

TOWN OF CORNWALL PLANNING BOARD

LEAD AGENCY
WRITTEN SEQR
FINDINGS
STATEMENT

CORNWALL COMMONS

Town of Cornwall Planning Board
Adopted December 1, 2008

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LEAD AGENCY SUPPLEMENTAL WRITTEN SEQR FINDINGS STATEMENT

Cornwall Commons Land Development
Cornwall Commons
Site Plan Application, PAC Lot 10 and Overall PAC
SEQRA – Supplemental Findings Statement

Project Description

The project before the Town of Cornwall Planning Board is the site plan for Lot 10 of the Cornwall Commons Planned Adult Community (PAC), and the overall development of the entire project site and the remaining lots within the Planned Adult Community in a manner consistent with the Planning Board's Lead Agency Generic SEQR Findings Statement adopted April 15, 2003. The intent of this review is to determine the level of consistency of the overall subdivision and the PAC development with the Generic SEQR Findings Statement.

Background

The action in question is a component in a series of actions begun in late 1999 for a 197.7 acre tract of land that at the time was located primarily in the Town of Cornwall in the Planned Industrial Office (PIO) district, and partly in the Town of New Windsor in the R-3 residential district. At that time, the applicant was requesting a zoning amendment for the Cornwall property, which was rejected February of 2000. The applicant opted to pursue the subdivision and environmental review process according to the then-current zoning in both Towns, and examined alternative development scenarios involving re-zoning as part of the generic environmental review process. The Generic SEQR review was completed with the issuance of Generic SEQR Findings on April 15, 2003, and subsequent approvals that were granted for the property were based upon findings of consistency with the GEIS Lead Agency SEQR Findings of 2003.

Since the Planning Board's adoption of the Generic SEQR Findings Statement in 2003, the Town of Cornwall Town has adopted a January 2005 Comprehensive Plan that designated the property for Planned Residential Development (PRD) use, along with zoning amendments establishing the PRD district allowing Planned Adult Communities (PACs). The Comprehensive Plan describes PACs as active adult residential developments of at least one hundred or more units limited to families with at least one adult over 55 years of age and no children under age 19. In addition:

- the site has been the subject of an annexation: the former New Windsor component of the project site was annexed to the Town of Cornwall, so that the entire 197.7 acres comprising the site are

now located wholly within the Town of Cornwall, and are zoned Planned Residential Development (PRD) consistently throughout the entire site;

- the site was most recently the subject of a preliminary subdivision approval by the Town of Cornwall Planning Board dated September 5, 2006, following a Negative Declaration and Consistency Determination with the 2003 Lead Agency GEIS Findings. The subdivision approval granted in September of 2006 was for a 10-lot subdivision intended to accommodate a Planned Adult Community, modified from a five-lot subdivision that had previously received a preliminary subdivision approval for a 5-lot subdivision in July of 2003 after adopting of the original GEIS Findings in April, 2003;
- the site was granted a PAC special permit from the Town of Cornwall Town Board on June 5, 2006 following a Consistency Determination with the 2003 Lead Agency GEIS Findings.

In relation to the PAC special permit review process, the Planning Board determined that the environmental review for the site needed to be updated in a few particular subject areas, so that when the applicant sought site plan approval for the residential component of the PAC, the applicant would complete a Supplemental Environmental Impact Statement.

Location and Zoning Designations of Site

The application involves a 197.7-acre property which is located in the Town of Cornwall at the New Windsor municipal border, consisting of tax map parcel Section 9, Block 1, Lot 25.22, located in the PRD district in Cornwall. The site includes approximately 53 acres of land that had previously been located in the Town of New Windsor, but was annexed into the Town of Cornwall. The site is located on the northwest side of NYS Route 9W next to the former O&W Railway line.

Filing of Application

The land use application for the PAC project on lot ten of the Cornwall Commons preliminary subdivision plan was submitted on or about October, 2006.

Supplemental DEIS Scoping Procedures

As part of the consideration of the 10-lot subdivision to accommodate the PAC, the applicant had agreed to prepare and submit a Supplemental Environmental Impact Statement speaking to specific overall effects of the PAC site development and of the PAC lot 10 in particular, both updating information from the Generic EIS and also speaking to the specific compliance with the GEIS Findings. In addition, the

Planning Board had requested specific subject areas be addressed for the overall site including views, traffic, stormwater, and rough grading.

The applicant submitted a written scoping outline which was disseminated to the public, and written scoping comments were received by the public. A final written supplemental scope incorporating some changes and additions was adopted by the Planning Board on January 9, 2007.

Draft SEIS Submission, Acceptance and Notices

The applicant submitted copies of a Draft Supplemental EIS on December 3, 2007. The submitted document was not deemed to be acceptable, and various modifications were made to the document and the plans over the next several months, with the revised document ultimately being filed on June 16, 2008. The document was circulated to all Involved and Interested Agencies and made available online.

Joint Public Hearing dates on Draft SEIS and Site Plan

The Town of Cornwall Planning Board scheduled a joint SEQR hearing on the Draft Supplemental EIS and the Site Plan for Lot 10 on July 7, 2008, with a ten-day written comment period. The hearings were closed on July 7, 2008, and the Planning Board requested that a Final Supplemental Environmental Impact Statement be prepared in order to address the body of comments submitted.

FSEIS submission date and filing date

The applicant prepared and submitted copies of a Final Supplemental EIS on August 20, 2008. The Lead Agency considered the document, determined to make revisions, and resolved on November 3, 2008 to file it on November 6, 2008. This document was filed and made available both electronically and via surface mail in the same manner as the SDEIS. The ten-day consideration period for the FSEIS expired ten days after the date of filing.

WHEREAS, the Lead Agency Town of Cornwall Planning Board has given due and thorough consideration to the Draft and Final Supplemental Environmental Impact Statements, the transcripts of the public hearing held on the DSEIS, all comments submitted by its professional consultants, all submitted plans and other information submitted by the applicant and its representatives, and all written and oral comments submitted by the public and other Involved and Interested agencies with regard to this application. The Lead Agency considered all of the above-mentioned information with regard to the potentially significant environmental impacts that may be expected from the overall project and reasonable alternatives thereto. These Findings show that the Lead Agency has considered and addressed the subject

areas where the overall plan may create potentially harmful environmental impacts, and has considered the plan's consistency with the original GEIS Findings, including but not limited to where those Findings stated that the matter would be implemented in the course of Site Plan review. Further, although the plans will require some modifications based on outside agency approvals (DOT, water, sewer, stormwater) and Town technical requirements upon finalization of the plan preliminary grades and road widths, the plans as currently proposed otherwise meet the town's requirements and would be suitable for conditional site plan approval.

NOW THEREFORE BE IT DETERMINED that the Lead Agency finds that all requirements of NYCRR Part 617 have been met, and further makes the following findings:

1. Consistent with social, economic, and other essential considerations from among the reasonable alternatives thereto, the action to be carried out, funded or approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable, consistent with other applicable requirements of law.
2. Consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact review process will be minimized or avoided by incorporating as conditions to the decision those mitigation measures that were identified as practicable, and as are outlined specifically in this document below and in the FSEIS]

Statement of Facts and Findings

Specific Environmental Conditions, Mitigations and Findings

A. Land Use and Zoning/Community Character

Land Use and Planning Issues Relating to the Subdivision Plan, the PAC and the Overall Project

The original Generic EIS prepared for Cornwall Commons subdivision plan had considered the effects of a commercial/industrial development of a proposed 5-lot subdivision and development of 1,000,000 square feet of mixed use industrial of PIO lands in Cornwall, plus the residential use of the R-3-zoned New Windsor lands for 69 single family lots in accordance with the existing zoning laws that had existed at that time for each municipality. That GEIS had also evaluated several alternatives, including one that involved a change to the Town of Cornwall Comprehensive Plan and zoning. Since the Cornwall Commons GEIS Findings were adopted in April 2003, the Town of Cornwall has adopted a new

Comprehensive Plan and implementing zoning regulations, and has also annexed and re-zoned the portion of the site that was formerly in New Windsor.

In this subject area, the 2003 Generic SEQR Findings had established three policies and procedures regarding the site use. None of these are relevant or applicable any more, given the change in events. The 2005 Cornwall Comprehensive Plan and the zoning provisions of 2005, along with the annexation, obviate the need for the level of intermunicipal site plan coordination that had been called for in 2003. While the Town of New Windsor is still an Interested Agency and will continue to receive all SEQR materials, the previous GEIS Findings in the area of land use and planning are no longer applicable. Any preliminary land use approvals that were previously granted for a residential subdivision within the former Town of New Windsor component of the site are no longer valid or applicable.

The applicant now seeks to use the property for a PAC (Planned Adult Community), consistent with the Town of Cornwall Comprehensive Plan and with the current zoning. The property has already received a preliminary subdivision approval, most recently in September, 2006 for a 10 lot subdivision intended to accommodate the PAC. The site was granted a PAC special permit from the Town of Cornwall Town Board on June 5, 2006.

The residential component of the PAC is proposed to contain a total of 490 units, of which 314 are to be single family detached dwellings, 14 are to be single family attached dwellings, and 162 are to be multiple dwellings arrayed in nine separate buildings. There is also proposed to be a clubhouse facility on the lot, an array of recreational facilities to provide for a portion of the residents' recreational needs, and on-site stormwater management facilities.

Allowable unit count and the prescribed mix of units is set forth in Section 158-21-X of the Cornwall Code. The maximum density of a PAC is 3 dwelling units per usable acre. On the entire project site there is a total of 197.716 acres, with a net acreage of 185.456 acres after subtracting the required deductions of 9.530 acres for regulated jurisdictional wetlands and 2.730 acres for existing easements. Accordingly, the maximum potential density is 556 units. However, the applicant has entered into a developer's agreement with the Town of Cornwall Town Board on April 11, 2005, specifying among other things that the total number of dwelling units on the site will not exceed 490. It should be noted that any acreage devoted to the commercial components of the PAC are not deducted from the net acreage, as clarified in the developer's agreement. Also in accordance with the developer's agreement, at the grant of site plan approval, the applicant will record a declaration of covenants and restrictions limiting the development of the remaining property – namely, the lands shown as lots 1 through 9 of the preliminary subdivision plat – to commercial uses, enforceable by the Town Board.

The Cornwall Code also requires a range of different housing types to be provided in a PAC, with detached single family units being not less than 30% and not more than 90% of the units, attached single family units being between zero percent and not more than 30% of the units, and multiple dwelling units being between zero

percent and not more than 30% of the units. In the case of the Cornwall Commons PAC site plan, the plans depict 314 single family detached units, 14 single family attached units, and 162 multiple dwelling units. A question had been raised as to what number of units the percentages should be calculated against, whether the maximum number of units allowed by the Code, or the total number of units provided? The Planning Board attorney confirmed¹ that the unit mix limitation should be calculated against the maximum allowable total unit count; and therefore the proposed unit mix complies with the Code restrictions and requirements.

In addition to the unit count falling within the Code requirements, the lot setback and perimeter buffer requirements of the Code are met by the site plan for lot 10.

Other elements of plan compliance with the Cornwall Code, relative to general site plan requirements pursuant to Section 158-19 as well as the specific requirements of Section 158-21-X, were considered, and where these elements relate to SEQR considerations, they are addressed separately in this document according to subject area.

Land Use Approval Being Sought – SEQR Action

The applicant is seeking site plan approval for Lot 10 of this subdivision, containing 158.994 acres, which is proposed to be used for the residential components of the PAC. Because the Town of Cornwall Code establishes a strict sunset period on the fulfillment of conditions of a conditioned site plan approval², the applicant has opted to pursue the necessary outside agency approvals, and has granted a waiver to the requirement that the Planning Board render a decision within the timeframe set forth in Section 158-19-D(5) of the Cornwall Code. The applicant will continue to pursue his outside agency approvals and permits, relying upon the preliminary subdivision approval and the contents of this Findings Statement.

The site plan incorporates some level of flexibility for the construction and siting of the structures, in recognition of the fact that there will be different housing types and designs offered within the project. However, the plans also incorporate overall limits to the impervious footprint of each unit, and the plans also provide for specific minimum separations and setbacks to be maintained among the units, in order to ensure both that the drainage facilities will be properly sized, that adequate light and air is provided to the buildings, and that adequate access to the buildings is provided.

