STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA")

FINDINGS STATEMENT

Neelytown Business Park

Lead Agency: Town of Montgomery Planning Board
Date Adopted: _____

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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.

I. INTRODUCTION

Name of Action: Neelytown Business Park

Project Location: Neelytown Road & Beaver Dam Road Town of Montgomery, New York ("Project Site").

Tax ID No: SBL ## 36-1-33, 33-1-91, 36-1-11.221, 36-1-11.23, 36-1-11.1, 36-1-10.1, 36-1-11.211, and 36-1-11.212

Project Sponsor: Neelytown BD Developers, LLC; PO Box 351, Monsey NY 10952 (845) 202-4900
Contact: Isaac Neuman.

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
shadden@townofmontgomery.com.

Brief Description of Proposed Action: The Proposed Action is for Planning Board approval of applications for a Special Use Permit and Site Plan Review and a Lot Consolidation/Subdivision involving the development of two warehouses to be served separately by public water and sewer collectively comprising 1,128,270 SF located on separate lots involving approximately 112.20 acres of land with frontage along Neelytown Road to the east and Beaver Dam Road to the west in the Town of Montgomery. as follows:

Date Draft Environmental Impact Statement ("DEIS") Accepted as Complete: October 28, 2024.

Date of Public Hearing on DEIS: November 6, 2024 and January 27, 2025

End of Public Comment Period on DEIS: After the public hearing on the DEIS, the Planning Board continued to accept verbal and written comments from agencies on the DEIS and the Project until the

FEIS was deemed complete. Any substantive comments received before and after the close of the DEIS hearings were also responded to in the FEIS.

Date Final Environmental Impact Statement ("FEIS") Accepted as Complete: _____. The Planning Board afforded the public and agencies 10 days to consider and comment on the FEIS after accepting it as complete in accordance with 6 NYCRR § 617.11(a).

II. DESCRIPTION OF THE PROPOSED ACTION

Project Description

The Proposed Action is for Planning Board approval of the development of two warehouses to be served separately by public water and sewer collectively comprising 1,128,270 SF located on separate lots involving approximately 112.20 acres of land with frontage along Neelytown Road to the east and Beaver Dam Road to the west in the Town of Montgomery as follows:

- Warehouse 1 on ±85.62-acre Lot 1 would consist of a single building containing ±850,000 SF of gross floor area, 300 passenger vehicle parking spaces, 134 loading docks, 245 trailer parking spaces, stormwater management basins and improvements, accessory driveways, utilities, dark sky-compliant lighting, landscaping, signage, and other related improvements. Warehouse 1 measures 1,220 feet in length and 710 feet in width and is generally rectangular in shape with the west corner of the building cut back to comply with the front yard setback line being approximately 75' offset from the property line. The exterior building height measured from finished floor to the top of the parapet wall is 55 feet. The building complies with the maximum height requirement in the Town's Zoning Law for buildings in the I-1 General Industrial zoning District (e.g., 55 feet). The interior clear height of the proposed warehouse is 36 feet.
- Warehouse 2 on ±26.83-acre Lot 2 would consist of a single building containing ±278,270 SF of gross floor area, 156 passenger vehicle parking spaces, 50 truck loading docks, 56 trailer parking spaces, stormwater management basins and improvements, accessory driveways, utilities, dark sky-compliant lighting, landscaping, signage, and other related improvements. Warehouse 2 measures 773 feet in length and 360 feet in width and is rectangular in shape. The exterior building height measured from finished floor to the top of the parapet wall is 55 feet.

The two intensive warehouses are anticipated to function independently within the definition of the term "warehouse" in the Town of Montgomery Zoning Law, including parking areas. No other principal uses or truck maintenance or repair services will occur. The proposed use will not expand to uses such as factory, truck terminal or other uses beyond the conventional definition of warehouse and/or distribution center. Separate water and sewer services will be provided for each of the two buildings, as well as separate electric and gas utilities. Cross-easements will be provided between Lots 1 and 2 for:

- Installation and repair of underground sewer and water lines;
- Installation and repair of underground electric and gas lines;
- Main driveway access onto Neelytown Road;
- Shared automobile access onto Beaver Dam Road;
- Shared emergency access driveway onto Beaver Dam Road; and
- Shared installation and maintenance of stormwater control facilities.

Access to the Project Site is proposed via two (2) driveways and one (1) Emergency Access Road. One passenger car and truck access driveway are proposed from Neelytown Road and the second driveway for passenger cars only from Beaver Dam Road. The Emergency Access Road on the north end of the Project Site is proposed to connect to Warehouse 2 and will be designed with a gate and an emergency key box for Emergency Vehicle use only. All truck traffic will be limited to entering and exiting the Site via Neelytown Road with the primary truck route to and from I-84.

The Project Site is located within the Town of Montgomery's I-1 (General Industry) zoning district, as well as the Airport Overlay district. It is situated approximately 2 miles southeast of Orange County Airport, approximately 0.6 miles northwest of the Village of Maybrook, approximately 1.1 miles south of the Village of Montgomery, approximately 6 miles west of Stewart International Airport, and approximately 9 miles west of the City of Newburgh. Access to the Project Site is served by I-84 via Exit 5, approximately 1.5 miles away from the Site along Neelytown Road, a 2-lane County highway from which direct access to the Project Site is proposed. Additional direct access to the Site, except for heavy truck traffic, is possible from Beaver Dam Road.

No tenants have been identified for the proposed warehouses at this time and the Project Sponsor is not seeking financial incentives from the Town of Montgomery Industrial Development Agency ("IDA") to facilitate the development of the Project. However, future tenants may seek IDA financial incentives. 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").

Purpose and Need

The Project Sponsor is an experienced warehouse developer and is very familiar with the warehouse and distribution center market. There is a continuing, significant demand for more warehousing and distribution centers in the country, specifically in the New York and northeastern regions. The COVID-19 pandemic further increased the need for warehousing and distribution facilities with the shift to shopping via e-commerce and reduction in storefronts.

According to the Project Sponsor, the Proposed Action has been specifically designed by the Project Sponsor to meet a widespread industry need for mid-sized warehouses. The Project Site and Proposed Action are perfectly suited to meet real time market needs, located with nearby access along a county highway to Interstate 84 and the interstate system in the Northeast, the proposed warehouses have the potential to attract high quality potential tenants once approvals are obtained.

The anticipated benefits of the Proposed Action are significant and, for the Town of Montgomery, potentially unique to the Project Site due to the lack of suitable alternative sites along Neelytown Road in proximity to I-84. The Project Site is in an area identified by the Town of Montgomery and Orange County comprehensive plans as particularly suitable for development consistent with the Proposed Action. Once developed, the Proposed Action will result in significant economic benefits for the area, including approximately $560,000 annual tax dollars to the Town and County and $2.28 million to the school district.

Currently, the Project Site is mostly unimproved, so all real property tax revenues generated from the Proposed Action are expected to provide significant new funds to the town, county, and school district. These economic benefits would be difficult if not impossible to otherwise generate. Short term economic benefits would also be generated from the Proposed Action, including during construction from sales tax revenues and construction jobs. Long-term economic benefits include the potential creation of nearly 900 permanent jobs on the Project Site and additional economic activity generated around the Site. At the same time, based on the Project Sponsor's analysis, the Proposed Action will have a minimal impact on local governments or the school district. All of these benefits have the potential to contribute to a balanced and substantial investment in, and benefit to, the local community, which is in line with the goals and objectives of the identified Comprehensive Plans.

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

Location

The Project Site is located within the Town of Montgomery's I-1 (General Industry) zoning district, as well as the Airport Overlay district. It is situated approximately 2 miles southeast of Orange County Airport, approximately 0.6 miles northwest of the Village of Maybrook, approximately 1.1 miles south of the Village of Montgomery, approximately 6 miles west of Stewart International Airport, and approximately 9 miles west of the City of Newburgh. Access to the Project Site is served by I-84 via Exit 5, approximately 1.5 miles away from the Site along Neelytown Road, a 2-lane County highway from which direct access to the Project Site is proposed. Additional direct access to the Site, except for heavy truck traffic, is possible from Beaver Dam Road.

Most of the area within one-half mile of the Project Site is in the Town of Montgomery. The Village of Maybrook is located to the east within one-half mile of the Project Site. Large parcels of vacant land and some interspersed existing warehouses separate Maybrook from the Project Site. No streets exist that would connect the Project Site to the Village of Maybrook. South of the Project Site is the Town of Hamptonburgh, a small portion of which is within the one-half mile site radius.

Existing land uses on the south side of I-84 where the Project Site is located are dominated by warehouse and distribution facilities along Neelytown Road to the east and the west. To the west of the Project Site on Beaver Dam Road, there are three residential properties that are non-conforming uses in the I-1 district and that border an existing warehouse to their west.

Per the Town of Montgomery Zoning Map and the Surrounding Land Use Map in Appendix M to FEIS, the land uses on the north side of I-84 are zoned for agricultural and residential uses. Agricultural uses generally front I-84, with residential uses behind them. The highway corridor, topography and vegetation act as a barrier between land uses on the two sides of I-84. The municipal water tank, water line, access easements, and propane facility located to the north of the site will remain

Design and Layout

At full build-out, the Project would include two precast warehouse structures with steel columns and exterior precast bearing walls. Warehouse 1 would consist of a single building containing 850,000 SF of gross floor area, 300 passenger vehicle parking spaces, 134 loading docks, 245 trailer parking spaces,

stormwater management basins and improvements, accessory driveways, utilities, dark sky-compliant lighting, landscaping, signage, and other related improvements. Warehouse 1 measures 1,220 feet in length and 710 feet in width and is generally rectangular in shape with the west corner of the building cut back to comply with the front yard setback line being approximately 75' offset from the property line. The exterior building height measured from finished floor to the top of the parapet wall is 55 feet. The building complies with the maximum height requirement in the Town's Zoning Law for buildings in the I-1 General Industrial zoning District (e.g., 55 feet). The interior clear height of the proposed warehouse is 36 feet.

Warehouse 2 would consist of a single building containing 278,270 SF of gross floor area, 156 passenger vehicle parking spaces, 50 truck loading docks, 56 trailer parking spaces, stormwater management basins and improvements, accessory driveways, utilities, dark sky-compliant lighting, landscaping, signage, and other related improvements. Warehouse 2 measures 773 feet in length and 360 feet in width and is rectangular in shape. The exterior building height measured from finished floor to the top of the parapet wall is 55 feet. There are two easements that would affect the proposed use of the site. First, the presence of a Central Hudson Gas and & Electrical easement along the western frontage on Beaver Dam Road which indicates that gas service exists along the frontage as well. Second, the municipal water tank, water line, access easements, and propane facility located to the north of the site which will remain undisturbed. The building complies with the maximum height requirement in the Town's Zoning Law for buildings in the I-1 General Industrial zoning district (e.g., 55 feet). The interior clear height of the proposed warehouse is 36 feet.

The proposed building design for the warehouses is more representative of a high-tech Research & Development (R&D) production facility than a warehouse, with clean and simple lines and ample natural light. As shown in these renderings, the Project is designed as a long-life cycle, insulated concrete industrial building, with a contemporary aesthetic. As currently proposed, the warehouses will be earth tone colors; gray, blue, and almond painted on concrete panels. The buildings will have precast wall panels which will be 12' wide. Stone and slate colors incorporated into the concrete panels are proposed to blend and complement the surrounding area.

Site Access & Egress

Access to the Project Site is proposed via two (2) driveways and one (1) Emergency Access Road. One passenger car and truck access driveway are proposed from Neelytown Road and the second driveway for passenger cars only from Beaver Dam Road. The Emergency Access Road on the north end of the project site is proposed to connect to building 2 and will be designed with a gate and an emergency key box for Emergency Vehicle use only. As shown on the arrival and departure figures in Appendix E, all truck traffic is proposed to enter and exit the site via Neelytown Road with the primary truck route to and from I-84.

Per the Driveway Delineation & Circulation Exhibit in Appendix E to the FEIS, Site Driveway 1 is proposed to intersect Neelytown Road and provide entering/exiting access for both passenger cars and trucks although the intent is that overtime this driveway will be primarily accessed by trucks. The driveway intersects the site along Neelytown Road, located approximately 778 feet from the adjacent FedEx facility. Based on the anticipated site traffic, a separate left turn lane and separate right turn lane for site entering traffic is proposed.

Site Driveway 2 is proposed to intersect Beaver Dam Road and provide entry and exiting options for only passenger cars on the west side of Warehouse 1. Beaver Dam Road is not rated for heavy truck traffic and

exiting lanes of Site Driveway 2 will be furnished with signs advising drivers that trucks cannot exit the site at this location.

Internal Vehicular Circulation and Parking Layout

Per the Driveway Delineation & Circulation Exhibit in Appendix E, the layout of the Project Site has been designed to minimize the potential for conflicting truck and passenger vehicle movements as much as possible. Regarding Warehouse 1, employee vehicles will park solely on the east and west of the building while the truck loading will operate to the north and south. The trucks exiting Warehouse 1 have their own dedicated exit driveway separated from the passenger parking by a landscaped island.
Trucks accessing Warehouse 2 can do so without traversing a passenger vehicle parking area. Similarly, trucks accessing the Trailer Storage Area on the north side of the Project Site can do so without traversing any passenger vehicle parking areas. The combined Trailer Storage Area contains 302 stalls. Taking into consideration that the trailer storage spaces provided on Lot 1 (245 spaces) and Lot 2 (56 spaces) can be utilized adjacent to the main access road, no delivery or trailer storage truck queuing is anticipated on Neelytown Road.

The main employee parking areas for Warehouses 1 and 2 are accessed via the passenger-car only driveways off of Beaver Dam Road. Per the Driveway Delineation & Circulation Exhibit, there are connections available between all passenger parking lots and the main circulation drives to allow for ease of access by first responders in the event of an emergency. The circulation configuration of the passenger car access and egress Driveway 2 will inhibit the departure of trucks from that access driveway. Additionally, signage will be placed to prohibit the departure of trucks from Driveway 2.
Table 2.C.1 in the FEIS below provides a breakdown of the required and proposed number of parking and loading spaces for each lot.

Construction and Operation

Construction

Construction of the Proposed Action will occur in phases. The initial phase would consist of general site preparation, and, most significantly, the removal of approximately 38.13 acres of existing forest, as depicted on the Site Plans located in Appendix D. The next phase would consist of roadway preparation and soil movement, particularly in the northwest corner of the Project Site where the future overflow trailer parking lot and large berm are proposed. The construction of roadways will follow the general scheme of the proposed roadways for efficiency but will only consist of subgrade and base course until construction is complete. Silt fence would surround the disturbed areas and stabilized construction entrances will be installed at each intersection of Neelytown and Beaver Dam Road, where they will remain until construction is complete.

After the Project Site has been cleared, the construction roadway system prepped, and soil movement commenced, the Project Site will be divided into two (2) separate pad sites (one for each warehouse). Each of the two areas will be surrounded by silt fencing and constructed either individually or concurrently, depending on future tenants' needs.

Although the warehouse tenants are not yet confirmed, it is anticipated that Warehouse 1 (the larger of the two) will be constructed first, and Warehouse 2 will be constructed shortly thereafter. It should be

noted that any pad sites not under active construction will be stabilized, maintained, and free of debris/overgrowth until such time as construction commences.

The construction schedule will be fluid and evolve over time; however, currently it is appropriate to designate some approximate timelines and milestones that will likely occur.
The initial phase of the Proposed Action which consists of clearing the Project Site of wooded vegetation and preliminary grading will take between 2-4 months to complete. From this point the construction of the roadway system and preliminary earthwork will begin and should only take roughly 1 month to have everything in place. Conservatively, it is anticipated that within 6 months of the start of construction, the Site will be cleared, prepped, and divided into two (2) separate pad sites with an interconnected construction roadway system.

The construction of the two (2) pad sites and remaining site work will vary in overall timeline but can be estimated to take between 6-12 months for each pad site. The variation in the timeline of the Proposed Action will be determined based on building tenancy, as one scenario could result in all both sites being constructed simultaneously while another scenario could result in only a portion of the Proposed Action being constructed while the other waits for a tenant.

Although an exact timeline cannot be determined at this time, it is important to note that any portion of the Proposed Action that would need to delay construction while waiting for a tenant would be kept in acceptable condition, free of debris and overgrowth and stabilized to avoid soil run-off. Additional details on the phasing of construction have been provided on the Soil Erosion & Sediment Control Plans.
As depicted on the Demolition Plan of the Site Plans, located in Appendix D, the Project Site will be cleared of wooded vegetation within the development area and rough graded in anticipation of construction. Concurrently, the existing dwellings, structures, asphalt/concrete, wells, and other existing site features within the limits of the Proposed Action will be demolished and disposed of in accordance with all local, state, and federal regulations including but not limited to well abandonment, septic abandonment, asbestos removal, and any other environmentally sensitive action. Any seasonal regulations such as the inability to clear trees during certain times of the year would also be adhered to.

Based upon the preliminary cut-fill analysis per the Cut Fill Exhibit, in Appendix H to the FEIS, the proposed balance of the site is approximately a net 860 cubic yards which can be considered nominal for a development of this size. These 860 cubic yards of fill are the amount required to be imported following the soil movement activities on site including the construction of proposed berms on the northwestern side of the side bordering Beaver Dam Road. Therefore, there is no significant surplus or deficit anticipated for the Proposed Action, resulting in minimal trucking of soil import or export. Almost all anticipated soil movement will be limited to within the boundaries of the Project Site, with the minimal trucks importing soil from registered and certified soil yards.

The process of excavating bedrock and moving soil throughout the site will result in several soil stockpiles being placed throughout the site. Per standard practice, these soil stockpiles will be surrounded with silt fence to ensure the soil does not make its way off the site onto neighboring properties.

Operations

The development of the Site will require truck trips for every operation, but the operations do not become cumulative. Traffic can be separated into two categories, regular deliveries and bulk deliveries, which are

further divided into phases that are associated with 1) sitework, 2) building superstructure, and 3) finished work.

Based on information provided by the construction management team, if the project is constructed in its entirety, it is anticipated to be completed within 24 months. The number of construction vehicles/delivery trucks per day is a variable value depending on specific construction operation. The maximum anticipated number of trucks would occur during the earthwork phases and during the precast concrete structure erection phase however it is anticipated that there would be a total of 85 truck deliveries (or a total of 170 truck trips) over the course of a day during the most peak of construction activity.

