

TOWN BOARD - TOWN OF YORKTOWN

**RESOLUTION APPROVING ADOPTING
SEQRA FINDINGS FOR THE REZONING PETITION
AND PROPOSAL
FOR THE CROTON OVERLOOK PROPERTY
AND DEVELOPMENT**

ADOPTED: December 6, 2011

WHEREAS, the Town Board of the Town of Yorktown ("Town Board") received a Verified Petition dated June 10, 2010, from Croton Overlook Corporation ("Petitioner"), as owner of a parcel identified as certain real property, located east of the intersection of NYS Routes 134 and 100, designated on the Town Tax Map as parcels 70.15-1-2 and 70.11-1-16 and as prospective contract vendee of certain real property designated on the Town Tax Map as parcel 70.15-1-1 ("Property"), said Property consisting of approximately 65 acres, seeking to change the zoning of the Property from R1-80 to RSP-1 in order to construct age-restricted fee simple housing units; and

WHEREAS, on June 15, 2010 the Town Board declared its intent to act as the lead agency in connection with all processing procedures, determinations, and findings to be made or conducted with respect to the petition for rezone of Croton Overlook Corporation under Section 8-0101, et. seq., of the Environmental Conservation Law ("SEQRA") and the regulations promulgated by the New York State Department of Environmental Conservation there under, which appear at 6 N.Y.C.R.R. Part 617 ("SEQRA Regulations"); and

WHEREAS, the Town Board thereafter: (i) declared lead agency status in connection with the SEQRA review of the Project, and commenced review of the proposed Project in accordance with 6 N.Y.C.R.R. 617.6(b)(3); (ii) determined that the proposed action may have a significant adverse effect on the environment and required that a Draft Environmental Impact Statement ("DEIS") be prepared; (iii) directed that a public scoping session be held at its February 15, 2011 regular meeting, in accordance with 6 N.Y.C.R.R. 617.8; and (iv) directed that a written notice of its determination of significance and notice of the public scoping session,

together with a draft DEIS Scoping Outline, be sent to all involved and interested agencies as well as made available to all known individuals and organizations which had expressed an interest to the Town Board concerning the Project; and

WHEREAS, a DEIS Scoping Outline was prepared in accordance with 6 N.Y.C.R.R. 617.8 and accepted by the Town Board by resolution at its regular meeting of April 12, 2011; and

WHEREAS, Croton Overlook Corporation prepared and submitted a preliminary DEIS for the Town Board's review to determine its completeness as required by the accepted final written scope and its adequacy for public review in accordance with 6 N.Y.C.R.R. 617.9 (a) (2); and

WHEREAS, on July 12, 2011 the Town Board determined the DEIS for Croton Overlook Corporation was complete with respect to the scope, content, and adequacy necessary to afford the public and involved and interested agencies the opportunity to consider the DEIS for the purpose of commencing public review of the proposed project, pursuant to SEQRA and the regulations promulgated by the New York State Department of Environmental Conservation there under, which appear at 6 N.Y.C.R.R. Part 617 ("SEQRA Regulations"); and

WHEREAS, as Lead Agency, the Town Board held a public hearing on the DEIS on August 2, 2011 at Shrub Oak Memorial Park, located at 3800 Sunnyside Street, Shrub Oak, NY, 10588, at which time public comment on the DEIS was received by the Town Board and thereafter, the Town Board continued to accept written comments from the public and involved and interested agencies until August 30, 2011; and

WHEREAS, a FEIS was prepared to respond to the substantive oral and written comments to the DEIS; and

WHEREAS, the Town Board has found that the FEIS adequately addresses the oral and written comments on the DEIS; and

WHEREAS, the Town Board has prepared a SEQRA Findings Statement; and

WHEREAS, the SEQRA Findings Statement sets forth the Town Board's reasoned elaboration as to the facts and conclusions as developed in the DEIS, FEIS, and in response to public and agency comments collected as part of the review process relating to potential environmental impacts of the Proposed Action; and

WHEREAS, on November 22, 2011, the Town Board met in Work Session and on December 6, 2011, at a regular Town Board meeting to review the SEQRA Findings and the Proposed Actions, and held substantive discussion on the conclusions of the Findings,

NOW THEREFORE, BE IT RESOLVED, the Town Board, as Lead Agency for the SEQRA review of the Project, hereby affirms that all procedural steps of the State Environmental Quality Review Act have been met in full in connection with the Proposed Actions; and be it further

RESOLVED, the Town Board hereby adopts the annexed SEQRA Findings Statement for the Proposed Action.

Council Member Murphy moved for approval of the Resolution.

The motion was seconded by Council Member Martorano and upon being put to a vote, the vote was as follows:

Supervisor Siegel	Aye
Council Member Murphy	Aye
Council Member Patel	Aye
Council Member Martorano	Aye
Council Member Bianco	Absent

**NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT FINDINGS
OF THE TOWN BOARD OF THE TOWN OF YORKTOWN RESPECTING THE
CROTON OVERLOOK DEVELOPMENT PROJECT, TOWN OF YORKTOWN,
NEW YORK**

In accordance with the New York State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and its implementing regulations (6 N.Y.C.R.R. Part 617) (referenced herein as "SEQRA"), the Town Board of the Town of Yorktown (the "Town Board"), as Lead Agency for the Coordinated Environmental Review of the Proposed Action identified below, makes the Findings contained herein:

Name of Action: Croton Overlook Project

Lead Agency: Town Board of the Town of Yorktown

Address: Town of Yorktown Town Board
Yorktown Town Hall
363 Underhill Avenue
Yorktown, New York 10598

Date: November 22, 2011

**Contact Person
For Additional
Information:** Alice Roker, Town Clerk
Yorktown Town Hall
363 Underhill Avenue
Yorktown, New York 10598
914-962-6591

**SEQR
Classification:** Type I

**Date Final
FEIS Filed:** November 7, 2011

**Date FEIS
Errata Sheet Filed:** November 22, 2011

Lead Agency Adoption of this Statement of Environmental Findings: December 6, 2011

I. Location:

The proposed Croton Overlook Project (the "Project" or "Proposed Action") will be located on approximately 65-acres adjacent to Saw Mill River Road and Dell Avenue in the Town of Yorktown (the "Project Site" or "Site"). The Site is situated south of the New Croton Reservoir, east of the Cornell Brook, and east of the intersection of NYS Route 134 and Route 100.

The Site is designated on the Town of Yorktown Tax Map as parcels 70.15-1-2, 70.11-1-16 and 70.15-1-1. The Site is within the R-160 (One-Family Residential Units) District under the Town of Yorktown Zoning Ordinance (the "Zoning Ordinance"). Two (2) of the Site's parcels (70.15-1-2 and 70.11-1-16) are owned by the Croton Overlook Corporation (the "Applicant") and the Applicant is a contract vendee to parcel 70.15-1-1 ("Yaskovic Property").

II. Description of the Proposed Action:

The Project is a 70-unit 55 and older active adult residential community, which will be located in the southern portion of the Town of Yorktown.

The Proposed Action includes a zoning map amendment from the Town Board. The Site is presently zoned R1-160, Single Family Residential. The Project requires a zone change to RSP-1, an Age Oriented Community. This zone change is necessary to permit as-of-right the housing and amenities proposed as part of the Project. The RSP-1 is a zoning district that exists in the Town of Yorktown. It is not a mapped zoning district; rather it is considered a "floating zone," and must be affixed by the Town Board to a qualifying parcel of land by amendment to the Zoning Map.

The Proposed Action also includes a 72 lot subdivision of presently vacant land, which will consist of (i) 70 residential fee-simple lots, (ii) one (1) lot, containing approximately 46 acres of deed-restricted open space, which will be owned by the Home Owners Association ("HOA"), and (iii) one (1) lot consisting of the Wastewater Treatment System, which will be owned by a public transportation company.

In addition, the Proposed Action includes the Discretionary Approvals set forth in Section V herein.

III. Purpose and Need:

The Town Board finds the Project will help meet the long existing need for diverse housing within the Town, particularly for individuals and couples, aged 55 and over. A demand for this type of housing exists within the Town, and the supply of such housing has not increased proportionally with demand. The Town Board finds that the Project will help meet these demands. The Project will appeal to Town residents and those residing in neighboring communities who are interested in downsizing, or simply residing in a community with fewer maintenance requirements than in a single family detached home on a larger lot.

The Project is also compatible with multiple goals and policies of the Town's Comprehensive Plan with regards to promoting housing for people in all stages of development. The Comprehensive Plan's Goal 2-F is to "promote housing for people in all stages of life, from young adults and couples, to families with children, to *seniors*." (emphasis added). The Project also comports with Goal 2-A of the Town's 2010 Comprehensive Plan. Goal 2-A sets out to "provide for low-density development and preserve open space throughout Yorktown's residential neighborhoods, as discussed in Chapter 5 [of the Comprehensive Plan], in a manner consistent with community character." The Project's low density (approximately .93 units per acre) allows for the Town to meet Goal 2-A by maintaining 46 acres of deeded "open space" while concurrently creating a 70 unit subdivision. Vision Statement 5.1 of the Town's 2010 Comprehensive Plan also sets forth the Town's desire to remain a diverse community with diverse housing options. The Town Board notes that the SEQRA Findings Statement adopted by the Town Board in connection with the Comprehensive Plan also specifically includes a section entitled "Flexibility to Consider Senior/Active Adult Housing." This section expressly acknowledges that "residentially-zoned areas outside of the hamlet centers may be suitable for development of senior or other group housing development." The Town Board finds that, as discussed in greater detail in the Land Use, Zoning and Public Policy section herein, as a result of the analysis conducted throughout the SEQRA process the Site is an appropriate residentially-zoned area outside of a hamlet center, which is particularly suitable for the type of active adult housing proposed by the Project.

As stated in the Comprehensive Plan, the Town's Senior Independent Living Zone (RSP-1) exists "to provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees." The plan further notes that, "this zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs." The Town Board, therefore, finds that the important public policy of providing diverse housing opportunities to residents, and particularly seniors, in the Town is furthered by the Project, as the Site is located in a tranquil setting and in an environment that will satisfy their needs.

The Town finds that the Project will maximize open space and minimize environmental impacts. The protection of habitats, wetlands, community gardens and preservation of open space is of value to the Town and the public as a whole, as these positive environmental benefits will contribute to the general health of the Town and Westchester County's eco-system.

Regarding economic benefits, the Town finds that the Project's estimated annual taxes of \$1,127,385.70, which includes \$119,574.70 in Town taxes, would offset any impact to community services caused by the Project. The Town also finds that the Project would add annual school taxes of \$821,417.80 with no additional children being added to the school system. The Town also notes that the Applicant has offered to contribute \$650,000 to the Town for upgrades to senior services, recreation and safety.

IV. Compliance With SEQRA Requirements:

The Town Board has served as Lead Agency for the coordinated environmental review of the Proposed Action. The Town Board is charged under SEQRA to study the potential significant

adverse environmental impacts of the Project, and to make sure that any such impacts are mitigated to the maximum extent practicable.

The Town Board conducted a thorough review of the Project's environmental impacts, and balanced those impacts against the Project's benefits as described in these Findings. The Town Board has determined that the requirements of SEQRA have been met through the actions described below.

- On June 10, 2010, 107 Devries Corp. d/b/a Croton Overlook Corporation (the "Applicant") submitted a Verified Petition seeking to change the zoning of the Property from R1-80 to RSP-1 and an Environmental Assessment Form ("EAF") to the Town Board.
- On June 15, 2010, the Town Board preliminarily classified the Proposed Action as a Type I action under SEQRA, and declared its intention to act as Lead Agency.
- On July 20, 2010 the Westchester County Planning Board ("County Planning Board") conducted a preliminary review of the Project under the provisions of Section 239 L, M and N of New York's General Municipal Law and Section 277.61 of the County Administrative Code. The County Planning Board stated that the Project would "create senior housing, a need identified in the Town of Yorktown Comprehensive Plan." The County Planning Board further noted that in the Findings Statement adopted for the Comprehensive Plan, that the "town must have flexibility in selecting sites for senior housing because of the important need to address the lack of housing for the town's seniors."
- On August 3, 2010, the Town Board declared itself Lead Agency for the purpose of reviewing the environmental impacts of the Proposed Action under SEQRA.
- On October 27, 2010, the Applicant, with the expressed desire of receiving a Negative Declaration for the Project, submitted to the Town Board an expanded EAF, addressing potential areas of environmental concern, including: wetlands, wastewater and stormwater treatment, traffic, endangered species, historical sites, viewshed, socio-economic, community services, and electromagnetic impacts.
- On November 23, 2010, the Planning Board, as an Involved Agency, provided a Memorandum to the Town Board, identifying specified areas of potential impact the Planning Board believed to be necessary to be included in the SEQRA review. The Applicant had previously appeared before the Planning Board to discuss the Project and its potential environmental impacts on June 28, 2010, September 26, 2010, November 8, 2010 and November 22, 2010.
- On February 8, 2011, the Applicant submitted to the Town Board a Draft Scoping Document in accordance with 6 N.Y.C.R.R. § 617.8.

- On February 10, 2011, the Town Board received Applicant's Full EAF, declared that the Proposed Action "may result in one or more large impacts that may have a significant impact on the environment," and adopted a Positive Declaration under SEQRA, requiring preparation of an Environmental Impact Statement ("EIS").
- On February 15, 2011, the Town Board held a duly noticed and advertised Scoping Session to consider comments from the public and involved and interested agencies regarding the Draft Scoping Document. Many persons testified, including representatives from the Yorktown Energy Advisory Committee, Yorktown Advisory Committee on Open Space, Yorktown Community Housing Board, Yorktown Land Trust, and members of the public. The Board also received written comments up to and including March 8, 2011. Some of the notable agencies/groups included the New York State Department of Environmental Conservation, New York City Department of Environmental Protection, New York State Office of Parks, Recreation and Historic Preservation, Westchester County Planning Board, Westchester County Department of Health, BFI Planning, Yorktown Utilities Oversight Committee, Yorktown Land Trust, Yorktown Advisory Committee on Open Space, and interested members of the public.

Both the oral and written testimony presented very important issues. The comments suggested that the Applicant be required to further study stormwater, sewer, and water impacts, the effect of the Project on the New Croton Reservoir, information regarding greenhouse gas emission from all phases of the construction and completion of the Project, and the Project's compatibility with the Town's 2010 Comprehensive Plan.

- On April 8, 2011, the Applicant submitted to the Town Board a revised Scoping Outline. The revised Scoping Outline incorporated many of the comments raised during the Scoping Session and included in written comments. The Scoping Outline incorporated suggestions from the public relating to identifying visual and aesthetic impacts from different vantage points, addressing the Project's direct impacts on surface waters, including the New Croton Reservoir, and discussing how the Project is in compliance with the Town's Comprehensive Plan.
- On April 12, 2011, the Town Board adopted a Final Scoping Document.
- On May 23, 2011, the Applicant submitted to the Town Board a Draft Environmental Impact Statement ("DEIS") studying the potential impacts of the Project. The Town Board reviewed the DEIS to determine whether to accept it as "adequate with respect to its scope and content for the purpose of commencing public review" pursuant to 6 N.Y.C.R.R. 617.9 (a)(2).
- The Town Board thereafter conveyed comments on the DEIS to the Applicant from the Town Board, its staff and its consultants regarding required revisions to the DEIS to ensure completeness.
- On July 9, 2011, the Applicant submitted a revised DEIS to the Town Board for its completeness review.

- On July 12, 2011, the Town Board determined the DEIS was complete and adequate for the purpose of commencing public review.
- On August 2, 2011, the Town Board held a duly noticed Public Hearing on the DEIS at which time public comments were received by the Town Board. The Board notes that certain residents and interested groups expressed their support and concern with the Project. Sarah Yackel, from BFJ Planning (representing the Random Farms Homeowners' Association), for example, focused largely on whether the Project is compatible with the Town's Comprehensive Plan. Paul Moskowitz, Chair of the Yorktown Energy Advisory Committee, specifically commented that the schools, roads, and Town services were already being overwhelmed. Bill Kellner, Vice President of the Saw Mill River Audubon, added that the siting of the property was "less than desirable," and was "dismayed" with the addition of treated sewerage flow, but also recognized the Applicant's "attempt to cluster development and to protect most of the property as open space." Larry Cassidy, a Yorktown resident, spoke in favor of the Project and stated that the Project would help the Town and would "not be burden to the school system."
- The Town Board continued to accept written comments from the public and involved and interested agencies until the end of the public comment period on August 30, 2011.
- Additional written comments were received by the Town Board from the Town Planning Board (September 6, 2011), the Town Conservation Board (September 16, 2011) and the New York State Department of Environmental Conservation ("NYSDEC") (October 13, 2011). Although received after the close of the public comment period, the Town Board required that the Applicant respond to the comments.
- On October 28, 2011, the Applicant submitted its Final Environmental Impact Statement ("FEIS") to the Town Board for its completeness review. The FEIS was required under SEQRA to respond to all of the substantive comments raised by the public and other involved and interested agencies during the DEIS review. The Town Board listened carefully to all of the comments raised during the Public Hearing, and read all of the comment letters. The Town Board also discussed them at length with its Consultants to ensure that the Board understood the technical issues relevant to the Project. The Board ensured that these issues were addressed during these proceedings.
- On November 1, 2011, the Board accepted the FEIS as complete.

The Town Board appreciates, in particular, the dedication of the residents of the Town of Yorktown in bringing to the Board's attention all of the relevant issues and concerns about the Project, both positive and negative. The Town Board has paid close attention to all of the oral and written comments made during these proceedings, and deliberated at length to weigh and balance the differing views.