- For single family detached dwelling units: The plans show minimum setbacks from the units and both the sidewalks and the edge of the proposed privately owned internal roadway on Lot 10. The units will have not less than a 25-foot setback from the sidewalk, and not less than 32 feet from the edge of the roadway. These minimum setbacks will ensure that a car can be parked within the driveway without encroaching on the sidewalk or the road.

¹ By memorandum dated March 28, 2008.

² See Section 158-19-G

Single family detached units will not exceed a maximum of 45 feet in width nor 60 feet in length³, with not less than 15 feet of side yard separating the structures. Rear yard separations shall not be less than 32 feet from one dwelling to another. Optional decks or patios not exceeding 10 feet in depth by 20 feet in width may be constructed within this 60-foot x 45-foot building envelope, and such decks if built, shall have at least 22 feet of separation from another dwelling. Driveways shall have a 15-foot wide curb opening, widening to 18 feet; and the sizing adequacy of the site's stormwater management facilities will be reviewed by the Town Engineer prior to final site plan approval.

- For single family attached dwelling units: The plans show minimum setbacks from the units and the edge of the proposed privately owned internal roadway on Lot 10. The units will have at least a 25-foot setback from the edge of the roadway; where sidewalks serving these units are not proposed to be located directly adjacent to the units. Single family attached units will not exceed a maximum of 30 feet in width nor 74 feet in length, and with every 30 foot unit width, there will be an offset or "jog" in the unit's front setback⁴ of not less than 2 feet and not more than 5 feet. Rear yard separations shall not be less than 32 feet from one dwelling to another.
- For multiple-dwelling units: The plans show maximum footprints of 83 feet by 160 feet for the multiple dwelling unit structures, with 18 units per building and 18 indoor garage units, one of which is handicapped-accessible, contained in each building.⁵ Accessory parking spaces will be provided directly adjacent to the buildings,

All other elements of the site plan, such as the clubhouse, will be built as shown on the plan. Overall, the plan elements appear to preliminarily comply with the Cornwall Code provisions in respect to both general site plan requirements pursuant to Section 158-19 as well as the specific requirements of Section 158-21-X. Although the plans may require some modifications based on outside agency approvals (DOT, water, sewer, stormwater) and Town technical requirements upon finalization of the plan preliminary grades and road widths, the plans as currently proposed otherwise meet the town's requirements and would be suitable for conditional site plan approval.

³ Including any optional deck or patio, so that the total maximum impervious area per unit would not exceed the 60'x45' figure. The largest single family home will be constructed within the 60' x 45' building envelope depicted on the site plan, excluding cornices, roof overhangs, trim elements, and handicapped ramps.

⁴ Including any optional deck or patio, so that the total maximum impervious area per unit would not exceed the 30'x74' figure. The impervious footprint within this envelope does not count cornices, roof overhangs, trim elements, and handicapped ramps.

⁵ This calculation excludes cornices, roof overhangs and trim elements.

Mitigation Measures/Policies and Procedures:

- A1. The previously adopted GEIS Lead Agency SEQR Findings A1-A3 from April, 2003 are no longer applicable due to changes in circumstance. The 2005 Cornwall Comprehensive Plan and the zoning provisions of 2005, along with the annexation, obviate the need for the level of inter-municipal site plan coordination that had been called for in the 2003 Generic Lead Agency SEQR Findings A1-A3. The site is now wholly contained within the Town of Cornwall, and the zoning is now consistent throughout the site. The Town of New Windsor is now an Interested Agency that will continue to receive all SEQR documents and notices.
- A2. In the case of the Cornwall Commons PAC site plan, the plans depict a total of 490 units of which 314 are single family detached units, 14 are single family attached units, and 162 are multiple dwelling units. The Planning Board attorney confirmed that the unit mix limitation should be calculated against the maximum allowable total unit count; and therefore the proposed unit mix complies with the Code restrictions and requirements.
- A3. The residential unit count of 490 that is proposed on the site plan is less than the maximum number of units allowed in the PAC pursuant to the zoning code. However, the applicant has entered into a developer's agreement with the Town of Cornwall Town Board on April 11, 2005, specifying among other things that the total number of dwelling units on the site will not exceed 490. In accordance with that developer's agreement, at the grant of site plan approval, the applicant will record a declaration of covenants and restrictions limiting the development of the remaining property – namely, the lands shown as lots 1 through 9 of the preliminary subdivision plat – to commercial uses, with this restriction being enforceable by the Town Board. The aforementioned commercial lots will require site plan review and approval by the Planning Board, and also a consistency determination for the GEIS Findings and this Supplemental Findings Statement.
- A4. The PAC use on this site is consistent with surrounding land uses, with the current zoning, and the current Town and County plans, and the setback areas required under the PAC zoning requirements have been provided on the plans. The site plan has been referred to the Orange County Planning Department (OCPD) for mandatory review pursuant to Section 239 of General Municipal Law, but the OCPD's report on the special use permit authorizing the use specifically commented on the suitability of the use in this County-mapped Priority Growth area.
- A5. The action that is currently before the Planning Board is the application for site plan approval for Lot 10 of the Cornwall Commons

subdivision, containing 158.994 acres, which is proposed to be used for the residential components of the PAC. Because the Town of Cornwall Code establishes a strict sunset period on the fulfillment of conditions of a conditioned site plan approval⁶, the applicant has opted to pursue the necessary outside agency approvals, and has granted a waiver to the requirement that the Planning Board render a decision within 90 days, pursuant to Section 158-19-D(5) of the Cornwall Code. The applicant will continue to pursue his outside agency approvals and permits, relying upon the preliminary subdivision approval and the contents of this Findings Statement. Overall, the plan elements appear to preliminarily comply with the Cornwall Code provisions in respect to both general site plan requirements pursuant to Section 158-19 as well as the specific requirements of Section 158-21-X. Although the plans may require some modifications based on outside agency approvals (DOT, water, sewer, stormwater) and Town technical requirements upon finalization of the plan preliminary grades and road widths, the plans as currently proposed otherwise meet the town's requirements and would be suitable for conditional site plan approval.

The site plan approval that will be acted on by the Planning Board will incorporate some level of flexibility for the construction and siting of the single family residential structures, in recognition of the fact that there will be different housing types and designs offered within the project. However, there are overall limits to the unit sizes/impervious areas, and specific building separations and setbacks are maintained, in order ensure that the drainage facilities will be properly sized, that adequate light and air is provided to the buildings, and that adequate access to the buildings is provided. The specific limits applying to the lot 10 site plan are described above in the bulleted text of this section of these Findings. Other elements of the site plan, such as the clubhouse, will be built as shown on the plan

B. Soils and Topography

As noted in the Generic EIS, the site is a gently rolling property that drops in overall grade towards the north. The highest elevation is a knoll on the western portion of the property at approximately 240 feet above mean sea level; the lowest point is 142 feet on the north side near the bounds of the former railroad ROW. At least 80% of the site is sloped at 10% or less. The rail ROW lies in a steep-sided cut below the rest of the property. None of the former rail ROW is located within the bounds of the site.

⁶ See Section 158-19-G

The GEIS had reported that site soils are primarily deep, moderately well-drained Mardin gravelly silt loams at 3-8% slopes, but with substantial areas of somewhat poorly drained Erie gravelly silt loam in the northern part of the site, and Bath-Nassau shaly silt loam at 3-8% slopes in the front of the site adjacent to Route 9W. The soils have a fragipan, which is associated with a seasonal high water table.

Melick-Tully Associates (MTA) carried out soil testing in October, 2006 at several locations within the site, and reported the following:

- after following the recommended site preparation procedures, the test results indicated that buildings can be supported by conventional shallow foundations in either undisturbed extant soils, shale, or fill material
- shallow perched water seepage could be encountered seasonally, and therefore de-watering operations may need to be carried out during construction
- while basements are feasible throughout large parts of the site, the presence of bedrock and shallow perched water seepage will need to be considered in the planning and design

Erosion and slope failure was encountered on a steeply sloped area in the vicinity of the abandoned railroad ROW in the extreme northern portion of the site. The soils test report, which was included as an appendix to the SDEIS, did not extensively evaluate this slope failure, but it did indicate that the stability problem apparently initiated on the adjacent parcel, and that it might be possible for the unstable slopes to result in additional slope failures extending into the site. The report concluded that the project site planning would need to take into account "the configuration of the perimeter slopes, investigation of their stability, and final grades."⁷

The GEIS had reported that the underlying bedrock was weathered, rippable shale, and did not anticipate that blasting would be needed in the course of site preparation. However, the MTA report in the SDEIS stated that the shale in the area is typically very sound below a thin fractured layer, and while large areas of excavation extending only a few feet below the bedrock surface could be removed with heavy construction equipment or hydraulic jackhammers, deeper excavations for foundations or utility installations in areas of sound bedrock may require blasting. Because there had been no grading plans developed for the entire site when the soils analysis was completed, MTA reported that it was not possible to determine whether blasting would be needed in the course of site preparation, and if so, to what extent. The study recommended that MTA review the plans to determine the amount of additional testing that would be needed throughout the site to further determine the impact of rock removal on site grading; though this has not been done. In any case, in the event that blasting is needed, the potential for off-site blasting impacts must be evaluated in the context of the relative isolation of the bulk of the project site from other surrounding existing development. The large size of

⁷ Melick-Tully Associates report, 11/3/06, DSEIS Appendix C

the project site and its separation from existing development makes it unlikely that any developed offsite property would be significantly harmfully impacted by on-site blasting operations, if and where needed for the project road and lot 10. Further, any blasting operations would be conducted in accordance with NYS regulations which are designed to safeguard adjoining property owners.

MTA's report stated that soil material excavated from the site would likely consist of silty sands, sandy silts, or fractured shale material. Fractured shale would be suitable for use as fill, if properly processed. The silty sands and sandy silts are marginally suitable for use as controlled compacted fill, due to moisture content and compaction, but with aeration and drying this limitation can be overcome, and in such case the material could be used as fill or backfill around building and pavement areas.

The MTA report incorporated several specific recommended design and construction criteria for foundations, floor slabs, basements and pavement. These criteria are considered to be sound design and construction practices for site conditions, and would be the responsibility of the builder to implement during design and construction.

Notwithstanding the timing of the MTA report, grading plans for lot 10 including road profiles for the proposed looped town road access, and a cut and fill analysis were completed for the development of the Lot 10 site plan. The cut and fill analysis indicated that a surplus of approximately 36,800 cubic yards of material would be generated from the looped road grading and construction, with a shortfall of approximately 13,300 cubic yards of fill material for the construction of lot 10. This would result in a net surplus of approximately 23,500 cubic yards of material between the two components of the project. No grading plans have been developed for the remaining lots 1-9 of the subdivision. These lots would need to be evaluated at the time of site plan approval, specific to the uses proposed for each.

The grading plans limit the need for retaining walls, but the walls which are needed are shown on the site plan for lot 10, and most of them range from between 2 to not more than 4 feet in height. One wall ranges from 3 to 5 feet, and two others are up to 8 feet high in portions. The walls are proposed to be modular block construction. Split rail fencing or box beam railings, depending on the location of the walls, are shown on the plans for safety purposes where appropriate.

Erosion is a potential impact wherever land disturbance takes place. To mitigate this impact, erosion control measures are proposed. A Stormwater Pollution Prevention Plan (SWPPP) has been prepared and will be implemented at the site in compliance with state regulations. The SWPPP addresses the needs not only of the site plan for lot 10, but also for the loop road and the maximum potential buildout of the 9 commercial lots. Consistent with the GEIS Findings, the applicant does not propose to pre-grade the commercial lots in order to develop them as potential building sites in advance of a site-specific user, notwithstanding that their stormwater management and water quality needs have been pre-planned for.

Based on the limitations to impervious area set forth in the site plan and described more particularly in Section A of these Findings, the SWPPP provides adequately for the maximum amount of impervious area that could be constructed on the entire site.