A Construction Management Plan including traffic control measures would be implemented in accordance with all state and local requirements, and construction trucks would be required to use local trucks routes as designated by the Town. It should be noted that CR 99 (Neelytown Road) is designated as a major collector (urban) that supports trucks on a daily basis. The intent is to limit truck traffic to County and State facilities, i.e., not using local roadways. As Beaver Dam Road is not rated for heavy truck traffic, the majority of construction vehicles will be directed to access the site via Neelytown Road.

The tenant(s) of the two warehouses are not known yet. It is anticipated that at least one tenant would occupy each building for industrial warehouse and/or distribution, but most likely each building will host two tenants each. The warehouses are not anticipated to be utilized for industrial manufacturing. The hours of operation will be specific to the tenant(s). However, the facility will likely be running 3 shifts and operating continuously on a 24/7 schedule. Storage of hazardous materials or waste onsite is not anticipated.

Permits/Approvals

The Proposed Action requires the following permits, approvals or review by agencies:

Approval/Permit/Review	Agency
Site Plan Approval	Town of Montgomery Planning Board
Special Permit	Town of Montgomery Planning Board
Minor Subdivision	Town of Montgomery Planning Board
Building Permits and Certificates of Occupancy	Town of Montgomery Building Inspector
Driveway Access onto Beaver Dam Road	Town of Montgomery Highway Department
Water and Sewer	Montgomery Town Board, Montgomery Sewer District, Montgomery Water District
Town MS4 Acceptance	Montgomery Stormwater Officer
General SPDES Permit for Stormwater Discharges Associated with Construction Activities	NYSDEC
Highway Work Permits	NYSDOT
SPDES Sanitary Discharge Permit	NYSDEC

(Sewer Main Extension)	
Article 24 Freshwater Wetlands Permit	NYSDEC
401 Water Quality Certificate	NYSDEC
Nationwide Wetland Permit	USACE
Cultural Resources No Impact Letter	SHPO
Water Main Extension	Orange County Department of Health
239-m Review	Orange County Planning Department
Driveway Access onto Neelytown Road 239-f Review	Orange County Department of Public Works
Airport FAA Approval	FAA

Project SEQRA History

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

- On May 5, 2021, the Project Sponsor applied to the Planning Board for a Special Use (SU) permit, Site Plan Review and Subdivision Approval (the "Land-Use Applications") for a prior version of the Proposed Action. These applications were accompanied by a variety of documents including Part 1 of the Full Environmental Assessment Form ("EAF") and additional supporting documents.

- On June 11, 2021 the Planning Board declared its intent to be the lead agency under SEQRA to conduct the environmental review of the Proposed Action. Notice of that intent was subsequently circulated to involved and interested agencies as required by SEQRA and No involved agencies objected to the Planning Board being the lead agency to conduct the environmental review of the Project under SEQRA.

- On September 13, 2021, 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 October 12, 2021, 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 October 20, 2021.

- On October 25, 2021, the Planning Board adopted the final written scope for the DEIS and thereafter circulated it to all involved and interested agencies.

- On May 27, 2022, the Project Sponsor submitted a revised scope to the Planning Board to include revisions to the Proposed Action including the addition of additional tax parcels to the Project Site and a proposed third warehouse. The Planning Board accepted written comment on revised scope until July 25, 2022 and, on August 8, 2022 adopted the final written scope for the DEIS and sent it to all involved and interested agencies on July 2, 2018.

- On May 16, 2024, 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 September 6, 2024, the Project Sponsor submitted a revised preliminary DEIS to the Planning Board addressing the initial comments of the Board and its consultants and revising the Proposed Action to only propose two warehouses and to include the consolidation of the existing tax parcels comprising the Project Site and the subdivision of the Site into two lots. Revised applications for Special Use Permit, Site Plan Review and a new application for the proposed Subdivision were submitted to the Planning Board by the Project Sponsor.

- 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 October 28, 2024, the Planning Board deemed the DEIS complete conditioned upon the minor revisions being made as noted above and schedule a combined public hearing for December 9, 2024 for the DEIS and the Project's Land-Use Applications.

- 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 involved 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.

- On November 27, 2024, notices of the complete DEIS and the combined public hearings were published in the NYSDEC Environmental Notice Bulletin ("ENB").

- On December 9, 2024 and January 27, 2025 the Planning Board held duly noticed public hearings on both the DEIS and the Project's Land-Use Applications. On January 27, 2025, the Planning Board closed the public hearing on the DEIS while continuing to a future date the hearing on the Project Sponsor's Land-Use Applications. The written public and agency comment period on the DEIS remained open until February 14, 2025. All written and oral comments were accepted and transmitted to the Project Sponsor to be addressed in the Final Environmental Impact Statement ("FEIS"). The Planning Board received oral and written comments on the DEIS from the public and agencies.

- On June 27, 2025, 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 January 16, 2026, 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 November 18, 2024, the Project Sponsor submitted another revised draft of the FEIS to the Planning Board and its consultants addressing the additional comments.

- On _____, 2026, the Planning Board deemed the FEIS complete, adequate and accurate for public consideration.

- The FEIS (including its appendices) contains over 125 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 all of the involved agencies and 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.

- On _____, 2026, a notice of the FEIS was published in the NYSDEC ENB.

- On _____, 2026 the Planning Board held a further public hearing on the Project's Land-Use Applications after the FEIS was deemed complete. During the hearing, the Planning Board accepted public comments on the FEIS, the Project's potential environmental impacts and measures to mitigate such impacts.

- 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 12 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.

- Numerous experts and professional consultants reviewed the Project's DEIS and FEIS for the Planning Board 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. The Maybrook Fire District and Town of Montgomery Ambulance also reviewed the Project multiple times and provided input. The Planning Board considered the input of these experts and professional consultants.

- 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 and Sewer Report, Archeological and Cultural Resource Reports, Acoustical Study, Wetland Reports, Phase 1 Environmental Site Assessment, Noise Impact Study, Visual Impact Study, Flora and Fauna Surveys/Reports, and site plans containing 50 sheets.

SEQRA Findings

Having accepted the FEIS as complete, the Planning Board is required to make SEQRA findings with respect to the Proposed Action. 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.

III. FINDINGS CONCERNING POTENTIAL ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

Based upon its review of the FEIS, its appendices, comments from its consultants, other agencies and the public, the Planning Board makes the following findings with respect to the potential environmental impacts of and proposed mitigation measures for the Proposed Action:

Geology

Existing Conditions

Existing Geology conditions on the Project Site are described from Page 30 in the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified blasting, depths and volumes of cuts and fills and trucking related to importing/exporting fill material during construction as potential impacts.

1. Blasting. Based on the geotechnical investigation provided by the Project Sponsor in Appendix J to the FEIS, there is minimal bedrock anticipated within the footprint of the proposed building foundations. As illustrated on the Bedrock Identification Exhibit in Appendix J and the construction notes in the Project Plans, no blasting is anticipated as no shallow bedrock was identified. Some rock excavation may be required on the southern end of the Site for construction of the proposed stormwater management facilities, the excavation of this rock is not anticipated to require blasting. Where the rock has been exposed to prolonged weathering, it can typically be ripped to a depth of a few feet but will require hammering if removal of relatively fresh rock is required. Additional rock excavation methods could involve jack hammering with a device mounted on a boom of an excavator, and pre-splitting.

   The existing municipal water infrastructure consisting of water tower approximately 1,000 feet to the north of the Project Site structure and the municipal well to the west of the Project Site have the potential to be affected by blasting, if it occurred.

2. Depths and Volumes of Cuts and Fills. A preliminary analysis providing the depth and volumes of cuts and fills was performed by the Project Sponsor that took utility construction, gravel importation, and building foundation excavation into consideration, among other factors. This also includes the estimated amount of fill that must be imported for the construction of proposed berms on the northwestern side of the side bordering Beaver Dam Road. This analysis is included in the Geotechnical Report attached as Appendix J to the FEIS. The analysis concluded that only approximately 860 cubic yards of fill will need to be imported onto the Project Site and that no export of fill will be required, including for the construction of proposed berms on the northwestern side of the side bordering Beaver Dam Road. All other anticipated soil movement will be limited to earth work that occurs within the boundaries of the Project Site.

3. Anticipated Soil Movement. As noted above, the Proposed Action will require the import of an estimated 860 cubic yards of soil during construction. This will require a maximum of 85 truck delivers (or 170 truck trips - depending on truck size) to the Project Site during the early phases of construction, creating traffic, noise and diesel emissions. The process of excavating bedrock and moving soil throughout the Site will also result in several soil stockpiles being placed throughout the Site.

Mitigation Measures

1. Blasting. Rock excavation methods for proposed work will be performed in a cost-effective manner and with the least impact on the surrounding areas based on further investigations and engineering. Blasting is not proposed for the Proposed Action, however, if it is required the Project Sponsor will develop a blasting plan for approval by the Town that considers and mitigates potential blasting impacts to the I-84 corridor and properties within ½ mile of the Project Site, including to buildings, wells and municipal water supply infrastructure.

2. Alternative Grading Scenarios. As designed, the Proposed Action provides a nearly balanced site, thus making it the preferred option for mitigating potential impacts. The Proposed Action has been designed with retaining walls, underground drainage, landscaped berms, and stormwater basins to minimize soil movement and steep slopes. See Project Plans in FEIS Appendix F. These measures will help to maintain a balanced site by providing subsurface materials to replace the soil that has been cut. The cut soil will then be reused as fill to increase the height of the landscaped berms on the northwest portion of the Site. It is through this process of reusing cut soil that the Proposed Action will maintain a nearly balanced site with no significant impacts from trucks importing/exporting soil from external sources. Further, as proposed in the Project Plans, the Project Site will be graded to avoid steep slopes where feasible and to use existing topography as much as possible. All work will also be performed so as not to adversely impact any existing nearby structures, roadways, and utilities to remain. Protection of these elements will be provided as necessary during all construction activities at the Project Site.

3. Prior to commencement of grading or fill placement, any miscellaneous trash, debris, or other unsuitable materials will be hauled offsite for disposal. Trees will be chipped and used as mulch. All clearing and stripping activities will be performed in strict accordance with the approved soil erosion and sediment control plan prepared for the Proposed Action. All site preparation work will be performed in accordance with any environmental regulations and requirements established for the Project Site as well as all local, State, and federal regulations. All work will also be performed so as not to adversely impact any existing nearby structures, roadways, and utilities to remain. Protection of these elements will be provided as necessary during all construction activities at the Project Site.

4. In order to mitigate the potential impact of soil erosion or offsite movement of soil the following measures will be implemented based on the Project Plans. The contractor will make sure to locate soil and rock stockpiles far away from property boundary lines. Additional measures will include placing silt fencing around the toe of the soil and rock stockpiles to keep the soil from eroding and moving around the Site. The silt fence in these areas will be installed properly and maintained on a regular basis in order for this mitigation measure to be effective. It is anticipated that Town inspections of construction will help ensure proper adherence to these mitigation measures.

5. Retaining Walls. Several retaining walls are proposed to be constructed on the Project Site to reduce the amount of grading and soil movement needed to construct the Proposed Action. In addition, they will act as a physical barrier for keeping the wetlands on the Site undisturbed and free from contamination of the adjacent construction work. The retaining walls will limit soil movement, retain soil in place and prevent potential slope failures due to proposed elevation changes. Per the Retaining Wall Exhibit in the Project Plans (Appendix F to the FEIS), retaining walls will be constructed in several areas of the Project Site as follows:

    a) Bordering Neelytown Road along driveway 1 (255 LF, 7ft. average height; 0.5ft. min. height to 9.46ft. max. height)

    b) Bordering Neelytown Road along driveway 1 (520 LF, 8ft. average height; 0.5ft. min. height to 9.96ft. max. height)

    c) Southeast side of Warehouse 1 (1094 LF, 16 ft. average height; 0.5ft. min. height to 18.71 ft. max. height)

    d) West side of Warehouse 1 (252 LF, 2ft. average height; 1ft. min. height to 4ft. max. height)

e) Bordering Beaver Dam Road along west side of Warehouse 1 (770 LF, 20ft. average height; 0.5ft. min. height, 25.15 max. height)

f) Bordering Beaver Dam Road along west side of Warehouse 1 (642 LF, 15ft. average height; 0.5ft. min. height, 20.10 max. height)

g) North-East of Warehouse 1 (583 LF, 30ft. average height; 0.96ft. min. height, 39.18ft. max. height)

h) Southeast of Warehouse 2 (1061LF, 30ft. average height; 12ft. min. height, 36.05ft. max. height)

i) Northeast of Warehouse 2 (328 LF, 25ft. average height; 0.4ft. min. height, 40.04ft. max. height)

All retaining walls that exceed 3 feet in height are required to be designed by a licensed New York State Structural Engineer. As required, fencing will be provided on the top side of these walls for fall protection where the height exceeds 30. Refer to Appendix D for the Retaining Wall Exhibit.

6. Proposed truck traffic associated with the import of fill onto the Project Site will be limited in amount and duration. This will require a maximum of 85 truck delivers (or 170 truck trips - depending on truck size) for this import of fill, limiting impacts because of the relatively balanced cutting and filling required for the Proposed Action. All construction trucks will enter and access the Site from Neelytown Road, which will not be a significant addition to existing truck traffic on that county highway and will avoid impacts to residential uses on Beaver Dam Road.

Based on the foregoing, the Planning Board finds that as to Geology, the Proposed Action 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.

Soils

Existing Conditions

Existing soil conditions on the Project Site are described from Page 38 in the DEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified erosion, loss of agricultural or hydric soil and uses, and need for any environmental remediation as potential impacts involving Soils.

There is a potential for soil erosion and sedimentation associated with construction activities due to the extensive disturbance and earthwork required for the Proposed Action.

Portions of the Project Site were historically farmed, however, no farming has occurred on the Project Site since 2009, so there will not be any impact to an existing agricultural use. Agricultural soils will be

lost and/or covered with impervious surfaces through the construction of the Proposed Action. These soils, however, are not Prime Farmland or Soils of Statewide Importance.

The Proposed Action will also result in the loss of hydric soils in the 0.209 acres of wetlands to be impacted by project construction. Their use as habitat and for other wetland functions and values will be lost.

Finally, the Geotechnical Report identified a thin layer of topsoil (approximately 5 inches) across the Project Site, which could be lost or impacted if not properly managed to ensure adequate topsoil for planning proposed landscaping.

A Phase I Environmental Site Assessment (ESA) was performed to identify the presence or likely presence, use, or release on the Project Site of hazardous substances or petroleum products. No evidence of any contamination requiring remediation was found. However, the ESA did identify the presence of underground storage tanks and septic systems associated with single family dwellings on the Project Site.

Mitigation Measures

Impacts on Soils through construction of the Proposed Action will be managed to minimize and mitigate potential impacts to the greatest extent possible. Mitigation measures will include the following:

1. To the maximum extent practical, the Proposed Action has been designed to balance cuts and fills and eliminate the need for importation of materials or movement of soil offsite. Where feasible, the existing topsoil and subsoils will be re-used onsite in accordance with recommendations made by the geotechnical engineer.

   Based on the topographical design of the Proposed Action, there will be a required import of approximately 860 cubic yards into the Project Site. Much of the soil that is cut from the Site will be reused for the planted berms on the northwest side of Beaver Dam Road. Reusing the excavated soil on the Site will ultimately balance the cut/fill volumes needed to construct the Proposed Action. Additionally, a balanced site will most likely create no impact on local traffic for trucks leaving and entering the Project Site as everything will be self-contained. Finally, a balanced site means there will be little need to import or export soil on or off the Site making the efforts to control soil erosion sediment control easier as the Proposed Action is developed.

2. Use of topsoil stockpiled during construction for restoration and landscaping. Existing topsoil will be stockpiled onsite after stripping for reuse in proposed planting areas. The reuse of topsoil as fill or in areas where topsoil has been left in-place as described herein requires that a sufficient grubbing and root raking program be implemented to remove the roots and vegetative matter from the soil. Soil stockpile locations are mostly along the west and northern sides of the site, away from property boundary lines. These stockpile locations can be found on the Soil Erosion and Sediment Control plans as part of the Project Plans in Appendix F to the FEIS. Soil stockpiles are created by stacking soil into a large pile as to keep it all gathered in a central location, this pile is then surrounded around all sides by a silt fence to keep the soil in place at the base of the pile and it prevents soil eroding from the pile and spreading to other areas of the site. As mentioned in the Geotechnical Investigation and Assessment Report in Appendix H, there is a mix of OSHA Type A, B, and C soil within the existing topsoil. OSHA Type A soil requires a minimum slope of 0.75 to 1, Type B soil slope is 1 to 1, and Type C soil is 1.5 to 1 (horizonal to vertical). Areas of deeper excavation are expected to primarily Type A soil.

The following guidelines for removal of the topsoil within the Project Site will be followed:

a) Topsoil would be completely stripped from the proposed building footprint and 10 feet beyond the building limits.

b) Topsoil would be completely stripped in pavement areas receiving less than 5 feet of new fill.

c) In pavement areas receiving more than 5 feet of new fill to raise grades, the topsoil layer would be left in place subsequent to removal of vegetation and root mats and performance of subgrade preparation procedures recommended by the geotechnical engineer.

d) The topsoil will be stockpiled and protected from erosion. Topsoil will be evaluated by a landscape architect for re-use in landscaped areas.

3. Minimize disturbance to non-construction part of Project Site. Land development practices to minimize disturbance (i.e. matching the existing topography and aligning roadways parallel to contours) have been incorporated into the Proposed Action's site design wherever possible. Maximum slopes of 3:1 and retaining walls will be constructed to limit the area of disturbance outside of the construction portion of the site. Based on recommendations from the geotechnical investigation, steeper slopes of 2:1 will be provided in some locations to further limit the area of soil disturbance. These slopes will be stabilized in accordance with the New York State Standards and Specifications for Erosion and Sediment Control, as shown on the soil erosion and sediment control plans.

4. Soil Erosion and Sediment Control Plan. A phased soil erosion control plan has been designed in accordance with applicable NYSDEC stormwater regulations and Town Enhanced Erosion and Sediment Control Guidelines. See SWPPP and Project Plans, Appendices E and F to the FEIS. Due to the scale of the Proposed Action, construction will take place in phases to ensure no more than 18 acres are disturbed at once. It is understood by the Project Sponsor, as well as the design engineer, that the 18-acre limit is critical to the identified construction phases identified within the Soil Erosion and Sediment Control Plan. This plan identifies eight phases to limit disturbed areas under the required 18 acres maximum. Erosion and sediment control plans are to be implemented for each phase including but not limited to temporary slope protection, diversion swales with check damns, sediment traps, and sediment basins with porous baffles, risers and skimmers to be utilized during construction. Measures proposed to provide mitigation after construction include installation of anchored stabilization erosion matting and the establishing of permanent vegetive cover.