V. Summary of Discretionary Approvals and Involved Agencies:

Town of Yorktown Town Board	<ul style="list-style-type: none"> - Amendment of Zoning Map - Initiate Establishment of Water and Wastewater Districts
Town of Yorktown Planning Board	<ul style="list-style-type: none"> - Subdivision and Site Plan Approvals - Tree Permit - Stormwater Permit - Wetlands Permit
Town of New Castle	<ul style="list-style-type: none"> - Authorization for Water Supply Connection
New York State Department of Environmental Conservation	<ul style="list-style-type: none"> - SPDES Permit for Sanitary Wastewater Treatment and Disposal System Operations - SPDES General Permit for Stormwater Discharges from Construction Activities - Stormwater Pollution Prevention Plan Approval - Wetlands permit
New York City Department of Environmental Protection	<ul style="list-style-type: none"> - Stormwater approval - Wastewater Treatment and Disposal System Approval - DEP Jurisdictional Watercourses
Army Corps of Engineers	<ul style="list-style-type: none"> - Wetlands Permit

In addition to the above discretionary approvals, the Town Board notes that the Applicant will also require the following ministerial approvals:

Town of Yorktown Building Department	- All necessary building and construction permits
New York State Attorney General	- Approval of Home Owners Association Public Offering Statement
New York State Department of State	- Approval to Establish a Public Transportation Company to Own and Operate the On-site Wastewater Treatment and Disposal Systems
Westchester County Health Department	- Approval of Wastewater Treatment and Disposal System Design - Water Supply Connection
Westchester County Planning Board	- Subdivision and Site Plan Review - Recommendations on rezoning and project approval under GML § 239-m

VI. Evaluation of Potential Impacts:

This section summarizes the Town Board's findings with respect to the evaluation of potential impacts of the Project.

A. Land Use, Zoning and Public Policy

The Town Board, in consultation with its professional consultants, and after carefully considering the entire SEQRA record, including all Involved and Interested Agencies and public comments, concludes that the Project is consistent with and furthers, among other things, various goals of the Town of Yorktown's recently adopted Comprehensive Plan. It is also consistent with an important purpose of the existing R1-160 Zoning District, in that the Project would be harmonious in scale and in character with the surrounding area. In addition, the Town Board finds that, for the reasons set forth herein, the Project will not have a significant adverse impact to land use and zoning, and any impacts have been minimized or avoided to the maximum extent practicable.

The Town Board finds that the Project will not adversely impact the surrounding land uses. The Site adjoins NYS Route 100 and Dell Avenue. Utility lines also abut the property. The Site spans between an excavation yard on the south (Pogact Excavating) and the Croton Reservoir toward the north. The Town finds that the Site acts as a transition area between the more densely settled area to the south in the hamlet of Millwood within the Town of New Castle and the

sparsely populated watersheds of the reservoir created by the New York City Water Supply, which lie immediately to its north and surrounding most of the Site.

The Town Board also finds that the Site is fairly isolated from existing development. There are substantial physical separations from the Hog Hill neighborhood, which is separated by steep grades and forested lands and accessed only from NYS Route 133 and Seven Bridges Road. The Crow Hill neighborhood, nearly a mile away, is accessed much further north along NYS Route 100 toward Crow Hill and Lake Roads; the Kitchawan neighborhood, which lies along Route 134 and Pinesbridge Road; and Millwood, a New Castle Business Hamlet and residential area, several miles south along NYS Route 100, are all too far away to be directly impacted. There are two residential homes on Dell Avenue at its northern tip, which will benefit from the improvements made to Dell Avenue.

The closest residential subdivision to the Site is Random Farms, located in the Town of New Castle. The Town Board recognizes that Random Farms, through its representatives, has participated extensively throughout the SEQRA process, and is concerned about the potential impacts of the Project due to its proximity to Random Farms. The Town Board has expressly and carefully considered each of the concerns raised by Random Farms. The Town Board notes that the Project is separated from Random Farms by several hundred feet of forest areas, wetlands and protected open space areas thus minimizing any impacts from the proposed development.

The Town Board finds that the Project is consistent with the goals of the Town to remain primarily a residential community of diverse housing options and ample open space preserves. The development proposes to construct 35 duplex structures yielding 70 age-restricted (55 and older) units on 65 acres, offered as fee simple lots. The developed portion of the Site would be on approximately 19 acres with the remaining approximately 46 acres dedicated as open space. A separate lot is to be utilized for the waste water treatment facility.

Moreover, it is the Town Board's finding, as further discussed in the Alternatives section, that the Project will have a lesser impact on the property than would a single family residential subdivision developed pursuant to the present R1-160 zoning. The Town Board finds that the layout of the homes, shared wastewater treatment plant, shared stormwater attenuation and public water supply, the rezoning of the Site to an RSP-1 Zoning District will provide for a type of housing currently unavailable in this section of the Town, and will minimize potential environmental impacts.

The Town Board finds that the design of the Project takes into consideration the topographic characteristics of the Site. The Town Board further finds that limiting the development to a portion of the Site with a smaller per unit footprint and dedicating a larger portion of the Site to protected open space benefits both the Town and the future residents of the Project.

A significant concern raised by Random Farms and members of the public relates to compliance with the recently adopted Town of Yorktown Comprehensive Plan. Specifically, the Comprehensive Plan contemplated an upzoning from R1-80 to R1-160 on the Site, which was

subsequently implemented by a Town-wide rezoning. The Town Board finds, however, that the rezoning of the Site to RSP-1 is not inconsistent with the goals of the Comprehensive Plan.

The Town Board finds that the Project meets or is consistent with numerous objectives of the Comprehensive Plan:

- Goal 2-A: “Provide for low-density development and preserve open space throughout Yorktown’s residential neighborhoods, as discussed in Chapter 5, in a manner consistent with community character.” The density of the Project would be about .93 dwelling units per acre, which the Town Board finds falls within a “low-density development.” In addition, approximately 71% of the 65 acre Site will remain as deed restricted and undisturbed open space, and only 19 acres of the Site would be disturbed. In comparison, a conventional subdivision pursuant to the existing R1-160 zoning would result in a greater area of disturbance – approximately 23 acres – creating a sprawling development with a greater aesthetic and environmental impact.
- Goal 2-F: “Promote housing for people in all stages of life, from young adults and couples, to families with children, to seniors.” The Project is a proposed 55 and over active adult community, and as such, the Town Board finds that the Project promotes housing for the specific senior demographic in the community of Yorktown.
- Table 2-4: States the purpose of RSP-1 designations is to “provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees. This zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs.” The Town Board finds that the Project will meet this recognized growing demand among retirees and seniors of age-restricted housing.
- Section 5.3: “Yorktown’s ‘quality of life’ consists of all of those characteristics that make it an attractive place to live: beautiful homes, streets, and trees; abundant parks and open space; the ability to have peace and quiet at home; good utilities and services; remnants of its rural heritage; etc.” The Town Board finds that the Project is consistent with Yorktown’s “quality of life.” The proposed relocation of Dell Avenue will be far more aesthetically pleasing than the existing poorly maintained Dell Avenue. The Site’s landscaping and plantings of indigenous species will preserve the natural beauty and health of the surrounding ecosystem. The homes will be subject to ABACA review, and will, therefore, be consistent with surrounding community character. Moreover, 71% of the 65 acre Site will remain as deed restricted open space, featuring various forms of passive recreation for residents of the Project.
- Open Space Preservation & Sustainable Development (Executive Summary Recommendations): “Promote energy conservation and ‘green’ buildings.” The Town Board finds that, as further detailed in the Use and Conservation of Energy, Green Technology and Infrastructure section herein, the Project furthers this goal by

requiring that the Applicant utilize a variety of environmentally responsible and green features to the maximum extent practicable.

The Town Board considered the comments of the representatives of Random Farms with regard to the fact that the RSP-1 Zoning District permits more density than the presently existing R1-160. The Town Board notes that the Comprehensive Plan did not recommend any parcel within the Town for rezoning to RSP-1, since the RSP zones are effectively "floating zones." This means it must necessarily be placed over another zoning district, and will always require a rezoning petition, such as the one proposed by the Applicant herein.

The SEQRA Findings Statement adopted by the Town Board in connection with the Comprehensive Plan also specifically includes a section entitled "Flexibility to Consider Senior/Active Adult Housing." This section expressly acknowledges that "residentially-zoned areas outside of the hamlet centers may be suitable for development of senior or other group housing development." The Town Board further held that "such development could be expected to cause only marginally-adverse impacts to community facilities due to increased demand for services (but not for schools). Senior housing also typically causes only nominal impacts to traffic because residents tend not to drive during peak hours, to utilities because residents place little additional burden on existing infrastructure, and to land use because the neighborhood already is residentially zoned. In addition, senior housing helps to provide needed diversity in housing type and affordability." Consistent with those findings in connection with the Comprehensive Plan, and based upon a careful and thorough review of the entire Record during the instant SEQRA review, the Town Board now finds that the Site is suitable and appropriate for development of this Project.

The Town Board also specifically notes that the Yorktown Conservation Board expressed its support for the rezoning of the Site to RSP-1 on the grounds that an RSP-1 development allows on-site disturbance to be concentrated in such a way as to preserve sensitive environmental features, such as trees and habitat. Moreover, large acre zoning, such as the existing underlying R1-160 zoning, allows for large houses with sprawling lawns, which could result in a greater aesthetic impact. It would also result in more fertilizer use and individual septic systems, and, therefore, impart greater impacts to on-site water resources. The Town Board carefully considered the Conservation Board's comments and finds that it is in agreement with the Conservation Board, and that, as further addressed in the "Alternatives" section of these Findings, development of an RSP-1 Project on this Site is more protective of the sensitive environmental features than a conventional R1-160 development.

The Town Board also finds that the Project is consistent with Westchester County's Patterns for Westchester. The Project is located in the portion of the Town of Yorktown that is classified as a Low Density Rural Area (LDR 0-2), which is described as having the lowest recommended density range. Patterns for Westchester recommends a gross residential density of 0.2-1.5 dwelling units per acre for developments within the LDR 0-2 area. The density of the Project is approximately .93 dwelling units per acre. Patterns for Westchester also recognizes that a variety of housing is important to a local economy. The Town Board finds that the Project will contribute to the variety of housing available within the Town of Yorktown and in the vicinity of the smaller nearby centers, such as Millwood, Yorktown Heights, and Crompond.

The Town Board further finds that the Project is consistent with Westchester 2025. Westchester 2025 states, for example, that communities must create more “livable” neighborhoods for the aging population that feature transit-oriented development. Although the Project is not “transit-oriented,” the Town Board finds that the Project, would fulfill the need for neighborhoods for the aging population while providing a variety of nearby public transportation options. The Bee Line Bus System runs the number 17 line along the Taconic approximately 2 miles west of the Site, and number 19 line runs along Bedford Rd approximately 3 miles east of the Site. Other public transportation in close proximity to the Site includes the Hudson Rail Line and the Harlem Line. The Hudson Rail Line runs North and South along the Hudson River, and the nearest stop is located in Ossining NY. The Harlem Line runs from New York City to eastern Dutchess County, and the nearest stop is in Mount Kisco. These public transportation routes typically have commuter lots available for parking and are approximately 2.5 miles away from the Site, one to the East and one to the West. Moreover, within an approximately 1.5 mile walk along the adjacent North County Trailway, or 1.3 miles by car, is the Hamlet of Millwood, which has a supermarket, a pharmacy, various restaurants, a hardware store, a delicatessen, and gas stations. Immediately across NYS Route 100 within walking distance is the Traveler’s Rest.

The Town Board further finds that the Project is consistent with the strong policies in the Town to construct environmentally responsible developments. The Project seeks to leave the property’s wetlands intact and avoid sensitive steep slope areas. A significant percentage of the Site will be protected open space. The proposed buildings shall be constructed in a centralized location on Site in order to avoid sensitive environmental areas such as wetlands and steep slopes, as well as to minimize exposure to off-site views of the Project. By constructing the units at a centralized location near the western side of the property and leaving the majority of the property as open space, the Town Board finds that the development complies with the low density requirements while concurrently not sprawling the units across the property. The architecture of the residential buildings shall include varied roof lines, and the use of earth tone colors. In addition, an earthen berm and planted vegetation shall provide screening of the Project from sensitive locations within the Town, as further discussed in the Visual Resources section herein.

The Project design shall include the preservation of existing trees and natural buffers in the majority of the Site (outside of the 19 acres of proposed post-construction development area). Landscaping shall be provided throughout the development and include street trees and buffer plantings. The majority of stone walls shall be retained on the Site.

The Town Board also notes that the Project will result in an anticipated gross tax revenue of approximately \$1,127,385.70. The Town Board finds that this addition of gross tax revenue, while adding no additional school children to the school district, will help offset any potential fiscal impacts of the Project. The Town Board further finds that the one-time \$650,000.00 contribution from the Applicant can be utilized by the Town to further various other goals and policies as it deems necessary.

The Town Board finds that based upon the certain mitigation measures, conditions and/or requirements discussed herein, which shall be incorporated into the design and layout of the

proposed Project, the Project minimizes or avoids any potential land use impacts to the maximum extent practicable.

B. Visual Resources

The Town Board finds that the Project will be consistent with the visual and aesthetic character of the Project Site and surrounding area. The Town Board further finds that, subject to the conditions discussed below, any perceived adverse visual impacts will be avoided or minimized to the maximum extent practicable.

In order to assess under SEQRA the potential visual impacts, the Town Board required visual analyses from the following sensitive receptor locations, which have been designated as scenic resources by the Town:

- Taconic State Parkway;
- Turkey Mountain;
- Hilltop Hanover Farm;
- Kitchawan Preserve;
- Route 134;
- Route 100; and
- North County Trailway Bike Path.

The Town Board considered various visual tools provided by the Applicant in the DEIS, including a Visual Resource Assessment, line of sight profiles, a 3D rendering, and photographs from the proposed Limit of Disturbance. In response to comments made on behalf of the nearby Random Farms neighborhood, the Town Board also required full color preliminary architectural renderings, as well as a Site Plan depicting the proposed Limit of Disturbance, in the FEIS. The Town Board expressly acknowledges that the Town carefully reviewed and considered each of these visual tools to reach its conclusions.

The Town Board finds that the aforementioned visual tools and analyses demonstrate that there is a potential for limited visual impact caused by the Project's roofline from each of the above referenced locations, unless certain conditions are imposed and mitigation measures are employed.

The Applicant shall screen views of the Project from the sensitive locations through the use of berms and planted vegetation. The Applicant shall also use natural colors for the houses, particularly the roofs, to blend with the existing scenery. The Town Board, its staff and consultants carefully considered a section view and plan view of the proposed berm and vegetation, together with the proposed layout of the site plan, and finds that the natural

topography and undisturbed wooded buffers, as well as the proposed berm and vegetation, adequately screen the potential visual impacts of the Project, particularly due to the central location of the homes along the western side of the property. The berm shall be incorporated into the grading plan of the Site once the final plans are prepared. The Town Board also finds that the three full color preliminary architectural renderings included in the FEIS adequately demonstrate that the use of varied roof lines, as well as natural earth color tones the houses, shall be required in order to further mitigate potential visual impacts.

The Town Board notes that high tension power lines run adjacent to the Site near Dell Avenue. The Town Board finds that the high tension power lines are presently quite visible from sensitive locations, and have a greater existing visual impact than any potential view of the Project's roofline.

The Town Board also acknowledges the concerns raised by the Town's Advisory Committee on Open Space, as well as the public, regarding the fact that the Property is situated in what has been termed the "Gateway" to the Town. The Town Board is likewise sensitive to the long-term attractiveness of the Gateway. The Town Board finds, however, that although the Property is located in the Gateway, based upon the topography of the Site, the location of the access point to the Project being located between 200-250 linear feet up Dell Avenue from Route 100, and the conditions and mitigation measures proposed for the Project, the Project protects and will not adversely impact the visual and aesthetic character of the Route 100 Gateway corridor.

The Town Board also acknowledges and carefully considered the concerns raised by the Planning Board that the layout of the homes "creat[es] a visual impression of a linear mass." The Town Board notes that the current design is in compliance with the requirements of the RSP-1 zoning. The Town Board encourages the Planning Board to utilize the flexibility standards available under various sections in the Zoning Code to, among other things, shift some of the homes forward towards the street. Implementation of such flexibility standards will not result in adverse impacts, but will likely further reduce environmental impacts. In addition, the Town Board finds that the use of varied styles of homes as shown in the preliminary architectural renderings would further detract from an appearance of a "linear mass."

The Town Board notes that the final building elevations, color schemes and aesthetic details, as well as site landscaping, screening, lighting, and other site development details shall be further detailed during the Planning Board approval process, and is subject to review by the Town's Advisory Board on Architecture and Community Appearance.

The Town Board, therefore, concludes that with the mitigation measures, conditions and/or requirements identified herein, the Project will not cause a significant adverse impact with respect to visual resources.

C. Flora and Fauna

The Town Board finds that, subject to the conditions discussed below, any adverse flora and fauna impacts will be avoided or minimized to the maximum extent practicable.

The Town Board studied the potential impacts to the vegetation communities and wildlife resources on the Site. The Town Board finds that, consistent with the purposes of the Yorktown Zoning Code and Comprehensive Plan, the Project would preserve the character of the Town by maintaining substantial amounts of environmentally significant open space in its predominantly undeveloped state.

1. Vegetation Communities

The Town Board carefully reviewed and considered the tree survey and site plan depicting all trees equal to and greater than 6 inches in diameter prepared by the Applicant during June 2011. The tree survey also determined that there are 14 species of trees on the Site. The Town Board also analyzed the Bio-diversity Assessment prepared on behalf of the Applicant. The Town Board finds that a variety of vegetation exists on the Site, including eight different vegetative communities, the greatest diversity of which occurs within the large on-site freshwater wetland, Wetland A. The Town Board finds that there are no rare, threatened and/or endangered species (or species of special concern) on the Site.

The Town Board finds that of the total 19 acre area of disturbance by the Project, approximately 17 acres of vegetation, comprised mostly of hardwood forest, will be disturbed by the Project, which is located along the western boundaries of the Site. Alteration of the Hardwood Forest and Disturbed Area will result in the removal of tree species of various diameters. The remaining 2 acres of the 19 acres of disturbance consists of already disturbed lands.