Mitigation Measures/Policies and Procedures:

- B1. Soils analysis showed that, with the incorporation of measures recommended in the Melick-Tully Associates soils report, the limitations imposed by the shallow perched groundwater conditions can be overcome and the soil materials onsite used for controlled compacted fill, and the site can accommodate conventional shallow foundations. Shallow bedrock in some areas of the site can be removed by ripping or hydraulic removal of the surface layer, though deeper excavations in areas of shallow bedrock may require blasting. In the event that blasting is needed, the operation would need to be conducted in compliance with existing state regulations. However, the relative isolation of the bulk of the project site from other surrounding existing development makes it unlikely that any developed offsite property would be significantly harmfully impacted by on-site blasting operations, if and where needed for the project road and lot 10.

If needed, any blasting would be conducted in compliance with New York State requirements [Title 12 of the New York Code of Rules and Regulations (12 NYCRR Part 39)]. Blasting would be conducted by licensed and insured blasting contractors. The minimum required amount of explosives would be used in all blasting operations. Pre-blasting inspections would be conducted of all off-site structures located within 500 feet of the excavation area, if authorized by the off-site property owner. The contractor would conduct test blasting and seismographic monitoring, if necessary, prior to any other blasting to determine appropriate on-site blasting techniques, when blasting is to occur within 500 feet of existing off-site structures. When conducting blasting within 500 feet of existing off-site structures, seismographic monitoring would continue throughout the periods of blasting at the site, and daily logs of seismographic data, explosive use and field conditions would be maintained.

- B2. The cut and fill analysis indicated that a surplus of approximately 36,800 cubic yards of material would be generated from the looped road grading and construction, with a shortfall of approximately 13,300 cubic yards of fill material for the construction of lot 10. This would result in a net surplus of approximately 23,500 cubic yards of material between the two components of the project. No grading plans have been developed for the remaining lots 1-9 of the subdivision. These lots would need to be evaluated at the time of site plan approval.

Adequate area exists on the site to provide temporary stockpile areas pending its removal or re-use elsewhere within the overall site⁸. The Planning Board and the Town Engineer will review and approve a final Stormwater Pollution Prevention Plan (SWPPP) before acting upon final site plan approval.

- B3. Erosion, siltation and other stormwater pollution impacts will be mitigated by implementing the Stormwater Pollution Prevention Plan (SWPPP) prepared for the site in compliance with state regulations. The SWPPP addresses the needs for the maximum potential buildout of the entire site, including all ten lots and the roadway. Based on the limitations to impervious area set forth in the site plan and described more particularly in Section A of these Findings, the SWPPP provides adequately for the maximum amount of impervious area that could be constructed on the entire site.

Consistent with the GEIS Findings, the applicant does not propose to pre-grade the commercial lots in order to develop them as potential building sites in advance of a site-specific user, notwithstanding that their stormwater management and water quality needs will be provided by way of this site plan's SWPPP.

- B.4. Grading, cutting and filling shall be limited only to those areas specified for development and will be completed in as short a time as practical in order to reduce the potential for slope and topographic alterations due to erosion. Site disturbance will need to comply with the DEC SPDES General Permit requirement limiting site disturbance to no more than 5 acres at a time pursuant to the DEC SPDES General Permit. If the applicant seeks to waive this five-acre limitation, as is often done for large projects such as Cornwall Commons in order to correctly install the necessary utilities while limiting soil disturbance, it will need to comply with more stringent DEC requirements and receive DEC approval for the same. See also Finding D-7 of this Environmental Findings Statement for related consideration.

C. Water Resources (includes Wetlands)

Most of the site drains to the northwest by way of a series of small undefined streams and sheet surface water flow towards the Moodna Creek. A portion of the site drains eastward, towards a small stream known as the Funny Child Creek, a tributary of the Moodna Creek located just east of Route 9W. Both creeks are designated class "C" streams, and both streams are located offsite.

⁸ such stockpiling must be fully evaluated in the SWPPP and be otherwise consistent with these Findings.

Consistent with current requirements, stormwater runoff from developed areas of the site will be directed to stormwater management basins to address water quality concerns, and the rates of runoff off the site will be moderated so as not to exceed pre-construction conditions. This will avoid creating or exacerbating any off-site drainage or flooding impacts as a result of the increase in impervious area and changes to existing on-site drainage patterns. There are no floodplain areas located on the site.

Due to the originally issued federal wetland Jurisdictional Determination having expired, supplemental study was performed on the site's wetland resources, and additional areas were flagged in the field and discussed in the SDEIS updating the information set forth in the original GEIS. A total of six wetland areas, none of which were New York State jurisdictional wetlands, and two of which were determined to be "isolated" wetlands and thereby ineligible for federal regulation at this time, were determined to be on the site. This updated information revises and replaces the wetland descriptions set forth in the Cornwall Commons GEIS, and a new Jurisdictional Determination was issued December 19, 2007:

- Wetland "A" is a narrow, elongated body that is 3.91 acres in size that incorporates a poorly defined drainage way emptying into a culvert under Rt. 9W, draining to the southeast. It is a red-maple wooded wetland originating on the site. This wetland is located southwest of and parallel to the proposed looped town access road into the site.
- Wetland "B" is 1.401 acres in size and is located in the extreme western part of the site in the vicinity of existing residential development located offsite on Schofield Lane and Howard Street. This wetland lies west of the NYC Aqueduct easement. This area is fed by drainage from both on and off the site, including drainage from the two town roads, and drains offsite to the north.
- Wetland "C" is a 3.59-acre shallow, isolated, non-jurisdictional wetland, containing red maple, swamp white oak, spicebush and tussock sedge and surrounded by mixed hardwood forest upland. This wetland contains vernal pools, and spotted salamander eggs were found within these pools. Despite its large size, it is non-jurisdictional as it has no outlet. It originates on and is wholly contained within the site, at the center of the site.
- Wetland "D" is a 3.698-acre wooded wetland located at the southwest portion of the site, behind existing offsite residential properties at the end of Frost Lane, and tapering off to the east in an undefined, long narrow drainage course towards the Willow Woods/Stone Hollow subdivision. This wetland is dominated by swamp white oak, and was found to contain spotted salamander eggs and wood frog tadpoles. As reported in the DGEIS from studies performed in early spring of 2002, weak stellate sedge (*Carex seorsa*), which is listed as a threatened species by New York State, was found on the site only at the border of Wetland D.

- Wetland "E" is just over a half-acre in size (0.518 acres). It is located in small depression and flows offsite to the west, towards the former railroad ROW and thence toward the Moodna Creek. It too was found to contain spotted salamander eggs and wood frog tadpoles.
- Wetland "F" is an elongated wooded wetland that is 1.021 acres in size, located northwest of Wetland D. This is an isolated, non-jurisdictional wetland.

Wetlands C and F are both isolated. The regulatory status of Wetland C was much debated after the filing of the original GDEIS, and the Army Corps of Engineers (ACOE) conducted a second field visit in 2003 in order to determine if a hydrologic connection to navigable waters existed for Wetland C. ACOE found that there was no permanent outfall for Wetland C, and that accordingly it was a non-jurisdictional wetland and not subject to federal regulation.

All of the wetlands on the Cornwall Commons property are located on Lot 10, so that no other activities on proposed lots 1-9 would be expected to affect onsite wetlands either directly or indirectly. And as discussed in Section B of these Findings, the SWPPP addresses the needs for the maximum potential buildout of the entire site, including all ten lots and the roadway.

The environmental review of wetland impacts focused on both direct and indirect potential impacts that may harm the wetlands and disrupt their function. *Direct impacts* result from direct disturbance to a wetland, such as grading or placing fill in the wetland. *Indirect impacts* result from other disturbances, such as allowing pollutants to drain into a wetland and to disrupt its functions, or from disrupting a wetland's hydrologic regime.

Direct impacts to on-site wetlands:

- Wetland "A": A stormwater management basin is proposed to be located on an upland area lying southwest of Wetland A. In order to obtain access to the upland area to construct and maintain that basin, there will be minor temporary and permanent disturbances to Wetland A, with a permanent disturbance of 0.004 acres in order to install an arched culvert for an access way, and 0.014 acres of temporary disturbance for the placement of a drainage culvert conveying drainage from the roadway into the basin. The arched culvert is an open bottomed culvert that minimizes direct disturbance to the wetland. The wetland crossing and the pipe placement is proposed for the narrowest part of the wetland, consistent with grades and safe access.

Consistent with the GEIS mitigation measures, the edge of the grading needed for the stormwater basin is shown 25 feet away from the western bounds of stream course within Wetland A. On the east side, all grading activities associated with the southern leg of the main access road will be separated by not less than 25 feet from the stream course within Wetland A.

This disturbance is minor. Erosion control measures are incorporated in the plan. This disturbance cannot reasonably be avoided because of topography and the inability to access the site directly from Rt. 9W for maintenance purposes.

- Wetland "B": this wetland is not proposed to be directly disturbed.
- Wetland "C": 0.255 acres of direct disturbance is proposed for non-jurisdictional Wetland C. The disturbance is at the southern edges of the wetland and relate to the internal access road construction and grading, as well as drainage connections under the proposed road. An amphibian crossing culvert is proposed to connect Wetland C with upland areas on the south side of proposed road B.
- Wetland "D": no direct disturbance is proposed for this wetland, though some limited grading is proposed close to the northwestern portion of the wetland. The stream at the easternmost portion of the wetland is protected by a 25 foot setback where the stream is present in defined form.
- Wetland "E": 0.006 acres of direct disturbance is proposed at the edge of the wetland, relating to the construction of Road D serving the single family detached units.
- Wetland "F": 0.844 acres of direct disturbance is proposed for non-jurisdictional wetland F. This wetland will be eliminated. Its northwesternmost portion will be incorporated into part of a stormwater management basin, part will be disturbed by the construction of Road D serving the single family detached units, and part will be disturbed by residential units 69 and 70, 89 and 90.

Indirect impacts to on-site wetlands:

Changes to the hydraulic regime of wetlands, significantly altering when the wetland is wet, can affect the health, function and even the very existence of a wetland. Accordingly, consistent with GEIS Finding C-4, the Planning Board required an evaluation of the pre- and post-development drainage into the wetlands, in order to determine compliance with the requirement that the stormwater plan be designed to, in addition to treating water quality, maintain tributary sources of stormwater runoff into the relevant fresh water wetlands in order to maintain their viability.

Pre- and Post-Development Differences in Wetland Inflows (Volume)						
Wetland Area	Rainfall Peak Flow (cfs)			Rainfall Volume (acre-feet)		
	1-year	10-year	100 year	1-year	10-year	100 year

Wetland A	-7.23	-29.25	-26.95	-0.058	1.582	3.339
Wetland B	0.00	0.00	0.00	0.00	0.00	0.00
Wetland C (non-jurisdictional)	3.4	2.88	0.43	-0.004	-0.461	-1.052
Wetland D	1.52	1.78	1.21	0.115	0.154	0.131
Wetland E	-5.27	-0.94	13.21	-0.290	1.308	2.725
Wetland F (non-jurisdictional)	-4.16	-14.22	-24.16	-0.500	-1.597	-2.714

Pre- and Post-Development Differences in Wetland Inflows (Percent)						
Wetland Area	Rainfall Peak Flow (percent)			Rainfall Volume (percent)		
	1-year	10-year	100 year	1-year	10-year	100 year
Wetland A	-55.8%	-53.5%	-27.5%	-3.9%	28.7%	34.7%
Wetland B	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Wetland C (non-jurisdictional)	57.0%	11.5%	1.0%	-0.6%	-17.4%	-22.4%
Wetland D	20.4%	6.0%	2.3%	14.4%	5.4%	2.6%
Wetland E	-91.8%	4.1%	32.3%	-37.5%	47.6%	56.3%
Wetland F (non-jurisdictional)	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%

Constructing the site plan for Cornwall Commons will alter existing drainage patterns within the site, and will alter the volume and rate of water flowing into most of the wetlands on the site. Water inflows to Wetland B are not being changed at all. Wetland F will be eliminated and no water will be directed to the small portion of Wetland F that is not being filled, graded or otherwise disturbed. However, Wetland F is non-jurisdictional, is not used for amphibian breeding purposes, and contains no plant species of concern, so this would not constitute a significant harmful impact.