   In response to comments received on the DEIS and concerns about construction phasing, cut/fill amounts have been specified per phase and included in the Cut/Fill Report provided as Appendix J to this FEIS. In addition to the phasing, enhanced erosion and sediment controls are proposed. These enhanced erosion and sediment controls are memorialized on the Erosion and Sediment Control Plans within the Site Plan and the SWPPP (See Appendices E and F to the FEIS) and include the following:

   a) Install porous baffles for sediment ponds, because they will quiet the turbulence of the inflowing water.

   b) Install conveyor belt diversions as water bars as described in Technical Bulletin Conveyor Belt Diversion by Penn State University Center for Dirt and Gravel Roads.

c) Enlarged sediment ponds or sediment storage traps utilizing the maximum practical area in excess of the minimum amount recommended in the Bluebook.

d) Apply slope protection measures within 3 days after earthmoving on a particular slope is complete.

e) Install reinforced silt fences with hay bale or silt sock backing along wetlands or other sensitive areas.

f) Install bonded fiber matrix hydraulically applied mulch as temporary stabilization (hay/straw mulch and unbonded hydraulically applied mulches are not acceptable).

g) Install flexible growth medium with seed, soil amendment, and fertilizer to seek final stabilization.

h) Perform equipment (cat) tracking for bare slopes to be protected. (See page 4.56 of the Bluebook).

i) Install slope crest protection (perimeter dike/swale) measures to divert flow from going down the newly graded slope. (See page 3.36 of the Bluebook).

j) Install pipe slope drains. (See page 3.37 of the Bluebook). Install reverse slope bench on the long slopes to convey water to a stable outlet. (See page 4.24 of the Bluebook).

k) Install Geosynthetic Turf Reinforcement Mats available from Profile Products or equal on the embankments of sediment basins; immediately following construction. (See pages 5.19 to 5.41 of the Bluebook).

l) Install Geosynthetic Turf Reinforcement Mats available from Profile Products or equal in temporary diversion ditches within two days of construction to stabilize the ditch.

m) Install floating water skimmers connected to the outlet riser pipe in sedimentation ponds (See attached diagrams).

n) Install sediment filter bags on the downstream end of the outlet pipe. (See page 5.16 of the Bluebook).

o) Design sedimentation pond to maximize the sediment residence time. (See pages 5.19 to 5.41 of the Bluebook).

p) Address the disposal or storage of sediment cleaned from sediment control devices, sediment ponds, ditches, and drainage inlets.

q) Stabilize construction access roads with crushed stone, item 4, etc.

r) Assign a dedicated and trained crew to maintain and repair erosion and sediment control measures daily.

s) Install hydroseed & erosion control matting on all disturbed slopes 3H:1V or steeper.

t) Follow NYSDEC guidelines which limit the maximum soil disturbance area to 18 acres at any given time. Temporary stabilization must be utilized in inactive areas to manage the amount of active open soil disturbance.

As described in the DEIS, the site contains slopes >25% (±4.34 Acres) and these areas are depicted on the revised Site Plan. The Town Zoning Code (§235-10.6– Stormwater Pollution Prevention Plans) provides that the alteration of these steeply sloped areas may increase potential risks of erosion, sedimentation, landslides, and the degradation of scenic views.

The updated SWPPP addresses these potential risks through the proposed Erosion and Sediment Control design for the Proposed Action by, establishing the control measures to be implemented during construction for potential erosion and sedimentation migration of disturbed soil areas. In most instances, the areas of slopes >25% will be cut down to create a greatly reduced slope for the installation of site improvements such as the building or paved drive aisles and in some instances proposed vegetated areas. If within vegetated areas, stabilization will be established with various vegetation types and utilize erosion control matting on slopes greater that 3:1.

The implementation of the proposed construction phasing, along with pre- and post-construction erosion controls and drainage improvements have been designed to alleviate the potential creation of safety concerns associated with potential subsidence, road washouts, landslides, flooding, or avalanches as noted in the Town Code, and excessive road or driveway grades are not proposed.

5. Impacts to soils would be minimized through best management practices, erosion control measures, and sediment control measures. To reduce and slow weathering, erosion, and surficial sloughing of temporary and permanent slopes, the following erosion control measures will be implemented:

    a) 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.

    b) Excavation of cut slopes would be limited during the wet season (typically spring and fall seasons) to minimize erosion.

    c) Concentrated surface water or significant sheet flow would not be discharged onto temporary or permanent slopes.

    d) Groundwater seepage, if encountered during construction, would be collected and discharged in accordance with the SWPPP.

    e) Surface water runoff would be properly contained and channeled in accordance with the SWPPP.

    f) Removal of existing natural vegetation will be limited to active construction areas.

g) Surface water and drainage from impervious surfaces would be directed to appropriate stormwater facilities.

In addition, to these measures, the Proposed Action's Stormwater Pollution Prevention Plan and Project Plans identify additional erosion and sediment control measures that will be implemented. The erosion and sediment control measures would be designed in accordance with the New York State Standards and Specifications for Erosion and Sediment Control.

6. Lateral stability for neighboring sites. All work will also be performed so as not to adversely impact any existing nearby structures, roadways, and utilities to remain. Protection of these elements will be provided as necessary during all construction activities at the Project Site.

   All excavations will be properly sloped and/or braced in conformance with applicable OSHA regulations including, but not limited to, temporary shoring, utilizing trench boxes and/or proper benching. The contractor will be responsible for maintaining the stability of the soil and rock excavations, and special attention shall be given to properly protecting cut rock surfaces. Soil erosion and sediment control measures will be implemented to maintain lateral stability for soil adjacent to neighboring sites. These soil erosion and sediment control measures have been designed in accordance with the New York State Standards and Specifications for Erosion and Sediment Control.

7. Adverse impacts to onsite soils, agricultural soils, hydric soils, or lands. Best management practices will be employed to mitigate potential impacts to the soil during site preparation and earthwork operations. The excavation, handling, redistribution, and potential disposal of soils from the site will comply with any applicable requirements of the NYSDEC Part 360 regulations. Regarding hydric soils, the proposed action will result in an increase of approximately ±0.27 acres of wetlands, including the removal of ±0.209 acres of USACOE wetlands and the addition of ±0.5 acres of wetland mitigation planting area that will be provided.

8. The underground storage tanks and septic systems associated with single family dwellings on the Project Site identified in the ESA are to be capped and decommissioned in accordance with DEC and NYS regulations. Refer to Appendix L, Environmental Site Assessment, of the FEIS for additional information.

Based on the foregoing, the Planning Board finds that as to Soils, the Proposed Action 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.

Topography

Existing Conditions

Existing topographic conditions on the Project Site are described from Page 48 in the DEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to Topography from grading, cutting and filling, changes in drainage patterns and stormwater management.

Construction of the Proposed Action will require substantial earthwork, requiring approximately 87.66 acres of soil disturbance. Within the limits of disturbance, the following existing slopes will be disturbed:

Slope Category	Area Disturbed (acres)	Percent of Area Disturbed (%)
0-15%	69.48 acres	79.26 %
15-25%	13.87 acres	15.82 %
25-50%	4.25 acres	4.94%
50-100%	0.06 acres	0.07%
Total	87.66 acres	**100%**

In addition, construction will require the import and grading of approximately 860 cubic yards of fill material. Cutting and filling and grading of the areas of the Project Site to be disturbed will occur to accommodate the Proposed Action's buildings and improvements and to establish drainage patterns that are generally consistent with existing conditions.

Warehouse 2 was originally set at a lower finish floor elevation (FFE), and the retaining walls east and west of the building were higher. However, the FFE was raised to reduce the required cut on site, which in turn reduced the height of the retaining walls to the east and west of the larger building. This also increased the height of the retaining wall south of Warehouse 2, which minimizes the disturbance to the wetlands to the south. The finished floor for Warehouse 1 is set at elevation 424.5; for Warehouse 2 the finished floor is set at elevation 444.5; Constructing the two buildings at varying grade levels helps with creating a stormwater design that can satisfy each building individually and the Project Site as a whole.

The potential impacts associated with this land disturbance include erosion and sedimentation during construction affecting downstream surface waters and wetlands. Additionally, changes to topography as a result of the extensive earthwork required have the potential to permanently change drainage patterns on the Project Site and cause adverse impacts to undisturbed portions of the Project Site, including onsite wetlands, as well as to nearby and downstream properties and resources. There will be no impacts to the nearby municipal water tank from grading for the Proposed Action.

Mitigation Measures

Potential impacts on Topography through construction of the Proposed Action will be avoided or minimized to the greatest extent possible. Mitigation measures will include the following:

1. The Project Site has a combination of wetlands and areas of steep slopes. Based on the size of the proposed development, large areas of cut and fill are unavoidable for construction. The proposed site improvements have been designed to almost entirely avoid wetlands, while also limiting steep slopes created by the proposed development. Proposed retaining walls and 3:1 slope grading will to

reduce the area of disturbance and potential wetlands disturbance. The building elevations were evaluated and revised throughout the initial design process to minimize the net cut-fill to the maximum extent possible.

2. As discussed in detail in relation to Soils, adequate soil erosion measures using the Town Enhanced Erosion and Sediment Control Guidelines will be undertaken to protect sloped areas during and after construction. These measures include, but are not limited to, the following: slope protection measures shall be applied within 3 days after earthmoving on a particular slope is complete, flexible growth medium and hydraulically applied bonded fiber matrix shall be applied where applicable, and equipment tracking from top to bottom for bare slopes to be protected shall be performed. Refer to the SWPPP and Project Plans provided in Appendix E and F to the FEIS for more detail.

3. As previously mentioned, there are several retaining walls proposed throughout the site per the Retaining Wall Exhibit in Appendix F. The retaining walls will exceed three feet in height and will therefore require a design by a licensed New York State Structural Engineer. Retaining walls are anticipated to be modular block walls utilizing rectangular blocks of an earth tone color (light/dark slate gray) to complement the proposed buildings. The integrity of the retaining walls will be maintained, and inspected once a year, or as indicated by the wall manufacturer. The New York State Structural Engineer designing the retaining walls on the site will work closely with the project's Geotechnical Engineer to coordinate selection of soil types and data pertinent to said soils. Safety is a top priority, and the engineer designing the retaining wall will install safety fences on walls over 3 feet in height in addition to any other necessary safety measures.

4. Berms will be constructed for landscape screening and sound attenuation along the northwest side of the site bordering Beaver Dam Road. See Project Plans. There are two berms: one closer to Warehouse 2 and the other closer to the Trailer Parking Area. Both berms will be landscaped primarily with evergreen trees, as well as some deciduous trees and the berms peak at approximately 80 feet in height consistent with the recommendations of the Town's landscaping consultant. As for sound attenuation, on the southwest side of Warehouse 2 a sound wall will also be provided that measures 15 feet in height. This wall will act as a sound barrier and will reduce the sound produced from warehouse operations to ensure compliance with local and state requirements.

5. The access road to access a fire tank on the northern portion of Site will be graded so that it will match the existing grades at the point of leaving the Project Site. A proposed berm similar to the large hill that already exists will be constructed adjacent to the access road. As such, minimal road maintenance is expected during construction and in the future. An access road maintenance agreement put together with input from the Town of Montgomery will be provided as a condition of any approval by the Planning Board.

6. The size of the proposed disturbance requires the preparation of an erosion and sediment control plan, which is included in the Project Plans in Appendix F to the FEIS. As discussed in relation to Soils, due to the size/scope of the Proposed Action, construction will be phased and will cannot be staged in such a way to limit soil disturbance below the 5-acre threshold at one time. It is understood by the Project Sponsor that the Proposed Action will require a waiver of the 5-acre limit by the Town.

The Soil Erosion & Sediment Control Plans have been designed in accordance with the Town's General Enhanced Stormwater Erosion and Sediment Control Plan for Large Projects, as well as the New York State Standards and Specifications for Erosion and Sediment Control (The Bluebook). The Plans and practices have been designed to help limit soil erosion and minimize sediment impacts from construction activity involving soil disturbance. Some of the mitigation measures (See discussion of Soils above for additional detail) will include:

- Stabilized construction entrance
- Concrete washout areas
- Soil Stockpiles
- Silt fence
- Temporary sediment basins and diversion swales
- Inlet protection
- Slope stabilization with flexible growth medium or hydraulically applied bonded fiber matrix
- Equipment tracking for bare slopes
- Water skimmers and sediment filter bags for outlet of sediment basins

7. Finally, as discussed above in relation to Soils, phasing construction will assist in mitigating the amount and location of soil movement and the potential for erosion impacts. Construction will be undertaken in accordance with the SWPPP and Site Plans provided in Appendices E and F to the FEIS. regarding construction of each phase.

Based on the foregoing, the Planning Board finds that as to Topography, the Proposed Action 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.

Groundwater

Existing Conditions

Existing conditions for Groundwater on the Project Site are described from Page 55 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to Groundwater from proposed drainage facilities and treatment methods to be used to treat runoff (including run-off from hot spots) and long-term maintenance and ownership of proposed drainage facilities. The Adopted Final Scope required the DEIS to consider "methods to treat ice/snow from all parking areas and the measures to keep contaminants/soils from dispersing off site and into groundwater." It further required the evaluation of potential impacts from fuel and oil spills into groundwater. These potential impacts were required to be discussed and analyzed in the context of the nearby Town well and underlying aquifer. As indicated in the DEIS and FEIS, existing wells are to be abandoned in accordance with NYSDEC, NYSDOH, and AWWA requirements to prevent any potential impacts to the nearby Town well and underlying aquifer.

Mitigation Measures

Potential impacts to Groundwater from the Proposed Action will be avoided or minimized to the greatest extent possible. Mitigation measures will include the following:

1. The primary method to treat snow will be to remove it to seeded lawn areas where it can naturally melt and be absorbed by the ground below. Ice removal and prevention will be accomplished by utilizing road salt while implementing best management practices to reduce potential impacts of salt as identified in the report by the Dutchess County EMC and the Cary institute of ecosystems studies entitled "road salt, the problem, the solution, and how to get there (2010)". Refer to the SWPPP for more information. Salt notes were also added to Sheet 7 of the Site Plan set describing the procedures to be used on site. No storage of salt or other deicing materials will occur on the Project Site.

2. To prevent any potential impacts to groundwater as a result of hot spot runoff which includes potential fuel and oil spills several pretreatment techniques will be used as specified and required by the NYSSMDM. Those techniques include grass filter strips wherever possible. Where that is not feasible, Manufactured Treatment Devices and basin forebays will be provided (See Appendix E to FEIS) to capture all potential pollutants contained in the hot spot runoff prior to entering a stormwater system and ultimately being discharged from the system to infiltrate back into the ground and groundwater.

3. The Proposed Action will feature drainage facilities that are to be designed per NYSDEC and Town regulations including the preparation and implementation of a SWPPP to treat stormwater runoff prior to recharge and capture any potential erosion that could contaminate the groundwater as is further detailed in the Stormwater Management section below. A waiver will be necessary from the NYSDEC's 5-acre disturbance limit due to the size of the development (refer to the full SWPPP included within Appendix to the FEIS). An operation and maintenance manual will also be provided that will specify best management practices to reduce potential impacts of salt used for road and parking area snow removal identified in the report by the Dutchess County EMC and the Cary institute of ecosystems studies entitled "road salt, the problem, the solution, and how to get there (2010)".

4. Permeable areas, such as the wetlands on the Project Site, will be maintained and protected with silt fence, retaining walls, and additional measures to make sure there is no contamination and/or damage from the on-site construction. Low impact development techniques such as the preservation of natural areas (existing wetlands) prior to construction, soil restoration after construction, temporary diversion swales and outlet stabilization will be used during the construction phases of the Proposed Action, particularly when it comes to the construction of the warehouse structures and road construction.

Based on the foregoing, the Planning Board finds that as to Groundwater, the Proposed Action 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.

<u>Surface Water and Wetlands</u>

Existing Conditions

Existing conditions for surface water and wetlands on the Project Site are described from Page 58 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to wetlands, wetland adjacent areas and other surface waters. The potential impacts on wetlands, adjacent areas and other surface waters evaluated by the Project Sponsor are discussed from Page 61 of the DEIS.

The Proposed Action will result in the disturbance of approximately 0.209 acres of the existing 14.00 acres of wetlands on the Project Site due to earthwork necessary for the achievement of finished grades for each of the proposed buildings. The Project Sponsor is seeking coverage from the US Army Corps of Engineers for this disturbance under Nationwide Permit #39. Additionally, the Project Sponsor had applied to NYSDEC for a permit for these impacts and to the wetlands 100-foot adjacent area based upon new regulations adopted by NYSDEC, which have recently been annulled.

Stormwater runoff from developed land is recognized as a significant contributor of pollution that can adversely affect the quality of the receiving waters. Development of the Project Site would create impervious areas, which can alter the hydrologic characteristics of a watershed and could have impacts on water resources, since pollutants and sediment carried by stormwater runoff can degrade the water quality of receiving waters. The potential pollutant sources during construction of the Proposed Action include sediment, vehicle fuels and lubricants, chemicals associated with building construction and building materials. The potential pollution sources after construction include sediment, debris, litter, and potential auto fluids from roadways.

Mitigation Measures

1. With respect to wetland impacts, the Project Sponsor will provide an additional .5± acres of wetlands to mitigate the loss of approximately 0.209 acres due to construction of the Proposed Action. This mitigation plan will be undertaken pursuant to USACE coverage of the disturbance under NWP #39 and, if required, a NYSDEC ECL Article 24 permit. No direct discharges to wetlands are proposed and on-site drainage patterns and flows have also been maintained to mimic existing conditions. NYSDEC has indicated that the disturbance to wetlands and the 100-foot adjacent area, with the mitigation, plan, would meet standards for issuance of an ECL Article 24 permit if it is determined that the wetlands are jurisdictional in light of the recent annulment of NYSDEC's wetland regulations. The Project Sponsor will be expected to obtain either a permit from NYSDEC or a written determination that no permit is required as a condition that must be satisfied prior to any signing of the Proposed Action's Project Plans, as may be approved by the Planning Board.