The Town Board finds that with the implementation of the conditions and/or requirements herein, the impacts of the disturbance of 17 acres of vegetation will be mitigated to the maximum extent practicable. The Applicant shall implement a Stormwater Management Plan. Disturbed areas shall be stabilized with seed and mulch during and after construction, and state-of-the-art erosion and sediment control devices shall be installed in predetermined design areas. Emphasis shall be directed at providing cover across disturbed areas which are left idle for more than 7 days. A combination of silt fencing and hay bales, and permanent controls, shall be utilized to provide protection. Sediment and chemical applications generated by the development shall be addressed (adsorbed) by directing runoff to vegetated stormwater basins.

The Town Board finds, subject to final review by the Planning Board during its site and subdivision review of the Project, that the proposed design layout of the Project has been configured to provide safe and efficient access for residents, maintenance or mitigation of existing drainage patterns for sustaining on-site freshwater wetland communities and incorporation of appropriate stormwater management practices. Much of the Hardwood Forest community shall be maintained as practicable, as well as to reduce overall visual impacts. Existing natural vegetation shall be preserved and protected to the fullest extent possible; trees equal to and greater than 6 inches in diameter (with a minimum height of 25 feet) shall be preserved, unless their removal is most necessary for construction purposes. Single trees, or groups of trees determined to be "trees of significance" under the Chapter 270 of the Town of Yorktown Code, shall be located in the field prior to construction in order to assist the Planning Board in its consideration of preservation of such trees. As many trees as possible shall be preserved. Each preserved tree shall be surrounded with orange plastic fencing (in a circular

fashion), and along the “drip-line” of each species in order to alert construction workers on the Site of the location and spacing required to protect and preserve each saved tree. There shall be a 1:1 tree replacement as part of the overall landscaping plan.

The Town Board finds that loss of vegetative habitat will be mitigated by preserving on-site wetlands and mature forests situated north, south and east of the Site, as well as incorporating a landscape design that will provide visual screening and additional vegetation cover along the western portions of the Site. These areas shall be protected as “open space” under a deed restriction in form and substance acceptable to the Town Board. Indigenous species shall be planted along the western limits of the Site in conjunction with construction of stormwater management ponds.

2. Wildlife Resources

The eight vegetative communities identified at the Croton Overlook Development property support a variety of avian, mammalian, and herpetological species with various food sources and shelter. The Town Board carefully considered the data provided by the Applicant with regard to the observed and likely species present on the Site, as well as the various habitats existing on the Site. No rare, threatened or endangered species were observed on the Site. The Eastern Box Turtle, a species of special concern was observed. The Marbled Salamander, also of special concern, is a likely habitat. Pursuant to the NYSDEC, species of special concern are those which warrant attention and consideration, but “current information, collected by the [NYSDEC] does not justify listing these species as either endangered or threatened.” The Town Board finds that the Project will not significantly impact any rare, threatened, and/or endangered species (or the noted species of special concern) or habitats on the Site. The Site is not listed as biodiverse within the “Croton to Highlands” biodiversity study conducted by the Metropolitan Conservation Alliance.

The Town Board finds, however, that the various vegetative cover types found on-site provide habitat to a number of wildlife species. Development of the Site would require the removal of existing vegetation which in turn will result in reduced habitat area for some wildlife species. Overall, the development will result in the loss of approximately 17 acres of vegetation cover. Approximately 46 acres will remain unaffected by the Project, which shall be preserved and protected as Open Space pursuant to deed restrictions.

The Town Board finds that the removal of the 17 acres of vegetation has the potential to fragment a portion of the greenway corridor characteristics attributed by this area; however, the Town Board further finds that given the existing obstacles posed by the utility right-of-way and NYS Routes 134/100 and that 46 acres of the property will remain as Open Space, removal of vegetation is not expected to propose significant impacts. The Town Board also finds that the implementation of the conditions and/or requirements herein will mitigate any potential impacts to the maximum extent practicable.

The Town Board finds that impacts due to habitat loss will be mitigated by the preservation of vast areas of the natural Hardwood Forest, and protected open space. The undeveloped portions of Site consist of forested wetlands, forested uplands, intermittent and perennial streams and

open water ponds. The majority of the 46 acres of open space consists of second growth deciduous forests and productive wetlands located in the central and eastern portions of the property. The Town Board finds that this land will provide suitable habitat for those species displaced from the areas of the Site under construction. Once construction is complete, a landscape plan shall be implemented to maximize the creation of wildlife habitat. These landscaped areas would primarily serve species of mammals and birds adapted to suburban/semi-rural areas.

Based upon the Town Board's careful review and consideration of the Bio-diversity Assessment, the information provided in the "Croton to Highlands" biodiversity study conducted by the Metropolitan Conservation Alliance, and data provided by the Applicant, the Town Board finds that both development-associated and development-sensitive species exist at the Site. The Town Board finds that during construction, removal of vegetation within the Hardwood Forest may serve to stress some varieties of on-site wildlife populations which seek food and temporary shelter within this community. The Town Board finds, however, that some of this population will be absorbed within the adjoining, more diverse areas of the Site including the Highland Hardwood Forest community along the eastern limits of the Site which displays similar habitat characteristics to that of the Hardwood Forest community. The Town Board further finds that the potentially affected species inhabiting the nearby Kitchawan Preserve and/or the Site will likely seek refuge in immediately adjoining lands which connected with other, surrounding greenway corridors (confirmed by aerial interpretation).

In addition to the above, the following shall be implemented to mitigate impacts, as well as ensure the preservation for the 46 acres as Open Space:

- Vegetation removal shall occur in a north-south direction to avoid greater habitat fragmentation that would occur with an east-west configured tree cut area. The Town Board finds that this will maximize habitat connectivity on-site and preserve the north-south corridor affect the property currently displays in relation to surrounding undeveloped and natural areas.
- All wetland and waterway buffer lands (including those regulated by the Town of Yorktown and the New York City Department of Environmental Protection ("NYCDEP")) shall be preserved and protected under a binding legal agreement (such as a deed restriction). These areas shall be included with the overall remaining 46 acres of Open Space.
- Removal of existing Maple/Oak/Birch trees within the proposed development area shall be minimized to allow certain trees to remain in idle areas of the development. The Town Board finds that this will allow a continuation of resources favored by existing wildlife, as well as provide a shelter wood affect.
- Tree saplings similar to those indigenous types of vegetation removed under during construction of the Project shall be planted throughout the development area. This shall be provided under the Project's landscape plan.

- Appropriate stormwater management planning shall be implemented and all controls shall be maintained properly during and after construction in order to protect the water resources found within the on-site vegetation communities favored by development-sensitive species.
- Major portions of Site construction activities shall not be performed during periods of the year when the mating and breeding life-cycles of development-sensitive species (avian and herpetofauna) are at a high.

After careful review and consideration, the Town Board finds that the mitigation measures, conditions and/or requirements herein will mitigate impacts for the observed and potential fauna inhabitants identified on the Site to the maximum extent practicable. Thus, the Project will not cause a significant adverse impact with respect to flora and fauna.

D. Soils and Topography

The Town Board closely considered the Project's potential adverse impacts on the Site's soils and topography. The Board reviewed the relevant soils map and slopes analysis, and related technical information. The Town Board finds that with the implementation of the mitigation measures, conditions and/or requirements herein, the potential impacts from the Project to soils and topography will be mitigated to the maximum extent practicable.

1. Soils

The soils of the entire Site, which consists of approximately 65 acres, consist primarily of Woodbridge-Loam, Charlton-Chatfield Complex, Hollis, Sun Loam, and Chatfield-Hollis soils. Other soils on-site include Charlton loam, Fluvaquents-Udifuvents complex, Ridgebury loam, Unadilla silt loam.

The total area of disturbance consists of approximately 19 acres, or approximately 29% of the entire Project Site. The Town Board carefully reviewed the Total Area of Disturbance Soil Classification demonstrating the total area of disturbance for the proposed Project.

The Town Board finds that the construction process will require excavation and grading of slopes to create a level area. The total cut for the Project is expected to be 37,000 cubic yards and total fill is expected to be 37,000 cubic yards. Cut and fill balancing refers to the process of utilizing the materials available at a site by matching the amount of material excavated (cut) with the amount of material needed as fill during the grading and construction process. As such, the Town Board finds that the cut and fill is balanced for the Site. The excavated material shall be used primarily for the proposed earthen berm along the western side of the Site, discussed further in the Visual Resources section herein, and the grading of the Site for the proposed units. The Town Board finds that since as currently proposed, the cut and fill will be balanced during the entire construction process, no additional traffic will be generated by the need to import fill resources, or exporting excess cut material. Due to the fact that excavated soils are not anticipated to be removed from the Site, the Town Board finds that the Applicant shall take actions to minimize erosion impacts on stockpiled soil. These actions shall be specifically

addressed in the Erosion and Sediment Control Plan. The Applicant shall include the installation of a silt fence around any temporary stockpile of soil, and seeding and mulching stockpiles that are not expected to be used within seven days of their excavation.

Additionally, the construction activity and proposed development shall be specifically located on-site to avoid steep slopes, unsuitable soils, and wetlands and their associated buffers.

Major construction for the Project is expected to last 18 months, indicating that at least one winter season will occur during construction. Frozen soil conditions occur when frost has penetrated the depth of the boundary between topsoil and subsoil.

In order to avoid potential problems encountered with frozen soils, steps shall be taken to ensure that seasonally limited construction processes will be carried out at the appropriate time, and shall be described further in the Erosion and Sediment Control Plan.

The Town Board finds that the construction sequence, in conjunction with the Erosion and Sediment Control Plan, establishes appropriate protective measures to mitigate potential adverse impacts associated with the disturbance of soils.

2. Slopes

The proposed 65-acre Site features woodlands with open vegetation, varied inclines, and some bedrock outcroppings.

A summary of the slopes as a percentage of the entire 65 acre Site is shown in Table D-2 of the DEIS:

Table D-2: Slopes in Existing Project Site

Slope	Entire Project Site	Percent of Entire Project Site
Less than 10%	30.43 acres	48.6 %
10% - 20%	20.02 acres	32.3 %
Greater than 20%	12.25 acres	19.1 %

The following chart from the DEIS demonstrates the Project's impact on existing slopes:

Table D-5: Impact on Existing Slopes

Slope	Entire Project Site	Percent of Entire Project Site	Area of Disturbance	Percent of Area of Disturbance
Less than 10%	30.43 acres	48.6 %	8.94 acres	48%
10% - 20%	20.02 acres	32.3 %	9.46 acres	50.8%
Greater than 20%	12.25 acres	19.1 %	0.22 acres	1.2%

The Town Board finds that based upon the Rock Outcropping Plan provided in the DEIS, approximately 2.27 acres of the 8.61 existing rock outcroppings will be disturbed through the use of blasting. The blasting means and methods shall be in accordance with all applicable regulatory agencies, including the Town of Yorktown Code Chapter 124. Along with blasting, the Applicant proposes hammering of oversize rock into a more practical size to be moved to its final location on-site. Crushing of blasted material will also occur; crushed rock will be used where needed on-site as a base material for roads and in the subsurface infiltration field. Excavation of rock will occur primarily in the beginning of the Project, when the Site is being brought to plan grades through cutting and filling. Blasted rock shall be stockpiled for reuse, and such stock piles shall be properly stabilized in accordance with all governing agencies regulations. The geology of the area is classified as Fordham Gneiss, Biotite according to the Westchester County Environmental Planning Atlas, Map 2, August 1977 and the Yorktown Environmental Data Base Maps, Geology map, 1987. Due to the hardness of this type of rock, the duration of blasting may be extended, which will be addressed in the context of the Town Blasting Permit.

The Town Board carefully reviewed and considered the Applicant's Grading Plan, which provides a detailed image of existing and proposed contour lines of the Site. The Town Board finds that there will be minimal disturbance to steep slopes. This disturbance will only be for the improvements to existing trails. Only .22 acres of the 19 acre area of disturbance is steep slopes. The Town Board also finds that the majority of steep rock ledges are located at the North of the Site, outside of the proposed limit of disturbance. The majority of the centerline of the proposed Dell Avenue runs along the center of a ridge, approximately at grade with existing conditions. The existing topography in the area where the proposed Dell Avenue will lay is sloped. As such, on one side of the proposed road centerline, material will be excavated, and the other side will be filled. The path of the proposed roadway eventually meets a hill, which will require cutting and excavation. The proposed cul-de-sac will require some filling. The Town Board finds that a significant amount of rock blasting will not be necessary for the middle of the path of the proposed roadway, and that the majority of blasting is anticipated to occur at the North and South ends of the Site.

Proper stormwater management practices shall be employed, during and post-construction, to reduce erosion and control subsequent off-site sedimentation. The Applicant shall also comply with an approved Erosion and Sediment Control Plan.

The Town Board acknowledges specifically the concerns of the NYCDEP regarding the potential impacts due to disturbance of soils, steep slopes and blasting. The Town Board closely and extensively considered information provided by the Applicant with regard to the interim cut and fill balances, grading plans for each phase of construction and additional information demonstrating that the plan adequately considers the amount of area necessary to accommodate the work required in each phase of construction. The Town Board further finds that the various mitigation measures, conditions and/or requirements herein will mitigate the impacts to soils, topography, steep slopes, geology, and surface drainage during and post-construction to the maximum extent practicable. These mitigation measures, conditions and/or requirements include compliance with an approved Soil Erosion and Sediment Control Plan, which shall be prepared in accordance with the most recent editions of the New York State Guidelines for Erosion and Sediment Control, and the New York State Stormwater Design Manual. The Applicant shall also comply with an approved Blasting Mitigation Plan. Additionally, the construction activity and area of disturbance shall be specifically located on-site to avoid steep slopes, unsuitable soils, and wetlands and their associated buffers. Other various steps to be carried out to reduce the impact on soils and steep slopes shall include, but are not limited to: proper stockpiling methods for excavated materials, seeding and mulching of stockpiled materials that will be unused for more than seven days, balancing the cut and fill so as to reduce the number of vehicle trips to and from the Site during construction, and installing a proper subsurface wastewater treatment discharge system.

Thus, the Project will not cause a significant adverse impact with respect to soils and topography.

E. Wetlands and Surface Water Resources

The Town Board closely examined the Project's impacts to the Site's wetlands and surface water resources. The Town Board and the public were particularly concerned during these SEQRA proceedings about potential impacts related to post-construction stormwater runoff generated by the Project in light of the proximity of the Site to the New Croton Reservoir.

Two on-site wetland areas have been identified on the Project Site. Wetland A is 12.69 acres, and Wetland B is 0.07 acres. There is also a third off-site nearby wetland measuring 1,100 square feet along the Con Edison right-of-way. There are no NYSDEC designated freshwater wetlands on the Site. The Town Board and its wetland consultant reviewed and considered the Applicant's Wetland Delineation Report as well as verified its conclusions in the field, and find that it is accurate.

The Town Board and its consultants required the Applicant to complete functional analyses of Wetlands A and B. The Town Board required this analysis to determine the extent of mitigation necessary to compensate for activities planned either within the wetlands or the 100 foot buffer. The Town Board and its consultants carefully reviewed the analyses and find that Wetland A is a highly functional wetland, and Wetland B is a low to moderately functional wetland.

The Town Board finds that upgradient existing surface and groundwater flow paths originating from the central/eastern portions of the proposed development area will potentially be interrupted and routed away from on-site Wetlands A and B under post-construction conditions. The Town Board finds that elimination of these flow paths will remove important surface and groundwater flow paths, which would normally discharge to on-site wetlands and waterways under pre-construction conditions. The Town Board required the Applicant to conduct a pre- and post-construction surface water hydrological analysis to ensure no change in surface water supply to the wetlands would occur. After careful review and consideration of this analysis by the Town Board and its staff and consultants, the Town Board finds that with the conditions and mitigation measures required herein, this potential impact will be avoided or mitigated to the maximum extent practicable, and as demonstrated in the flow analysis annexed to the DEIS, the Project will not reduce flow to the wetlands post-construction.

A Town Wetland Permit is required from the Planning Board for any disturbance within the designated wetlands or the 100 foot regulated buffer. The Town Board notes that due to "headwater" surface seep points located by NYCDEP in the vicinity of Wetlands A and B, there is also a NYCDEP regulated 50 foot buffer within the Town's 100 foot regulated buffer. NYCDEP approval is also necessary for improvements within the NYCDEP regulated 800 foot "reservoir stem" setback, which exists on the northern portions of the Project Site. All activities must also meet conditions of the applicable U.S. Army Corps of Engineers Nationwide General Permit.

A Town of Yorktown Wetland Permit is also necessary for the completion of the roadway and stormwater drainage work proposed along portions of Dell Avenue and areas where trails will be constructed. Minor areas of Wetland A and buffer areas of Wetlands A, B and C will be disturbed: (i) a 2,500 square foot wetland buffer area of Wetland C where impervious asphalt area is being removed and replaced with pervious soil and plantings resulting in a positive impact; (ii) a 7,200 square foot area of the buffer of Wetland B, at the north end of the Site where the Town road is being improved to Town Code requirements, there will be additional asphalt added; and (iii) areas of wetland and wetland buffers of Wetland A will be impacted by the improvements to the existing trails, which requires further details upon application to the Planning Board for a Town Wetland Permit, and to the NYCDEP for necessary approvals.

The proposed improvements along and relocation of Dell Avenue will be performed within the 100 foot Town wetland buffer area, and within the 50 foot NYCDEP regulated setback of Wetland B. The improvements to Dell Avenue will also be performed within the 100 foot buffer of the 1,100 square foot off-site wetland. Additionally, a Town Wetland Permit is also required for the proposed improvements along the "fire roads/trails," which cross and/or lie directly within Wetland A.

The Town Board notes that improvements to Dell Avenue will be further reviewed by the NYCDEP, and all stormwater generated by the improvements along Dell Avenue shall be addressed under the stormwater pollution prevention plan ("SWPPP"). The Town Board further notes that the approvals necessary from NYCDEP shall also incorporate measures aimed at mitigating potential stormwater quality and sedimentation impacts during and after construction. Stormwater generated throughout the Project shall be directed to the proposed stormwater

control basins designed to handle appropriate storm events with bioretention and filtration. These provisions shall be incorporated into the Project's SWPPP, and shall be subject to further design review by the Town's engineer.