Wetland A will see a drainage volume increase in all storm events other than the 1-year storm, as the runoff from an additional 9.8 acres of land area will be directed into Wetland A. However, the peak flow rates will decrease, due to the detention provided by two stormwater ponds (designated as ponds C and E), and water quality protection is provided by these stormwater ponds.

Based on the study completed in the GEIS, Wetlands C, D and E were of greatest interest, due to their amphibian breeding functions, and presence of a plant species of concern. Drainage to these wetlands is affected as follows:

- The drainage area of Wetland C is proposed to decrease by 4.54 acres. This change will decrease the runoff volumes into the wetland under all storm

events, ranging from a slight 0.6% decrease in the annual storm, to 17.4% in the ten-year storm, and 22.4% in the 100-year storm. Peak flow rates into the wetland will increase in most storm events, particularly in the one-year storm at 57%, but only 11.5% in the 10-year storm, and only 1% in the 100-year storm. This decrease in total runoff is less under the plan with the 28-foot roads than with the proposed 24-foot roads, though the rate of increase in the runoff in the one- and ten-year storms is higher. However, the increased peak flow rates to the wetland would not be expected to cause scouring or erosion due to the mitigation measures incorporated into the SWPPP.

- The drainage area of Wetland D is proposed to decrease very slightly, by only 0.65 acre. Notwithstanding, due to the increase in impervious areas, the wetland will experience small to moderate increases in runoff volumes in all storm events, and increases to peak flow rates in all storm events, with the highest (20.4%) in the 1-year storm and small to moderate increases in the 10- and 100-year storms. However, any increases to peak flow rates to the wetland would not be expected to cause scouring or erosion due to the mitigation measures incorporated into the SWPPP.
- The drainage area of Wetland E is proposed to increase by 6.66 acres. Notwithstanding this change, the volume of runoff is projected to decrease by 37.5% in the one-year storm event, though it would increase by 47.6% in the 10-year storm and 56.3% in the 100-year storm. Detention provided by stormwater pond D, which discharges toward Wetland E, substantially decreases peak flow rates into the wetland in the more frequent storm events, decreasing by fully 91.8% in the one-year storm and decreasing by 4.1% in the 10-year storm, but in the 100-year storm there would be a 32.3% increase in peak flow rates. However, any increases to peak flow rates to the wetland would not be expected to cause scouring or erosion due to the mitigation measures incorporated into the SWPPP.

Mitigation Measures/Policies and Procedures:

- C1. Wetland boundaries on the site were re-visited since the completion of the original GEIS, as the original federal wetland Jurisdictional Determination had expired. Additional wetland areas were identified and are shown on the plans, and a revised Jurisdictional Determination has been issued.
- C2. A site-specific grading plan has been developed for Lot 10, and a drainage plan for the entire site has been developed. A Stormwater Pollution Prevention Plan (SWPPP) was prepared as part of the DSEIS and provides for the maximum potential buildout of the entire site, including all ten lots and the roadway. This action is consistent

with the GEIS Finding C-1. Stormwater management and water quality protection is provided for using a range of Best Management Practices set forth in NYS DEC's Stormwater Management Design Manual.

Site plan reviews for lots 1-9 will ensure that the overall site drainage plan is complied with. Consistent with the GEIS Findings, the applicant does not propose to pre-grade the commercial lots in order to develop them as potential building sites in advance of a site-specific user, notwithstanding that their stormwater management and water quality needs have been pre-planned for. Such determination will not preclude commercial lot site plans from incorporating additional stormwater quality treatment measures.

- C3. GEIS Finding C3 stated that the site plans would avoid any disturbance of the federally protected wetland to the maximum extent practicable. It also stated that the Planning Board would encourage the preservation of protected buffer areas of at least 25 feet on both sides of on-site stream corridors and the jurisdictional wetlands.

The site-specific plans comply with this Finding as follows: the plans avoid all but a limited amount of direct disturbance to both jurisdictional and non-jurisdictional wetlands onsite. One of the six wetlands on the site will be completely eliminated, and that is wetland F, which is a small non-jurisdictional wetland. The plans do incorporate 25-foot protected buffer areas from the defined streams within the wetlands.

Not all portions of the protected wetland boundaries are protected from physical disturbance by 25-foot buffers⁹. In the case of wetland D, there are some areas where grading or other disturbance is proposed to take place close to the wetland boundary (such as some pavement area near condo 6, or grading near single family unit 93 and Road G. In the case of Wetland A, pavement disturbance near condo 9 and grading for stormwater management pond E will be within 25 feet of the wetland. And some of the recreational structures and facilities (pool, base of the terrace wall) will be located within 25 feet of the bounds of non-jurisdictional Wetland C.

Specific mitigation measures are proposed and will be followed where construction will take place near to Wetlands A, C, D, and E: prior to any clearing, grading or construction, a four-foot construction barrier fence and silt fence will be installed between the wetland and at the limits of disturbance. These same mitigation measures will be

⁹ Of course, this is in addition to the areas where *direct* disturbance is already proposed, as listed in this section.

employed to protect upland areas of undisturbed woodland that are proposed to remain.

Any stormwater runoff that will be released near both wetlands and woodlands will pass through features such as rip-rapped outfalls, level spreaders, grassed swales, or gravel diaphragms, designed to dissipate energy, avoid erosion or scouring, and protect the quality of the discharge. All disturbed areas will be re-planted in native grasses, and near the wetlands, native shrubs and trees will be planted to help restore the native upland habitat.

Additional findings in relation to the wetland impacts are found in Section D of this Findings Statement.

- C4. GEIS Finding C4 stated that the stormwater that will enter into any of the federally protected jurisdictional fresh water wetlands, during and after construction, will be routed through water quality features to remove contaminants as required by the NYSDEC. This finding also noted that the stormwater plan will also be designed to maintain tributary sources of stormwater runoff into the relevant fresh water wetlands in order to maintain their viability. The site plan was extensively revised in order to fulfill this requirement, to the greatest extent practicable consistent with the use of the site.
- C5. All stormwater facilities require a level of routine inspection and periodic maintenance in order to continue functioning as intended. In order to provide for this maintenance there must be a responsible party. In the case of the Cornwall Commons PAC, a homeowners association (HOA) will be responsible for inspecting and maintaining all of the facilities, and any routine cleaning of sediment or repair. This work will be done in accordance the checklist incorporated in Appendix H of the SWPPP.

D. Ecology

The DGEIS incorporated a description of site vegetation and habitat. The northern third of the site is a nearly impenetrable thicket of non-native invasive species such as black locust, multiflora rose, buckthorn, winged euonymus, greenbriars, and Asiatic bittersweet. The former industrial land near the old railroad ROW at the northern part of the site has been highly disturbed by cuts, drains, and other man-made disturbances. Many decades ago, the southern two-thirds of the site was once used as pastureland. This portion of the site has since grown over into a mixed red and white oak upland forest, containing red maple swamps in the low areas, and abundant hemlock growth in the more mesic areas. The GEIS had reported that the formerly pastured portion of the site contains some older oaks in

the open-grown "cabbage" form, and recommended that these trees should be preserved where possible in a sensitive landscape design.

The DGEIS had expressed a policy that the project plans would minimize clearing of woodland areas to the minimum extent necessary for development of the project, in order to retain as much habitat as possible for the woodland bird species such as the wood thrush and ovenbird. The Planning Board required changes to the proposed plan in order to achieve compliance with this policy. The current plans retain most of the wooded wetland areas intact, and additional wooded areas are retained contiguous to these wooded wetlands, thus increasing the habitat value in the maturely forested areas of the site. In addition, a wooded strip of land is being retained at the northwestern boundary of the site. In its current form, the plan retains a total of 52.8 acres of undisturbed wooded land at the site; however, it must also be noted that the acreage of undisturbed wooded land is not unbroken, but will exist in various sizes and shapes of stands of not less than 3.5 acres in size. The plans incorporate a Naturalistic Planting Plan as a mitigation measure, to help re-establish an additional 5.41 acres of rear yard and transitional areas along edges of disturbance in native mixed shrub and tree plantings for habitat purposes.

The DGEIS had contained a detailed inventory of species using the site, and reported consistent with the vegetation on the site that the degraded scrub area in the northwest portion of the site contains common catbirds, crows, robins, blue jays, and the like, while the more mature forested southern two-thirds of the site contained wood thrushes, veerys, black-capped chickadees, turkey, ovenbirds, red-eyed vireos, tufted titmouse, and a pair of red-tailed hawks. Some of the listed species such as wood thrush and ovenbird are typically associated with large tracts of mature forest and are considered sensitive to forest fragmentation; however, in some areas of its range, the wood thrush can be tolerant of disturbance, and more information is needed on its life cycle. The wood thrush is vulnerable to deforestation in its Central American wintering habitat, and is also sensitive to acid rain deposition, and our area of the northeast United States is subject to high acid deposition due to Midwestern power plant emissions. Predator exposure to raccoons, squirrels, etc., and nest predation by cowbirds can affect forest-dwelling bird species. Higher degrees of nesting success were associated with greater densities of trees, greater degrees of canopy closure, higher density of shrubs, and taller shrub height, and cool forest conditions with leaf litter remaining on the forest floor are important.

Pursuant to the GEIS Findings, the SDEIS had located seven cabbage oaks on the site within or near the areas proposed for disturbance. The SDEIS also evaluated the health and condition of these trees. Only one of the seven trees was determined to be free of any visible rot or decay, and several of the trees were in poor condition with extensive rot or decay. The single rot-free specimen oak (a 38" white oak) is actually located outside the boundaries of Lot 10, in the north side of commercial lot 2 near the intersection of two stone walls. No site development plan has been prepared for this lot, so it is not clear whether its development, or the eventual provision of access to the NYMA property, might result in its disturbance.

This would need to be evaluated in the future, at the time of site plan review for any use of Lot 2. There is a second 48" white oak north of Wetland A that is not within a disturbance area and would be preserved, though any dangerous dead branches should be removed.

At the Planning Board's request, the SDEIS incorporated additional analysis in order to help evaluate the Lot 10 plan and the forested areas to remain. Because these forested areas, particularly in the southwestern two-thirds of the site, contain tracts of contiguous mature forest where multiple trees over 8 inches in diameter as measured three feet above the base of the trunk (DBH), the trees could not be considered to be "isolated" and therefore it would have been futile and unnecessary to map each individual tree over 8 inches DBH, particularly given the nature of the site plan that necessarily involved the disturbance of extensive areas of Lot 10. The SDEIS evaluates the forest areas to remain, and makes recommendations that there be some pruning of trees to remove dangerous dead branches and to remove the invasive vines from the trees in the woodland to remain to enhance the viability of the trees to remain. In addition, a Naturalistic Planting Plan is proposed to be incorporated as a mitigation measure, to help re-establish an additional 5.41 acres of rear yard and transitional areas other edges of disturbance in native mixed shrub and tree plantings for habitat purposes.

In the context of the several large wooded areas to remain, including some that incorporate populations of large, healthy red and white oak, chestnut oak, red maple, black cherry and American beech over 8 inches DBH, the Planning Board concludes that removal or disturbance of five out of the seven "cabbage oaks" discussed in the GEIS and identified on the Lot 10 site plan, would not constitute a significant harmful impact. One oak is located on a commercial lot and will be evaluated at the time of specific site plan review.

The DSEIS incorporated additional site-specific investigation, evaluating the site for habitat suitability and the potential presence of two endangered species, the Indiana Bat (seeking the presence of summer roosts and maternal colonies) and the Bog Turtle. The site did not contain suitable Bog Turtle habitat, nor was it considered likely to contain potential Indiana Bat habitat; but to avoid possible direct impacts to individual Indiana Bats, the DSEIS indicated that clearing and tree removal activities will take place between October 1 and March 30.