2. For mitigation of potential stormwater impacts to wetlands and other surface waters, including impacts to wetlands, a SWPPP for the Project Site has been prepared and will be implemented to conform to the requirements of the current GP-0-20-001 SPDES General Permit for Stormwater Discharges from Construction Activity as set forth by NYSDEC and is included as Appendix E to the FEIS. The SWPPP identifies green infrastructure and stormwater management practices to be implemented during and after construction to minimize stormwater related impacts. For example, the eight bioretention areas will work to absorb runoff created from construction and from operation of the Proposed Action with plenty of vegetation and mulch. Infiltration bases will be used to store runoff by having depths greater or equal to the 100-year water surface elevation. This means each basin on the Project Site is designed to handle the 100-year storm. These basins will also have the capacity to hold the runoff produced from construction and project operation as well as provide a natural habit for local wildlife. The Operation and Maintenance manual further details the

maintenance process for the proposed stormwater improvements and maintenance practices to reduce potential impacts of salt used for road and parking area snow removal including best management practices identified in the report by the Dutchess County EMC and the Cary institute of ecosystems studies entitled "road salt, the problem, the solution, and how to get there (2010)". Refer to the SWPPP for more information. See discussion below. Refer to the SWPPP for more information. Salt notes were also added to Sheet 7 of the plan set describing the procedures to be used on the Site.

Based on the foregoing, the Planning Board finds that as to Surface Water and Wetlands, the Proposed Action 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.

Stormwater Management

Existing Conditions

Existing conditions for stormwater management on the Project Site are described from Page 63 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with stormwater management, which are discussed from Page 63 of the DEIS for the Proposed Action.

The Proposed Action will result in the temporary disturbance during construction of approximately 87.66 acres of the Project Site, creating the potential for significant downstream erosion and sedimentation impacts to wetlands and receiving waters. Once constructed, the Proposed Action will include approximately ±51.91 acres or ±52.72% impervious cover of the Project Site, resulting in the potential for contaminated runoff into wetlands and receiving waters from pollutants deposited from the atmosphere, leaked from vehicles, or windblown in from adjacent areas. During storm events, these pollutants quickly wash off surfaces and are rapidly delivered into downstream waters.

Mitigation Measures

1. The stormwater management measures proposed for the Project Site have been designed per the New York State Storm Water Management Design Manual (NYSSMDM) and the Project Sponsor will implement a SWPPP designed to conform to the requirements of the current GP-0-20-001 SPDES General Permit for Stormwater Discharges from Construction Activity as set forth by NYSDEC. See SWPPP and Project Plans, Appendices E and F to the FEIS.

   A proposed stormwater collection, conveyance and treatment system will be provided as part of the Proposed Action. This will consists of a series of catch basins and pipes, bioretention basins, above ground infiltration basins and detention basins which collect and treat stormwater run-off before discharging into the existing drainage system in Beaver Dam Road or upstream of the on-site wetlands. These systems have been designed specifically for the conditions of this Site to treat and handle stormwater generated as a result of 1-, 10-, 25- and 100-year storms.

Stormwater improvements proposed for the Site will protect water quality, minimize runoff, and provide channel, overbank flood and extreme flood protection per the SPDES permit. Peak flows will be maintained or reduced and runoff reduction will be achieved through the conservation of natural areas, disconnection of impervious surfaces (rooftops), and a decrease in the widths of the proposed private roads. The Proposed Action has been designed to minimize impervious surfaces as much as possible. The United States Department of Agriculture Natural Resources Conservation Service's publication Urban Hydrology for Small Watersheds, Technical Release 55 quantifies the average percent of impervious cover for an industrial-type development as 72%, as contrasted to the ±52.72% included in the Proposed Action.

Although the proposed stormwater improvements have been designed to treat up to a 100-year storm, the impacts of a potential 500-year storm were evaluated by the Project Sponsor as well. While it would be impractical to design for such a storm, certain measures such as the direction of the onsite basins' emergency spillways discharging towards the wetlands were considered in an attempt to prepare the Project Site for worst case scenario conditions. In addition, the centralized location of the majority of the projects stormwater management being adjacent to the existing wetlands would allow for a safe and natural discharge point that would help reduce flooding to the adjacent roads and areas. During the 500 year storm event, runoff through the basin emergency spillways will range from 0.06 fps to 2.25 fps. As the emergency spillways will be rip-rap lined and the areas below the emergency spillways will be stabilized and planted with a wildflower and grass mix, the potential for erosion downstream of the emergency spillways is minimal.

Overall, the Proposed Action has been designed to minimize downstream effects from stormwater run-off following the development of the Project Site. The stormwater management system will control flows and discharge maintained at lower flow rates in the overall post-development condition as compared to pre-development conditions.

The required Water Quality Volume (WQv) and Runoff Reduction Volumes (RRV) are proposed to be provided on the site using a series of methods. The first of which are identified as "Green Infrastructure Planning General Categories and Specific Practices" (Table 3.1), "Runoff Reduction Techniques" (Table 3.2) and "Planning Practices for Preservation of Natural Features and Conservation" (Table 5.1) within the NYSSMDM and are all accomplished in the planning portion of the design project. This first series of methods include the conservation of natural areas (wetland areas) and Soil Restoration (all disturbed areas are to be restored in accordance with the soil restoration requirements in Table 5.3 of the NYSSMDM). All these methods can be considered as low impact development strategies.

The second series of methods proposed for this design to provide the required WQv and RRv's are the pretreatment methods. After runoff is generated on site following a storm even runoff is either conveyed via a grass filter strip (a pretreatment method which is proposed for three of the proposed bioretention basins) or it is captured and conveyed by the proposed catch basins and pipes on site to a manufactured treatment device and/or forebay prior to being discharged to a basin. These pretreatment methods all provide greater than or equal to the required amount of WQv as is detailed by the NYSSMDM.

The final method shall be performed in the Bioretention and infiltration basins themselves. As is described in Table 3.3 "Stormwater Management Practices Acceptable For Water Quality" of the

NYSSMDM an infiltration basin is listed and described as " an infiltration practice that stores the water quality volume in a shallow depression, before it is infiltrated into the ground, and a bioretention basin as " a shallow depression that treats stormwater as it flows through a soil matrix and is returned to the storm drain system". The basins proposed have been sized to meet or exceed the minimum requirements in the NYSSMDM and the sizing calculations are provided within the SWPPP.

Additionally, stormwater quantity mitigation will be provided using an above ground detention basin. The above ground basin proposes to store and slowly release captured runoff over time (extended detention). Further, velocity dissipating rip-rap outlets have been designed to minimize end of pipe erosion.

2. The proposed stormwater basins will be used as temporary sediment basins during construction. Direct access shall be provided to the basins for maintenance and rehabilitation. Following completion of the project, direct access will be provided to the basins for maintenance and rehabilitation which will include the following:

    a) Mowing grass, at least twice annually. Grass clippings and other debris will be removed from the basin area after each mowing.

    b) Removal of all wooded brush and trees. Reestablish good grass cover.

    c) All leaves will be removed as needed in the fall.

    d) Restore and reseed all eroded areas and gullies along embankment areas. Any reoccurring erosion would be inspected by a licensed professional engineer to determine probable cause and remedial action.

    e) General maintenance and repairs of the stormwater outlet and inlet structures.

    f) Sediment removal from forebay and bioretention every five to six years or when 50% full.

3. All construction activity will be performed in accordance with New York State Standards and Specifications for Erosion and Sediment Control. The erosion control plans include phasing, details, and the timing of the erosion and sediment control measures to be implemented on site. To avoid siltation (process of sediment, such as silt and fine sand, settling and accumulating in bodies of water), during construction the following erosion control practices are to be used:

4. The proposed erosion control measures (many of which can be classified as low impact development strategies) are to be implemented include the following temporary measures:

    a) Temporary Slope Protection: General Contractor to perform equipment (cat) tracking or excavator bucket compaction for bare slopes to be protected. Slopes must be tracked from the top of the slope to the bottom of the slope. (See page 4.56 of the bluebook).

    b) Silt fencing: a barrier of geotextile fabric installed on the contours across a slope in order to intercept sediment laden runoff from small drainage areas of disturbed soil. Silt fencing will reduce runoff velocity and effect deposition of transported sediment loads.

c) Temporary diversion swale: this will prevent runoff from entering disturbed areas by intercepting and diverting it to a stabilized outlet or to intercept sediment laden water and divert it to a sediment trapping device.

d) Stone check dams: these small barriers or dams are constructed of stone or gravel across a drainage way to reduce erosion in a drainage channel by restricting the velocity of flow in the channel. This practice is used as a temporary or emergency measure to limit erosion by reducing velocities in small open channels.

e) Fabric Drop Inlet Filter Protection: these permeable barriers are installed around inlets in the form of a fence, berm, or excavation around an opening, trapping water and reducing the sediment content of sediment laden water by allowing it to settle out. These prevent sediment laden water from entering the storm drain system through the inlets.

f) Water Bar: A temporary ridge constructed diagonally across a sloping road or utility right-of-way that is subject to erosion to limit the accumulation of erosive velocity of water by diverting surface runoff at pre-designed intervals.

g) Fiber Roll: A Fiber roll is a coir (coconut fiber), straw, or excelsior roll encased in netting of jute, nylon, or burlap to dissipate energy along streambanks, channels, and bodies of water to reduce sheet flow on slopes.

h) Temporary sediment basins with porous baffles, riser and skimmer: during construction, select stormwater basin areas will be used as temporary basins to intercept sediment laden runoff and trap and retain the sediment in one location.

i) Temporary sediment trap: during construction, a temporary sediment trap is formed by excavation and/or embankment to intercept sediment-laden runoff and trap the sediment in order to protect drainageways, properties, and rights-of-way below the sediment trap from sedimentation.

j) Stabilized construction entrance: during construction a stabilized pad of aggregate underlain with geotextile will be located at the point site access where traffic will be entering or leaving the site to or from Neelytown Road. This stabilized construction entrance will reduce or eliminate the tracking of sediment onto the state highway.

k) Temporary low-level filter: during construction of a perforated pipe section will be installed at the low-level outflow of the outlet structure in each stormwater basin and wrapped with gravel, then with filter fabric to restrict sediment laden run-off from exiting the Project Site at the discharge points.

l) Slope stabilization matting: this biodegradable matting will be installed on slopes 2:1 or steeper, in conjunction with seeding to provide temporary stabilization until vegetation is established and stabilizes the slope.

m) Concrete Truck Washout: An excavated or above ground pit with a liner used to wash concrete truck mixers and equipment in order to prevent highly alkaline runoff from entering storm drainage systems or leaching into the soil. Concrete washout facilities shall be inspected daily. Damaged or leaking facilities shall be deactivated and repaired or replaced immediately. Excess rainwater that has accumulated over hardened concrete shall be pumped to a stabilized area, such as a grass filter strip. Accumulated hardened materials shall be removed when 75% of the

storage capacity of the structure is filled. The plastic liner shall be replaced with each cleaning of the washout facility.

n) Soil stockpiling: existing site soils (topsoil and/or subsoils) will be stockpiled for potential to reclaim on site. The stockpiles will be surrounded by silt fencing to prevent migration of the material.

5. Permanent Stormwater Management Measures will include:
   a) Rock outlet protection: an area of rock protection will be placed at the outlet end of the proposed culverts to reduce the depth, velocity, and energy of water, such that the flow will not erode the receiving downstream areas.

   b) Retaining walls: structural walls will be constructed in select locations adjacent to parking areas, access roads, wetlands and property lines in order to minimize soil movement, retain soil in place and prevent potential slope failures due proposed elevation changes.

   c) Site stabilization: all disturbed areas will be stabilized with either a permanent vegetative cover (seeded, sodded or planting beds) or with site elements such as buildings, roadways, parking areas, driveways, and sidewalks.

6. Temporary Measures to be Converted to Permanent Soil Erosion and Sediment Control Measures will include:

   a) Temporary Sediment Basin: A basin designed to intercept sediment-laden runoff by ponding it and allowing sediment to settle out. Since these basins will be converted to permanent stormwater basins once the site is stabilized, they will be excavated and graded as shown on the approved Soil Erosion and Sediment Control Plans. The outlet control structures will be fitted with temporary sediment risers to prevent sediment laden runoff from leaving the basins and entering the storm drain system. Sizing calculations were performed to ensure the basins could adequately handle the required amount of storage and can be found below in the "Temporary Storage" section of this report. Regarding maintenance of the basins, sediment shall be removed from the basin when it reaches the specified depth for cleanout noted on the plans, which is 50% of the capacity of the sediment storage zone. This sediment shall be placed so that it will not erode from the site. Once the temporary sediment basins are no longer required, they shall have all accumulated sediment removed with vacuum excavation trucks for best results converted into the permanent proposed basin.

   b) The construction contractor will be responsible for complying with all specifications and conditions of the SWPPP and to be responsible for maintenance during construction. In addition, a Certified Professional in Erosion and Sediment Control/Certified Professional in Stormwater Quality will oversee implementation of the SWPPP. Erosion and sediment control measures specified on the Erosion and Sediment Control Plan have been developed for temporary controls during construction and permanent controls to be in place and functioning upon final stabilization. The Owner is responsible for operation and maintenance upon completion.

   c) The construction sequence for the Proposed Action will be separated into several different phases to minimize impacts. A description of the phasing for site construction within the Full set of plans can be found in Appendix F to the FEIS.

7. Accompanying the SWPPP, the Project Sponsor will prepare a Notice of Intent ("NOI") to request coverage under NYSDEC's General Construction Stormwater Permit. As the Town of Montgomery is a regulated Municipal Separate Storm Sewer System (MS4) operator, a MS4 SWPPP Acceptance Form will be required to indicate the Town's acceptance of a SWPPP it has reviewed. When the construction project is complete and has met the requirements of the construction permit, a Notice of Termination ("NOT") form will be completed and submitted to the NYSDEC and the MS4.

8. As a condition of any Planning Board approval of the Proposed Action, the Project Sponsor will be required enter into a stormwater maintenance agreement and easement with the Town to ensure that all of the stormwater mitigation measures are properly implemented and maintained in perpetuity.

Based on the foregoing, the Planning Board finds that as to Stormwater Management, the Proposed Action 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.

Wastewater Management

Existing Conditions

Existing conditions for wastewater management on the Project Site are described from Page 72 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with wastewater management, which are discussed from Page 74 of the DEIS for the Proposed Action. The total sanitary sewer design demand for the Proposed Action is estimated to be no more than 5,205 gpd, assuming a warehouse classification. Considering a 20% reduction for installation of water-saving plumbing fixtures which will be installed as part of the Proposed Action, the estimated demand is 4,164 GPD.

The Proposed Action will be served by public sewer and treated at the Montgomery Sewage Treatment Plant and the Project Sponsor has indicated that sufficient capacity exists to serve the Proposed Action, having provided a will-serve letter included in Appendix N to the FEIS. Collection of the flows from the Project Site are proposed by a combination of a pumped and gravity sanitary sewer system. Due to the existing force main within Neelytown Road, pump stations will be required to provide sewer service for the proposed development. The pump stations and force mains will convey sewage flows from the Project Site to proposed sanitary manholes east and west of the Site along Neelytown Road.

The sewer mains, manholes and pumping stations will be constructed per Town of Montgomery and NYSDEC requirements. The proposed sanitary sewer collection system will be reviewed by the Town Engineer and Sewer District Superintendent to assure it conforms to Town specifications and the Orange County Department of Health. It is not anticipated that there would be any significant adverse impacts associated with the construction of the wastewater collection system.

Mitigation Measures

No mitigation measures are proposed as wastewater will be discharged to the municipal wastewater treatment plant, where it will be treated prior to discharge.

As noted above, the existing individual wastewater treatment systems on the former residential properties will be abandoned in accordance with applicable requirements.

Based on the foregoing, the Planning Board finds that as to Wastewater Management, the Proposed Action 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.

Water Supply

Existing Conditions

Existing conditions for Water Supply on the Project Site are described from Page 75 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with water supply, which are discussed from Page 77 of the DEIS for the Proposed Action.

The total water supply demand for the Proposed Action is estimated to be no more than 5,205 gpd, assuming a warehouse classification. Considering a 20% reduction for installation of water-saving plumbing fixtures the estimated demand is 4,164 GPD. Water supply for the Proposed Action would be provided by the Water Department of the Town of Montgomery, which has confirmed the availability of sufficient capacity to meet this demand. A will-serve letter from the Town for the Proposed Action is included in Appendix N to the FEIS.

To provide water to the Project Site, a two connections will be required to tie into the existing 12-inch water main beneath Neelytown Road. These proposed connections will be installed under an existing dirt road driveway from Neelytown Road and into the Site to provide service to the 2 proposed buildings on the Site. Additionally, the site will be irrigated for landscaping.

Based on basic charting of the available municipal water supply (flow test data) and the minimum sprinkler demand shows the incoming water supply will not be enough to meet the sprinkler demands of the proposed buildings. Accordingly, a 180,000-gallon external water tank will be constructed between the two buildings dedicated to fire protection water supply.

The fire suppression sprinkler system will be an ESFR system to accommodate up to Class IV materials without an in-rack sprinkler system. For each building, the floor will require 1,500 GPM inside plus a 500 GPM outside hose stream allowance, with an 8" main coming into the building.

Mitigation Measures

To address any potential impacts associated with the Water Supply for the Proposed Action, the following mitigation measures will be undertaken:

1. Water Supply for the Proposed Action will be obtained from the Water Department of the Town of Montgomery from two connections to tie in to the existing 12-inch water main beneath Neelytown Road.

2. Conservation measures, such as low flow plumbing fixtures referenced in Appendix N to the FEIS, will be employed to reduce demand for water supply and energy usage.

3. Indoor Water Use Reduction Methods:

    a) Intent: Maximize water efficiency within buildings to reduce the burden on municipal water supply and wastewater systems including process water use and process wastewater generation.

    b) The proposed building will employ strategies that use 20% to 30% less water than the water use baseline calculated for the building. The domestic water baseline (not including irrigation) is determined by the Energy Policy Act of 1992 fixture performance requirements.

    c) Proposed Technologies & Strategies: Use high-efficiency, low flow fixtures, as well as occupant sensors to reduce the potable water demand shall be implemented. The intent is to maximize water efficiency within each building to reduce the burden on municipal water supply and wastewater systems.

    d) Based on basic charting of the available municipal water supply (flow test data) and the minimum sprinkler demand shows the incoming water supply will not be enough to meet the sprinkler demands of the proposed buildings. As such, a 180,000-gallon external water tank is proposed between the two buildings dedicated to fire protection water supply.

    e) The fire suppression sprinkler system will be an ESFR system to accommodate up to Class IV materials without an in-rack sprinkler system. For each building, the floor will require 1,500 GPM inside plus a 500 GPM outside hose stream allowance, with an 8" main coming into the building.

    f) The seven (7) existing private wells on the Project Site will be properly abandoned in accordance with NYSDEC, NYSDOH, and AWWA regulations.