In order to mitigate the stormwater generated by the Project, all stormwater shall be routed into permanent stormwater basins designed to properly treat stormwater runoff. The stormwater system shall be designed to conform with the guidelines established in the New York State Stormwater Management Design Manual, dated August 2010, as well as the NYSDEC publication "Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources," as amended April 4, 2010.

In order to meet NYCDEP water quality treatment requirements, the Applicant shall construct at the northwestern portion of the Site a Sand Filter and a Micropool Extended Detention Pond, and shall provide water quality treatment for the stormwater runoff discharging thereto. An Infiltration Basin shall be located at the southwest corner of the Site near the proposed entrance to the Project.

In order to mitigate the encroachment within the buffer of Wetland B and the off-site 1,100 square foot wetland, the Applicant shall remove pavement along Dell Avenue as shown on the Site Plan, and establish a buffer of vegetative plantings, which will be finalized as part of the Project's landscape plan. The Town Board finds that these plantings, which will surround stormwater recharge basins, will mitigate any potential impact from the planned improvements along Dell Avenue. The Town further finds that the plantings will form a passive recreational park setting for the residents of the Project to enjoy. This attractive vegetative area, together with the balance of the 46 acres of open space on the Site, including Wetlands A and B, shall be maintained in perpetuity pursuant to deed restrictions.

The Town Board also carefully considered the proposed on-site wastewater treatment plant to determine whether there will be an impact to water resources from the wastewater produced on the Site. The wastewater treatment facility must obtain approvals from NYSDEC, NYCDEP, and the Westchester County Health Department. The Town Board notes that further environmental safeguards will be incorporated into the permitting process for the proposed wastewater treatment plant. These safeguards shall ensure that any discharge of wastewater will meet or exceed intermittent stream standards before treated wastewater is routed to the subsurface discharge system for microbial treatment.

The Town Board and its consultants also considered and analyzed the Project's proposed landscape plan and Integrated Pesticide Management Plan ("IPMP"), and notes that the Planning Board will further refine the Plan's requirements. The Town Board finds that the Project avoids adverse impacts to the on-site water resources by incorporating varieties of lawn grass and tree and shrub plantings which are least fertilizer demanding and which will quickly mobilize and uptake fertilizer nutrients (Nitrogen and Phosphorus) during the growing season. The Town Board also finds that the IPMP will adequately reduce chemical runoff potentials and thus provide an additional means to safeguard against discharges to surrounding on-site wetlands and watercourses. The Town Board further finds that conformance with the proposed landscape plan will serve to mitigate pollutant-loading potentials and thereby eliminate poor water quality

discharge potentials to surrounding water resources, including the New Croton Reservoir. Accordingly, the Applicant shall develop the Site in conformance with the proposed landscape plan and IPMP. In addition, only environmentally friendly and organic based fertilizers, such as compost, manure, peat and worm castings, shall be considered for use on the Site. Phosphorus containing fertilizer shall not be utilized. These conditions and/or restrictions shall be incorporated into the HOA Declaration.

The Town Board also specifically notes that the Yorktown Conservation Board expressed its support for the rezoning of the Site to RSP-1 on the grounds that an RSP-1 development allows on-site disturbance to be concentrated in such a way as to preserve sensitive environmental features. Moreover, large acre zoning, such as the existing underlying R1-160 zoning, allows for large houses with sprawling lawns, which could result in more fertilizer and septic systems, and, therefore, greater impacts to on-site water resources. The Town Board carefully considered the Conservation Board's comments and finds that it is in agreement with the Conservation Board, and that, as further addressed in the "Alternatives" section of these Findings, development of an RSP-1 Project on this Site is more protective of the sensitive environmental features than a conventional R1-160 development. The Town Board notes that there will be minimal disturbance to wetlands by the Project. Disturbance will only be for the improvements to existing trails. Whereas the Project results in a disturbance of approximately 19 acres, a conventional R1-160 development would result in approximately 23 acres of disturbance. The Town Board expressly acknowledges that the Planning Board has raised some concerns regarding additional information required with regard to wetlands, however, this information will be addressed in further detail upon consideration by the Planning Board for a Town Wetland Permit. No new development is proposed in wetlands.

The Town Board further finds that the geothermal systems proposed for the Project will not have an adverse impact on ground water. The systems shall use non-toxic, safe for consumption fluids, and a leak detection alarm system shall be in place in the event of a leak. In addition, the Town Board and its staff and consultants carefully reviewed and considered the Emergency Spill Response Plan provided by the Applicant, and determines that in the event of a wastewater spill or leak, the implementation of the Plan will adequately prevent any potential adverse impact to ground and surface waters.

The Town Board also notes that in the event that the Site's water cannot be supplied by the Town of New Castle, there is sufficient area available on-site to provide a community water well, however, in such event, the Applicant would be required to undertake additional feasibility studies in order to demonstrate the feasibility of providing water to the Project by community water well. These Findings have not considered this, and therefore, should such water system be utilized, a prior review of potential environmental impacts must be undertaken.

After this Board's in depth consideration of the aforementioned issues, the Town Board finds that the Project, with the implementation of the mitigation measures, conditions and/or requirements provided herein, will not adversely impact the Site's water resources, or will mitigate any such impacts to the maximum extent practicable.

F. Cultural Resources

The Town Board finds that the Project will pose no significant adverse impacts to cultural resources. The Town Board recognizes that the Project required review by the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") due to the presence of a precontact (dating prior to European contact) archaeological site "in or adjacent to" the Site. More specifically, there is a potential historical site located approximately ½ mile from the Project Site.

The Applicant, therefore, was required to undertake a Phase I Archaeological Study. The Town Board carefully considered the Applicant's Phase I Archaeological Study, which included 134 hand excavated shovel tests at 15 meter intervals, as required by State standards. The Town Board finds that the Phase I Archaeological Study did not result in the identification of any precontact or early historical features, or recovery of precontact artifacts.

The Town Board therefore finds that the Project will not have an impact on cultural resources. The Town Board further expressly acknowledges that this finding is consistent with the finding of OPRHP, which "recommends that there will be *No Impact* to any historic resources listed or eligible for listing in the State or National Registers of Historic Places."

G. Noise, Air, and Construction Impacts

The Town Board finds that the Project's potential adverse air and noise impacts, including those associated with construction, have been minimized to the maximum extent practicable.

1. Air Quality

The Town Board carefully considered data collected and compiled by the Applicant from NYSDEC monitoring stations in the vicinity of the Site. The Town Board finds that on a scale of 0-500, where 0-50 indicates "good" air quality conditions, the Site presently has an air quality rating of 26 and 27. The Town further finds that air quality at the Site is very good, because there are no sources of air pollutant loading on or in close proximity to the Site.

The Town Board finds that possible impacts on local air quality conditions during the construction process exist, including: fugitive dust (particulate) emissions from land clearing operations, and mobile source emissions, including hydrocarbons, nitrogen oxide, and carbon monoxide. The Applicant shall implement all appropriate fugitive dust control measures during the construction of the Project, including the watering of exposed areas and the use of dust covers for trucks. The Applicant shall also minimize local mobile source emissions by following standard traffic maintenance requirements, such as:

- Performing construction requiring temporary street closings during off-peak hours wherever possible;
- Maintaining the existing number of traffic lanes to the maximum extent possible; and

- Prohibiting the idling of delivery trucks or other equipment during unloading or other inactive times.

The Town Board further finds that with these mitigation measures, conditions and/or requirements, there will not be a significant impact to air quality in the surrounding area during construction of the Project. The Town Board also finds that there will be no potential significant impact to air quality from the Project post-construction based upon the nature of the Project as an age-restricted residential development.

2. Noise

The Town Board required the Applicant to undertake short term sound monitoring to determine existing ambient sound levels during different times of the day and night along the property line. Upon careful review and consideration of results of the monitoring, the Town Board finds that the primary contributor to existing noise levels on-site is the traffic along New York State Highway Route 100. During peak traffic hours, noise levels ranged from 60 to 65 dB. During non-peak traffic hours, the levels ranged from 52 to 56 dB. Nighttime measurements were in the range of 50 to 54 dB.

The Town Board finds that potential impacts on noise levels during construction of the Project would include noise and vibration from the operation of construction equipment. The Town Board further finds that the severity of any such impacts from these sources would depend on the noise characteristics of the equipment used, the construction schedule, and the distance between the construction Site and potentially sensitive noise receptors. Noise caused by construction activities would vary widely, depending on the phase of construction and the specific task being undertaken. The Town Board notes, however, that there are no businesses in the immediate area surrounding the Site, or residents within several hundred feet of the proposed construction.

The Applicant shall comply at all times with Chapter 216 of the Town of Yorktown Code, relating to noise in the Town, as well as with all other noise standards, including the EPA emission standards for construction equipment. No construction activities shall occur between the hours of 11:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends. The Applicant shall use low-noise emission level equipment and operation procedures wherever practicable.

The Applicant shall further comply with the Town of Yorktown Code, Chapter 124, relating to blasting and excavation on the Site.

The Town Board considered the potential noise impacts resulting from the construction of the Project and the relatively isolated location of the Project, and finds that, with the mitigation measures, conditions and/or requirements identified herein the construction generated noise will not have a significant impact. The Town Board also finds that there will be no potential significant noise impact from the Project post-construction based upon the nature of the Project as an age-restricted residential development, and the anticipated maximum 19 vehicles generated by the Project.

H. Community Facilities and Services

The Town Board examined the Project's potential effect on the provision of community services, including police protection, fire protection, libraries, transportation and schools. This analysis considered the fact that the Site is presently vacant, and as developed, will add an additional projected 140 residents to the Town of Yorktown. This analysis demonstrated that the increased tax revenues from the Project – approximately \$16,105.00 per unit annually, or a total of \$1,127,385.70 in Town, County and School taxes annually – would offset any potentially increased service costs attributable to the Project. In addition, the Applicant shall provide a one-time contribution to the Town to further offset any increase in service costs attributable to the Project. The Town Board finds, therefore, that the Project will not have an adverse impact on the provision of community services. Accordingly, no mitigation is recommended.

1. Police Protection

The Town Board considered correspondence from Lieutenant Kevin Soravilla of the Yorktown Police Department, which demonstrates that the department received approximately 13,000 calls to service in 2010, or approximately 0.03 calls per capita per month. As such, the Town Board finds that the projected additional 140 residents may increase the monthly services calls to the Yorktown Police Department by approximately 4 calls per month. The Town Board carefully considered data provided by the Applicant, derived from the Development Impact Assessment Handbook, prepared by the Urban Land Institute, which states that an increase in population of 140 persons would generate a need for approximately 0.3 additional police personnel and 0.1 police vehicles. The Town Board finds that this data demonstrates that the Project will not have a significant impact on police protection provided to the Town. Police services are included in the approximately \$119,574.70 annual taxes that will be generated to the Town of Yorktown.

2. Fire Protection

The Town Board carefully considered data provided by the Applicant, which was derived from the Development Impact Assessment Handbook, prepared by the Urban Land Institute. The Handbook states that there is an estimated need for 0.2 additional fire personnel based on an increase in population of 123 persons. The Town Board finds, therefore, that the projected approximately 140 residents of the Project would require a need for approximately 0.3 fire personnel. The Town Board further finds that the Project will not result in a significant impact on fire protection in the Town, particularly in light of the fact that the projected \$16,512 taxes generated from the residents specifically for fire/life support will offset any additional costs. The Town Board notes that the on-site fire hydrants will be served by the same proposed water source for the Project.

3. Recreational Facilities

The Town considered the information provided by the Applicant regarding approximately 19 recreational facilities administered by the Town of Yorktown Recreation and Parks Division of the Department of Environmental Services. Combined with the on-site passive recreation provided for the Project, the Town finds that the addition of 140 residents can be mitigated

through various available means at the discretion of the Town so that they will not have an adverse impact on recreational facilities in the Town.

4. Libraries

There are a projected 140 residents as a result of the Project. If, at most, $\frac{1}{4}$ of the residents attend the library on a given day, there would be approximately an additional 12 people per each of the three nearby libraries. The taxes generated from the Project will sufficiently offset any additional library services required. The Town Board finds that this will not constitute a significant impact on public libraries in the vicinity.

5. Cultural Institutions and Senior Facilities

There are a projected 140 residents as a result of the Project. If, at most, $\frac{1}{4}$ of the residents attend a cultural institution or senior facility on a given day, this would result only in the addition of 36 people. The taxes generated from the Project will sufficiently offset any additional need for cultural institutions and senior facilities. The Town Board finds that this will not constitute a significant impact on cultural institutions and senior facilities.

6. Transportation

The number 17 Bee Line Bus Service line runs along the Taconic approximately 2 miles west of the Site, and the number 19 line runs along Bedford Rd approximately 3 miles east of the Site. Other public transportation in close proximity to the Site includes the Hudson Rail Line and the Harlem Line. The Hudson Rail Line runs North and South along the Hudson River, and the nearest stop is located in Ossining NY. The Harlem Line runs from New York City to eastern Dutchess County, and the nearest stop is in Mount Kisco. These public transportation routes typically have commuter lots available for parking and are approximately 2.5 miles away from the Site, one to the East and one to the West.

The Town Board finds that the addition of 140 residents will not adversely impact the transportation services in the Town.

The Town Board also notes that community services are located within walking distance of the Project. The Hamlet of Millwood is an approximately 1.5 mile walk along the adjacent North County Trailway, and a short drive of approximately 1.3 miles, and provides services such as a supermarket, a pharmacy, various restaurants, a hardware store, a delicatessen, and gas stations. There is also a restaurant immediately across Route 100 from the Site.

7. School Children

The Project is a 55 and older community, and the RSP-1 zoning does not permit children to live on Site. The Applicant shall incorporate covenants and restrictions into the HOA bylaws, as well as restriction in the deeds of each individual lot, to ensure that the Project remains a 55 and older, age-restricted community. The Town Board finds that with such restrictions, there will be no increase in school children as a result of the Project.

Although the Project is planned as a 55 and older community, the public and the Town Board raised concerns about the potential impacts if at some time in the future, the Project is converted to non-age-restricted housing. The Town Board considered the potential impacts the addition of school children on the Site would have to the Town. The Town Board acknowledges and agrees with the Planning Board's suggestion that the Applicant utilize the "Rutgers University, Center for Urban Policy Research. Residential Demographics Multipliers – New York (June 2006)," to determine the potential number of children on the Site. Using a "children multiplier" of 0.17, the projected number of children on this Site, assuming non-age-restricted housing, would be 12 children.

The Town Board finds that either as an age restricted or non-age restricted development, each homeowner will be responsible to pay taxes, including school taxes. The Town Board finds that an addition of 12 children on the Site would not result in a financial impact to the Town, particularly in light of the \$821,417.80 in school taxes projected to be generated from the Project annually.

I. Community Growth and Character

After careful consideration of the Project in the context of the surrounding community, the Town Board finds that, subject to the mitigations conditions and/or requirements herein, that the Project will not have a significant adverse impact on community growth, and that the Project will be consistent with the surrounding character of the community.

The Project, which is located in the southern portion of the Town, is consistent with the types of land uses comprising the character of the community. The area consists of various zones districts and uses. The property is bounded on the east by a single estate. To the west the area is intersected by high-power transmission lines. Further westward from the Site is NYS Route 100, a 55 mph major North-South highway carrying 8,100 vehicles per day. NYS Route 134 connects to NYS Route 100 at a perpendicular angle, adjacent to the property. NYS Route 134 is a 40 mph state roadway carrying approximately 4,500 vehicles per day. West of NYS Route 100 is a commercial zone including the restaurant Traveler's Rest. Southwest of Traveler's Rest is an industrial complex, Pogact Excavating, that crushes rock and processes soil into landscape product, houses all manner of trucks and heavy equipment, and performs retail sales to the public. To the south of the Site is residential housing, including the Random Farms development. Adjacent to the Site to the north is a general residential development. The hamlet of Millwood in the Town of New Castle lies roughly 1.3 miles to the south of the Site.

The Town Board carefully considered comments and concerns raised by the public with regard to the consistency of the density of this Project in the context of the surrounding community. The Town Board finds that the Project will be consistent with the low density character of the nearby residential uses, particularly in light of the 46 acres of open space, which will be preserved in perpetuity.

As set forth in the Land Use and Zoning section, the Project substantially furthers, numerous goals and policies set forth in the Yorktown Comprehensive Plan, adopted June 15, 2010. Relevant here, these goals include the development of large tracts of land in a manner consistent

with the low density residential character of the Town, while preserving sensitive environmental features. The Town Board finds that the mitigation measures that have been proposed for the Project bring it into greater consistency with these goals of the Comprehensive Plan, as well as the character of the community in which it is located.

The Town Board shares the concerns of the Town's Advisory Committee on Open Space, as well as the public, regarding the fact that the Property is situated in the "Gateway" to the Town. The Town Board finds, however, that although the Property is located in the Gateway, based upon the topography of the Site, the location of the access point to the Project being located approximately 200-250 linear feet up Dell Avenue from Route 100, and the conditions and mitigation measures proposed for the Project, the Project protects and will not adversely impact the visual and aesthetic character of the Route 100 Gateway corridor.

The Town Board specifically acknowledges that the Project will be subject to review by the Town's Advisory Board on Architectural and Community Appearance. The Town finds that this review would further ensure that the architecture of the proposed units, as well as the nature and colors of materials, conform with the aesthetic character of the existing community.

With regard to community growth, the Town Board considered the following population data provided in the DEIS, and taken from the Yorktown Comprehensive Plan:

Table N-1 – Existing Demographics of Yorktown and Westchester County, NY

	Yorktown	Westchester
Population	37,538	949,050
Age 5 and under	1,869	60,742
Age 18 and over	27,940	716,361
Age 65 and over	5,082	132,911

All info from US Census Bureau 2005-2009

The Town Board finds that in conducting its site-specific review of the implementation of the RSP-1 floating zone on the Site, any potential impacts from an additional 140 "active adults" will be avoided or mitigated to the maximum extent practicable by the anticipated property tax revenue from the homeowners.