As evaluated in the GEIS and updated in the SDEIS, some of the wetlands on the site, both federal jurisdictional wetlands or isolated wetlands, are used for amphibian breeding purposes. The GDEIS had indicated that non-jurisdictional Wetland C was used by spotted salamanders, a type of mole salamander, and the FGEIS had expanded this report to include vernal pools within Wetlands jurisdictional D and E being used for this purpose and also for wood frog reproduction. Mole salamanders are terrestrial and burrow under leaf litter, rocks or locks in wooded areas, burrowing tunnels underground or making use of tunnels excavated by small mammals. They commonly breed in woodland vernal pools. The salamanders observed on the site were listed as species of special concern in

New York State. The GEIS Findings indicated that Wetlands C and D would be undisturbed, thereby protecting a significant amount of habitat would be protected, along with an undisturbed stream corridor buffer of up to 25 feet on either side of surface streams on the site. The GEIS Findings further offered to incorporate consideration for suitable passage under roadways for amphibians in consultation with the appropriate specialists at DEC; and the site plan for Lot 10 does incorporate two amphibian crossings comparable to those incorporated in other projects. The site-specific plan considered in the SDEIS protects the following:

- virtually all of Wetland C except for 0.255 acres at the wetland edge, and also protects additional acres of upland woodland adjacent to Wetland C to the east, west, and north
- all of Wetland D and additional upland woodland adjoining to the south, east and west
- virtually all of Wetland E except for 0.006 acres at the easternmost edge of the wetland, and also protects additional woodland adjoining to the northeast and southwest of the wetland along the property line.

The Planning Board concludes based on the available information, that there will be some harmful impacts on existing flora and fauna resulting from the direct habitat destruction that would enable the use of the site in accordance with the zoning, but these impacts are largely unavoidable. These impacts have been avoided and mitigated to the maximum extent practicable by the layout of the plan, which balances the mix of uses on Lot 10 and their need for safe access and for safe separation, with the preservation of virtually all of the site's wooded wetlands and some additional nearby woodland areas, along with incorporating naturalistic tree and shrub plantings that will help to re-establish and preserve the woodland habitat. The plan not only retains patches of undisturbed woodland in the site, including some upland woodland adjacent to non-jurisdictional Wetland C that may be suitable habitat for the mole salamanders such as the spotted salamander identified as breeding at the site. Amphibian crossings and mountable curbing are provided under road B in the vicinity of Wetland C for the passage of amphibians, in an effort to reduce auto-related mortalities. (Wetlands and drainage impacts to the wetlands are also described in Section C of this document.)

The GEIS had reported no species of flora or fauna listed as "endangered" either federally or in New York State were reported to be present on the site, nor were such species found on the site, nor suitable habitat for the same documented to be present. Special investigation had been undertaken to search for the presence of a rare plant species, the weak stellate sedge, (*Carex seorsa*), a wetland edge species which is listed as a threatened species in New York State, and according to the State Botanist is fairly common in the region around Cornwall. The DGEIS had reported that this sedge might soon be removed from its status on the threatened species list, though at the time of the Supplemental EIS it was still present on current threatened species listings in the state of New York. The FGEIS had indicated the sedge was prevalent in Wetlands C, D, and E. The plans evaluated in

the SEIS preserve these wetlands with minimal direct disturbance, or in the case of Wetland D, no direct disturbance to the wetland itself, will help to avoid direct impacts on the sedge, retention of adjoining woodlands where possible, and the stormwater drainage flows that sustain the wetland hydrology are being preserved to the maximum extent practical.

None of the site directly adjoins the Moodna Creek, and the site is well set back and above any critical tidal estuaries. Therefore, no such species as would be found in estuarine habitats, including any endangered species, would occur on the site. The water quality of stormwater exiting the site is processed to prevent both significant harmful water quality impacts and to avoid harmful increases in the rate of runoff.

These findings demonstrate compliance with the GEIS Findings, and therefore confirm no significant harmful impacts on threatened or endangered species.

Mitigation Measures/Policies and Procedures:

- D1. GEIS Finding D-1 had stated that the older "cabbage" oaks should be preserved where possible in a sensitive landscape design, and that the Planning Board was to require detailed site plans locating and preserving such trees in a natural landscape design wherever possible. Furthermore, the Planning Board was to discourage the fragmentation of the maturely wooded land in the course of detailed site plan review, to the extent that the zoning and site-specific proposed use(s) would allow. In addition, GEIS Finding D-1 stated that the Planning Board shall encourage protection of the wetland areas in its detailed site plan review, including the protection of adjoining upland areas important to amphibian use to the extent that the zoning and site-specific proposed use(s) allow. [Plans shall provide for] protection of an undisturbed stream corridor buffer of up to 25 feet on either side of surface streams on the site.

The SEIS and the site plan for Lot 10 shows compliance that is consistent with GEIS Finding D1. Substantial areas of maturely wooded land on the site, including virtually all of the jurisdictional and non-jurisdictional wooded wetlands on the site except for non-jurisdictional Wetland F, have been identified and are being retained with adjoining upland woodland areas, and amphibian crossings and curbing are provided on Road B. The actual condition of the cabbage oaks has been evaluated, and the five out of seven that are proposed to be removed by these plans are in poor health. The plans incorporate a Naturalistic Planting Plan as a mitigation measure, to help re-establish an additional 5.41 acres of rear yard and transitional areas along edges of disturbance in native mixed shrub and tree plantings for habitat purposes.

- D2. GEIS Finding D-2 had stated that any site grading and earth operations that are needed to develop access to the subdivision shall be in a manner than recognizes the intent to protect existing vegetation and wildlife habitat, and that prior to any clearing or grading taking place, snow fencing or other flagging shall be used to cordon off the limits of disturbance, with minor adjustments to the roadway to be encouraged where the same could result in the preservation of specimen trees without creating any safety hazards or non-compliance with municipal road standards.

The SEIS and the site plan for Lot 10 shows compliance that is consistent with GEIS Finding D2. The plans provide for installing silt fence and four-foot construction fencing at the edge of disturbance areas, prior to any grading or clearing taking place. The GEIS reference to "specimen trees" is referencing the cabbage oaks discussed in Finding D1 above. The woodlands occupying the southern two-thirds of the site contain many trees over 8 inches DBH, which is why the Planning Board only focused on the "cabbage oaks" as isolated trees requiring identification pursuant to the site plan requirements of the Cornwall Code. The actual condition of the cabbage oaks has been evaluated, and the five out of seven that are proposed to be removed by these plans are in poor health.

The 38" DBH white oak that is located on the commercial lot will be evaluated at the time of site plan for the lot in question.

- D3. GEIS Finding D-3 had stated that site specific landscaping plans for all development in the Town of Cornwall will require the preferential use of native, non-invasive species in order to help protect the biological integrity of the remaining lands. These plans show compliance with that Finding, both with the typical lot landscaping plans and the restoration and supplemental plantings.

Because the Town of Cornwall Code establishes a strict sunset period on the fulfillment of conditions of a conditioned site plan approval¹⁰, the applicant has opted to pursue the necessary outside agency approvals, and has granted a waiver to the requirement that the Planning Board render a decision within 90 days pursuant to Section 158-19-D(5) of the Cornwall Code. The applicant will continue to pursue his outside agency approvals and permits, relying upon the preliminary subdivision approval and the contents of this Environmental Findings Statement. Prior to finalizing site plan approval, the Planning Board and its consultants will review the Naturalistic Planting Plan to ensure that the final choice of plantings is suitable. This plan provides for minor site specific adjustments of

¹⁰ See Section 158-19-G

individual units in the field, in order to retain individual healthy trees where appropriate.

- D4. GEIS Finding D-4 had stated that the weak stellate sedge, currently listed as threatened in New York State, was prevalent in Wetlands C, D and E, and its presence would be considered in leaving federal wetlands "A", "C" and "D" substantially undisturbed. This Finding went on to state that stormwater detention plans will be designed to keep surface water flow near pre-development levels to protect the viability of the weak stellate sedge which may be present in these areas. Any other threatened sedges which may exist in and directly adjacent to such wetlands would, if present, be similarly protected to the maximum extent practicable by such measures.

The site plan for Lot 10 shows compliance with this Finding.

- D5. GEIS Finding D-5 had stated with regard to protection of habitat for spotted salamanders, which are listed as species of special concern in NY State, that the FGEIS had proposed no disturbance to Wetlands C and D and offered stream corridor buffers of 25 feet, thereby protecting a significant amount of habitat, and the FGEIS further offered to incorporate consideration for suitable passage under roadways for amphibians in consultation with the appropriate specialists at DEC. The Finding had indicated that the Planning Board would facilitate input by DEC specialists in the drainage, utility and road design for the crossing to the maximum extent practicable, prior to any construction of roadways.

The SEIS and the site plan for Lot 10 shows compliance that is consistent with this GEIS Finding. Wetlands C, D and E were found to be used for spotted salamander breeding. These wetlands are retained virtually in their entirety on the site, including Wetland C which is non-jurisdictional. Roughly a quarter acre of disturbance at the southern edge of Wetland C is proposed, and additional upland woodland areas adjoining this wetland are also being preserved. Two amphibian crossings designed consistent with those provided on other projects are being provided under Road B in the vicinity of Wetland C. Wetland D is being retained undisturbed along with adjoining upland woodland areas, and Wetland E is being disturbed minimally (0.006 acre) and adjoining woodlands along the fringe of the property are being preserved. Stream corridor buffers are being preserved as shown on the plan, and stormwater that has been routed through water quality devices is being directed towards the wetlands (See Section C of these Findings).

- D6. GEIS Finding D-6 had discussed the likelihood of site use disrupting drainage patterns on the site in a way that would cut off the surface

waters feeding non-jurisdictional Wetland C¹¹, and stated that because that non-jurisdictional wetland is not regulated by any other agency, and did not otherwise constitute a significant ecological resource nor endangered species habitat¹², the Planning Board understood that this wetland is subject to alteration, and that such alteration would not constitute a significant harmful environmental impact.

The SEIS and site plan for Lot 10 and the entire site drainage plan substantially improves the situation for non-jurisdictional Wetland C over the impact that had been projected in the GEIS Finding D-6. While a small amount of direct disturbance, roughly a quarter of an acre of filling from Road B, is proposed at the southern and southwestern edge of Wetland C, roughly 75% of the existing drainage volumes into the wetland are being retained, with attention to flow rates and water quality of the runoff.

- D7. The DSEIS had indicated that, in order to avoid possible direct impacts to individual Indiana Bats and their habitat, clearing and tree removal activities at the site will take place between October 1 and March 30. This limitation is part of an ACOE Nationwide Permit limitation and applies to the entire site.
- D8. The DSEIS had indicated that, in woodland areas to be preserved, invasive vines would be removed from the trees to enhance the viability of the trees to remain, and dead tree limbs would be pruned where they posed a hazard. This work will be implemented in sections as the site plan is constructed.
- D9. Coordination with DEC shall take place in regard to the details of the proposed amphibian crossing, which shall employ open-bottomed culverts unless otherwise specified at DEC's request, prior to the actual grant of site plan approval.

E. Traffic & Transportation

A traffic study had been completed for the GEIS and the uses that were allowed on the site at that time¹³, along with alternatives. That traffic study determined traffic counts for studied intersections, projected site-generated traffic volumes that were

¹¹ Wetland C was mistakenly referenced as Wetland E in the GEIS Findings D-6, in a scrivener's error. Wetland C is the large, non-jurisdictional wetland that is of interest because of its habitat functions, in conjunction with adjacent woodlands. Wetland E is a jurisdictional wetland.

¹² Notwithstanding its habitat role for the mole salamander species of concern and the presence of threatened vegetation *Carex seorsa*

¹³ At that time, the project included 69 residential lots in the then-New Windsor portion as-of-right, and one million square feet of light industrial space for the Town of Cornwall as-of-right project.

assigned to the roadway network, and determined operating Levels of Service (LOS) determined for then-existing conditions¹⁴, and to Year 2003 and Year 2005 conditions both without the project being built. The site is to be accessed via a looped road, with two connections to NYS Route 9W.