Based on the foregoing, the Planning Board finds that as to Water Supply, the Proposed Action 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.

<u>Traffic and Transportation</u>

Existing Conditions

Existing conditions for Traffic and Transportation on the Project Site are described from Page 78 of the DEIS for the Proposed Action and in the Traffic Impact Study ("TIS") attached as Appendix G to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Traffic and Transportation, which are discussed from Page 78 of the DEIS for the Proposed Action. The Final DEIS Scope for the Proposed Action required the Project Sponsor to consider potential impacts including "a description of the adjacent roadway network and any potential impact to these roadways from the Proposed Action's operations;" any potential impacts from "[t]ruck queuing waiting to deliver to the warehouses; and "potential impacts of construction and site preparation traffic;" "and any unavoidable impacts from the Proposed Action."

The Proposed Action has the potential to substantially increase traffic above present levels. Access to the Project Site will be provided by Neelytown Road (for passenger vehicles and truck traffic) and Beaver Dam Road (for passenger vehicles only). To determine the potential for traffic impacts resulting from the Proposed Action, the TIS analyzed the potential impact on local traffic from the Proposed Action on levels of service of intersections that may be affected by projected traffic in 2027 and 2037, under scenarios where the Proposed Action is built ("Build Condition") and (not built ("No-Build Condition"). The analysis considered existing background traffic, project increases over time, and the addition of traffic from other anticipated development in the Town. To provide a conservative analysis, the traffic estimated to be generated by the Proposed Action was potentially twice what will likely occur.

Based upon the TIS, the Proposed Action is not expected to have significant adverse impacts on traffic (i.e., cause significant traffic delays) so long as recommended signal timing adjustments are made to traffic lights at certain intersections as mitigation for the Proposed Action. To address potential traffic impacts on affected highway intersections, the Proposed Action will include installing radar detection equipment at the intersections of Route 208 with the I-84 ramps and with Hawkins as requested by the New York State Department of Transportation. The radar detection equipment at those intersections will dynamically adjust traffic lights, reduce congestion, and enhance safety by managing signal timing, extending green lights for late vehicles, and providing real-time data for traffic flow optimization, even in bad weather.

Mitigation Measures

To address the potential impacts of the Proposed Action on Traffic and Transportation, the following mitigation measures will be undertaken:

1. All trucks (except personal vehicles) entering and leaving the Project Site during construction and operation of the Proposed Action will only use Neelytown Road.

2. During construction, a Construction Management Plan will be implemented to provide traffic control measures to minimize impacts from regular and bulk deliveries and to ensure that the prohibition against truck traffic on Beaver Dam Road is met and that construction routes designated by the Town are followed.

3. As identified in the TIS and shown on the Level of Service Summary Tables, similar LOS will be experienced at the study area intersections under future No-Build and future Build Conditions with the proposed warehouse development and recommended traffic signal timings.

   As discussed above and in the TIS, a conservative analysis was used for traffic that may be generated by the Proposed Action based on the "higher" Trip Generation Rates for Land Use Category – 130 Industrial Park in the traffic volume projections. Accordingly, results from the analysis are

approximately 2 times higher than typical ITE warehouse rates (ITE Land Use 150). In addition, while the type of warehouses uses are not known at this time (and the "higher" Industrial Park Trip Generation Rates were utilized), based on traffic surveys conducted at Hudson Crossing Industrial Park and The Home Depot Distribution Center located along Neelytown Road, the observed actual trip generation rates were approximately 1/3 lower than the aforementioned Trip Generate rate utilized in the Traffic Study.

In addition, the proposed Site driveways are not expected to significantly impact the area roadways or its traffic operation. The Site driveways require improvements to the roadway, which can be found in Appendix I of the TIS.

Based on the results of the analysis provided in the TIS, the following improvements will be undertaken:

- Potential signal timing changes at NYS Route 208 and I-84 WB On-Off Ramps based on future traffic projections/demand. These changes include an increased cycle length and greater allocation of green time to protected turn movements to reduce delay. Subject to review and approval of NYSDOT.

- Potential signal timing changes at NYS Route 208 and I-84 EB On-Off Ramps/Neelytown Road based on future traffic projections/demand. These changes include greater allocation of green time to the eastbound approach to reduce delay. Subject to review and approval of NYSDOT.

- Separate left turn lane and separate right turn lane for site entering traffic at Neelytown Road and Proposed Site Driveway 1 (northern-most driveway).

- The Neelytown Road and Proposed Site Access driveway should be monitored in the future for a potential traffic signal.

  Access to Beaver Dam Road has been restricted to passenger cars only (no truck traffic). The Traffic Impact study conservatively assumed 10% of the passenger car traffic to/from the north along Beaver Dam Road to account for traffic destined to the Site from the Village of Montgomery.

  Orange County Department of Public Works and New York State Department of Transportation (NYSDOT) both reviewed the Traffic Impact Study and provided comments including recommended improvements and which have been incorporated into the revised Traffic Impact Study.

  As identified in the updated Traffic Impact Study and shown on the Level of Service Summary Tables, with the exception of the intersection of NYS Route 208 and I-84 westbound ramps, similar Levels of Service will be experienced at the study area intersections under future No-Build and future Build Conditions with the proposed warehouse development with the mitigation measures outlined in Section III.J of the TIS.

  Additional detail has also been provided within Section G – Traffic and Transportation within the DEIS.

  A Sight Distance Evaluation has been conducted at each of the proposed site driveways showing the available Stopping Sight Distances (SSD) and Intersection Sight Distances (ISD) based on the

85th percentile travel speeds and shows that sufficient sight lines will be provided for all driveways provided certain vegetative clearing measures are undertaken. The Sight Distance Plans are contained in Appendix H of the TIS. Refer to Appendix G for the NYSDOT correspondence from Jason Brenner.

Furthermore, NYSDOT has requested proposed mitigation in the form of radar traffic detection cameras at the intersections of NYS Route 208 with the I-84 ramps and at the intersection of Route 208 with Hawkins Drive. The Applicant will be responsible for the design, procurement, and installation of these detectors.

Based on the foregoing, the Planning Board finds that as to Traffic and Transportation, the Proposed Action 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.

Noise

Existing Conditions

Existing conditions for Noise on the Project Site are described from Page 100 of the DEIS for the Proposed Action and in the Acoustical Study attached as Appendix G to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Noise, which are discussed from Page 105 of the DEIS for the Proposed Action. The Adopted Final Scope required that the DEIS "include a discussion of anticipated noise from the Proposed Action created by trucks, including but not limited to back-up beepers and couplers, doors slamming, refrigerated trailers, and operations. This will include discussion on hours and characteristics of operation of the Proposed Action (based on projected types of warehouse/distribution center tenants) and the movement of vehicles. Discussion of the location, type and number of utilities/mechanicals (HVAC, fans) and their location, e.g., rooftop, and noise generation will be included. The discussion will also consider the noise levels and potential impacts during construction as well as noise impacts due to blasting, if applicable." It further required the DEIS to evaluate, "where appropriate, potential noise impacts in accordance with government policy and guidance documents and reports, including but not limited to NYSDEC Program Policy for Assessing and Mitigating Noise Impacts (2000). At each receptor location, the potential noise impact of the Proposed Action will be determined using existing ambient noise levels and proportional modeling techniques. These will compare existing noise levels and future noise levels resulting from the Proposed Action, using appropriate data provided in the Traffic Impact Study and with consideration of the operational noise impacts, with various noise standards and guidelines including NYSDEC policy. The removal of existing natural barriers that could act as a noise barrier (e.g., wooded areas or natural berms) will be quantified and resulting impacts assessed. Noise levels generated by the Proposed Action and any associated potential impacts will be evaluated along all property lines of the Project Site and unavoidable impacts will also be discussed."

The Acoustical Study prepared by the Project Sponsor's consultant used the Town of Montgomery's Noise Law and NYSDEC's policy on "Assessing and Mitigating Noise Impacts" as the applicable noise standards for its analysis. The Town's Noise Law provision provides maximum sound level limits based on the

adjacent zoning district of the source and receiver. As the Project Site and surrounding properties are all zoned industrial, the limit for industrial zone sources to industrial zone properties is 70 dB(A) at all hours. These limits apply beyond the boundary of the source property; enforcement measurements are taken one foot beyond the boundary of the emitter's premises within the receptor's premises. In addition, Section 162-5(C)(2) of the Town of Montgomery Code limits impulse noise to no more than 80 dB in residential zones and 100 dB in any zone, when measured using peak response. Impulse limits apply at the applicable zoning district boundary.

NYSDEC's noise policy provides guidance for analyzing and minimizing the acoustical impact applicable to SEQRA review. These guidelines require comparison of the equivalent ambient sound level to proposed site sound emissions to determine the extent of any potential acoustical impact, if any. The NYSDEC guidance 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. The term "the most noise sensitive of receptors" is not defined but for purposes of this analysis is assumed to include the several nearby residences to the Site. Accordingly, to avoid adverse impacts, site sound must not exceed existing ambient sound levels for sensitive receptors.

To determine appropriate criteria for comparison to NYSDEC guidelines, two separate ambient sound surveys were carried out to document existing ambient sound levels in the area. Site visits occurred in March 2022 and December 2022 to become familiar with the area and obtain typical traffic sound levels near the Project Site. All three survey locations are along Beaver Dam Road. Location 1 was placed on Beaver Dam Road in the northern part of the Project Site to typify traffic flow sound as perceived by residences along the I-84 corridor, such as those north of the Interstate. Location 2 was placed on Beaver Dam Road near the southwestern part of the Site to typify ambient sound levels for receptors more remote from Interstate 84 and to capture the extent of intermittent traffic flow on Beaver Dam Road and Neelytown Road. Location 3 was located in between Locations 1 and 2, just west of the site and centrally located along Beaver Dam Road. Observations by the Project Sponsor's consultants during deployment and retrieval of the long-term monitors indicated that the acoustical environment was dominated by steady local and distant traffic flow and intermittent fauna noise at all measurement locations. The lowest average ambient sound levels were recorded at Location 2 on Beaver Dam Road and, to be conservative the levels used for comparison to anticipated noise impacts from the Proposed Action for purposes of compliance with NYSDEC's noise guidelines.

Projected noise from the Proposed Action was modelled based on sources including HVAC equipment and from truck movements around the Project Site. This included modelling based on a number of trucks operating at the same time on the Project Site.

Through the Acoustical Report prepared by the Applicant in Appendix I and the detailed discussion of potential noise impacts provided in Chapter 3 of the redlined DEIS (Appendix B to the FEIS), the Project Sponsor has demonstrated that the Proposed Action will comply with local and State requirements pertaining to offsite noise impacts. Overall, the Project Sponsor's analysis shows that any potential adverse noise impacts from the Proposed Action will be adequately mitigated. The Town's regulation of the hours for construction and the mitigation proposed will limit Town-exempted construction noise. Distance, site geometry, and the proposed noise control barrier and solid fence will sufficiently attenuate on-site HVAC and vehicle noise to have no significant negative effect on nearby uses. Noise modelling by the Project Sponsor's consultant demonstrates compliance with the Town's Noise Law at all adjacent property boundaries, including impulse noises. More critically, the Acoustical Report demonstrates that

the Proposed Action will not result in any significant impacts to any nearby sensitive receptors in compliance with NYSDEC noise guidelines, as site sound emissions will not materially exceed existing ambient, noise conditions.

Potential noise impacts from off-site truck routes are not anticipated as trucks are prohibited on Beaver Dam Road i as the Project Site has short access to I-84 and will use approved truck routes through an industrial area along already well-travelled roads. In response to comments received, the applicant has agreed to "shushers" to minimize potential noise impacts.

Mitigation Measures

To address the potential impacts of the Proposed Action on Noise, the following mitigation measures will be undertaken by the Project Sponsor:

1. During construction, as part of the Proposed Action's Construction Management Plan, the following noise mitigation measures will be undertaken to limit noise impacts to sensitive noise receptors:

    a) All heavy equipment operation will be limited to non-noise-sensitive daytime hours and follow allowable town construction hours if applicable.

    b) The amount of equipment operating near one receptor at a given time will be minimized.

    c) Construction activities will avoid exposing any one receptor to high sound levels for an extended period.

    d) Stationary equipment such as generators, compressors, and office trailers will be placed as far away as possible from receptors.

    e) Construction parking or laydown areas will be placed as far away as possible from receptors.

    f) Coordinate any high sound level construction activities with town representatives and provide advance notice to residences, as required.

    g) Specific noise issues can be individually evaluated for tailored noise mitigation recommendations should traditional methods above not be sufficient.

2. The Proposed Action will be constructed with the noise control barrier provided in the Project Plans. To be acoustically effective, the barrier will meet the following requirements:

    a) The barrier will be solid, without openings, and be of sufficient surface weight to force sound to travel over or around the barrier and not leak through it. The minimum surface weight for the barrier will be 7 lbs./ft2. Water drainage will be provided along the bottom of the barrier and it will be backfilled with gravel.

    b) The barrier will be constructed to at least 15 feet above grade and will be approximately 820 feet long. The barrier will connect to Warehouse 1 in the northern portion and extend around the truck court and to the south, as close to the paved area as feasible.

c) Appropriate materials of construction for the barrier will include 5/8-inch-thick sheet steel piling, precast or poured-in-place concrete, acoustical metal panels, or engineered wood. Other hybrid systems specifically manufactured for the purpose are also available with an internal absorptive face, but this feature is not necessary for this site.

d) The barriers, being solid, are designed to resist wind load. They will have engineered footings, the design of which has been overseen by structural professionals.

3. The Proposed Action will include construction of a solid 6-foot-tall fence along the east side of the eastern driveway. The fence will start at the retaining wall and travel southeast, approximately 1,445 feet. The fence will be solid, with no gaps, and will weigh at least 1 lbs./ft2. A fence is not needed in the northern portion of the site due to significant grading changes. Gaps along the bottom of the fence are acceptable to facilitate drainage. A commercial grade PVC fences will meet this requirement.

4. The Proposed Action will undertake the HVAC equipment plans as proposed and provide for maintenance , keeping in mind acoustical performance to ensure modelled results are realized.

5. "Shushers" to minimize potential noise impacts of on-site trailer moving equipment (i.e., back-up beepers) will be used during operations of the Proposed Action.

Based on the foregoing, the Planning Board finds that as to Noise, the Proposed Action 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.

Air Quality

Existing Conditions

Existing conditions for Air Quality on the Project Site are described from Page 113 of the DEIS for the Proposed Action and in the Air Quality Study attached as Appendix P to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Air Quality, which are discussed from Page 119 of the DEIS for the Proposed Action.

Asbestos Containing Materials ("ACMs") were identified by the Project Sponsor through a Pre-Demolition Asbestos Survey Report in several of the single-family homes that will be demolished on the Project Site in furtherance of the Proposed Action. This survey is included in Appendix P to FEIS. Mitigation measures to avoid and/or minimize potential air quality impacts are required as part of the removal of ACMs from these buildings prior to any demolition.

During construction, short term and localized impacts to air quality occurring may result from fugitive dust and construction equipment exhaust. Locations downwind of construction activities (generally, to the northwest) may be temporarily impacted in the absence of effective mitigation measures.

After the Proposed Action is constructed, there is potential for air quality impacts due to increased vehicle and truck traffic on and off of the Project Site. The Proposed Action does not include any

stationary air emission sources regulated, although there are such air emission sources at other facilities in the vicinity of the Project Site that contribute to background air quality conditions. The Project Sponsor's Air Quality Report and took background air quality conditions into account, finding that the Proposed Action's operations will not have a significant adverse impact on background air quality or jeopardize local attainment of applicable National Ambient Air Quality Standards, either on the Site or on local roads and intersections in the vicinity of the Project Site.

Mitigation Measures

1. ACMs in the single-family homes will be abated in compliance with all Federal, New York State and local requirements prior to any demolition of those structures.

2. During construction, as part of the Construction Management Plan, the following control measures to prevent fugitive dust emissions will include:

    a) Covering loads in trucks;
    b) Paving access routes to unpaved construction areas;
    c) Applying water to unvegetated areas and access roads;
    d) Securely covering staged soil with polyethylene sheeting;
    e) Removal of dust from road surfaces by street sweeping, vacuuming, or water flushing; and
    f) Pausing work during windy conditions or when dust is observed leaving the Project area.

3. No mitigation is proposed with respect to the potential impacts of the Proposed Action or its vehicles and trucks on air quality based upon the finding that the Proposed Action will not result in a significant adverse impact on air quality.

Based on the foregoing, the Planning Board finds that as to Air Quality, the Proposed Action 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.

<u>Land Use and Zoning</u>

Existing Conditions

Existing conditions for Land Use and Zoning on the Project Site are described from Page 125 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Land Use and Zoning, including: consistency with surrounding land uses and impacts on any sensitive uses, the Town's Zoning Law and 2021 Comprehensive Plan and Orange County land-use plans; and conformance with Zoning Law §§ 235-15.4 and 235-16.5, which are discussed from Page 126 of the DEIS for the Proposed Action.

Mitigation Measures

Based upon the DEIS, the Proposed Action will conform to the requirements of Zoning Law §§ 235-15.4 and 235-16.5, as applicable, and will further relevant goals of both the 2021 Town Comprehensive Plan and Orange County land-use plans. Further, while the Proposed Action is grandfathered from compliance with the performance buffering requirements of Zoning Law §§ 235-11.9, the Proposed Action will substantially meet those requirements based upon the design and landscaping proposed for the Proposed Action as reflected in the Project Plans. Mitigation measures to minimize the potential traffic, noise, air quality and visual impacts of the Proposed Action on nearby uses are provided in the findings related to those subject areas.

Based on the foregoing, the Planning Board finds that as to Land Use and Zoning, the Proposed Action 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.

Utilities

Existing Conditions

Existing conditions for Utilities on the Project Site are described from Page 131 of the DEIS for the Proposed Action.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Utilities, including increased demands on existing water, sewer, drainage, electric, natural gas and telecommunications infrastructure, which are discussed from Page 132 of the DEIS for the Proposed Action and in Appendix N of the FEIS.

Mitigation Measures

No mitigation is proposed as all of the required utilities have indicated that they have sufficient capacity to serve the Proposed Action.