With regard to short term impacts, the Town Board finds that there will be certain temporary impacts on surrounding residences from the construction of the Project. The primary potential impact will be on noise levels during construction of the Project, as discussed further in the Noise, Air and Construction Impacts section herein. Construction noise is regulated by Chapter 216 of the Yorktown Town Code, and by the EPA noise emission standards for construction equipment. Federal requirements mandate that certain classifications of construction equipment and motor vehicles meet specified noise emissions standards. These regulations shall be carefully followed by the Applicant during the construction of the Project. Appropriate low-noise emission level equipment and operational procedures shall be used. Compliance with noise control measures shall be ensured by directives to the construction contractor. The Town Board

finds that the increases in noise levels caused by the traffic of construction vehicles would not be significant, and that disrupting construction noises will be temporary in nature.

The Town Board, therefore, finds that the Project will not result in a significant adverse impact to community growth or character.

J. Stormwater Management

The Town Board, together with its staff and consultants, carefully reviewed and considered the Project's design and draft Stormwater Pollution Prevention Plan ("SWPPP"). The Town Board and the public is particularly concerned about the proximity of the Site to the New Croton Reservoir. The Town Board finds that the SWPPP has been designed to conform to the guidelines established in the New York State Stormwater Design Manual, dated August 2010, and the guidelines established in the NYSDEC publication "Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources," effective May 1, 1997, as amended April 4, 2010. Additionally, the Town Board, its staff and consultants find that the proposed stormwater management system has been designed to comply with standards set forth in the SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001. The Town Board, therefore, finds that subject to the mitigation, conditions and/or requirements herein, the Project will avoid or minimize any significant adverse impacts on stormwater management. The Town Board expressly notes that the SWPPP is subject to final approval by the Town Engineer. Moreover, since the New Croton Reservoir is within the NYCDEP's jurisdiction, the SWPPP is also subject to additional conditions pursuant to the review and approval authority of the NYCDEP.

The construction of the Project will disturb approximately 19 acres of the Site. To analyze existing drainage conditions, these 19 acres were divided into 5 drainage areas. These sub-areas are labeled A, B, C, D, and E in the DEIS.

The Applicant was required to calculate stormwater runoff quantities for the 2, 10, 25, and 100 year storms per local and NYSDEC regulations. A summary of these runoff quantities were presented in the DEIS in Table J-1.

Table J-1 – Summary of Existing Peak Runoff (CFS)

	A	B	C	D	E
2-year	2.87	5.76	5.83	1.14	1.4
10-year	5.43	15.16	13.08	2.31	2.21
25-year	7.24	22.39	18.47	3.15	2.76
100-year	10.02	34.15	27.04	4.46	3.57
Source: Lawrence J. Paggi, PE, PC 2010					

Post-development runoff was calculated based upon the implementation of the SWPPP, and provided in the DEIS as Table J-2, with the Net Change in Peak Runoff set forth in Table J-3:

Table J-2 – Summary of Proposed Peak Runoff (CFS)

	A	B	B1	C	D	E
2-year	0.65	3.23	5.24	2.37	5.66	0.11
10-year	1.28	7.38	7.98	6.38	8.57	0.29
25-year	1.74	10.49	14.32	9.49	15.27	0.45
100-year	2.45	15.43	18.71	14.55	19.91	0.71
Source: Lawrence J. Paggi, PE, PC 2010						

Table J-3 – Net Change in Peak Runoff (CFS)

	A	B	C + B1*	D	E
2-year	-2.2	-2.53	-3.46	-0.224	-1.29
10-year	-4.15	-7.78	-2.231	-0.097	-1.92
25-year	-5.5	-11.9	-1.494	-0.231	-2.31
100-year	-7.57	-18.72	-1.9	-0.675	-2.86
Source: Lawrence J. Paggi, PE, PC 2010					
*B1 is routed to discharge via the same outlet as C					

The Town Board, with the assistance of its staff and consultants, carefully and thoroughly reviewed the SWPPP and the conclusions set forth by the Applicant, and finds that the proposed stormwater management system will avoid any significant adverse potential impacts on water quality and quantity to the New Croton Reservoir. In addition, the Town Board notes that the stormwater management system is designed to treat post-development discharge to the appropriate required Water Quality Volume. The Water Quality Volume design methods also treat for enhanced phosphorous removal. In addition, Table J-3, above, shows that the net change in peak runoff for all drainage areas is negative. This means flow will actually be slightly reduced. Thus, the Town Board finds that adverse impacts to the New Croton Reservoir will be avoided.

Subsequent to the development of the SWPPP, the Town Board required the Applicant to evaluate the pre- and post-construction runoff discharging toward the on-site wetland. In response, a “Water Budget Plan” was developed by the Applicant. The Town Board finds that the Water Budget Plan adequately demonstrates that the additional stormwater management practices will direct treated runoff toward the wetland to maintain virtually no net change in discharge between the pre- and post-construction conditions. The Applicant shall incorporate the Water Budget Plan into the SWPPP and the drainage plans for the Project.

The Town Board finds that the SWPPP, subject to final approval by the Town Engineer and the NYCDEP, will avoid or minimize to the maximum extent practicable any potential adverse stormwater impacts.

K. Solid Waste

The Town Board finds that the Project will not have an adverse impact on the Town of Yorktown Garbage and Refuse District.

The Town of Yorktown Garbage and Refuse District provides municipal solid waste collection and disposal services through a private hauler for residences within the Town. This would include the Project Site, which would be funded by the tax revenue generated from the Project. The Town Board considered information provided by the Applicant and the Yorktown Environmental Conservation Department, and finds that a standard of one ton of solid waste per household per year is used to project future solid waste generated by proposed developments. The Town Board finds, therefore, that the Project is anticipated generate approximately 70 tons of solid waste annually. This anticipated 70 tons of solid waste is only 0.12 percent (12/100ths of a percent) of the domestic solid waste currently managed by the Town.

In addition, the Town Board finds that the waste generation during construction will be minimal, as there are no existing structures to be removed and all on-site cut and fills are balanced. Some vegetation will be removed within the area of disturbance. Wherever possible, trees shall be harvested and sent to lumber yards to be recycled for use as lumber.

The Town Board finds that the projected solid waste production of the Project will have an insignificant impact on the receiving disposal sites of the Town, and therefore no mitigation measures are required. Moreover, the Project will generate taxes in the amount of \$27,389 annually for the Town, and \$12,095 annually for the County, specifically for trash pickup.

L. Utilities, Water

The Town Board, its staff and its consultants carefully reviewed the issue of water supply. The Town Board finds that the Project will not adversely impact the water system, subject to the express conditions set forth in these Findings.

There are currently no water utilities provided to the Site. The Project proposes to obtain water from the adjoining Town of New Castle water system.

The New Castle Water system serves an estimated 16,800 people. The distribution system consists of 120 miles of underground water mains varying in size from 4" to 24" in diameter, approximately 1,288 fire hydrants, 3 million gallons of ground level storage located in 4 storage tanks, and 5,306 metered customer connections. The New Castle Water System depends upon the New York City Aqueduct and Reservoir system for its entire raw water supply. New Castle's primary source is the Catskill Aqueduct System fed by the Ashokan Reservoir, and its secondary source is the New Croton Aqueduct fed by the Croton Reservoir System. The Millwood Water Treatment plant provides New Castle with water utilities, and the plant has a 7.5 million gallon per day (MGD) capacity. During 2009, New Castle withdrew 3.1 million gallons per day (MGD). Additionally, the Millwood Water Treatment plant is located in close proximity to the Site: approximately 2.5 miles driving distance.

Water for domestic, mechanical, fire and miscellaneous uses would be supplied from the Town of New Castle water supply system and circulated throughout the Site by the proposed water distribution system. The connection to the New Castle water main will be at the corner of Random Farms Drive and Route 100, which is the Yorktown/New Castle border, and shall be constructed in accordance with all applicable standards. The Town Board notes, and the Applicant acknowledges, that if the water distribution system will impact Cornell Brook, a Class B(ts) stream, the Applicant may require a permit from NYSDEC.

According to data provided by the Applicant in Table L-1 of the DEIS, it is estimated that the Project would create a daily water demand of approximately 18480 GPD or 12.8 GPM. The estimated water demand will be met by the approximate 4.4 MGD excess supply capacity of the Water Treatment Plant and represents the use of less than 0.4% (4/10ths of a percent) of the available excess system capacity. As such, the Town Board finds that there are no anticipated significant adverse impacts to the New Castle water supply district or Millwood Water Treatment Plant.

Table L-1 - Propose Water Demand

Use	Amount	Unit	Unit Flow	Unit Flow (10% Additional)	Average Daily Flow	Average Daily Flow (20% Water Savings)
Residential 2 Bedrooms	70	Units	300 gal/unit	330 gal/unit	23100 GPD	18480 GPD

Note: Unit flow values based on NYSDEC Design Standards for Wastewater Treatment Works pp. 10-12, 1988. 10% added to NYSDEC Design Standards for Wastewater Treatment Works unit flow rate to obtain water demand flow rate. 20% subtracted from daily flow for use of water savings plumbing per Section 15-0314 of the Environmental Conservation Law, NYSDEC Design Standards for Wastewater Treatment Works, pp. 10, 1998.

The Town Board notes that during Planning Board review of the Project, a Yorktown Water District shall be created for the purpose of taxing the individuals who would benefit from this particular water line and agreement on the purchase and delivery of water from the Millwood filtration plant must be entered into at that time with the Town of New Castle. In addition, the water distribution system shall be developed in more detail in coordination with the NYCDEP, New Castle, Yorktown and the Applicant during Planning Board review and the Applicant shall demonstrate to the Planning Board's satisfaction that it has obtained all necessary approvals to provide water to the Site.

Water for irrigation is not included in the above total estimate of average daily water demands. Irrigation shall be dependent upon water provided by the approved stormwater collection system. The Town Board finds that in order to conserve water to the maximum extent practicable, the proposed homes shall be equipped with water conserving technology, including low flow shower heads and high efficiency clothes washers.

In the event that water becomes unavailable from the New Castle Water District, the Town Board finds that there is sufficient area available on-site to provide a community water well, with a treatment/pumping station for the use of the facility. In such an event, the Applicant shall be required to obtain any and all necessary additional permits and approvals. The Town Board notes that individual wells serving each unit are not permitted in the RSP-1 zoning district.

As the proposed action is not expected to have any impacts on existing water supply, water service pressure or Fire Protection in adjoining neighborhoods is not expected to be impacted.

The Town Board notes that fire protection shall be provided in strict accordance with the 2007 Fire Code and Property Maintenance Code of New York State, with new fire hydrants spaced approximately 500 feet apart. A minimum water flow pressure, to be specified as per the request of the local Fire Official, would be maintained at all fire hydrants for the purpose of providing adequate fire protection.

Subject to the foregoing, the Town Board finds that the Project will avoid or minimize any potential significant impacts to water supply.

M. Utilities, Sewer

The Town Board, its staff and its consultants carefully reviewed the issue of sewer service to the Site, particularly in light of the proximity to the New Croton Reservoir and failing conditions at the nearby Random Farms development. This review included, among other things, the Engineer Report fully describing the design and function of the proposed wastewater treatment plant ("WWTP") and subsurface discharge system, as well as the Groundwater Mounding Analysis provided by the Applicant. The Town Board finds that the Project will not adversely impact the Town's sewer system based on the mitigation measures proposed. The Town Board notes that approval of the facility is subject to additional design review by the NYCDEP, NYSDEC and the Westchester County Board of Health. A SPDES permit will be required from the NYSDEC.

There is currently no municipal sewer adjacent to the Site. Piping to the nearest municipal sanitary sewer was evaluated and considered by both the Applicant and the Town Board. This process would require the construction of a pump station and force main. This method was determined by the Applicant to be cost prohibitive, and the Town Board, after reviewing the cost analysis, agrees with this determination. Furthermore, no desire for municipal sanitary sewer plants to accommodate the Project's additional flows was found from the county. As such, the Applicant is proposing a wastewater treatment facility and subsurface discharge system to be constructed on-site to serve the Project. Again, due to the proximity of the Site to the New Croton Reservoir, the potential impacts from the facility are of particular concern to both the Town Board and the public.

In accordance with the flow confirmation letter dated October 25, 2010 and included in the DEIS, the sanitary sewer demands were calculated using 300 GPD per unit in accordance with NYSDEC standards. The development will consist of 70 2-bedroom units. After applying the 20% credit for water saving devices pursuant to NYSDEC Design Standards for Wastewater

Treatment Works, the total average daily flow is estimated to be 16,800 GPD. The Town Board notes that this figure differs from Table L-1 relating to drinking water, since in Table L-1, 10% is added to obtain the water demand flow rate.

The wastewater treatment plant shall be sized to treat an average daily flow of 16,800 GPD, a maximum average daily flow of 21,000 GPD and a peak hourly flow of 1,400 GPH.

The facility shall be designed to treat raw domestic sewage to the following effluent limits:

CBOD₅: 5 mg/L
Total Suspended Solids: 10 mg/L
Settleable Solids 0.1 mg/L
Phosphorous: 1 mg/L
pH: 6.5 - 8.5
Total Nitrates/Nitrites: 20 mg/L

The Applicant shall include in its design redundancy for the following equipment in the event of a mechanical failure: equalization tank pumps, fine screens, recycle pumps, membrane modules, air blowers, and permeate pumps. The Town Board finds that this level of redundancy will ensure that if any of these components of the wastewater treatment facility fail, the WWTP will still be capable of treating the maximum design flow to required standards. In addition, the Applicant shall provide an alarm monitoring system, which will monitor the following: overflow for each screen, equalization tank pump failure, low level and high level alarms in tanks, air blower system failure, transmembrane pressure alarm, permeate pump failure, pH alarm. An alarm dialer shall be provided to alert the operator in the event of a problem or failure.

The facility design shall include a membrane bioreactor to provide a physical barrier. The Town Board finds that this design minimizes the risk of a contaminant breakthrough that would cause a violation of the permit limits. The service life of each membrane module is anticipated to be approximately 10 years. The risk of rupture of one of the membranes shall be mitigated by providing fine screens at the head of the plant. Effluent samples shall be taken daily, and shall be in accordance with any SPDES permit issued by the NYSDEC. The Town Board finds that in the event of a membrane rupture, evidence of the rupture will be clearly visible in the effluent sample, immediate actions shall be taken to remedy the failure.

The facility shall provide both a primary infiltration area and a secondary expansion area as required by Westchester County Department of Health, so that in the unlikely event that the primary infiltration area fails, the secondary expansion area would be prepared to receive the effluent. Concurrently, the primary infiltration area would be investigated and measures taken to rectify any problems. The Town Board notes that, although extremely unlikely, if both the primary infiltration area and the expansion fail, an application would need to be submitted for a revised SPDES permit and a variance from the NYCDEP for surface discharge. In such a situation, the Applicant anticipates that the surface discharge limits would be the NYSDEC Intermittent Stream Limits, which include:

BOD5:5 mg/L
Total Suspended Solids: 10 mg/L
Ammonia: 2.0 mg/L
Fecal Coliform: 200/100 ml
Dissolved Oxygen:>7.0 mg/L
Phosphorous: 0.2 mg/L*
Turbidity: <0.5 NTU

*The proposed wastewater treatment facility is capable of treating phosphorous levels in raw domestic sewage to effluent levels of less than 0.1 mg/L.

The Town Board finds that, subject to confirmation from the NYSDEC, the current WWTP design is capable of meeting NYSDEC Intermittent Stream Limits, however, this determination shall also be confirmed by the NYSDEC. In the event surface discharge would be utilized, the WWTP shall be modified to add a disinfection system, in which case an ultraviolet disinfection system would most likely be used. The Applicant submits that the estimated total cost for modifications required for a surface discharge is \$10,000-\$15,000.

The public's concern regarding the facility stems partially from the fact that the wastewater treatment facilities within proximity the Site have experienced infiltration area failures. The Town Board, its staff and its consultants carefully evaluated the soils for the Project's proposed primary infiltration area and secondary expansion area, and find that they meet the proper characteristics for an infiltration area application. As such, the Town Board finds that the infiltration areas for the Project are not likely to experience failures similar to the failures observed in infiltration areas in proximity to the Site.

The Applicant shall prepare an Emergency Spill and Response Plan, which shall describe the steps to be taken in the unlikely event of a Wastewater Leak/Spill so as to prevent any contravention of groundwater standards. The Plan shall be approved by the Town Engineer, and is subject to review by the NYCDEP, NYSDEC and County Health Department.

A public transportation company shall be established, which will be owned by the HOA, and will supply wastewater treatment for the Project. The public transportation company's service shall continue indefinitely.

The public transportation company shall employ a licensed wastewater treatment plant operator with all required licenses and certifications. The licensed operator shall conduct all testing in accordance with the SPDES permit. If the licensed operator fails to operate the plant in accordance with the SPDES permit or if the plant receives any violation, then the public transportation company shall have the right to remove the licensed operator and employ a new licensed operator.

The Applicant shall establish a capital fund, which will be legally restricted to be used only for replacement of capital items. Procedures shall be put in place to ensure that these funds will not be used for any other purpose, thereby ensuring that the appropriate amount of money is always available for any necessary upgrades.

Below is the Applicant's preliminary operational budget for the proposed sanitary sewer system as set forth in the DEIS. The costs are broken down into line items.