The following intersections were evaluated:

1. Routes 9W and 218 (Academy Avenue) interchange *
2. Route 218 (Academy Avenue) and Main Street/Faculty Road
3. Route 9W and Caesar's Lane
4. Route 9W and Forge Hill Road
5. Willow Ave (CR 32) and Route 9W interchange
6. Route 9W and southerly site access road (consisting of one entering and two exiting lanes, and requiring the construction of separate left and right turn lanes onto Route 9W)
7. Route 9W and northerly site access road

As discussed in the GEIS, two different access scenarios to the site had been evaluated. Access Scenario 1 considered the construction of a right turn entry and right turn exit at the northerly and southerly sections of the site's road frontage on Route 9W. Under this scenario there would be no median break in 9W. Vehicles wanting access to or from the northbound lanes would need to use the existing Rt. 9W/218 interchange to access the opposite lanes on Route 9W. The DGEIS noted that this alternative relies on the need to develop a signage plan to direct traffic accordingly, with the authorization of NYSDOT. Alternate Access Scenario 2 considered the construction of a full-movement signalized intersection with Route 9W at the site's southerly access point, including the construction of separate right and left turn lanes on Route 9W. The GEIS discussed a variant to this Access Scenario 2 that would allow access to the NYMA property on the west side of 9W in association with the Route 218 interchange area reconstruction. Under this scenario it would be possible to create a road extension to Cornwall Commons with direct access to the Route 218 interchange, if a connection through the NYMA property were possible. Such a connection would make it possible for traffic to enter the site from the south and exit north without involving any left turns on Route 9W. No access scenario has been finalized yet, as of the date of these Supplemental Findings.

A Supplemental Traffic Study was completed to update the GEIS traffic study, based on current traffic counts¹⁵, on the current zoning and mixed use PAC proposal, and on updated future traffic projections for projects such as Willow Woods (aka Stone Hollow), Winding Creek, and Chestnut Woods. The supplemental study used a future design year of 2010, though the study can

¹⁴ Original traffic counts were conducted in the year 2000.

¹⁵ 2005 and 2006; also included consideration of the recent signal installation and striping improvements at the Laurel Ave. intersection with 9W, and the recent signal installation and left turn lane striping at the Forge Hill Rd intersection with 9W.

account for a longer design period of up to 2015, depending on the construction and occupancy of other background projects. The peak AM traffic hour was identified to be 7:30 to 8:30 AM, while the PM peak hour was 4:30 to 5:30 PM. The Supplemental traffic study assumed the completion of certain long term safety and capacity improvements to the Route 9W corridor, such as the construction of acceleration/deceleration lanes at the Route 218 interchange, and road widening/lane additions in the area of the Forge Hill Road intersection. The supplemental traffic study evaluated operating Levels of Service (LOS) under future "Build" and "No-build" conditions for both access scenarios.

The current study indicated that operating levels of service (LOS) at the Forge Hill Road/9W intersection would fall from "D" to "E" for the northbound movement during the PM peak even without the project in the year 2010. With the project, this peak PM northbound movement would decline to failing LOS "F", with average vehicle delays nearly doubling for all access scenarios, and the overall intersection function would drop from LOS "D" to "E". If signal timing improvements were implemented, the peak PM northbound movement would improve to LOS "C" without the project, and decline only to LOS "D" with the project, with the overall intersection experiencing the same change from "C" to "D". With additional DOT lane improvements, the PM peak northbound movement would improve to LOS "B" in 2010 without the project, and would remain at that improved LOS even with the project.

The 2003 GEIS Findings had indicated that the Forge Hill Road with 9W improvements were already proposed to be completed as part of the planned NYSDOT improvements to Route 9W. However, there is no timetable for the improvements. To mitigate, the applicant will contact DOT to implement signal timing improvements here.

One other intersection is significantly harmfully affected by the project. The Main Street/Faculty Road & Rt 218 intersection was discussed in the GEIS Findings, since even in the year 2000 that intersection was already operating at failing LOS for the northbound movement. Average per-vehicle projected delays in 2010 without the project nearly double in both the AM and PM peak hours, increasing from 157.9 to 300.6 seconds and from 54.8 to 91.3 seconds, respectively. With the project, the delays are more drastically increased over No-Build conditions, with average AM peak delays increasing from 300.6 to 525.7 seconds per vehicle, and PM peak delays more than tripling from 91.3 to 280.4 seconds per vehicle. Signalization would resolve the problem and provide overall LOS B at this intersection, with the northbound movement also operating at LOS B.

Neither the GEIS nor the SDEIS offered to complete this improvement. The FGEIS had indicated that the applicant would offer a fair-share contribution to the installation of a signal at this intersection, as an off-site mitigation measure, and GEIS Finding E-3 had determined that the Lead Agency will require a developer's agreement or some other appropriate device setting forth the mechanism, timing, and amount of such fair-share contribution, In order to ensure that the proffered

contribution will be made to help resolve such severe project-induced off-site impact. The DSEIS recommended as a mitigating measure, that the applicant would monitor the traffic volumes at the Main Street/Faculty Road & Rt 218 intersection after the completion of Lot 10 development and submit them to DOT, to determine if the intersection volumes met DOT traffic signal warrants.

Construction traffic:

The DGEIS traffic analysis noted that there would be construction-related traffic increases due to workers and construction equipment accessing the site. The DGEIS indicates that the likely construction access will be a Tee-type intersection with Route 9W, although the NYSDOT would have the final control over even a temporary access. This traffic was not quantified.

Public transportation:

The site plans for Lot 10 incorporate provisions to accommodate bus travel along the main boulevard which is proposed as a town road, and a bus stop area has been provided by the main entrance to Lot 10.

Pedestrian traffic and connections:

The Cornwall Commons PAC is not designed to be an entirely self-contained residential living community, as stated in the DSEIS¹⁶, and although the main mode of transit to and from the site is expected to be by private automobile, walking paths are incorporated within the site, with offsite pedestrian connections to and from the project at three alternative pedestrian access routes depicted on the plans. The first plan provides a walking route via the proposed sidewalks on the Stone Hollow (a.k.a. Willow Woods) access road to Willow Avenue to Main Street. The Stone Hollow development has been approved and is under construction, and this connection will be completed when the multi-family portion of the Cornwall Commons site is built. The second plan provides a walking route designated via Frost Lane to Willow Avenue to Main Street, and this connection too will be completed as the adjoining section of the Cornwall Commons is built. The third plan provides a walking route from the main entrance of the project. As discussed in the DSEIS, there will be a traffic light installed at this point which would allow pedestrians and bicyclists to cross Route 9W, and then residents could travel along Academy Avenue to Mailler to Willow Avenue to Main Street, though this route is less preferred for safety reasons. The Board will require that at least one pedestrian connection shall be open by the time half of the residential Certificates of Occupancy have been issued. This will be depicted on the sequencing plan.

¹⁶ At page 57

Mitigation Measures

- E1. GEIS Finding E-1 noted that under the current subdivision plan, the site is proposed be served via an internal loop road with access to Route 9W via right turn entry and right turn exit of the northerly and [a second intersection] at the southerly end of the property. The construction of new access road connections to the site from Route 9W must be coordinated with the NYSDOT. No such construction can take place without prior approval from that agency. This Finding is still valid and is reiterated for the Supplemental EIS; and the Lead Agency Planning Board further notes that the site access road is part of the subdivision plan. Preliminary approval has already been granted to a 10-lot subdivision of the site, and this plan includes the proposed town access road which would access the lots. The sponsor will be pursuing DOT approval for the access prior to subdivision approval, for the subdivision that will create the PAC residential Lot 10. At such time as the Planning Board is actually requested to grant final subdivision approval to the 10-lot subdivision, Lot 10 of which will house the residential site plan component of the PAC, the specific alternative will need to have been identified.
- E2. The GEIS Finding E-2 stated that the SEQR analysis evaluated an alternative access scenario (Access Scenario 2) that would include the provision of a full movement signalized intersection at the southerly access on Route 9W. This access scenario would include the construction of separate turn lanes on US Route 9W as well as the installation of the new traffic signal. The GEIS Finding E-2 had specifically stated that the level of improvements necessary for Access Scenario 2 would be determined and in part, contingent upon the timing of the schedule of NYSDOT improvements to Route 9W. The projected improvements include extension of acceleration and deceleration lanes at Route 218 intersection. These improvements are compatible to the design of the proposed access location of the applicant. A variant of this alternative involving access through the NYMA property was also identified.
- This Finding remains valid, and no determination of the access scenario has been made to date. As of the date of this Supplemental Findings Statement, the subdivision remains at preliminary approval as the applicant pursues its remaining outside agency approvals.
- E3. GEIS Finding E-3 spoke to changes in operating standards that the project was projected to influence. The traffic study undertaken for the current SDEIS updates and replaces the GDEIS study, and reflects some signalization and improvements that have already been made in the Route 9W corridor. According to the current study, the Caesar's Lane/9W intersection is operating at acceptable levels of service for all

movements in both AM and PM peak hours, and while the eastbound movement is projected to decline from "C" to "D" during the PM peak under all "Build" access scenarios, this is not significant and does not require mitigation.

The current study indicated that operating levels of service (LOS) at the Forge Hill Road/9W intersection would fall from "D" to "E" for the northbound movement during the PM peak even without the project in the year 2010. With the project, this peak PM northbound movement would decline to failing LOS "F", with average vehicle delays nearly doubling for all access scenarios, and the overall intersection function would drop from LOS "D" to "E". If signal timing improvements were implemented, the peak PM northbound movement would improve to LOS "C" without the project, and decline only to LOS "D" with the project, with the overall intersection experiencing the same change from "C" to "D". With additional DOT lane improvements, the PM peak northbound movement would improve to LOS "B" in 2010 without the project, and would remain at that improved LOS even with the project.

The 2003 GEIS Findings had indicated that the Forge Hill Road with 9W improvements were already proposed to be completed as part of the planned NYSDOT improvements to Route 9W. However, there is no timetable for the improvements. To mitigate, the applicant will contact DOT to implement signal timing improvements.

One other intersection is significantly harmfully affected by the project. The Main Street/Faculty Road & Rt 218 intersection was discussed in the GEIS Findings, since even in the year 2000 that intersection was already operating at failing LOS for the northbound movement. Average per-vehicle projected delays in 2010 without the project nearly double in both the AM and PM peak hours, increasing from 157.9 to 300.6 seconds and from 54.8 to 91.3 seconds, respectively. With the project, the delays are more drastically increased over No-Build conditions, with average AM peak delays increasing from 300.6 to 525.7 seconds per vehicle, and PM peak delays more than tripling from 91.3 to 280.4 seconds per vehicle. Signalization would resolve the problem and provide overall LOS B at this intersection, with the northbound movement also operating at LOS B.

Neither the GEIS nor the SDEIS offered to complete this improvement. The FGEIS had indicated that the applicant would offer a fair-share contribution to the installation of a signal at this intersection, as an off-site mitigation measure, and GEIS Finding E-3 had determined that the Lead Agency will require a developer's agreement or some other appropriate device setting forth the mechanism, timing, and amount of such fair-share contribution, as a condition of site plan approval, in order to ensure that the proffered

contribution will be made to help resolve such severe project-induced off-site impact.

- E4. GEIS Finding E-4 had noted the point that any of the alternatives explored in the SEQR process can work to provide adequate and safe access to the site, and further observed that NYSDOT ultimately would be the agency to make that decision based on its own agency criteria. These Supplemental Findings further note that there is no difference in operating Levels of Service or in projected average vehicle delays between the different access alternatives. However, at such time as the Planning Board is actually requested to grant final subdivision approval to the 10-lot subdivision, Lot 10 of which will house the residential site plan component of the PAC, the specific alternative will need to have been identified.
- E5. GEIS Finding E-5 had noted that roadway improvements must be provided in accordance with detailed subdivision plans prepared by the applicant in compliance with applicable municipal specifications; that a work permit, where such work permits are needed, shall be provided by the applicant for access to Route 9W prior to any construction taking place, and that offers of dedication were to be submitted to both municipalities for the proposed internal roads, and any other construction, inspection and surety requirements applicable to the same.

This Supplemental Finding E-5 modifies GEIS Finding E-5 based on current events. Because the site now lies entirely in the Town of Cornwall, no other municipalities are involved in any potential road dedications. And it has been determined between the applicant and the Town Board that the only road within the site will be the looped subdivision access road. Further, these Findings particularly note that, while the specifications for the looped access road do not meet the Town's typical municipal specifications, in that the Town does not normally contemplate "boulevard" type roadways, with center medians that require planting and maintenance, the Town will accept this roadway based on the offered agreement that the Homeowner's Association shall maintain the plantings within the boulevard.