Based on the foregoing, the Planning Board finds that as to Utilities, the Proposed Action 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.

Community Services and Facilities

Existing Conditions

Existing conditions for Community Services and Facilities are described from Page 133 of the DEIS for the Proposed Action and in correspondence included in Appendix Q to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts associated with Community Services and Facilities, including increased demands on police, fire and ambulance services, as well as security concerns, which are discussed from Page 134 of the DEIS for the Proposed Action and developed further through correspondence with the various departments. It is reasonably expected that the Proposed Action will result in some increase to the need for services from these emergency service providers. Regarding security, including fire protection, there is a need for measures to avoid and/or minimize potential impacts. Finally, due to the potential for an increased number of employees and/or residents resulting from the Proposed Action, it is anticipated that there will be additional use and potential impacts on parks and other recreational facilities in the Town.

In correspondence, the Town of Montgomery Police Chief indicated that he would anticipate an increase by 100 calls a year for police assistance, including alarm calls, property damage, vehicle accidents, medical emergencies and disputes. He felt that his department could sufficiently respond to this increase based upon existing staff and resources.

Correspondence with the Maybrook Fire Chief has not included any concerns about the ability of that department to serve the Proposed Action, or any significant adverse impacts on fire services resulting from the Proposed Action. Email correspondence to the fire department in 2024 did not elicit any such concerns and in a note from the Fire Chief on January 27, 2025 (See FEIS, Letter #7) after a site visit he only noted the need for Knox boxes on each building with access keys and contact information in the event of an emergency.

Through correspondence with the Captain of the Walden Ambulance Corp. dba Town of Montgomery Ambulance included in Appendix A to the FEIS, no specific concerns about the Proposed Action's impact on ambulance services were indicated, however, Captain Shorette indicated that his department is at full capacity, faces budget shortfalls and accepts monies as a method to ensure "proper staffing ratios for the Town."

Mitigation Measures

1. Mitigation for potential increases to the need for services from emergency service providers will be primarily provided through property tax revenue paid to the Town, which is responsible for the police department budget, and special district fees paid to the fire and ambulance districts. As the DEIS reflects, the 2025 Fiscal Report provided by the Project Sponsor's consultant projected an annual property tax payment of $86,459.64 to be paid with respect to the Project Site which would provide support of the Town's police services. For fire services, annual district fees in 2025 for the Proposed Action were projected to be $163,032.62. Finally, for ambulance services, the Town's 2026 anticipates raising $955,368.31 through district fees, for which the Project Sponsor would contribute it's proportionate share based upon the projected taxable value of the Proposed Action's land and improvements. With regard to the special district fees, it should be noted that 100% of such fees would be required to be paid even if a future tenant for the Proposed Action were to seek tax relief through a PILOT or New York Tax Law 485-b and that a reduced property tax payment to the Town would still be made for a period of years until the tax relief period expires depending on the terms of the PILOT. Notwithstanding, this existing financial mitigation for the Proposed Action's potential impacts on

emergency services, as further mitigation the Project Sponsor has agreed to make a one-time contribution of $100,000 to the Town upon receipt of a certificate of occupancy for the Proposed Action to be dedicated to mitigating any potential impacts to emergency services.

2. The parking lot, pedestrian walkways, driveways, main entrances, trailer parking, and loading dock areas will be lighted for safety and security purposes. The Proposed Action will include security measures for the Project Site, including and not necessarily limited to video surveillance, alarms, a loss prevention program to prevent theft, and internal training of its staff. Such security measures will be fully implemented, function and be monitored on a 24/7 basis.
   These security measures, including security fencing, gates and lighting, are expected to reduce the demand for police service. All lighting will have house-side shields and be angled at 45 degrees down to prevent light leakage onto neighboring properties.

3. To reduce potential impacts on fire services, the Proposed Action will include the following mitigation measures:

   a) Well-labeled sprinkler and standpipe connections on the outside of the warehouse building to enhance fire protection at the Project. Eight (8) on-site fire hydrants will be located at the corners of each building to avoid unnecessary hose lays that may block other fire apparatus from setting up at the scene. Know boxes on each building will be provided as requested by the Maybrook Fire District.
   b) 360-degree access will be provided to each building to ensure that the proper fire apparatus can access the buildings from all points. Large, paved surfaces around the warehouse building will be provided to ensure safe operation of aerial fire apparatus, including outriggers.

   c) Proposed access driveways will accommodate emergency vehicles and provide access around the entire building. Fire District officials will have the opportunity to perform a final review of the site plans during the site plan approval process.

   d) Buildings will meet the applicable standards of the National Electric Code and the New York State Uniform Fire Prevention and Building Code.

   e) Buildings will include a full ESFR sprinkler system and contain fire alarms. The fire alarm system will be designed in accordance with the National Fire Alarm Code and the National Electric Code. A monitoring service will be connected to the fire alarm system to notify the fire department. Horns and strobe lights will be provided throughout the building.

4. No hazardous waste storage will occur on the Project Site.

5. The proposed warehouse development will be designed to accommodate all emergency service needs, including EMS equipment. There are three proposed ingress/egress driveways that are

designed to safely and effectively allow all emergency vehicles, including ambulances, to access each building on the Project Site.

6. Finally, as mitigation for potential impacts from the Proposed Action on the Town's parks and recreational services, a one-time contribution by the Project Sponsor of $200,000 will be made to the Town upon receipt of a certificate of occupancy for the Proposed Action to be dedicated to mitigating any potential impacts to parks and recreational facilities.

Based on the foregoing, the Planning Board finds that as to Community Services and Facilities, the Proposed Action 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.

Fiscal and Employment Impacts

Existing Conditions

Existing conditions for Fiscal and Employment Impacts are described from Page 18 of the DEIS for the Proposed Action and in Appendix O to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential Fiscal and Employment Impacts associated with the Proposed Action, which are discussed from Page 18 of the DEIS for the Proposed Action and in Appendix O to the FEIS. The impacts discussed in the DEIS include:

1. *Projected tax revenue generated by the Proposed Action for all taxing jurisdictions including real property taxes, sales taxes on construction materials, etc.* According to the fiscal analysis provided by the Project Sponsor's consultant, the Proposed Action would generate a substantial amount of additional revenue for the town, county, and school district, contributing $563,050 in annual Town tax revenues (town, PT town, highway, fire and ambulance), while generating only $137,008 in annual local municipal service costs. Orange County is projected to receive $379,420 in annual tax revenue against annual costs estimated to be approximately $78,611. Additionally, the local school district would net over $2.28 million in additional annual revenue with no associated service costs since there is no residential component proposed for this project.

   Moreover, construction of the Proposed Action at a cost of $67,696,200 estimated by the Project Sponsor's consultant has the potential to generate approximately $5,503,701.06 in sales tax revenue from the purchase of construction materials In Orange County, 3.75% of this sales tax revenue (approximately 3.34 million dollars) would go to the County, which shares approximately 26% of that revenue with towns and villages in the County based upon population.

2. *Projected cost analysis using generally accepted methodologies.* The fiscal analysis provided for the Proposed Action used an accepted Per Capita Multiplier method and the proportional valuation method from the Development Impact Assessment Handbook published jointly by CUPR and the Urban Land Institute in 1994 and The New Practitioner's Guide to Fiscal Impact Analysis, published

by the CUPR in 1985. This analysis projects the costs of municipal services based on the relative percentage of the municipal tax base represented by non-residential properties versus residential properties.

3. *Calculation of net fiscal impacts to all taxing jurisdictions.* Using the above methodology, the Proposed Action was projected by the Project Sponsor's consultant to result in $137,008 in annual financial impacts to the Town (town, PT town, highway, fire and ambulance) and $78,611 in costs to the County. The Proposed Action is not projected to have any significant financial impact on the local School district because it does not involve any proposed residential development.

4. *Analyze the potential impact of the warehouse on property values of residences within $^1/_2$-mile of the Project Site.* The Project Sponsor provided an appraisal from a certified appraiser (See Appendix O to the FEIS) which concluded that the recent industrial development in the industrially-zoned area within ½ mile of the Project Site had a positive impact on residential housing prices in that area. For houses along Beaver Dam Road that are the most proximate to the Proposed Action, the Planning Board takes notice that the Project Sponsor either purchased those homes or was not able to negotiate such purchases with the homeowners.

   Quantify the number and type of jobs to be introduced by the Proposed Action. Address types of employment to be introduced (office, warehouse, etc), and typical wages for the employment created. According to the Project Sponsor's analysis, of total of 898 jobs are expected to be created through the Proposed Action's operations. These will be warehouse jobs with supporting office and managerial staff. Employees are anticipated to be existing Montgomery residents as well as residents from surrounding counties and states. Per the analysis, nationally, management roles tend to occupy 2.43 percent of warehousing positions, office and administrative roles 12.35 percent, and transportation and material moving the largest percentage of 74.89 percent. Because no tenant has been identified for the Proposed Action, the Project Sponsor assumed that warehouse jobs will align with the national and county average of approximately $18 per hour ($41,660 annually), or more specifically broken down to an average national salary of $109,910 for management; $42,440 for administrative roles; and $38,240 for transportation and material moving positions. Overall, according to the Project Sponsor, the Proposed Action has the potential to generate over $32 million in annual salaries for the 898 employees. In addition to the permanent positions described above, a number of short-term construction-related positions will be created. An estimated 300 to 400 jobs for 12-month duration would be created with estimated salaries ranging from $42,000 to $100,000.

5. *Calculation of fiscal impacts to all taxing jurisdictions assuming New York State Tax Law 485-B exemptions and/or participation in PILOT.* The Project Sponsor does not proposed to seek tax exemptions to provide an economic incentive for the development of the Proposed Action, however, the Project Sponsor acknowledges the possibility that a tenant may seek such exemptions. Accordingly, the Project Sponsor provided a potential scenario for reduced tax revenues over a period of 10 years to the Town, County and local school district under either a Payment in Lieu of Taxes ("PILOT") or under New York Tax Law § 485-b. This scenario reflected a 50% property tax exemption in Year 1 after operation of the Proposed Actions begin, which would decrease each year by 5% until, in Year 11, full property tax revenues would be required to be paid. It is noted that

100% of special district fees for fire and ambulance services would still be assessed regardless of any such tax exemptions that may be granted to a future tenant for the Proposed Action.

6. *Estimated one-time application fees to the Town of Montgomery including site plan and special permit application fees and building permit application fees.* According to the Project Sponsor's fiscal analysis, oe-time application fees, based on the Town's 2023 fee schedule, were estimated at $837,825. This calculation is based on the total commercial square footage and two lots for application fees, hearings, professional services, building department fees, etc.

7. *Employment analysis to include the number, types and salaries of jobs created by the project including short-term during construction and permanent during facility operations.* See above.

8. *Workforce availability for the potential jobs to be generated by the Proposed Action.* The Project Sponsor's fiscal analysis projects sufficient workforce availability for the Proposed Action. Data from the New York State Department of Labor Local Plan of Orange County indicates a substantial existing labor force from which the Proposed Action can attract potential employees. The County labor force is drawn from an area including Orange, Dutchess, Rockland, Sullivan and Ulster Counties in New York, 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, which is important since twenty-two percent of the county workforce commutes into Orange County from elsewhere. The collective civilian labor force in these counties is approximately 564,000 people, of which approximately 30,000 are actively seeking work. Roughly 60,000 employees commute into Orange County from elsewhere for work opportunities, with a mean travel time of 34.4 minutes, demonstrating an available workforce within commuting distance without expected measurable increases in resident population.

The DEIS and Fiscal Report attached as Appendix O to the FEIS provide information sufficiently responsive to Adopted Final Scope.

Mitigation Measures

No mitigation is proposed by the Project Sponsor with respect to anticipated Fiscal and Employment Impacts from the Proposed Action, which will provide an overall fiscal benefit to the Town and other local taxing jurisdictions including the Town's fire and ambulance districts with minimal cost to those jurisdictions. The Planning Board also finds that the Proposed Action, as part of the industrial development in the General Industry zoning district along Neelytown Road, will not have a significant adverse effect on residential property values within ½ mile of the Project Site.

Based on the foregoing, the Planning Board finds that as Fiscal and Employment Impacts, the Proposed Action 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.

<u>Cultural Resources</u>

Existing Conditions

Existing conditions for Cultural Resources on the Project Site are described from Page 144 of the DEIS for the Proposed Action and in Appendix H to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to any identified historical or archeological resources, which are discussed from Page 148 of the DEIS for the Proposed Action and in the Cultural Resource Report provided as Appendix H to the FEIS.

The Project Sponsor's cultural resources consultant undertook investigations to determine whether any historic or archaeological resources on or near the Project Site would be adversely affected by the Proposed Action. The consultant's onsite investigation included an Area of Potential Effect ("APE") that excluded the wetlands on the Project Site.

Based on the Cultural Resources Report, no significant archaeological sites or historic structures were identified in the APE through the investigations undertaken. The Tweddle Farmstead and Gideon Pelton will not be adversely impacted by the Proposed Action as they are not located on the Project Site. Nor will any of the historic properties identified through the cultural resource consultant's literature review be adversely impacted by the proposed development due to their distance from the Project Site. Furthermore, the Cultural Resources Report was reviewed by New York's State Historic Preservation Office ("SHPO") in March 2022, at which time SHPO requested additional information regarding the stone foundations within the properties and an updated report reflecting that information. Per Appendix H, an updated report reflecting the expanded APE along with the information requested in their March 14, 2022, letter, was submitted to SHPO in April 2023, resulting in SHPO's issuance of a No Adverse Effect letter on April 26, 2023.

Mitigation Measures

There are no identified significant archaeological sites or historic structures within the Area of Potential Effect on the Project Site, so no impacts to those resources will occur as confirmed by SHPO. Accordingly, no mitigation measures are required to minimize or avoid potential impacts to Cultural Resources resulting from the Proposed Action.

Based on the foregoing, the Planning Board finds that as to Cultural Resources, the Proposed Action 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.

Visual Resources

Existing Conditions

Existing conditions for Visual Resources on the Project Site are described from Page 149 of the DEIS for the Proposed Action and in Appendix H to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to any Visual Resources, which are discussed from Page 150 of the DEIS for the Proposed Action and in Appendix H to the FEIS.

The Project Site is located in an industrial zoned area along Neelytown Road with surrounding industrial and commercial uses and three existing, nonconforming residential uses. This commercial and industrial area already includes existing warehouses and commercial buildings located adjacent or close to the Project Site. In this existing built and zoning context, the anticipated visual impacts of the Proposed Action, with the substantial mitigation that will be undertaken and maintained, is deemed to be reasonable.

Ten (10) "Vantage Points" surrounding the Project Site were selected and approved by the Town of Montgomery Planning Board for the visual assessment. The Vantage Points are located around the Project Site where the proposed warehouses will be the most visible and are presented on the figure below:

In the DEIS and Appendix H to the FEIS, the Project Sponsor provided photographs of the Project Site from all 10 Vantage Points based upon existing conditions and with simulations of the visibility of the constructed Proposed Action from each Vantage Point at Year 1 and Year 10. The simulated views

incorporate the berm, landscaping, and 15' sound wall described further in the mitigation measures discussed below.

Based upon the Planning Board's review, a brief description narrative summary of the anticipated visual impacts from each Vantage Point as reflected in the DEIS and Appendix H is:

Vantage Point - 1 (From I-84 East northwest of the Project Site) - Based on the proposed design and layout for the Proposed Action, a berm will be constructed that will substantially eliminate views of the Proposed Action from Vantage Point-1. During leaf-off conditions, Warehouse 2 would be partially visible at year 1 and nearly fully obscured by year 10.

Vantage Point - 2 (Beaver Dam Road) - Warehouse 2 will be nearly obscured from this vantage point due to the constructed, intervening berm as well as new landscaping. By Year 10, views of Warehouse 2 will be completely screened due to the growth of the planted landscaping along the berm.

Vantage Point – 3 (Beaver Dam Road) – Warehouse 2 will be partially screened from this vantage point in Year 1, due primarily to the constructed berm. By Year 10, Warehouse 2 will be substantially screened from this vantage point. The Proposed Action's driveway intersecting with Beaver Dam Road will be highly visible from this vantage point.

Vantage Point – 4 (Beaver Dam Road) – Based on the proposed design for the Proposed Action, Vantage Point – 4 represents a location just south of the Beaver Dam Road entrance to the property. This location shows the closest wall of the warehouse to the property line and the proposed project grading and new coniferous vegetation is intended to help minimize views. During leaf-off conditions, Warehouse 1 will be substantially visible from this location in Year 1, although the impacts will be reduced by the new and existing vegetation by Year 10, particularly during leaf-on times of the year. A 15' high solid fence is proposed to be constructed to further mitigate views. Warehouse 2 will not be visible.

Vantage Point – 5 (Beaver Dam Road) – Warehouse 1 will be substantially visible from this vantage point at Year 1. By Year 10, due the growth of landscaping, Warehouse 1 will be substantially screened from this vantage point. The proposed architectural design of the warehouse incorporates a variety of façade and fenestration detailing, described above, to ameliorate visual impacts. Warehouse 2 will not be visible.

Vantage Point – 6 (Neelytown Road) – Consistent with other buildings in the surrounding industrial area along Neelytown Road, Warehouse 1 will be fully visible at Year 1 and, with the growth of landscaping, partially visible at Year 10 from this vantage point.

Vantage Point – 7 (Neelytown Road) – Warehouse 1 will be partially fully visible at Year 1 during leaf-off conditions. In leaf-on conditions, it is reasonable to conclude that the visibility of Warehouse 1 from this vantage point will be substantially reduced.

Vantage Point – 8 (Neelytown Road) – Warehouse 1 is partially visible from this vantage point, particularly from the warehouses driveway. Based on the proposed design for the Proposed Action,, existing vegetation will be retained along Neelytown Road. Together with proposed landscaping closer to Warehouse 1, by Year 10 Warehouse 1 will be substantially screened from this vantage point. Warehouse 2 is not visible.

Vantage Point – 9 (North of I-84) – The Site Section Viewshed provided for Vantage Point – 9 demonstrates that Warehouse 2 will be partially visible from this vantage point. Existing vegetation will be retained and, with the growth of new landscaping closer to Warehouse 2, it is anticipated that the visibility of the warehouse will be reduced by Year 10.

Vantage Point – 10 (Tweddle Farm) - The Site Section Viewshed provided for Vantage Point – 10 demonstrates that Warehouse 2's visibility from this vantage point will be substantially limited by distance, topography and intervening vegetation. Existing vegetation will be retained along Beaver Dam Road, and the existing grading and new vegetation planted closer to Warehouse 2 will eliminate all views of Warehouses 1 and 2 from Vantage Point 10.

