the solar facility nor the warehouse are conducive to interconnection due to their private nature and need to ensure safety from the general public to these facilities especially at a fenced electrical utility facility.
 4. The Town's Zoning Law only allows commercial and industrial access on Maple Avenue within 1,000 feet of Route 17K. Any interconnection to Maple Ave outside this 1,000 foot restriction would violate the Town's Zoning Law . Locating an interconnection on

Maple Avenue within a 1,000 foot of Route 17K would require interconnection through the solar farm. As noted above, this is impractical.

5. Any interconnection would introduce commercial traffic (including trucks) to a largely residential area along Maple Avenue.
 6. There is large scale wetland area located on the Project Site and on parcels located between the Project Site and Maple Avenue. An interconnecting road would result in larger and unnecessary wetland impacts and disturbances.
 7. The construction of an access road to Maple Avenue from the Project Site would increase environmental impacts unnecessarily as well as require additional environmental review and permitting through the NYSDEC and US ACOE.
- D. The Planning Board received comments stating that access to from Maple Ave to Route 747 across the Project Site was required by the Town's Zoning Law and must be provided to those properties along Maple Avenue. In response, the Planning Board finds:
1. The Town's Zoning Law does not give the right to cross private property to provide access to Route 747.
 2. Properties along Maple Avenue presently do not have direct access to Route 747. The Project does not change this existing situation. The properties along Maple Avenue currently have residential access from Maple Avenue and therefore no interconnection is necessary.
- E. Based on the foregoing, the Planning Board finds that there is no requirement to any interconnection between the Project Site and Maple Avenue.

10.0 CERTIFICATION

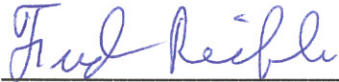
Certification to Approve/Fund/Undertake:

Having considered the DEIS, FEIS and other Project documentation and having considered the facts, conclusions and findings discussed above the Planning Board hereby certifies that:

- A. It has considered all the relevant environmental impacts, facts and conclusions disclosed in the DEIS and FEIS;
- B. It has weighed and balanced the relevant environmental impacts of the Project with social, economic and other considerations;

- C. These findings provide the rational for the lead agency's decision;
- D. The requirements of SEQRA have been met; and
- E. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

Town of Montgomery Planning Board
Name of Agency



Signature of Responsible Official
Fred Reichle

FRED REICHLER-CHAIRMAN

Name/Title of Responsible Official
Town of Montgomery Planning Board,
Chairman

Address of Agency: Town of Montgomery Planning Board
110 Bracken Road
Montgomery, New York 12549

cc: Town of Montgomery Town Supervisor
Planning Board
All Involved Agencies
Town of Montgomery Town Clerk
Blue Water Industrial Partners, LLC