- E6. GEIS Finding E-6 had noted the need for intermunicipal cooperation between the Town of Cornwall and the Town of New Windsor highway superintendents due to the municipal boundary which had at that time passed through the site. This finding was informational and is no longer relevant due to the annexation.
- E7. The SDEIS traffic study identified several improvements which ought to be done regardless of the project: These included (a) modifications to the 9W NB ramp to 218 to make a standard intersection allowing movements in both directions, (b) signage and striping improvements

at the Willow Avenue ramps, (c) improve intersections by painted stop bars, clearing vegetation to improve sight lines at several intersections. The applicant is not offering to make these improvements but has merely identified the same as recommendations to the respective jurisdictional highway agencies responsible for these roads.

The intersection of Academy Avenue and Faculty Road is identified in the GEIS and DSEIS as an unsignalized intersection which experiences peak hour delays. In order to improve this condition, a traffic signal would have to be installed. However, based on current traffic volumes the intersection does not satisfy NYSDOT traffic signal warrants. For the signal warrants to be satisfied, increases in traffic volumes would have to occur. If warranted, increases in traffic volumes would be the result of background traffic volume increases, including any additional traffic from the Cornwall Commons project.

The DSEIS recommends that the traffic volumes for the intersection should be collected and submitted to NYSDOT at a later date. The applicant therefore will monitor the traffic volumes at the intersection during the construction of the Lot 10 development and submit them to the Planning Board and the NYSDOT. At that time, if the NYSDOT finds that a traffic signal is warranted, it would be determined what other projects, if any, and other funding sources would contribute toward this improvement. The project sponsor has offered a fair share contribution to the installation of a signal at this intersection. If it is determined by the NYS DOT that a traffic signal would be warranted prior to the completion of Lot 10 development, this project will contribute a fair share percentage based on the traffic generated from the project. A mechanism to ensure that such monitoring and contribution occurs is to limit the number of building permits issued for the residential units on Lot 10 until the project sponsor has updated the Planning Board and the NYS DOT regarding the need for the Academy/Main/Faculty Signal. Monitoring shall be completed after Certificates of Occupancy for 300 residential units on Lot 10 have been issued. The fair share calculation shall be the percentage of the project's maximum peak trip generation in relation to the maximum traffic at the intersection, which occurs during the peak traffic hour.

- E8. Three alternative pedestrian access routes are depicted on the plans. The first connects through Stone Hollow's (a.k.a. Willow Woods) access road to Willow Avenue and thence to Main Street. Stone Hollow has been approved and is under construction, and this connection will be completed when the multi-family portion of the Cornwall Commons site is built. The second connection runs via Frost Lane to Willow Avenue to Main Street, and this connection too will be

completed as the adjoining section of the Cornwall Commons is built. The third connection provides a walking route from the main entrance of the project. As discussed in the DSEIS, there will be a traffic light installed at this point which would allow pedestrians and bicyclists to cross Route 9W, and then residents could travel along Academy Avenue to Mailler to Willow Avenue to Main Street, though this route is less preferred for safety reasons. The Board will require that at least one pedestrian connection shall be open by the time half of the residential Certificates of Occupancy have been issued. This will be depicted on the sequencing plan.

F. Utilities & Community Services

Intermunicipal Concerns – Service Districts

The original GEIS had discussed potential intermunicipal concerns regarding potential to create impacts regarding concerns of overlapping or confused jurisdictions for emergency responders such as fire, police or ambulance, because at that time, the project site was divided by a municipal boundary between the Towns of Cornwall and New Windsor. Virtually all of these concerns have been eliminated by annexation, as the site now lies wholly within the Town of Cornwall. The only issue that may remain in this regard is the fire district boundary which still divides the site between the Vails Gate and the Canterbury Fire Districts. The applicant has petitioned the districts to request that they coincide with the current Town boundaries. Both districts must agree to the change for it to take place, and neither the Planning Board nor the Town Board nor the applicant can compel this change to be made without the consent of the fire districts. Nevertheless, even if the district boundaries are not changed, the districts can provide services within each existing district on the site, and/or they can forge a cooperative agreement about service delivery and responsibilities within the site. The plans have been revised in response to comments made by the Canterbury Fire District, and revised plans circulated to both fire districts, which have submitted no additional remarks. In any case, the site will be supplied with central water supplies, and roads will be 28 feet wide within the project, thereby resolving the Canterbury Fire District's initial concerns regarding the Lot 10 plan and layout.

Due to the annexation, there are no longer potential issues with regard to police service, as the residential component of the site use is not expected to pose any unique security needs. With respect to ambulance service, the site now lies entirely in the Cornwall Volunteer Ambulance (COVAC) service area. COVAC has expressed concerns about the potential demand on its services, based on the demand placed by other age-restricted developments within the town. Though the project would result in increased tax revenues, increased demands on the corps

could result in the need for increased reliance on commercial paramedic services within the Town.

With regard to solid waste collection, the site is now wholly in the Town of Cornwall, so that there is only one municipal waste collecting entity involved. The GEIS had noted that the specific user needs would be determined at the time of site plan approval. In regard to Lot 10, the Town of Cornwall policy towards residential and commercial waste collection is that the Town will collect along certain roads not owned by the Town under certain circumstances. Upon agreement with the owners of the roadways, and if the municipal trucks are able to gain access to the roadway with adequate ability to move through the site and turn around where needed, the Town of Cornwall DPW can cart municipal solid waste from both individual detached residences and from dumpsters such as will be provided at the multiple dwellings and at the clubhouse, as well as the commercial lots. The dumpster enclosures must meet municipal specifications so that the Town trucks can access the dumpsters properly. This detail will be finalized as part of the site plans for each lot and each component of the site.

The entire site is located within the Cornwall Central School District. Following the annexation and PRD zoning of the site, and the Town Board's grant of the PAC special permit, Lot 10 is proposed for a PAC residential project containing a maximum of 490 units, with no other residential use allowed pursuant to the zoning and Developer's Agreement. PAC projects being age-restricted to seniors, it is not expected that the project would result in the generation of many school children to the CCSD. Secondary effects of age-eligible occupants selling their homes in the school district were considered, but not deemed to be significant due to the fact that the project would not solely draw to the CCSD market, and also due to the fact that age-eligible occupants in the district could sell their home and purchase an age-restricted unit in some other school district in the county or elsewhere in the region. While it is possible that there could be a small number of school children generated, the key school related impact that would require consideration would be school bus routing. This would need to be arranged between the CCSD and the PAC on an as-needed basis if applicable.

As described in the DSEIS and incorporated on the site plan, Lot 10 will include some on-site recreational amenities at the clubhouse, including a tennis court, and walking trails. As set forth in the (in the Cornwall Code's PAC regulations), the Town's fees in-lieu of providing on-site municipal parkland, if found to be necessary, would not exceed one-third of the prevailing in-lieu charge for comparable unrestricted dwelling units. Given the fact that there is some private recreation available on the site as part of the age-restricted PAC, but not all that would meet the needs of its residents, the Planning Board hereby finds and determines that the allowable in-lieu recreational fees in Section 158-21-X of the Cornwall Code shall be provided for this site, given that the residents of Cornwall Commons will still have access to and will make use of general townwide recreational facilities outside of the private facilities on the site, not only those programs and facilities intended for senior citizens, but also unrestricted facilities for the use of visiting extended family

members. Cornwall Commons residents will still have an impact and impose demands on townwide facilities as residents of the larger Town community, and these additional impacts will need to be provided for given the increase in population that this project will result in. Time of payment shall be at site plan approval for Lot 10, unless other arrangements shall be approved by the Town Board.

Water Supply and Distribution

The project would be supplied by the Village of Cornwall-on-Hudson through agreement with the Town of Cornwall, and the Village has affirmed its intent to provide water for the entire site. The DGEIS had indicated that the Village system has sufficient capacity to serve this project's needs. As a maximum estimate, the GEIS had expected that the project could result in a demand of up to 200,000 gallons per day of capacity; but the SDEIS projected that the current potential maximum use of the site would be 157,250 gallons per day, for both the PAC residential use of Lot 10¹⁷ and the remaining commercial uses on lots 1 through 9. In the event of greater than expected demands for lots 1-9, additional study may be required, but the DSEIS water demand is clearly less than the originally anticipated maximum.

Supplying water to the site will require off-site improvements and extensions to the water system. Three alternatives were studied by Stantec, the Village of Cornwall-on-Hudson's consulting engineers. Alternative A would involve the installation of a new 12-inch water main on Mailler Avenue, and possible improvements of an existing main on Maple Avenue, and this would provide water pressures of 66 to 104 psi on the site, with fire flows ranging from 1,625 to 1,825 gpm. Alternative B would connect to an existing main in Hudson Street, install a new 12-inch main on Second Street to Academy Avenue, run along Academy Avenue to Mailler, thence to Halverson Street and along Halverson, under Route 9W to the site. Alt. B would provide water pressures of 89 to 128 psi on the site, with fire flows ranging from 2,300 to 2,500 gpm. Alternative C would be to install approximately 3,200 feet of new 12-inch water main on Mill Street, and run north to Howard Street and into the site. This alternative would provide water pressures of 60 to 104 psi on the site, with fire flows ranging from 1,800 to 2,000 gpm.

Among the three alternative water supply scenarios, two alternative routings are being considered for conveying public water to the site. The preferred alternative is Stantec's Alternative 3 (Alt. C), running down 3,200 feet down Mill Street to Howard Street and providing water into Lot 10 and also to the proposed town loop road, to service lots 1-9, with a secondary emergency connection being made to the existing 6-inch main in Frost Lane. Consistent with the GEIS Findings, the water main along the loop road would be extended from the loop road and across NYS Route 9W for

¹⁷ Which is projected to use 117,600 gallons per day (gpd)

future looped connection with the water system on the Mailler Avenue side of the highway, at 85% of the project completion. This alternative may require installation of a pressure reducing valve. The sponsor would like to have the water lines in lot 10 and in the loop road be publicly owned; but if this is not acceptable they would need to be privately owned and maintained by a transportation corporation or Homeowners Association. This alternative would require OCDPW approval for work on Mill Street. Crossing Route 9W, at the 85% of project completion, would require NYSDOT approval.

The second water supply alternative being considered is the Stantec's Alternative 1 (Alt. A), which would involve the installation roughly 3,900 feet of water main along Maple Avenue and Mailler Avenue, thence along Halverson and under 9W into the looped project road, continue along the loop road into Lot 10. A secondary emergency connection would be made to the existing 6-inch main in Frost Lane when the southeast portion of the site is developed. This alternative is less preferred, due to the greater number of existing residents that would be disturbed with the water main installation along Maple and Mailler Avenues. The sponsor would like to have the entire water distribution system publicly owned in this alternative. Again, if this is not acceptable the water distribution lines would need to be privately owned and maintained by a transportation corporation or Homeowners Association. This alternative would require OCDPW approval for work on Willow Avenue, and NYSDOT approval for crossing Route 9W.

Sanitary Sewage

The project would be served by sanitary sewers in the Town of Cornwall, feeding into Town of Cornwall's treatment plant located on Shore Road. The GEIS had expected that the project could result in a demand of up to 200,000 gallons per day of sewer discharge; but the SDEIS projected that the current potential maximum use of the site would be 157,250 gallons per day, for both the PAC residential use of Lot 10¹⁸ and the remaining commercial uses on lots 1 through 9. In the event of greater than expected usage demands for lots 1-9, additional study may be required, but the DSEIS sewer demand is clearly less than the originally anticipated maximum. Sewer capacity has been reserved for the project by way of a Developer's Agreement forged between the sponsor and the Town Board. The Planning Board understands that there should be adequate capacity at the treatment plant for the project pursuant to that Agreement, and further notes that the project will not be coming on line immediately upon approval, but will be built out over a period of time following the receipt of multiple approvals, easements and other authorizations that would be needed to connect the site to the Town's treatment plant.

Sewage will be collected onsite in a gravity collection system and flow to a pump station that will be located within the proposed looped town road to be built at the site. The pump station will pump the waste to manhole 102 of the Town's sewer

¹⁸ Which is projected to generate 117,600 gallons per day (gpd)

system, located on Academy Avenue, chosen by the Town Engineer and the Town's Wastewater Treatment Plant Operator as being free of capacity or other problems. Other, closer alternative connection points such as manhole 23 in Mailler Avenue are plagued with existing operational problems.