Overall, absent mitigation measures, the Proposed Action would have much more substantial visual impacts that are comparable to other existing industrial uses in the General Industry zoning district along Neelytown Road to I-84. While some visual impacts from such large-scale uses is to be reasonably expected, mitigation measures to minimize and/or avoid such impacts is necessary.

Mitigation Measures

1. To mitigate visual impacts from the Proposed Action, a comprehensive landscaping plan is proposed that will conform with the additional requirements of the Town's landscaping consultant. See Project Plans, Appendix F to the FEIS. The landscaping plans include a variety of native deciduous and evergreen trees and shrubs, as well as non-invasive ornamental species. Additional densely planted coniferous landscaping is proposed along Beaver Dam Road and at the entrance to the Project Site from Neelytown Road, at the intersection of Neelytown and Beaver Dam Road, and by the limited nearby residences. Substantial coniferous landscaping is proposed along the limited residential area of Beaver Dam Road to minimize the visual impacts of the Proposed Action.

2. Fencing 15' in height and colored to blend in with the landscape is proposed along Warehouse 2. The 15' high solid fence which is proposed to be constructed on top of the retaining wall that blocks the Warehouse 2 trailer parking lot completely obscures the loading bays from any views along Beaver Dam Road.

3. In addition, visual impacts to surrounding areas along much of Beaver Dam Road will be minimized by the creation of a large berm, wooden sound wall, and dense coniferous landscaping.

4. Finally, to further reduce potential visual impacts, a lighting plan was designed in consultation with and to conform to the comments of the Town's lighting consultant. Refer to the Lighting Plan within

the Project Plans in Appendix F. All lighting at the Project Site will minimize sky glow and light pollution and avoid any light trespassing onto adjacent properties. In response to comments on the lighting design, controls will be implemented for additional mitigation of lighting impacts. The proposed site lighting will be utilized in coordination with the hours of operation of the facility. In accordance with the proposed 24-hour facility operations, the lighting will be in use and to the reduced illumination levels identified on the Lighting Plans for nighttime hours between dusk and sunrise. In instances where the facility may not be operating for 24-hours, the Lighting Plans have been revised to include the following:

Parking and loading area lighting will be on a timer and will reduce by 50%, 1-hour after closing of the facility.

In addition, motion sensors to be included on the building mounted fixtures.

Finally, site lighting fixtures (pole and wall mounted) are all LED's which provide decreased operational costs and energy consumption. Each fixture is fitted with limiting controls to restrict and distribute illumination to the designated areas. These include House Side Shields for further control of unnecessary back lighting and Uplight Skirts which ensures zero up-light above 90°. The Site Plans have been revised with cut sheets of the proposed fixtures added. The color temperature of the fixtures is Amber which is in the 1800-2200 Kelvin range. The maximum footcandles at 4.3 which is in accordance with the Town of Montgomery's requirements.

Based on the foregoing, the Planning Board finds that as to Visual Resources, the Proposed Action 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.

<u>Animals, Plants & Threatened and Endangered Species</u>

Existing Conditions

Existing conditions for Animals, Plants & Threatened and Endangered Species on the Project Site are described from Page 176 of the DEIS for the Proposed Action and in Appendix K to the FEIS.

Potential Impacts

The Planning Board's Adopted Final DEIS Scope for the Proposed Action identified potential impacts to any Animals, Plants & Threatened and Endangered Species, which are discussed from Page 176 of the DEIS for the Proposed Action and in Appendix K to the FEIS.

The Proposed Action will involve extensive earthwork, heavy machinery operations, construction, drainage pattern alterations, increase in impervious areas, traffic pattern changes, and increased human activities. It will also require clearing of nearly 87.66 acres of upland forest and field habitats. The proposed activities will cause unavoidable short-term and permanent impacts to vegetation, cover types, and wildlife. The following impacts to Animals, Plants & Threatened and Endangered Species

from the Proposed Action will or have the potential to occur in the absence of effective mitigation measures:

1. Impacts to Indiana and Northern Long-eared Bats

    a) Tree clearing activities could have an adverse impact on active roost trees for bats. Direct impacts could occur if clearing is conducted between April 1 and October 31 when bats are active, foraging, and rearing pups in maternity roosts. The extensive tree clearing that will occur on the Project will have an indirect impact on bats by the amount of potential foraging and roosting habitat for bats within summer range of the site. Bats will need to search for new foraging and potential roosting areas at a time of year when they have many energetic demands on them, including recovering from hibernation, and gestating young. The expenditure of additional energy to search for new foraging and roosting habitat could result in decreased reproductive success. This potential impact would occur for the first season following construction of the Proposed Action but once the bats have identified new foraging and roosting sites, it is likely that reproductive success and foraging and roosting behavior patterns will stabilize. In addition, based on review of aerial mapping, there is approximately 4,600.5 acres of forested habitat on and within a 2.5-mile radius of the site. There are 46.05 acres of available forested habitat within the Site. Proposed clearing for the Proposed Action will remove 38.13 acres of forested habitat, which represents 82.80% of forested habitat on the site, but only 0.43 % of potentially available forested habitat within 2.5 miles of the site. As of 2023, within a 2.5-mile radius of the Project Site, there are approximately 200,399,818 SF (4,600.5 acres) of forest area.

    b) Noise generated by construction equipment could disturb roosting bats during the day. However, all outdoor construction work is anticipated to happen when the bats are in hibernation. Noise during tree clearing may be more severe; therefore, tree clearing will occur when bats are not on site. Since noise levels are not likely to significantly exceed ambient noise levels of a busy commercial area during the summer months, the impacts of noise from ongoing warehouse operations are not likely to adversely affect Indiana or Northern long eared bats.

    c) Daytime construction may cause airborne dust from earth moving. However, dust will subside when relative humidity increases and the dust settles. Dust can impact bats by causing respiratory distress or coating bats' fur, causing them to relocate and roost farther offsite. adverse impacts to bats can be expected.

    d) Stormwater runoff from disturbed soil during construction and post-development site operations could contaminate surface waters onsite. This condition renders the water unfit for bats to drink and can interfere with aquatic insect breeding, which is critical for bat feeding. These impacts can be avoided with the implementation of soil erosion and sediment control practices during construction to avoid siltation and contamination of surface waters. Prevention of soil erosion and sedimentation through soil conservation best management practices, and avoidance of surface water contamination from stormwater runoff through stormwater

treatment will render this impact insignificant, discountable, extremely unlikely to occur, and undetectable.

e) Construction activities will not require site lighting; however, site lighting will eventually be installed for warehouse operations. Site lighting will likely cause bats to forage elsewhere but will not likely alter their roosting behavior beyond tree clearing impact, thereby making this impact insignificant. The Proposed Action will use site lighting that is dark-sky compliant, with tops that direct light downward and with very minimal spillage, so as to not interfere with bat foraging.

f) The anticipated construction and site operation will increase human activity and the proximity of human activity to bat roosting/foraging; however, since this effect is insignificant and discountable, and cannot be meaningfully measured, the increase in proximity will not adversely impact the bats.

2. Impacts to Bald Eagle

No eagle activity or nests was observed on the Project Site by the Project Sponsor's consultant during multiple survey dates and based on aerial mapping of the nearest potential appropriate nesting area is the Wallkill River, more than 1 mile from the Site. The NYSDEC is concerned when impacts occur within 0.5 miles of a project.

3. Impacts to Bog Turtle

There is no potential bog turtle habitat on or in the vicinity of the Site, so no significant adverse impacts to the species are anticipated.

4. Impacts to Monarch Butterfly

There is successional field habitat at the Project Site which is potential habitat for the monarch butterfly; however, open field habitat areas are abundant in this area and this species will not be in jeopardy as a result of the Proposed Project because it will utilize offsite habitats.

5. Impacts to Small Whorled Pogonia

There is no potential habitat for this species on the Project Site since there is no older growth forest on the Site but rather young woods with a thick dense understory. Therefore, no significant adverse impacts to the small whorled pogonia are expected.

6. Impacts to Marbled, Jefferson, and Blue Spotted Salamanders; Spotted and Wood Turtles

There were no marbled, blue spotted, or Jefferson salamanders, or spotted turtles or wood turtles or evidence of breeding by these species on the site. Therefore, no significant adverse impacts to these species are anticipated.

7. Impacts to Other Observed Animal and Plant Species

The Proposed Action will result in displacement and direct loss of biodiversity of resident species; however, most species found on the Project Site are typically found in suburban settings and may have already adapted to proximal human habitation. Although in fewer numbers, it is likely that these species will remain within the Site after construction of the Proposed Action. The habitat of forest interior birds, large mammals, amphibians, and most reptiles will be most impacted by the modified conditions due to the Proposed Action. Amphibians and reptiles are more vulnerable than other species due to their lack of mobility. Large mammals and migratory birds will not be significantly impacted since these species are highly mobile and can relocate to other, nearby habitat.

The regulated wetlands onsite will essentially remain intact and serve as likely corridors for species on site, especially for more sensitive species like amphibians and reptiles. The prime migratory corridors and wildlife destinations for breeding found in the regulated wetlands will remain. The wetland crossing is designed to allow adequate clearance and space for amphibian and reptilian movement through this portion of the regulated wetland complex. Birds and mammals require no extraordinary measures to secure passage through this area.

8. Impacts to Vegetation and Cover Types

a. Mesophytic Forest Loss. The Proposed Action will result in the removal of approximately 38.13 acres or 96 percent of this cover type from the site.

b. Successional Old Field Loss. The Proposed Action will result in the removal of all of this cover type from the site.

c. Red Maple Hardwood Swamp. Development activities have been planned to generally avoid impacts to wetlands except for one crossing into the Site. Approximately 0.209 acres of wetland impact is associated with the proposed project and a Federal Nationwide permit is required for the crossing as well as potentially a NYSDEC Article 24 permit.

d. Forest Fragmentation. 38.13 acres of forested area on the Project Site will be cleared, with the exception of a 7.92 acres area. Loss of forest on this site alters site biodiversity because only 7.92 acres or 17.19 percent of this habitat will remain intact. The Forest Patch Preserved Exhibit can be found within Appendix I. Potential fragmentation of the forest habitat within the two 2.5 mile radius of the site, although not significant, amounts to 0.43 percent and 0.43 percent, respectively, of the total forest in this radius. The 2.5-mile radius pre- and post construction exhibits can be found within Appendix I.

e. Habitat Fragmentation. Onsite habitat fragmentation will occur on the Project Site due to the permanent loss of most of the existing upland habitat.

Mitigation Measures

1. Indiana and Northern Long-eared Bat Mitigation

To mitigate any significant adverse impacts to the Indiana and Northern long-eared bats, the following measures will be implemented:

a) A corridor will be provided across the Project Site to connect forested areas to the west and south of the Project Site for bat migration purposes. This corridor has been developed in coordination with NYSDEC Region 3 staff is included on Sheet 50 of the Project Plans provided in Appendix f to the FEIS.

b) Preserving the regulated wetlands on the Project Site, which can potentially be used by bats as foraging and travel corridors;

c) Site lighting will use approved light fixtures that have tops that direct light down to minimize light pollution and which are designed to not interfere with potential bat foraging activities;

d) Implementing soil conservation and dust control best management practices, such as watering dry disturbed soil areas to keep dust down, and using staked, recessed silt fence and anti-tracking pads to prevent erosion and sedimentation to surface waters;

e) Conducting all tree clearing activities between November 1 and March 31, when bats will be in hibernation off site.

f) Prior to clearing, the limits of proposed clearing will be clearly demarcated on the Project Site with orange construction fencing (or similar) to prevent inadvertent over clearing of the Site, and;

g) Stormwater ponds will not be maintained with any chemicals that might adversely affect bats or insect populations on which they may feed.

With these mitigation measures in place, impacts to the Indiana and Northern long-eared bat will be mitigated to the maximum extent practicable.

2. Monarch Butterfly Mitigation

Although not required under federal or state law, the Applicant will mitigate impacts to the Monarch Butterfly caused by destruction of habitat by including Common Milkweed (Asclepias syriaca) in the project Landscape Plans as part of the revegetation for the site. In doing so, the Applicant will consult applicable state and federal guidance.

3. General Wildlife Mitigation

a) Impacts to vegetation will be minimized by establishing undisturbed, naturally vegetated zones demarcated on fields by orange construction fences. It will also be minimized by clearing only necessary areas within the limit of disturbance. Upland forest areas impacted by the developed will not be fully replaced; however, they will be enhanced by way of revegetating corridors with native plant materials. Native planting may provide some habitat and food source to wildlife.

b) Impacts from habitat and forest fragmentation will be minimized by maintaining corridors between natural habitat areas. Connecting corridors don't have to be entirely unbroken, as long as breaks in the natural vegetation are not excessive.

c) All but .209± of the approximately 14 acres of wetlands on the Project Site will be preserved to provide year-round habitat for most of the species located there.

d) The Site will continue to be "connected" to adjacent properties so that a potential wildlife migratory route remains.

e) Other habitat aspects of the Project Site will be preserved, including existing stonewalls and standing dead trees, known as snags. Old stonewalls provide microhabitats for small mammals, herptiles, and invertebrates. Snags provide perching, nesting, and feeding areas for a wide variety of wildlife. These elements or parts thereof will be protected where possible.

f) Post and rail style fencing will be used to surround any stormwater basins and atop any retaining walls in excess of 30" high to allow wildlife to traverse freely above, below, and through the site fencing.

4. General reptile microhabitat requirements that will remain intact on the Site include:

   a) Woody debris (standing and down);

   b) Small open patches for basking, mixed with well shaded areas during drought periods;

   c) Undisturbed areas in and around wetlands for feeding and breeding; and

   d) Access to safe den areas.

5. No dyes or chemicals will be placed in stormwater detention facilities that could potentially impact wildlife. These measures are reflected in the SWPPP provided as Appendix E to the FEIS.

Based on the foregoing, the Planning Board finds that as to Animals, Plants & Threatened and Endangered Species, the Proposed Action 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.

IV. 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:

1. **Impact:** Disturbance of ±87.66 acres of the Site for tree removal, grading, excavation, construction, paving, and landscaping resulting in the creation of ±50.1 acres of new impervious surface.

Assessment of Impact: The temporary disturbance of ±87.66 acres of the ±112.20 -acre Project Site, including the permanent disturbance of ±50.1 acres to create new impervious surfaces cannot be avoided through construction of the Proposed Action. While all of the ±14 acres of wetlands on the Project Site except for ±0.209 acres will be retained (including surrounding vegetated buffer areas, the Proposed Action will result in (1) the permanent loss of 50 acres of upland vegetation and habitat on the Site that will become impervious surfaces and (2) the temporary loss of vegetation and habitat on an additional 36± acres of the Site that will be seeded and/or landscaped as part of the construction of the Proposed Action. No impacts to protected wildlife species are expected to occur based on the wildlife assessment and mitigation measures proposed in Chapter 3, Section P, however, the permanent and temporary loss of habitat is expected to force the relocation of most onsite wildlife to nearby lands to the west and north of the site. In addition to the nearly 14 acres of wetlands that will remain intact, ±7.92 acres of upland buffer areas around the edges of the wetlands on the Site will be provided for wetland and upland species, providing additional habitat for wetland and other species.

2. **Impact:** Permanent loss of ±0.209 acres of wetlands for construction of a proposed truck running area for the Proposed Action.

   Assessment of Impact: Permanent impacts to ±0.209 acres of wetlands for the Proposed Action cannot be avoided due to the wetlands on the southern portion of the Site, where driveway access to Neelytown Road is required, but have been minimized through the layout and design of the Proposed Action. The disturbance will be regulated by the NYSDEC pursuant to Article 24 permit and protective construction conditions and implementation of the Proposed Action's SWPPP will avoid and/or minimize any additional indirect impacts to those wetlands during or after construction. See Chapter 3, Section D.

3. **Impact:** Visual impacts to travelers on Neelytown Road and Beaver Dam Road, and to the three remaining residences on Beaver Dam Road.

   Assessment of Impact: Due to the significant amount of site disturbance, including tree removal and site grading, that must be undertaken for construction of the Proposed Action, as well as the time necessary for growth of the proposed landscaping, there will be both temporary and more limited permanent visual impacts from the Proposed Action. The Proposed Action will be constructed in the I-1 (General Industry) district, where some visibility of industrial uses is reasonably expected. The three remaining residential structures on Beaver Dam Road are also located in the I-1 district and are nonconforming uses. The Project Site will be constructed in an industrial corridor along I-84 and Neelytown Road that is identified in the Town's Comprehensive Plan as particularly suited for industrial development and the Site is surrounded by other, existing warehouses that are visible from public roads. While the visibility of the Proposed Action will be reduced by distance, topography and site grading upon its construction, significant visual screening of the Proposed Action will not occur in some cases until 10 years after landscaping is planted. See Chapter 3, Section O.

4. **Impact:** Demolition of five (5) residential structures on the Project Site.

   Assessment of Impact: The Project Sponsor has acquired and will demolish 5 single-family dwellings as part of construction of the Proposed Action, resulting in the permanent loss of these residential units. All of the dwellings are located in the I-1 district and are nonconforming uses. Further, they are located in an industrial corridor between I-84 and Neelytown Road and surrounded by existing warehouse uses.

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.

V. ALTERNATIVES

As required by the Adopted Scope, the Project Sponsor evaluated three alternative designs in addition to the Proposed Action. The Proposed Action provides two warehouses comprising 1,128,270 SF, while the three alternatives evaluated all include three warehouses with the same amount of proposed warehouse space. For the reasons discussed below, the Proposed Action was selected, "consistent with social, economic and other essential considerations from among the reasonable alternatives available.... avoids or minimizes adverse environmental impacts to the maximum extent practicable" based on its design and proposed mitigation measures.

First, there do not appear to be any nearby alternative sites that would serve the Project Sponsor's objectives and offer immediate access to I-84 from lands along Neelytown Road. The Project Site is in an area identified by the Town and County as desirable for development consistent with the Proposed Action. Lands along Neelytown Road that are large enough and do not contain wetlands are limited.

For reasonably feasible alternative site layouts that would achieve the Project Sponsor's objectives. Alternate Site Layout #1 (see Appendix D) would consolidate the previously proposed three driveway intersections with Neelytown Road into one driveway. By comparison, the Proposed Action's two building configuration and landscaped islands separating the various overlapping vehicle operations would provide far safer internal circulation for cars and trucks on the Project Site. In addition, the Proposed Action would result in less than ½ the amount of disturbance to wetlands as compared to this alternative. Finally, the Proposed Action would provide for significantly more efficient movement of trucks into, on and leaving the Project Site.