Figure M - Sample Sewer Yearly Operational & Maintenance Expenditures

Yearly Operational & Maintenance Expenditures	
Daily operations ESTIMATE (SPDES permit will determine staffing)	\$26,800.00
Chemicals*	\$2,000.00
Sludge Hauling (2 – 4 times per year)	\$3,900.00
Alarms (alarms for: overflow for each screen, equalization tank pump failure, low level and high level alarms in tanks, air blower system failure, transmembrane pressure alarm, permeate pump failure, pH alarm)	\$500.00
Electric	\$7,000.00
Telephone service	\$400.00
Testing Fees	\$2,100.00
Insurance	\$2,000.00
Laboratory Chemicals	\$200.00
Repair/Contingency	\$1,500.00
Engineering Services	\$1,000.00
Accounting services	\$1,500.00
Legal Services	\$1,000.00
	SUB
TOTAL	\$49,900.00
Operation & Maintenance	\$49,900.00
Capital Replacement	\$13,100.00
Income Tax @ 27% on \$45,000.00	\$4,320.00
Depreciation @ 2% on \$750K	\$5,000.00
	\$88,320.00
Total Revenue Required	\$88,320.00
Rate per customer (\$88,320.00 / 70 homes)	\$1,261.74

*The specific required chemicals are discussed in detail in the Engineer's Report for the system attached in Appendix X. Generally, the following chemicals will be used: sodium hypochlorite (citric acid), a membrane cleaning solution used no more than twice a year; sodium hydroxide, used daily for pH adjustments as need; alum, used for phosphorous precipitation daily as needed. The Engineer's Report attached in Appendix M will discuss how the proposed treatment plant and discharge will be designed and maintained to prevent any contravention of water quality.

The Town notes that should a County sewer line become available in the vicinity of the Site prior to the construction of the Project's WWTP, the Applicant would avail itself of the opportunity to connect to said line.

Subject to the mitigation, conditions and/or requirements herein, as well as any further conditions imposed by the NYSDEC, NYCDEP and Westchester County Department of Health, the Town Board finds that adverse impacts as a result of the proposed facility will be avoided or minimized to the maximum extent practicable.

N. Fiscal & Socioeconomic Impacts

The Town Board carefully analyzed the potential fiscal and socioeconomic impacts of the Project, and thoroughly considered the comments raised by the public relating thereto. The Town Board acknowledges comments from the representatives of Random Farms, questioning the sufficiency of the fiscal analyses provided by the Applicant. The Town Board thoroughly reviewed the SEQRA Record, and finds that all identified potential significant fiscal and socioeconomic impacts, including those specifically required by the adopted Scope, have been sufficiently addressed by the Applicant. Based upon that careful and thorough review, the Town Board finds that the Project will avoid or minimize fiscal and socioeconomic impacts to the maximum extent practicable.

The Site is presently vacant. As such, there is little revenue from the Site provided in taxes to the Town, as demonstrated in the following chart taken from the DEIS:

Table N-2 – Current Taxes Provided by Property

Taxing Jurisdiction	Tax Rate (per \$1000)	Tax Amount (2010)
County Tax	139.89	\$1007.18
Yorktown Heights FD	14.11	\$101.61
Westchester Ref Dist	13.29	\$95.67
Open Space & Conservation	30.00	\$60
Adv Life Support	3.64	\$26.19
Town Tax	132.13	\$951.32
School Tax	0.0	\$0
Total =	333.06	\$2241.97

Once the Project is constructed and occupied, the projected tax revenue to the Town would equal approximately \$1,127,385.70 annually. In response to comments from the public, particularly from representatives of the nearby Random Farm development, the Town required the Applicant to provide a further breakdown of the taxes to be generated from the Project, which was provided in the FEIS:

Tax Obligations and Service Fees	Tax Rates* (Dollars)	Annual Gross Tax Revenues Per Unit	Annual Gross Tax Revenues Generated - 70 Units
Town	129.41	\$1,708.21	\$119,574.70
County	138.85	\$1,832.82	\$128,297.40
School District	888.98	\$11,734.54	\$821,417.80
Fire/Life support	17.87	\$235.88	\$16,511.60
County Refuse	13.09	\$172.79	\$12,095.30
Open Space	2.27	\$30.00	\$2,100.00
Trash Pickup	29.64	\$391.27	\$27,388.90
	Totals	\$16,105.51	\$1,127,385.70

* Data provided by the Yorktown Town Assessor Harold Girdlestone

The Project, therefore is expected to generate approximately \$16,105.51 per unit and \$1,127,385.70 annually. School taxes are projected at \$821,417.80 annually. The Town finds this is sufficient to offset any potential fiscal impacts to the Town, particularly since there are no additional children being added to the school system. Trash pickup will be provided by Yorktown. The estimated annual tax collected for trash pickup is \$27,388.90. This tax is separate from the Town of Yorktown annual tax of \$119,574.70. Life and Fire Services will be provided by Yorktown, and is offset by the \$16,511.60 estimated Fire/Life support tax. The cost for the Police is included in the estimated annual Yorktown tax of \$119,574.70.

In addition, the Applicant is volunteering to make a one-time, \$650,000 contribution to Yorktown for uses in areas such as senior services, recreation, safety, etc. Although the Town Board expressly finds that the contribution is unnecessary to mitigate potential impacts from the Project in light of the tax revenue being generated, the \$650,000 contribution still remains an *additional* benefit being provided by the Project, since it can be used by the Town to further meet the needs of the entire population, including seniors, and can be utilized to enhance services for all residents.

The Town Board also notes that other economic benefits to the Town resulting from the development and sales of these homes include a percentage of Real Estate Transfer Taxes, Mortgage Taxes and Sales Taxes generated by shopping and the use of vendor services in Yorktown.

The Town Board seriously considered the concerns of the public with regard to the potential to convert the Project to a development without age restriction. The public's concern appears to stem from the recent market conditions, including some discussions relating to the potential conversion from age-restricted to non-age-restricted of the Trump Park development. The Town Board notes that although there had been some concern in the Town regarding whether the Trump Park development would be converted to non-age-restricted, other age-restricted developments, such as Glassbury Court, have been successful. The Town notes that the Project,

unlike the Trump Park and Glassbury Court projects, will not be sold as condominiums. Thus, the projected annual taxes are significantly higher from the Project.

The Town Board also seriously considered whether other age-restricted projects in the general vicinity, such as Chappaqua Crossing and The Club at Briarcliff Manor – both approximately 6 miles away from the Site – would impact the market demand for the Project. The Town Board finds that these projects are sufficiently different from the Applicant's Project, and are not likely to impact market demand. Chappaqua Crossing, for example, includes 234 apartment flats and 44 townhouses, allocated between market rate age-restricted housing, affordable age-restricted housing, and non-age-restricted housing. The Club at Briarcliff Manor proposes 325 independent living residences as well as a 60-unit "supportive living center" with 24-hour on-site nursing care. The Club at Briarcliff also proposes a completely different economic model and concept from the Project.

In light of the public's concerns, however, the Applicant was asked to determine what the impact of school children would be for a development of a similar size and type as the Project. To calculate the projected number of children for this circumstance, the number of proposed units, 70, was multiplied by the "children multiplier", 0.17. This "children multiplier" correlates the number of children to housing types in the "Rutgers University, Center for Urban Policy Research, Residential Demographic Multipliers – New York (June 2006)," a method specifically recommended by the Planning Board. The projected number of children for this circumstance is 12 children.

The Town Board finds that in the event of extenuating circumstances, the surrounding school districts will be able to accommodate the 12 additional school age children due to the taxes generated by the Project.

Upon completion of the Project, Dell Avenue will be re-aligned and improved, and will be dedicated to the Town. The Town Board finds that the improved Dell Avenue will require far less maintenance than its present state. The Declaration of the HOA shall include a statement that the HOA shall be responsible for mowing the grass on the sides of the road. Although the Dell Avenue will still require storm and winter maintenance, the cost will not increase to the Town, and will be offset by approximately \$119,575 of the tax revenue generated from the Project. Accordingly, although the Town Board finds that there will be a positive fiscal impact to the Town as a result of the improvements to Dell Avenue, to the extent there is a negative fiscal impact, it will be minimized to the maximum extent practicable by the tax revenue.

The Town Board therefore finds that the Project will not have a significant adverse fiscal or socioeconomic impact on the Town, and to the extent there are any impacts, they will be avoided or minimized to the maximum extent practicable due to the generation of tax revenue.

O. Traffic Conditions, Safety and Flow

The Town Board understands that traffic impacts of development throughout the Town are a concern to the public. The Town Board, its staff and its consultants carefully and thoroughly reviewed and considered the Project's potential traffic impacts by comparing the No-Build and

Build Conditions, as well as reviewing the methodology utilized by the Applicant to reach its conclusions. The Town Board finds that the Project will not have a significant impact on traffic conditions, safety and flow.

The DEIS contains a detailed discussion of the methodology utilized to perform the analysis of the Project's potential traffic impacts. Two key intersections are identified to be utilized by the residents of the Project:

- Dell Avenue and Saw Mill River Road (NYS Rt. 100)
- Saw Mill River Road (NYS Route 100) and Pinesbridge Road (NYS Route 134)

The DEIS utilized The Institute of Transportation Engineers' (ITE) *Trip Generation*, 8th Edition to determine projected trip generation from the Project. ITE land use code (LUC) 251 for Senior Adult Housing was used to estimate the number of trips that will be generated at the Site with all seventy units developed. This is the industry standard for estimating trip generation.

Table O-3 Trip Generation Summary

Land Use	AM Peak Hour			PM Peak Hour		
	Enter	Exit	Total	Enter	Exit	Total
Age-Restricted Homes – 70 Units	5	10	15	12	7	19

Table O-3 shows that the seventy units will generate approximately 15 vehicle trips during the AM peak hour and 19 vehicle trips during the PM peak hour. During non-peak periods of the day, trips to and from the Site will be less, and insignificant when considering the traffic impact of the Site. The Town Board notes that the DEIS states that age restricted developments generally generate approximately three to four times less traffic than traditional single family housing developments, as a percentage of the residents are retired and typically do not have children living at these types of developments. The Town Board has received no credible data to the contrary.

The Town Board finds that the intersections of NYS Rt. 100 with Dell Avenue and NYS Rt. 134 are considered the critical intersections that will be utilized by residents of the Project when traveling to and from the Site. The Town Board carefully analyzed the Applicant's traffic data, which demonstrates that based on a review of available traffic volume data published by the New York State Department of Transportation (NYSDOT), it is anticipated that approximately 60% of the Site generated trips will enter and exit the Site via NY Route 100 from the south, and the remaining 40% will enter the Site from the north.

Based upon NYSDOT historical data of the area acquired by the Applicant, it was found that volumes on NY Route 100 and NY Route 134 adjacent to the Site have remained relatively constant over the last several years. In addition, the Applicant conferred with the Town of Yorktown Planning Department, which indicated that there are no known development projects in the vicinity of the Site that would add traffic to the study area. Therefore, the Town Board agrees with the Applicant in that it is expected that the most recent traffic volumes obtained from

April 2008 and May 2009 collected by NYSDOT, and shown in the DEIS in Table O-5, are a sufficient representation of the traffic volumes expected through the design and construction of the Project. The Town Board considers these volumes to be the No-Build conditions.

Table O-5 – Current and No-Build Traffic Volumes

Roadway	AM Peak Hour			PM Peak Hour		
	NB	SB	Total	NB	SB	Total
NY Rt 100 south of NY Rt 134	275	550	825	470	270	740
NY Rt 100 north of NY Rt 134	470	660	1,130	680	430	1,110

NB=Northbound, SB=Southbound

The Applicant performed an intersection analysis for the two unsignalized intersections of Dell Avenue and NYS Route 100 during the peak hour to determine the forecasted average vehicle delay and level of service; the results are summarized in the DEIS in Table O-7. Each of the lane groups has a level of service of either A or B, which is considered to be suitable for an unsignalized intersection. Vehicles making a right turn into the development are not expected to experience any delay at an unsignalized intersection as they will always have the right of way.

Table O-7 – Build Condition Level of Service for Critical Intersections

Intersection	Turn Movements	AM Peak Hour	PM Peak Hour
NY Rt 100/Dell Ave (south)			
Rt. 100 SB	L	A (7.9 seconds)	A (8.4 seconds)
Dell Ave (south) WB	L+R	B (14.4 seconds)	B (14.4 seconds)
NY Rt 100/ Dell Ave (north)			
Rt 100 SB	L	A (8.4 seconds)	A (9.2 seconds)
Dell Ave (north) WB	L+R	B (11.7 seconds)	B (13.8 seconds)

SB, WB = Southbound and Westbound Intersection approaches

L, R = Left or Right-turn movements

X(Y.Y) = Level of service (average delay in seconds per vehicle)

The Town Board expressly acknowledges the concerns raised by Random Farms with regard to potential impacts at the intersections of Random Farms Drive and NY, Route 100 and Seven Bridges Road/Hog Hill Road and NY Route 100, but notes that no data was provided to support this position. The Town Board finds that there is no information to contend that Random Farms' roadways are used as a cut through to Mount Kisco or Millwood, or areas beyond those destinations. Hog Hill Road is narrow and both, Hog Hill Road and Random Farms Drive are extremely winding and an indirect way of reaching Route 133. It is much more likely the residents of the proposed development will choose to use Seven Bridges Road, a straight, wide more direct route to Route 133 that until recently was a Westchester County Road, connecting two main state roads together (Routes 100 and 133). The Town Board agrees, however, with the October 22, 2010 letter from the Department of Transportation, included in the DEIS, which states that this Project "will have minimal impact on the state transportation system." The Town Board finds, therefore, that due to the minimal generation of trips as a result of the Project, there will be no discernable impact to Seven Bridges Road, Hog Hill Road or Random Farms Drive as a result of the Project.

The Applicant shall carry out all improvements to Dell Avenue in compliance with all state and local regulations. Upon completion of the relocation, the Project anticipates an offer of dedication of Dell Avenue to the Town, which will be reviewed by the Town Board. The no longer utilized road right-of-way from the now-existing Dell Avenue configuration is anticipated to be deeded to the Applicant. The Town Board finds that proposed abandonment of the now existing Dell Avenue in such situation would not have a significant adverse environmental impact.

With regard to construction traffic, the Town Board finds that any potential impacts to traffic will be avoided or minimized to the maximum extent practicable subject to the conditions and requirements herein. Construction and worker vehicles would be entering the Site between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturday, excluding legal holidays. The Town Board notes that these times are in accordance with the Chapter 216 of the Yorktown Town Code with regards to noise concerning construction vehicles and work. Typically, construction activities would be expected to end prior to workers leaving the Site. Construction and associated traffic shall not take place on Sunday.

Truck traffic would be generated initially during the activities necessary to clear the Site and install roads and infrastructure, and later as buildings are being built, to bring in supplies including concrete, steel, framing materials and related building materials. Construction truck traffic shall access Dell Avenue from NYS Route 100 at either the north or south entrance to the Site. The number of truck trips generated per day during construction would vary depending upon the phase and pace of construction.

The highest volume of construction traffic is expected to occur at the beginning of each construction phase, and during the months that concrete and building materials are transported to the Site. Concrete and other material deliveries are expected to be sporadic throughout the construction process.

Local contractors are expected to use local highways. These contractors currently use these same local routes to get to and from their place of business and job sites, and as a result their travel is already included in the estimated average annual daily traffic on NYS Route 100 and NYS Route 134. Thus, the Town Board finds that their travel to and from the Site is expected to have little impact on the roadways and traffic volumes in the area.

Construction traffic shall use stabilized construction entrances on the Site at both ends of Dell Avenue. Once construction machinery reaches the Site, it shall, whenever practicable, remain on-site until the necessary excavation and construction is completed, thereby minimizing construction related traffic to and from the Site. The Applicant shall comply with all applicable Yorktown Town ordinances during the construction of the Project.

The Town Board notes that the road proposed to be constructed on the Site in connection with the Project will exceed an 8% grade in two locations. Accordingly, the Applicant will be required to seek Town Board authorization for the Planning Board to permit flexibility in the road design.

The Town Board finds that the Project will not have an adverse significant impact on traffic conditions, safety and flow. Any potential short-term adverse impacts as result of construction will be avoided or minimized to the maximum extent practicable.

P. Electromagnetic Fields (EMF)

Due to Con Edison's high tension power lines running adjacent to the property near Dell Avenue, the Town Board and members of the public expressed concern regarding the potential impact of the electromagnetic fields ("EMF") on the health and safety of the residents of the Project. The high tension power lines are within approximately 200-250 feet of the closest residences. The Town Board notes that 65 of the 70 proposed lots are farther than 250 feet from the lines. In order to assess under SEQRA the potential impact of the EMF, the Town Board required the Applicant to complete an EMF Study. The Town Board and its consultants carefully considered the EMF Study, and finds that there would be no adverse impact as a result of high tension power lines running adjacent to the Site.

The Town Board acknowledges that there are no official standards or guidelines relating to EMF impacts. In its review, the Town Board relied upon the general guidelines of the International Radiation Protection Association ("IRPA") general public limit, and the New York State Right-of-Way ("NYSROW") maximum guidelines for electric and magnetic fields.

The Town Board finds that there are no anticipated adverse EMF impacts. The Town Board further finds that all EMF measurements were several orders of magnitude less than the IRPA general public limit, and significantly lower than the NYSROW maximum guidelines for magnetic field strength.

The Town Board carefully considered the comments submitted by the Yorktown Utilities Oversight Committee regarding the EMF Study. In light of the lack of guidance and standards, the Town Board was particularly concerned with regard to comments relating to utilization of the proper methodology. The Town Board notes that although the EMF Study initially utilized the "sum-of-squares" method, in response to comments, the Applicant recalculated its results using the "root-sum-square" methodology suggested by the Yorktown Utilities Oversight Committee. The Town Board finds that the increase from the previous values using the "root-sum-square" methodology was negligible, and does not impact the conclusion that there would be no detrimental impact as a result of EMF.

The Town Board also acknowledges and shares the concerns of the Utilities Oversight Committee regarding the admittedly unproven potential links between EMF exposure and health risks to children. The Town Board finds, however, that in light of the nature of this Project as a 55 and older community, those risks are remote and unlikely.

As there is no potential impact as a result of the EMF, the Town Board finds no mitigation measures are necessary. Since, however, the proximity of the power lines may cause perceived concerns for potential buyers, the Applicant shall make the EMF Study available to all prospective buyers. The HOA shall maintain a copy of the EMF Study in its files, and make it available to any resident requesting a copy.

Q. Use and Conservation of Energy, Green Technology and Infrastructure

The Town Board and the public believe that global climate change is emerging as one of the most important environmental challenges of our time. There is scientific consensus that human activity is increasing the concentration of greenhouse gases (“GHGs”) in the atmosphere and that this, in turn is leading to serious climate changes. Climate change will continue to adversely affect the environment and natural resources of New York State, the nation, and the world. There are six main green house gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydroflourocarbons (HFCs), perflourocarbons (PFCs), and sulfur hexafluoride (SF₆). Emissions of carbon dioxide account for an estimated 89% of the total annual GHG emissions in New York State.

In general, the Town Board finds that the use and conservation of energy, green technology and infrastructure is a vital component to mitigating potential impacts of new development. The Town Board finds that the mitigation measures, conditions and/or requirements herein mitigates impacts of the Project on energy use and greenhouse gas emissions to the maximum extent practicable.

The Town Board carefully and thoroughly reviewed the Applicant’s analysis of the existing conditions and potential emissions that would result from construction of the Project. The Town Board finds that the analyses and methodology are based upon the NYSDEC’s 2009 guidance “Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact statements.”

Based on the Environmental Protection Agency’s Household emissions calculator, the estimated annual CO₂ emissions for a single family home equivalent in size to a Project unit in the vicinity of the Site, in Westchester County, NY is approximately 40,550 pounds of CO₂ per year. This includes the CO₂ produced from heating, cooling, lighting, and fuel for trips to and from the homes.

Based upon a review and careful consideration of the data provided by the Applicant, the Town Board finds that Environmental Protection Agency’s Household emissions calculator, the Applicant estimates annual CO₂ emissions for a home in the Project would be approximately 24,550 pounds of CO₂ per year, which is significantly lower than the average CO₂ emissions for an equivalent sized home using fossil fuels.

Table Q-1 – Carbon Dioxide CO₂ Balance

Description	Calculation	Sum Total
An average single family home in the project area heated by fossil fuels	40,550 lbs CO ₂ per year x 70 units	2,835,500 lbs CO ₂ per year
A Croton Overlook single family home with geothermal heating	24,550 lbs CO ₂ per year x 70 units	1,718,500 lbs CO ₂ per year
Tree canopy GHG sequestration loss	- 3,500 lbs of CO ₂ x 11.986 acres	- 41,951 lbs of CO ₂ per year
Net Difference in CO ₂ production	=	1,158,951 lbs CO ₂ per year

Table Q-2 – Projected Carbon Dioxide Emissions during Construction

Carbon Dioxide (CO ₂) is the most common greenhouse gas from human activities. In vehicles, it is a byproduct of fuel combustion. Nitrous oxide (N ₂ O) is 310 times more powerful than CO ₂ . Methane (CH ₄) is 21 times more powerful than CO ₂ . Hydrofluorocarbons (HFCs) are used as refrigerants in air conditioning and cooling systems.					
Results displayed in CO ₂ equivalent metric tons	CO ₂ ⁱ	N ₂ O ⁱ	CH ₄ ⁱ	HFCs ⁱ	Totals
Source Breakdown					
Passenger Cars	17.62	0.39	0.02	0.7	18.73
Light Duty Trucks, Vans and SUVs	9.21	0.2	0.01	0.49	9.91
Medium and Heavy Duty Vehicles	127.67	0.34	0.03	0.69	128.73
Fuel Breakdown					
Motor Gasoline (gallons)	23.79	0.52	0.03	1.03	25.37
Diesel Fuel (gallons)	576.52	3.94	5.51	0.79	586.76
Electricity (KWH)	10.94	0.03	--	0.06	11.03
Total (Metric Tons)	<u>611.25</u>	<u>4.48</u>	<u>5.54</u>	<u>1.88</u>	<u>623.15</u>
Percent	98.09%	0.72%	0.89%	0.30%	100%

Based on the current scope of construction work for the Project, the Town Board finds that an estimated 625 metric tons of Green House Gasses will be produced via construction activities. This data was attained by determining the amount of each fuel type needed for the construction phase, as well as the amount of GHG produced by that fuel. Based on values obtained from the green house protocol website,(www.ghgprotocol.org), the values in Table Q-2 were compiled.

In order to mitigate potential impacts, the Project homes shall be constructed with a variety of green features. Geothermal heating and cooling shall be installed in all homes. The Town Board finds that this method of heating and cooling is completely sustainable, using an exchange of natural renewable heat within the ground and the homes above. This will considerably reduce energy costs to the homeowner, while providing reliable HVAC. In addition, by implementing geothermal technology the overall carbon footprint of each home will be greatly reduced.

In response to comments from the NYCDEP, the Town Board required the Applicant to illustrate a typical location for a geothermal well. Based on the consideration of the sketch provided, the Town Board finds that the 6" in diameter geothermal wells, only one of which would be needed for each home, will be located within the limits of disturbance, which shall be protected by the

Erosion Control Plan. The Town Board further finds that there is no construction anticipated to be performed in wetlands or wetland buffers, or on steep slopes.

Recycled building materials shall be used in home construction whenever possible. By recycling building materials, the amount of landfill materials will be minimized, reducing the GHG emission and at the same time reducing the number of trees being harvested for new building materials. Natural ventilation shall be implemented wherever possible in the homes. Unlike conventional fan forced, and Green House Gas Producing, ventilation, natural ventilation uses the natural force of wind to deliver fresh air into buildings. Homes shall be designed to promote optimal airflow and circulation.

Solar panels shall be placed on top of any maintenance buildings as well as the on-site sewage treatment facility. The Town Board finds that this sustainable energy will offset energy costs to the community. Solar panels are a simple and low maintenance renewable energy source, as well as a good way to cut back on GHG emissions. Trees that are being cut down on-site shall be mulched and used as topping for recreational trails and in community gardens. The Town Board finds that this will reduce the amount of CO₂ released into the atmosphere. Allowing the harvested wood to decompose will allow the carbon dioxide to be sequestered in the soil horizon, thus enriching the overall soil nutrition.

The use of recycled on-site materials will ensure that rock or vegetation that must be removed from the Site is reused in an environmentally responsible manner. For example removed rock material can be used as fill, which is required in various locations on-site, for sub base under asphalt roads, surface for maintenance roads, and surrounding wastewater discharge infiltrators. By recycling rock and other blasting material the GHG's will be reduced due to a reduced number of loads to and from the Site.

The Applicant shall implement a community composting program along with organic waste, such as leaves and brush, collected by maintenance crews, which will reduce the amount of material going into the landfill, while increasing the amount of minerals being returned to the soil. The Town Board finds that compost will increase vital organic matter in the soil, creating ideal fertile conditions, for the community gardens. By significantly reducing the amount of landfill material and increasing the health of the soil, the Town Board finds that the Project will substantially reduce GHG emissions as well as an increase in the soils ability to sequester said emissions.

Stormwater collection shall be designed to capture almost all of the stormwater on-site using ponds and infiltration basins. This water shall be used whenever practicable to irrigate the community garden and homeowner's lawns. The Town Board finds that collecting stormwater, as opposed to pumping from groundwater, is a sustainable method of irrigation, which reduces off-site runoff and the community's environmental impact on the groundwater aquifer. This method of irrigation is also a lower impact to the environment since comparably little energy is used, seeing as all of the water is being supply via ponds directly on-site. Thus, the Town Board finds that lowering the overall green house gas emissions for the development, and at the same time additional wetlands and buffer are being created, which will help naturally scrub GHG(s) from the environment.

Energy used in homes often comes from the burning of fossil fuels at power plants, which contributes to detrimental environmental impacts such as global warming. Certification systems have been set in place by government and other professional agencies to quantify the energy efficiency of homes. These systems shall be implemented by the Applicant to the maximum extent practicable.

The homes in the proposed Croton Overlook development shall be Energy Star Certified, meeting all applicable Energy Star requirements set forth by the US EPA guidelines.

The Applicant shall, to the maximum extent practicable, encourage the use of “green” conservation technologies in the construction of the homes.

The Town Board acknowledges the concerns of the Yorktown Conservation Board relating to Dark Sky Compliance. The objective of Dark Sky Compliance is the reduction of light pollution by unnatural lighting on the environment. This, in turn, provides better night sky aesthetics, cuts down on energy usage, and protects nocturnal wildlife. The primary mitigation technique for light pollution is lighting fixtures that cast little or no light upward.

Street lighting is not proposed for the Project. All lights from homes shall be required by the rules set forth by the HOA to be pointed in a downward direction as to not illuminate past the homeowner’s property, thereby preserving the view of the night sky.

The Town Board finds that with the implementation of these conservation techniques, mitigation measures, conditions and/or requirements, any impacts of the Project on energy use will be mitigated to the maximum extent practicable. The Town Board further finds that the Project will have no significant adverse environmental impact regarding energy use or conservation, green technology, and infrastructure.

R. Hazardous Material and Waste

In order to determine whether there exists any potential significant impact as a result of hazardous materials and waste, the Town Board closely scrutinized the Applicant’s Phase I Environmental Site Assessment (“ESA”). The objective of the ESA was to determine, to the extent feasible and practicable, if any suspect or questionable environmental conditions exist for the Site, or in the immediately surrounding vicinity, that could result in environmental risk and liability, or negatively impact the development potential of the Site. The ESA was undertaken in accordance with recognized industry standards published by the American Society for Testing Methods.

The Town Board and its consultants thoroughly studied the ESA and finds that there appears to be no hazardous materials or waste present on the Site, and no further investigations are necessary.

The Town Board does find, however, that a limited amount of necessary hazardous materials will be present during and after construction of the Project. During construction, hazardous materials will include fuels, petroleum products, and other materials necessary for the proposed

construction activity. After construction, hazardous materials will include primarily pesticides and petroleum products. It is anticipated that each new home will have a 100 gallon propane storage tank for stove and other miscellaneous uses. All of these materials shall be used in strict accordance with OSHA and other applicable methods.

In an effort to reduce risks of contamination within the residential community, the Applicant shall develop an Integrated Pest Management Plan ("IPMP"). The IPMP shall be implemented as an effective and environmentally sensitive approach to pest management and shall rely on a combination of common sense practices. The HOA shall retain a qualified firm to develop an IPMP to include a series of pest management evaluations, decisions and controls, as well as controls regarding the use of fertilizers and herbicides. The following four steps shall be implemented under the IPMP:

- **Set Action Thresholds Under the Plan**

Pest control actions shall first meet a set of action thresholds contained within the IPMP. These thresholds set the point at which pest populations, or environmental conditions, indicate that pest control action must be taken. It is important to note that sighting a single pest does not always mean control is necessary. The level at which pests will either become an economic, or an environmental threat, is critical for making pest control decisions.

- **Monitor and Identify Community Pests**

Not all unfavorable insects, weeds, and other living organisms require control. Many organisms are innocuous, and some are even beneficial. The IPMP shall incorporate measures to monitor for pests and identify them accurately, so that appropriate control decisions and measures can be made in conjunction with action thresholds contained within the Plan. Monitoring and identification of pests removes the possibility that pesticides will be used immediately when they are not really needed, or that the wrong kind of pesticide is utilized.

- **Pest Prevention**

The IPMP shall incorporate, as a first line of pest control defense, a community action/education program to help manage lawn, landscape areas or indoor spaces, to prevent pests from becoming a problem. This in turn will prove to be effective and cost-efficient, as well as present little to no risks to people, or the community's environment.

- **Pest Control**

Once monitoring, identification, and action thresholds indicate that pest control is required, the IPMP shall explain how to evaluate proper control methods in order to achieve effective control and at a low risk. Essentially, effective, less risky pest controls will be chosen first, such as mechanical traps. If further monitoring, identifications and action thresholds indicate that less risky controls are not

working, then additional pest control methods shall be utilized. Such controls shall include targeted spraying of pesticides; broadcast spraying of nonspecific pesticides will be performed as a last resort.

The IPMP shall also highlight safety measures and practices to safeguard against Site contamination and to ensure the safety of individuals employed to apply pesticides. Appropriate safeguards and practices must be implemented in accordance with applicable State and Federal regulations.

The Town Board finds with the implementation of the foregoing conditions and/or requirements, there will be no significant impact from the Project with regard to hazardous materials or waste.

S. Groundwater and Geology

The Town Board carefully and thoroughly reviewed the Groundwater Modeling Analysis for On-Site Subsurface Wastewater Disposal System. The Town Board concludes that through the implementation of conditions and/or requirements herein, there will be no impact from the Project on groundwater or geology.

The Site is located along the east side of Route 100, within the watershed of the Croton Reservoir, located to the north. The on-site geology features outcropping, and the Town Board and its staff and consultants carefully reviewed a Rock Outcropping Plan provided by the Applicant. The geology of the area is classified as Fordham Gneiss, Biotite according to the Westchester County Environmental Planning Atlas, Map 2, August 1977 and the Yorktown Environmental Data Base Maps, Geology map, 1987. The primary soil on-site and in the surrounding area is sandy loam. The general topography of the property ranges from gentle to steep with grades ranging from less than 5 percent to greater than 15 percent. Elevations at the Site range from approximately 230 feet above mean sea level (ftamsl) to 335 ftamsl.

Blasting will occur during the early phases of construction, as some rock outcrops will be excavated for use as crushed stone in other areas of the proposed development. The Town Board and its consultants have determined that the use of blasting does not significantly impact the underlying geology or soils as only a small percentage of the rock outcroppings on the Project Site – 2.27 acres of 8.61 acres – will be in the area of potential effect, thus requiring blasting.

The Town Board further finds that the groundwater head results indicate that for all trials no breakout of the water table at the surface will occur, as there is an adequate layer of unsaturated soils between the steady-state head and the site surface. This aeration zone between the slightly mounded water table and the septic area appears to meet the appropriate requirements for the Westchester County Department of Health and NYCDEP, though those agencies shall confirm compliance with their own requirements and regulations.

The Town Board finds that based on the results of the analysis, the hydrogeology in the area of the proposed septic system appears to accommodate the discharge of 144 in/yr at an application rate of 16,320 gpd.

The Applicant proposes to offer Geothermal Heating and Cooling in the proposed homes. This system utilizes the energy exchange between the air within the building being heated and the ground. During the summer months, ambient temperatures of the building exceed that of the ground. Heat pumps are then used to pump heat from the building into a transfer medium, and then through narrow pipes into the ground so that the heat can dissipate in the earth. During the cold winter months, the process works in reverse: heat pumps extract heat from the ground and use it to heat the building.

The transfer medium used in the system shall be formulated with ingredients which are generally recognized as safe by the FDA for use as an aqueous heat transfer medium for heating and cooling systems. The transfer fluid shall be readily biodegradable and safe for use in proximity to water supplies in the rare event that the natural environment is exposed to a fluid leak.

The Town Board finds that, subject to the conditions and/or requirements herein, there are no potential impacts to groundwater from the proposed Geothermal Heating and Cooling units. The Town Board finds that Project will otherwise adversely impact groundwater or geology.

VII. Alternatives Considered:

In accordance with SEQRA, the Town Board required the Applicant to evaluate the reasonable alternatives to the Project that are feasible, considering the objectives and capabilities of the Applicant. The adopted scoping document includes 3 alternatives and 1 discussion, as provided below:

1. No Action Alternative
2. R1-160 Zoning Compliant Conventional Development
3. R1-160 Cluster Development
4. Age-Restricted versus Non-Age-Restricted Comparison

The No Action alternative is required to be evaluated under SEQRA in order to determine the baseline conditions of the Site. The remaining alternatives were identified as reasonable for consideration and evaluation based upon the present R1-160 zoning of the Site.

The Town Board carefully reviewed and considered the data and information comparing the aforementioned alternatives provided by the Applicant in the Project's DEIS and FEIS, including conceptual subdivision sketches for the R1-160 conventional and cluster subdivisions. Based upon the Town Board's review of the entire Record, the Town Board finds that the Project as proposed with the mitigation measures set forth herein is the least impactful alternative that also furthers various goals and policies of the Town's Comprehensive Plan, while generally satisfying the Applicant's goals.

A. No Action Alternative

The No Action Alternative is the scenario that would occur if no development were to take place on the Site. This is effectively an open space preservation alternative. The Site would remain in its current undeveloped and underutilized condition. A summary of impacts of this alternative, as compared to the proposed action, is presented below.

Zoning and Land Use: With no improvements to the Site under the No Action Alternative and no construction associated with the Project, the Site would remain vacant, with no resulting land use impacts. The creation of housing, particularly senior/active adult housing, where there is a recognized demand for such housing in the Town's Comprehensive Plan, would not be realized.

Visual Resources: There would be no change to the visual environment as a result of this alternative. The Site would remain vacant and largely unchanged, with only the high tension power lines visible.

Flora and Fauna: Under the No Action Alternative, the disturbance or removal of on-site vegetation and available wildlife habitat, with the introduction of buildings and associated infrastructure on the Site, would not occur. The Site would provide more habitat and cover for local wildlife than under conditions with the proposed action.

Soils, Topography, Steep Slopes, and Geology: There would be no disturbance to soils or topography under the No Action alternative. No grading of soils would occur on the Site under the No Action alternative.

Wetlands and Surface Water Resources: No disturbance of wetlands or their regulated areas would occur under the No Action alternative.

Cultural Resources: No impact to existing cultural resources will occur in the No Action alternative.

Noise, Air, and Construction Impacts: No construction impacts will occur in the No Action alternative.

Community Facilities and Services: With the Site remaining vacant, there would be no impacts to community services, and no significant increases in municipal property tax revenues generated by the Site to fund community services. Additionally, in the No Action alternative, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to the Town by the Applicant.

Community Growth and Character: No impact to existing community growth and character will occur in the No Action alternative.

Stormwater Management: No impact to stormwater flows will occur in the No Action alternative.

Solid Waste: No impact to solid waste collection in the Town will occur in the No Action alternative.

Utilities, Water: No impact to existing utilities will occur in the No Action alternative.

Utilities, Sewer: No impact to existing utilities will occur in the No Action alternative.

Fiscal & Socioeconomic Impacts: In the No Action alternative, the Town of Yorktown and Yorktown Central School District will not benefit from the anticipated \$1,127,385.70 taxes to be generated by the Project annually. Additionally, in the No Action alternative, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to the Town by the Applicant.

Traffic Conditions, Safety and Flow: The No Action alternative would not alter the traffic patterns that occur presently in the Site area. No additional traffic would be generated by the Site and no impacts to traffic would result.