The Project Sponsor also evaluated Alternate Site Layout #2 (see Appendix D). In order to develop this alternative and to be consistent with the square footage goals of the Proposed Action, it was necessary to make one of the warehouses longer and narrower and to eliminate the accessory trailer parking area to provide room for the third warehouse. In terms of potential impacts, this alternative site layout would have a more substantial visual impact from Neelytown Road and the residences along Beaver Dam Road as compared to the Proposed Action. Operationally, the alternative site layout would be significantly less efficient as compared to the Proposed Action and, as a result, much less desirable for prospective tenants.

Alternate Site Layout #3, which was originally submitted as the Proposed Action, was considered in comparison to the modified Proposed Action (See Appendix F to FEIS). The most significant differences between the two designs are the reduction from three buildings to two and the elimination of the shared trailer storage area. In comparison, the Proposed Action moves the buildings away from both the Neelytown and Beaver Dam frontages, lessening the potential for visual impacts from those roadways. Eliminating the shared trailer storage area makes it possible for the Proposed Action for the establishment of a substantial berm to shield the smaller warehouse from view. Finally, reducing the Proposed Action to two buildings eliminates several areas of cross access overlap, presenting a more streamlined and efficient design.

Finally, the No Action alternative would result in the Project Site remaining in an underused condition, hampering economic growth in an industrial zoning district and area expressly identified by both the Town and Orange County for economic development purposes. None of the public policy goals, objectives, and policies associated with the Proposed Action would be advanced. The No Action alternative would not

further the goals outlined in the Montgomery Comprehensive Plan including: (1) allowing for reasonable economic growth by, among other things, "continu[ing] to attract new users to remaining vacant land along Neelytown Road"; (2) facilitating an employment center corridor along Neelytown Road (north of Maybrook) to "allow for a range of industrial and heavy commercial uses"; and (3) "capitaliz[ing] on the Town's outstanding geographic location and transportation resources as an economic generator" by focusing new industrial and heavy commercial uses around Neelytown Road south of Interstate 84. In addition, the No Action alternative is inconsistent with Orange County's Priority Growth Area concept, which proposes to "stage and direct growth into areas where it can be supported efficiently and at least cost." Finally, this alternative would not meet the goals and objectives of the Applicant.

VI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

All land development, whether residential, commercial, or industrial in nature, results in open lands being converted and built upon. The addition of new impervious surfaces and the human, mechanical, and industrial, activities associated with construction alter the landscape and the pre-development environment. Like any other development, the Proposed Action will result in a short-term and long-term commitment of environmental resources.

The Phase IA Archaeological review of the Project Site revealed that it has been agricultural land for a significant portion of the nineteenth and twentieth centuries. The original farmhouse was no longer extant by the late twentieth century, and the farm buildings were utilized until the mid-twentieth century. Toward the tail end of the twentieth century, the cement barns were demolished. Since farming activities ceased at the Project Site, the land has been left to return to its natural state covered by trees and undergrowth.

There are several residences on the western side of the Project Site bordering Beaver Dam Road which will be demolished to accommodate the Proposed Action. The areas of existing undeveloped land will also 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. A portion of the existing jurisdictional wetlands (approximately .20938± acres) are to be disturbed to allow site earthwork and achieve finished grades for each of the proposed buildings.

Construction of the Proposed Action will 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 Proposed Action.

The long-term demand for water and energy resources at the Project Site will increase when the proposed land uses are operational. The Proposed Action would result in the long-term commitment of these resources for the operation of the warehouse facilities. However, the amounts of water and energy used in operation of the Proposed Action 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. Wastewater from the Proposed Action will be properly treated at a municipal treatment plant prior to discharge.

VII. GROWTH-INDUCING ASPECTS

This section describes the potential for the Project to induce growth primarily based on potential impacts to population and support facilities.

Potential Impacts

1. **Population**

   The 2020 ACS 1-year Estimates Census data indicates that Montgomery has 12,356 residents aged 16 or older in the workforce, and Orange County has 188,580. An estimated 2.4 percent of the Montgomery residents are unemployed, as are 3 percent of county residents. An estimated 10.7 percent of the Montgomery workforce and 6.7 percent of the Orange County workforce is employed in "transportation, warehousing & utilities."

   As such, while 898 new employees are expected, these numbers show that there is an opportunity to find local employees with minimal increases in population or businesses needed to support them.

   Data from the New York State Department of Labor Local Plan of Orange County indicates a substantial existing labor force from which the Proposed Action can attract potential employees. The county labor force is drawn from an area including Orange, Dutchess, Rockland, Sullivan and Ulster Counties in New York, 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, which is important since twenty-two percent of the county workforce commutes into Orange County from elsewhere.

   The collective civilian labor force in these counties is approximately 564,000 people, of which approximately 30,000 are actively seeking work.

   Roughly 60,000 employees commute into Orange County from elsewhere for work opportunities, with a mean travel time of 34.4 minutes, demonstrating an available workforce within commuting distance without expected measurable increases in resident population.

   While there is potential for 898 new employees due to the Proposed Action, it is unlikely that most employees will be relocating to the area for this work. 30,000 people in the immediate area of Orange, Dutchess, Rockland, Sullivan and Ulster Counties in New York; Pike and Wayne Counties in Pennsylvania; and Sussex County, New Jersey are seeking employment. In other words, there is an existing local labor force available within the geographic area. This, along with the average time traveled for those working in the county (34.4 minutes), supports the conclusion that the workforce will be local.

   It is moreover unlikely that anyone outside of an executive role would have the financial incentive to relocate. As management is expected to account for 2.43 percent of this workforce, this equals 22 people. If a portion of these executives are relocated to the area, the impact on the housing market will be insignificant. The Proposed Action, therefore, is not expected to generate significant need for housing. According to the United States Department of Housing and Urban Development (HUD), Orange County is part of the Orange-Rockland-Westchester Housing Market Area (Westchester HMA). The most recent data, although now 6 years old, reports that the overall housing market for both sales and rental is classified as "currently balanced" in terms of supply and demand.

2. **Support Facilities**

There are roughly 30 million gross square feet of warehousing and industrial space in Orange County, evidence that the supportive service industries needed are already in place locally; the creation of new businesses will be unnecessary.

In addition, because the Proposed Action new facility is in an area with existing warehousing, trucking, and transportation uses, it is believed that supportive service industries are already in place and the creation of new businesses will be unnecessary. An increase in workload for existing businesses that provide ancillary services to the Proposed Actiony such as food services and groundskeeping is likely.

Mitigation

Based on the above, there will be no impacts related to the growth-inducing aspects of the Proposed Action and therefore no mitigation measures are necessary.

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

VIII. EFFECTS ON THE USE AND CONSERVATION OF ENERGY RESOURCES

This chapter will discuss the Proposed Action's potential impacts in terms of the use of energy.

Potential Impacts

Because the Project Site is currently vacant, there is no energy use as an existing condition. Electricity and natural gas are available to be provided in the area by Central Hudson Gas and Electric per their service territory area map. There is a Central Hudson Gas & Electrical easement which exists along the property's western frontage on Beaver Dam Road. The availability of gas and electrical services is confirmed by a serve letter provided and discussed in Chapter 3K (see Appendix N to FEIS).

As it relates to the physical impact of the Project Action, on December 28, 2010, the State of New York adopted the Energy Conservation Construction Code of New York State (ECCCNYS-2010), requiring the use of energy efficient products in all new and renovated construction, and establishing required level of energy efficiency for the buildings' thermal envelope (i.e. exterior wall insulation, attic insulation and ventilation, air barriers and slab insulations), the buildings' mechanical systems (i.e. heating, cooling and ventilation) and electrical power consumption (i.e. lighting). The building's roofs will be constructed to hold the weight of solar panels, but the decision to install them will ultimately be at the tenant's discretion. Similarly, the Project Site can be wired for a percentage of EV parking spaces but the decision to install the chargers will again be at the tenant's discretion.

During construction, energy will be used to power equipment and various construction vehicles. After construction and during typical operations, 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.

It is anticipated that natural gas would be used to provide heating, while electricity would be used to provide cooling. It is projected that the entirety of both warehouses will require heating and cooling with the mechanical, electrical, and equipment rooms requiring heating only. Heating and insulation would prevent freezing temperatures within the buildings, while cooling during the summer months would be provided with adequate ventilation. The warehouses would experience only minor

temperature changes. Materials stored in the warehouses at moderate temperatures would not be damaged or spoiled.

Warehouses in the United States average about 6.1 kilowatt-hours (kWh) of electricity and 13,400 Btu of natural gas per square foot annually. Based on these averages, the proposed project would result in a total of approximately 6,882,447 kWh of electricity and 15,118,818,000 Btu of natural gas annually, spread across the two warehouse structures. The amounts of energy used in the operation of the proposed project would be relatively minor in relation to regional consumption.

Mitigation

Based on the foregoing, the Proposed Action will not create any significant adverse environmental impacts and no additional mitigation is proposed.

Based on the foregoing, the Planning Board finds that the Proposed Action 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.

IX. CLIMATE CHANGE

This section will discuss the need for measures to avoid or reduce the action's impact on climate change and associated impacts due to the effects of climate change such as sea level rise and flooding. Further, recent changes to the SEQRA regulations pertaining to Disadvantaged Communities do apply to the Proposed Action and are considered herein.

1. Impacts from Climate Change

It is important not only to ensure that the Proposed Action has limited impact on our climate, but that it is protected from the effects of climate change that may occurcome in the future. come in the future. Section 617.9(b)(5)(iii)(i) of the SEQRA regulations requires, where relevant and significant, consideration of "measures to avoid or reduce both an action's impacts on climate change and associated impacts due to the effects of climate change such as sea level rise and flooding."

Given the location of the Proposed Action, sea level rise would not have direct impacts on the Project Site. In relation to storm surges, the proposed development increases the impervious surface of the site which can contribute to flooding. However, a review of the National Wetlands Inventory (NWI) GIS mapping shows three wetland types mapped on site, including Freshwater Forested/ Shrub, Freshwater Pond and Riverine wetlands. Wetlands are effective at reducing flooding as one-acre of wetland can typically store about one million gallons of water. For more information regarding storm water management, refer to Chapter 3. The Federal Emergency Management Agency (FEMA) provides Flood Insurance Rate Maps (FIRM) flood mapping for the Town. The most recent mapping is dated 8/3/2009. No surface waters exist within the limits of disturbance for the project. The map, as shown in Figure 8.2 above, confirms the entire site is within Zone X, defined as "areas determined to be outside the 0.2% annual chance floodplain."

According to the National Oceanic and Atmospheric Administration (NOAA) National Weather service, the frequency of 12.3 inches of rainfall in a day is a 1,000-year event, whereas rainfall of 10.7 inches in a day is a 500-year event. Location, duration, and area size are elements that help determine the frequency of a n-year event. Within the next 10 years, there is a 2% chance of a 500-year event occurring and a 1% of a 1,000-year event occurring in Montgomery. Furthermore, in review of the

Orange County Climate Resilience Study, there is no indication that the Project Site will be impacted by heavy precipitation, extreme heat, extreme storms, storms and/or inland/coastal flooding as identified as the areas of concern illustrated in the Resilience Study.

Based on the conditions noted above, the potential for impacts from the Project Action on climate change are neither significant nor relevant and no mitigation measures are necessary to address future physical risk at the site due to flooding, sea level rise, or storm surge.

2. Impacts on Disadvantaged Communities

Pursuant to ECL § 75-0101, Disadvantaged Communities ("DACs") are "communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households." Disadvantaged communities are identified at the census tract level and are based on geographic, public health, environmental hazard, and socioeconomic criteria. The Proposed Action is located within Census Tract 36071010801, which has been designated a DAC due to it having a higher Environmental Burden than 94% of Census Tracts statewide and a Population Vulnerability higher than 41% of Census Tracts statewide.

Effective in December 2024, legislative changes to the SEQRA law addressed the need for consideration of DACs through the addition of the following bolded language in ECL § 8-0109(4):

> "As early as possible in the formulation of a proposal for an action, the responsible agency shall make an initial determination as to whether an environmental impact statement need be prepared for the action. **In making such determination for any proposed action the responsible agency shall consider whether such action may cause or increase a disproportionate pollution burden on a disadvantaged community that is directly or significantly indirectly affected by such action.** When an action is to be carried out or approved by two or more agencies, such determination shall be made as early as possible after the designation of the lead agency."

"Pollution," as the term is used in the new language added to ECL § 8-0109(4), has the same definition as provided in ECL §1-0303(19):

> "'Pollution' shall mean the presence in the environment of conditions and or contaminants in quantities of characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the state as shall be affected thereby."

NYSDEC has recently adopted amendments to its SEQRA regulations in 6 NYCRR Part 617 to implement this provision of the SEQRA law. Newly-adopted Section 617.9(b)(5)(iii)(i) of the SEQRA regulations requires agencies reviewing environmental impact statements to identify and discuss whether an action may result in any relevant and significant impacts:

> "on a disadvantaged community, including whether the action may cause or increase a disproportionate pollution burden on a disadvantaged community."

The Planning Board has evaluated the potential for the Proposed Action to have impacts on the DAC based upon the questions presented in NYSDEC's revised Full Environmental Assessment Form Part 2 for DACs as part of adopted changes to the SEQRA regulations in 6 NYCRR Part 617. The Proposed Action will not have any significant adverse impact on the DAC where it will be located for the following reasons:

Question 19(a) – Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities by the Disadvantaged Community Assessment Tool (https://on.ny.gov/DACAT)?

Yes. The DAC where the Proposed Action is located is identified as having comparatively higher burdens of vulnerabilities by the Disadvantaged Community Assessment Tool.

Question 19(b) – The proposed action may create new air emissions or increase existing air emissions within a disadvantaged community.

Yes. The Proposed Action will create new air emissions or increase existing air emissions within a disadvantaged community, however, air emissions associated with the Proposed Action will not result in any significant adverse impact on the DAC for the reasons discussed in relation to Impacts on Air above.

Question 19(c) – The proposed action may create new wastewater treatment or discharges, or expand existing wastewater treatment or discharges, within a disadvantaged community.

Yes. The Proposed Action will expand existing wastewater treatment or discharges, within a disadvantaged community. As noted above, wastewater from the Proposed Action will be pumped from the Site through an underground force main through the Town's sanitary infrastructure, ultimately to the Montgomery Sewage Treatment Plan, where it will be treated prior to discharge in accordance with a NYSDEC SPDES permit. Accordingly, the Proposed Action will have a minimal impact on the DAC as a result of its expansion of the wastewater discharge at the Middletown wastewater treatment plant.

Question 19(d) – The proposed action creates or expands a solid or hazardous waste management facility, or involves the generation of solid or hazardous waste, within or near a disadvantaged community.

As reflected in the DEIS and the appendices to the FEIS, the Proposed Action will not result in the generation of any hazardous waste and will not be a solid waste management facility. As proposed, the Proposed Action will generate solid waste during construction and operations that will be hauled offsite and disposed of by a private carting business at a license and permitted solid waste management facility subject to NYSDEC permit requirements. No waste will be disposed of on the Project Site.

Question 19(e) – The proposed action may increase traffic within a disadvantaged community.

Yes. The Proposed Action will increase traffic within a disadvantaged community but will not result in any significant adverse impact to the DAC for the reasons discussed above in regard to Impact on Transportation (Section 13). The Proposed Action will not result in any significant adverse impacts, including any cumulative impacts, on traffic in the DAC.

Question 19(f) – The proposed action affects or involves one or more of the following facility types: landfill; other industrial, manufacturing, or mining land uses; major oil or chemical bulk storage facility; municipal waste combustor; power generation facility; risk management plan site; remediation site; or scrap metal processor.

Yes. The Proposed Action will involve the construction of two warehouse, storage and distribution facilities on lands along Neelytown Road proximate to the county highway's intersection with I-84 in the Town's General Industry, where commercial and industrial uses such as the Proposed Action are allowed by the Town's Zoning Law and are consistent with the Town's Comprehensive Plan and County planning documents. Based on the Planning Board findings above that the Proposed Action will not have a significant adverse impact Land Use and Zoning, the Proposed Action will not have a significant adverse

impact on the DAC where the Project Site is located because it will be consistent with Montgomery's zoning, community plans and community character, including for the General Industry zoning district in the DAC.

Question 19(g) – Other "pollution" impacts

For the following reasons and based upon the findings above, the DEIS, FEIS and the appendices to the FEIS, the Proposed Action will not have any significant adverse impacts on the DAC from the following other forms of pollution as follows:

Noise

Consistent with the Planning Board's findings set forth above with respect to Noise, the Proposed Action will not result in any significant adverse impacts on Noise in the DAC, including cumulative impacts, either during construction or from project operations. The Proposed Action will comply with local noise requirements and NYSDEC's noise guidance and not result in any significant adverse noise impacts on the several residential properties in the DAC that are closest to the Project Site. Based upon NYSDEC's noise guidance, the sound impact information by the Project Sponsor's qualified expert consultant concluded that no receptors within that area would experience any significant adverse impact from sound levels as compared to existing ambient conditions.

Light

New, dark-sky compliant, modern and energy-efficient lighting will be used for the Proposed Action, consistent with what would reasonably be expected for this industrial use in the General Industry zoning district. Exterior site lighting will comply with the Zoning Law and the recommendations of the Town's lighting consultant and will be the minimum necessary while ensuring a safe and secure facility. All proposed lighting will be downward facing and will minimize sky glow and light pollution from the Lighting fixtures will be of a full cutoff type or provided with shields to reduce glare and light pollution. As shown on Project's Site Plans, the fixture locations have been sited to avoid any light trespass onto adjacent properties. These measures have been incorporated to minimize otherwise potential adverse impacts from site lighting of the new building and parking facilities.

Based on the foregoing, the Planning Board finds that the Proposed Action will not create any significant adverse environmental impacts on the DAC where it will be located and will avoid or minimize adverse environmental impacts on the DAC to the maximum extent practicable.

X. CERTIFICATION

Certification to Approve/Fund/Undertake:

Having considered the DEIS, FEIS and other documentation with respect to the Proposed Action 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 Proposed Action 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 Proposed 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
Jay Beaumont, P.E.

_____
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 and Interested Agencies
Town of Montgomery Town Clerk
RDM Group, LLC