Electromagnetic Fields (EMF): No impact from electromagnetic fields will occur in the No Action alternative.

Use and Conservation of Energy, Green Technology and Infrastructure: No impacts to the environment regarding energy use or conservation, green technology, and infrastructure will occur in the No Action alternative.

Hazardous Material and Waste: No impact from hazardous material and waste will occur in the No Action alternative.

Groundwater and Geology: Under the No Action alternative, there would be no change in the existing residential groundwater use, and, therefore, no impacts.

Conclusion: The Town Board finds that given the goals of the Applicant, as well as the benefits to the Town and surrounding community by the construction of this Project, the No Action alternative, or the continuation of the vacant state of the Site, although the least impactful on the environment, is not a preferred alternative. It should be noted that with the Project, the majority of the property (46 acres) would continue to remain undeveloped open space in perpetuity.

B. R1-160 Zoning Compliant Conventional Development

The Site is presently zoned as R1-160, which allows for single family residential lots with a minimum lot size of 160,000 square feet (approximately 4 acres). In its review of the alternatives, the Town Board carefully reviewed the chart provided by the Applicant in the DEIS, which compared the various impacts of the Project to a zoning compliant R1-160 conventional subdivision. Although an R1-160 zoning compliant project would result in less impervious surfaces, the disturbed area would be greater. Most importantly, there would be no significant portion of deed restricted open space as there would be with the Project.

Zoning and Land Use: Building a project compliant to conventional R1-160 zoning would result in a larger disturbed area due to the larger minimum lot size than building the Project under RSP-1 zoning. Based upon the “As-of-Right Conceptual Sketch” provided by the Applicant, a conventional R1-160 subdivision would result in a 23 acre area of disturbance, as compared to the 19 acres for the Project. Moreover, whereas the Project will result in 46 acres of deed restricted open space, the conventional subdivision would have no deed restricted open space. Although the conventional R1-160 zoning would fulfill the policy in the Comprehensive Plan to promote single-family residential neighborhoods, it would not further the Town’s or the Applicant’s goals of providing diverse housing, particularly for seniors, nor would the R1-160 conventional subdivision fulfill the Town’s goal of preserving open space.

Visual Resources: Building a project compliant to conventional R1-160 zoning would result in units with large properties sprawled across the Site. This would create a significant visual impact to the surrounding viewshed, which would be difficult, if not impossible, to fully mitigate. Unlike the RSP-1 Project, the houses would not be concentrated on the western side of the Site in order to mitigate the visual impacts.

Flora and Fauna: Building a project compliant to conventional R1-160 zoning would result in a larger disturbed area than building the Project in RSP-1 zoning – 23, rather than 19 acres for the RSP-1 Project. There would also be no deed restricted open space. As such, there would be greater habitat fragmentation on the Site, which would have a greater, impact to flora and fauna.

Soils, Topography, Steep Slopes, and Geology: Building a project compliant to conventional R1-160 zoning would result in a larger disturbed area than building the Project in RSP-1 zoning. Development would be spread throughout the 65 acres, resulting in greater impacts to existing soils, topography, steep slopes, and geology. Since the development would not be concentrated on the portion of the Site with the least amount of environmental constraints, the impacts would be greater.

Wetlands and Surface Water Resources: Building a project compliant to conventional R1-160 zoning would likely result in lots that covered the entirety of the Site, including all existing on-site wetlands and surface waters. Thus, the result would be that individual homeowners would own and be responsible for portions of the regulated wetlands, watercourses and buffers, rather than the HOA. Individual septic systems would be used, which would likely result in a greater fragmentation to wetlands, wetlands buffers and habitats.

Cultural Resources: Similar to the RSP-1 Project, a project compliant to conventional R1-160 zoning would not result in any impacts to cultural resources.

Noise, Air, and Construction Impacts: Building a project compliant to conventional R1-160 zoning would not result in a significant difference in impacts to noise, air, and construction as compared to RSP-1 zoning.

Community Facilities and Services: Building a project compliant to conventional R1-160 zoning would result in only approximately \$342,369 in annual tax generation, as opposed to the \$1,127,385.70 annual tax generated by the development under RSP-1 zoning. As such, a project

compliant to conventional R1-160 will have significantly less of a benefit than the RSP-1 Project. Additionally, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to the Town by the Applicant.

Community Growth and Character: As the land use around the Site exhibits widely varied uses, building a project compliant to conventional R1-160 zoning would result in impacts to community growth and character similar to that resulting from building the Project under RSP-1 zoning.

Stormwater Management: Building a project compliant to conventional R1-160 zoning would result in the creation of less impervious areas than building the Project under RSP-1 zoning. As such, impacts on stormwater management would be decreased if the Project did not incorporate the mitigation measures, conditions and/or requirements set forth in these Findings.

Solid Waste: Building a project compliant to conventional R1-160 zoning would result in larger families per unit, which would generate more solid wastes per unit. Although a conventional R1-160 development may generate fewer residents overall than the RSP-1 Project, the greater tax revenue generation of the RSP-1 Project offsets any difference in solid waste generation, and therefore there is no significant difference between an R1-160 project and the RSP-1 Project impacts with regards to solid waste.

Utilities, Water: Building a project compliant to conventional R1-160 zoning would result in larger families per unit, which would require a greater quantity of water per unit. Although a conventional R1-160 development may generate fewer residents overall than the RSP-1 Project, the greater tax revenue generation of the RSP-1 Project offsets any difference in impacts relating to water usage, and therefore there is no significant difference between an R1-160 project and the RSP-1 Project impacts with regards to water.

Utilities, Sewer: Building a project compliant to conventional R1-160 zoning would require the construction of individual septic systems. Septic systems for individual homes have a limited life expectancy and are more likely to fail, often due to homeowner ignorance of best practices. There is less monitoring and governmental oversight of septic systems versus the WWTP proposed for the Project, even under the new rules for septic systems located in the NYCDEP regulated watershed. Due to the topography of the Site, the use of septic systems would have a greater potential of causing an adverse impact to the groundwater and surface hydrology of the on-site wetlands.

Fiscal & Socioeconomic Impacts: Building a project compliant to conventional R1-160 zoning would result in only \$342,369 annual tax generation, as opposed to the \$1,127,385.70 annual tax generated by the development under RSP-1 zoning. Additionally, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to the Town by the Applicant.

Traffic Conditions, Safety and Flow: Building a project compliant to conventional R1-160 zoning would result in larger families per unit, including children. As such, the peak traffic impacts from the project may increase as a result. Although the RSP-1 Project may generate more residents, since there is no impact to levels of service as a result of the Project, the

difference in impacts between a conventional R1-160 project and the RSP-1 Project is insignificant.

Electromagnetic Fields (EMF): Similar to the RSP-1 Project, a project compliant to conventional R1-160 zoning would result in no significant impact from the EMF created by the nearby high tension power-lines.

Use and Conservation of Energy, Green Technology and Infrastructure: Building a project compliant to conventional R1-160 zoning is inherently less environmentally responsible and “green” due to the lack of deed restricted open space, use of individual septic sewers, and larger home size. Without an HOA, there is less of an ability to dictate green technology in the care and maintenance of the grounds. There would not be a plan to dictate various uses of pesticides and fertilizers, as each individual homeowner would be responsible for care of his or her own lawn.

Hazardous Material and Waste: Building a project compliant to conventional R1-160 zoning would result in no significant impacts from hazardous material and waste, except that without HOA oversight, there would be less control over each individual homeowner and his or her use of fertilizer and pesticides.

Groundwater and Geology: Building a project compliant to conventional R1-160 zoning would result in the use of individual septic systems, which would have a higher likelihood of failure, and more potential to adversely affect the groundwater than the WWTP proposed for the Project.

Conclusion: The Town Board finds that the RSP-1 Project, incorporating the various mitigation measures set forth herein, would have less of an adverse environmental impact than a R1-160 zoning compliant conventional project alternative. In addition, an R1-160 alternative does not fulfill the objectives of the Applicant or the Town to increase the available housing stock for seniors, or to conserve large tracts of open space. In addition, the Town Board acknowledges and agrees with the letter from the Yorktown Conservation Board, which states that the proposed RSP-1 zone represents a more desirable use of this property than R1-160 zoning. R1-160 zoning would allow big houses with big lawns, more fertilizer use and individual septic systems with greater land disturbance and greater disturbance and fragmentation to wetlands, wetlands buffers and habitats, as well as greater disturbance to steep slopes and a greater loss in the number of trees on the property than the RSP-1 Project. RSP-1 zoning would concentrate potential environmental impacts in such a way as to preserve more of the sensitive environmental features of the Site.

C. R1-160 Cluster Development

The purpose of clustering is to encourage flexibility of design and development of land to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open land. The Town Board carefully reviewed the conceptual R1-160 cluster subdivision provided by the Applicant. The Town Board notes that although a cluster development requires a set-aside of 40% of the

Site for preservation of open space that amounts to 26 acres of open space. In contrast, the RSP-1 Project would preserve 46 acres of open space, or close to 71% of the entire Site.

Zoning and Land Use: Building a cluster R1-160 project would result in a larger disturbed area than building the Project in RSP-1 zoning – 21.5 acres, versus 19 acres. It would, as previously stated, result in significantly less deed restricted open space – 26 acres versus 46 acres. Although a R1-160 cluster project would fulfill the policy in the Comprehensive Plan to promote single-family residential neighborhoods, it would not further the Town's or the Applicant's goals of providing diverse housing, particularly for seniors. Moreover, although there would be open space preserved, clearly 46 acres of preserved open space furthers that goal to a much greater extent.

Visual Resources: Building a cluster R1-160 project would result in units with larger properties across more of the Site. This would create a significant visual impact to the surrounding viewshed, which would be difficult, if not impossible, to fully mitigate. The larger lot sizes makes it more difficult to adequately concentrate development in a manner that least impacts views from sensitive receptor sites.

Flora and Fauna: Building a cluster R1-160 project would result in a larger disturbed area than building the Project in RSP-1 zoning, and would result in significantly less deed restricted open space – 26 acres versus 46 acres. As such, impact to flora and fauna would also be greater, due to greater fragmentation of habitat.

Soils, Topography, Steep Slopes, and Geology: Building a cluster R1-160 project would result in a larger disturbed area than building the Project in RSP-1 zoning – 21.5 acres versus 19 acres. As such, impacts to existing soils, topography, steep slopes, and geology would be greater. In addition, the use of individual septic systems would likely result in greater encroachment into steep slopes than the RSP-1 Project.

Wetlands and Surface Water Resources: Building a cluster R1-160 project would result in lots that covered more of the Site, and would likely encroach more significantly into the existing wetlands and surface waters and/or their regulated buffers. Individual septic systems would be used, which would likely result in a greater fragmentation to wetlands, wetlands buffers and habitats.

Cultural Resources: Similar to the RSP-1 Project, a cluster R1-160 project would not result in any impacts to cultural resources.

Noise, Air, and Construction Impacts: Building a cluster R1-160 project would not result in a significant difference in impacts to noise, air, and construction as compared to RSP-1 zoning.

Community Facilities and Services: Building a cluster R1-160 project would result in only \$342,369 annual tax generation, as opposed to the \$1,127,385.70 annual tax generated by the development under RSP-1 zoning. As such, a cluster R1-160 Project will have significantly less of a benefit than the RSP-1 Project. Additionally, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to the Town by the Applicant.

Community Growth and Character: As the land use around the Site exhibits widely varied uses, building a cluster R1-160 project would result in impacts to community growth and character similar to that resulting from building the Project under RSP-1 zoning.

Stormwater Management: Building a cluster R1-160 project would result in the creation of less impervious areas than building the Project under RSP-1 zoning. As such, impacts on stormwater management would be decreased if the Project did not incorporate the mitigation measures, conditions and/or requirements set forth in these Findings.

Solid Waste: Building a cluster R1-160 project would result in larger families per unit, which would generate more solid wastes per unit. Although a cluster R1-160 development may generate fewer residents overall than the RSP-1 Project, the greater tax revenue generation of the RSP-1 Project offsets any difference in solid waste generation, and therefore there is no significant difference between a cluster R1-160 project and the RSP-1 Project impacts with regards to solid waste.

Utilities, Water: Building a cluster R1-160 project would result in larger families per unit, which would require a greater quantity of water per unit. Although a cluster R1-160 development may generate fewer residents overall than the RSP-1 Project, the greater tax revenue generation of the RSP-1 Project offsets any difference in impacts relating to water usage, and therefore there is no significant difference between a cluster R1-160 project and the RSP-1 Project impacts with regards to water.

Utilities, Sewer: Building a cluster R1-160 project would require the construction of individual septic systems. Septic systems for individual homes have a limited life expectancy and are more likely to fail, often due to homeowner ignorance of best practices. There is less monitoring and governmental oversight of septic systems versus the WWTP proposed for the Project, even under the new rules for septic systems located in the NYCDEP regulated watershed. Due to the topography of the Site, the use of septic systems would have a greater potential of causing an adverse impact to the groundwater and surface hydrology of the on-site wetlands.

Fiscal & Socioeconomic Impacts: Building a cluster R1-160 project would result in only \$342,369 annual tax generation, as opposed to the \$1,127,385.70 annual tax generated by the development under RSP-1 zoning. Additionally, the Town of Yorktown will not benefit from the one-time \$650,000 contribution to Town from the Applicant.

Traffic Conditions, Safety and Flow: Building a cluster R1-160 project would result in larger families, including children. As such, the peak traffic impacts from the project may increase as a result. Although the RSP-1 Project may generate more residents, since there is no impact to levels of service as a result of the Project, the difference in impacts between a cluster R1-160 project and the RSP-1 Project is insignificant.

Electromagnetic Fields (EMF): Similar to the RSP-1 Project, a cluster R1-160 project would result in no significant impact from the EMF created by the nearby high tension power-lines.

Use and Conservation of Energy, Green Technology and Infrastructure: Building a cluster R1-160 project is inherently less environmentally responsible and “green” due to protecting significantly less deed restricted open space, septic systems, and larger home size. Without an HOA, there is less of an ability to dictate green technology in the care and maintenance of the grounds. There would not be a plan to dictate various uses of pesticides and fertilizers, as each individual homeowner would be responsible for care of his or her own lawn.

Hazardous Material and Waste: Building a cluster R1-160 project would result in no significant impacts from hazardous material and waste, except that there would be likely less control over each individual home and their use of fertilizer and pesticides.

Groundwater and Geology: Building a cluster R1-160 project would result in the use of individual septic systems, which would have a higher likelihood of failure, and more potential to adversely affect the groundwater than the WWTP proposed for the Project.

Conclusion: The Town Board finds that the RSP-1 Project, incorporating the various mitigation measures set forth herein, would have less of an adverse environmental impact than a cluster R1-160 alternative. In addition, a cluster R1-160 alternative does not fulfill the objectives of the Applicant or the Town to increase the available housing stock for seniors. Although it would preserve 40% of the Site as open space, that is significantly less than the amount of deed restricted open space than the RSP-1 Project. In addition, a cluster R1-160 project would allow larger houses with accompanying lawns. Although these lots would be smaller than a conventional R1-160 subdivision, there would still be more fertilizer use by individual homeowners, as well as individual septic systems with greater land disturbance and greater disturbance and fragmentation to wetlands, wetlands buffers and habitats, as well as greater disturbance to steep slopes and a greater loss in the number of trees on the Site than the RSP-1 Project. RSP-1 zoning would better concentrate potential environmental impacts in such a way as to preserve more of the sensitive environmental features of the Site.

D. Age-Restricted versus Non-Age-Restricted Comparison

In the event that the Project is constructed, but it is subsequently determined that age-restricted housing is unfeasible on the Site, the Applicant was asked to determine what the impact of non-age-restricted housing on would be.

Initially, the Town Board notes that in such an event, the Applicant would be required to apply to the Town Board to rezone the Site from RSP-1 to a different zoning district, since the RSP-1 zoning district necessarily requires an age-restriction component. Any such application would be subject to SEQRA, and any potential significant adverse environmental impacts not studied during the review of this Project will be addressed. There would be transparency and an opportunity for public comment as with any rezoning petition.

The Applicant was required to provide data regarding the number of school children the Project would generate in the event that it was non-age-restricted, assuming the same size and number of units. The number of proposed units, 70, was multiplied by the “children multiplier,” 0.17. This “children multiplier” correlates the number of children to housing types in the “Rutgers

University, Center for Urban Policy Research, Residential Demographic Multipliers – New York (June 2006),” a method specifically recommended by the Planning Board. The projected number of children under these circumstances would be 12 children.

The Town Board finds that in the event of extenuating circumstances, there would be no significant adverse environmental impact as the result of the additional 12 children. The Project will still generate significant tax revenue for both the Town and the Yorktown Central School District, which would offset any impact of the addition of 12 school age children.

Certification

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

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives, the Project is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating those mitigation measures, conditions and/or requirements that are set forth herein, which have been identified as practicable;
2. The Project is one that appropriately balances potential adverse impacts against potential beneficial impacts in the forms of creation of additional opportunities for senior housing in an environmentally sensitive manner, as well as the generation of tax revenues, consistent with the Town’s Comprehensive Plan; and
3. The written Findings Statement contains the facts and conclusions utilized by the Town Board to make its decision


Diana L. Quast, Deputy Town Clerk

Date: December 12, 2011

cc: Attached List

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Commissioner Edward Burroughs
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White Plains, NY 10601

Westchester County Planning Board
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Westchester County DOH
Delroy Taylor
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TOWN OF YORKTOWN AGENCIES/BOARDS

ABACA

BUILDING INSPECTOR

COMMUNITY HOUSING BOARD

CONSERVATION BOARD

FIRE INSPECTOR

HIGHWAY DEPARTMENT

OPEN SPACE

PLANNING DEPARTMENT

PLANNING BOARD

POLICE DEPARTMENT

PUBLIC SAFETY COMMITTEE

RECREATION COMMISSION

TOWN ATTORNEY

TOWN BOARD

TOWN ENGINEER

WATER DEPARTMENT

WETLANDS INSPECTOR

ZONING BOARD