Two alternative routes were considered for the sewer forcemain from the site to manhole 102, with the preferred alternative being to route east along the looped road, through an existing tunnel under 9W, then southeast approximately 3,900 feet across NYMA's athletic fields to Faculty Drive, along Faculty Drive to Academy Avenue and then along Academy Avenue to manhole 102. This alternative would require a private easement from NYMA to cross its property, and NYSDOT approval for crossing Route 9W. The less preferred alternative would run approximately 6,100 feet along the rear of the commercial lots to the southeastern project access to 9W, crossing under 9W to Halverson Street, to Mailler Avenue, and along Mailler Avenue to Academy and thence to manhole 102. This alternative would require a private easement to cross private property opposite 9W, and NYSDOT approval for crossing Route 9W.

Mitigation Measures/Policies and Procedures:

- F1. GEIS Finding F-1 spoke to the project's potential to create intermunicipal impacts due to the project being located in two different municipalities with two different zoning designations. These intermunicipal impacts are no longer an issue in these Supplemental Findings, due to the annexation and rezoning of the property. Finding F-1 is no longer applicable.
- F2, F3, and F4. GEIS Findings F-2, F-3, and F-4 had discussed water supply issues and alternatives, projected water use, various water supply distribution alternatives and permits and approvals that might be needed to supply the original GEIS project. These Findings are modified in this Supplemental Findings Statement based on current plans and updated information, as set forth hereinbelow:
- F-2. As in the GEIS Findings, water supply will be provided by an extension of the existing Village of Cornwall-on-Hudson water distribution system, but there is now no longer a Town of New Windsor project component. GEIS Finding F-2 further noted that the Village of Cornwall-on-Hudson may be required to obtain additional approval from NYCDEP or others for the extension of service and compliance, for any work that may be needed within the NYCDEP

right-of-way¹⁹ in order for the project site to complete its waterline connection with the Village of Cornwall on Hudson system.

This Supplemental Finding F-2 notes that providing a water supply to the project will involve extensive off-site improvements and will involve other agency approvals that will differ depending on which water supply routing alternative is chosen. Improvements will be required in order to create an eventual full loop to the water system, as the project is built out. The preferred routing involves constructing approximately 3,200 feet of main running up Mill Street, into Howard Street and to the site, and this alternative would require OCDPW approval for work on Mill Street. Crossing Route 9W, at the 85% of project completion, would also require NYSDOT approval. The less preferred routing involves improvements to and extensions of mains in Maple and Mailler Avenues, down Halverson Street and under 9W into the site, with 3,900 feet of main being installed. This alternative would require OCDPW approval for work on Willow Avenue, and NYSDOT approval for crossing Route 9W.

Under any water supply alternate, the matter of ownership of the water distribution lines needs to be determined, whether they should be publicly owned or privately owned, or some mix of the two. The sponsor would like to have the water lines in lot 10 and in the loop road be publicly owned; but if this is not acceptable they would need to be privately owned and maintained by a transportation corporation or Homeowners Association. This matter will need to be resolved prior to site plan approval.

- F3. GEIS Finding F-3 had indicated as a maximum estimate, that the project could result in a demand of up to 200,000 gallons per day of water and sewer capacity, which the DGEIS indicates exists. The GEIS had noted that this demand estimate was subject to a wide potential variation based on the actual needs of lot users, and in the event of greater than expected demands, additional study may be required to determine adequacy of both. The intent of GEIS Finding F-3 was simply to indicate that central water and sewer services must be provided to the site, and that the final design, location and construction of the collection and/or distribution systems needed to be in accordance with the requirements of all jurisdictional agencies.

These Supplemental Findings modify and decrease the estimated maximum sewer and water use of the site from the amount estimated in the GEIS, to not more than 157,250 gallons per day, for both the PAC residential use of Lot 10 and the remaining commercial uses on

¹⁹ The NY City Aqueduct runs below a portion of the site.

lots 1 through 9. This maximum use is roughly 78% of the previous estimated maximum.

- F4. GEIS Finding F-4 had indicated that, upon substantial completion of the project, the applicant would extend the project's 12" water main from its terminus at the northwest side of NYS Route 9W to the southeast side of Route 9W. The intent was that the water main could be further extended to meet the existing Village of Cornwall-on-Hudson water main at the intersection of Mailler Avenue and Academy (NYS Route 9W) and to complete a beneficial water loop. In the GEIS Finding F-4, "Substantial completion of the project" was defined as 85% (eighty-five percent) of build-out of the site area for purposes of these Findings.

These Supplemental Findings show that the completion of the water loop, and the timing of completion of the same, would vary depending on which water supply alternate route was chosen. The preferred alternative routing still involves the need to cross 9W at 85% of buildout, as set forth in this section.

- F5. GEIS Finding F-5 stated that the project would be supplied with sewer service, though the New Windsor components of that Finding and references to inter-municipal agreements are no longer relevant due to the annexation. The project is now wholly within the Town of Cornwall, and adequate sewer capacity at the Town of Cornwall treatment plant on Shore Road has been reserved for the project by way of a Developer's Agreement forged between the sponsor and the Town Board. Sewage will be collected onsite and conveyed by a forcemain to manhole 102 on Academy Avenue, the closest location that has the capacity to receive the site's sewage flows without creating or exacerbating any problems.

GEIS Finding F-5 noted that two connection alternatives had been analyzed. These Supplemental Findings note that additional information has been provided on these alternatives and any additional permits or authorizations that would be needed. The preferred alternative would be to route east along the internal project looped road, through an existing tunnel under 9W, then southeast approximately 3,900 feet across NYMA's athletic fields to Faculty Drive, along Faculty Drive to Academy Avenue and then along Academy Avenue to manhole 102. This alternative would require a private easement from NYMA to cross its property, and NYSDOT approval for crossing Route 9W. The less preferred alternative would run approximately 6,100 feet along the rear of the commercial lots to the southeastern project access to 9W, crossing under 9W to Halverson Street, to Mailler Avenue, and along Mailler Avenue to Academy and thence to manhole 102. This alternative would require

a private easement to cross private property opposite 9W, and NYS DOT approval for crossing Route 9W.

- F6. GEIS Finding F-6 had indicated that the final design of any sewer collection system to service the site was to meet the requirements of the Town of New Windsor and Town of Cornwall, and was to be submitted for the review and approval of both municipal Engineers, as well as approval of NYSDEC. This Finding is no longer relevant, in that the site is entirely in the Town of Cornwall.
- F7. GEIS Finding F-7 had indicated that NYSDEC approval is required for the sewer main extension. This is an informational Finding that has not changed.
- F8. GEIS Finding F-8 had indicated that the Planning Board would determine the public safety impacts of the uses on the site at the time of site plan review, seeking input from the Cornwall Police Department and others as needed. The development is not projected to pose any unusual policing needs, though there will need to be an authorization from the Homeowner's Association to the Town of Cornwall to allow vehicles to be ticketed and towed from the site for parking violations.
- F9. GEIS Finding F-9 had indicated that the Planning Board would determine the fire protection impacts of the uses on the site at the time of site plan review, noting that there would be coordination with the fire districts as needed. The site does lie in two fire districts, which if the fire districts do not take action to modify their boundaries, will require that the districts provide services within each existing district on the site, and/or they can forge a cooperative agreement about service delivery and responsibilities within the site. Beyond this, the Lot 10 the plans have been revised in response to comments made by the Canterbury Fire District, and revised plans have been circulated to both fire districts in which the project lies, with no additional remarks received. The site will be supplied with central water supplies, and roads will be 28 feet wide within the project, thereby resolving the Canterbury Fire District's initial concerns regarding the Lot 10 plan and layout.
- F10. GEIS Finding F-10 had indicated that the Planning Board would determine the potential emergency medical impacts of the uses on the site at the time of site plan review, noting that there would be coordination with local emergency medical services if needed. Under the current project proposal and conditions, Cornwall Volunteer Ambulance Corps has expressed concerns about the potential demand on its services, based on the demand placed by other age-restricted developments within the Town of Cornwall. Though the project would result in increased tax revenues, increased demands on

the corps could result in the need for increased reliance on commercial paramedic services within the Town.

- F11. GEIS Finding F-11 required the Planning Board to determine at the time of site plan review whether any individual future site user posed any extraordinary needs in regard to solid waste generation and collection. This Supplemental Finding shows that the Planning Board has considered the solid waste generation of the PAC residents. The single family attached and detached units will be collected individually at curbside, while the multiple dwellings and the clubhouse will use dumpsters, whose locations are shown on the plans. In regard to this site, the Town of Cornwall will be able to service not only all types of residential units and the commercial components. The Town will need to be granted permission to enter the project roadways on Lot 10, and any dumpsters and dumpster enclosures provided on the site must meet Town specifications so that the Town can service them.

The Planning Board will continue to evaluate the solid waste disposal needs at the time of site plan review for Lots 1-9, consistent with GEIS Finding F-11. However, the Planning Board notes that even commercial lots are serviced by the Town so long as any dumpsters and dumpster enclosures provided on the site must meet Town specifications so that the Town can service them. For the types of uses anticipated on Lots 1-9, no unusual solid waste disposal needs are anticipated at this time.

- F12. GEIS Finding F-12 had spoken to the issue of school district impacts of the project as then presented in the GEIS, which had contained a major residential subdivision in the Town of New Windsor, prior to the annexation. This Supplemental Finding addresses the topic of school district impacts based on the change in circumstances. Following the annexation and PRD zoning of the site, and the Town Board's grant of the PAC special permit, Lot 10 is proposed for a PAC residential project containing a maximum of 490 units, with no other residential use allowed pursuant to the zoning and Developer's Agreement. PAC projects are age-restricted to seniors, so that it is not expected that the project would result in the generation of many school children to the CCSD, including also secondary or indirect effects. The DSEIS acknowledged that it is possible that there could be some small number of school children generated, though the key school related impact that would require consideration would be school bus routing, as the fiscal impacts to the CCSD were found to be significantly beneficial. Any school bus routing or access issues would need to be arranged between the CCSD and the PAC, either on an individual basis or via the Homeowners Association.

- F13. GEIS Finding F-13 relating to parkland dedication and fees in-lieu of dedication requires updating as a result of the site's land annexation from New Windsor, the PRD zoning designation and the adoption of PAC regulations in the Town of Cornwall. Although there will be some private recreation available on the site as part of the age-restricted PAC, but not all that would meet the needs of its residents, the Planning Board finds and determines that the allowable in-lieu recreational fees in Section 158-21-X of the Cornwall Code shall be provided for this site, for reasons set forth in Section F of this Supplemental Findings Statement. Time of payment shall be at site plan approval for Lot 10, unless other arrangements shall be approved by the Town Board.
- F-14. The Planning Board shall require review and approval of the Homeowners Association Bylaws to ensure that the maintenance and operation of all project elements that will be the responsibility of the HOA to maintain are provided for. Depending on the actions of other agencies as described elsewhere in these Findings, this shall include, but not be limited to, providing for access to emergency services providers, municipal garbage trucks, and other relevant enforcement personnel, provisions for maintenance of the stormwater management facilities, utility lines and relevant sewer and water facilities, and maintenance and protection of the landscaped areas and preserved open space. The Planning Board review of the HOA Bylaws shall be limited the review of those elements that reasonably relate to the SEQR Findings and the site plan and subdivision approval.

G. Visual and Noise Impacts

As noted in the GEIS, the primary visual changes that will result from subdividing the property and the future use and development of the site will be the removal of large portions of existing tree cover and vegetation, and the construction of a road network, drainage and utility network with future buildings in accordance with the zoning on the site. The GEIS had stated that, due to the steep slopes and dense forest of the valley of the Moodna Creek, the project would not be visible from the creek or its valley bottom under any of the proposed development scenarios that had been evaluated in the GEIS. Further, the GEIS had concluded that the topography and the vegetation both on and off the site would block the view of the project site for the Knox headquarters state historic site, is situated about 2,000 feet from the project site and separated from it by the valley of the Moodna Creek. Though the GEIS had observed that some portions of the site may be visible from distant elevations such as Storm King Mountain, it noted that the site development would appear as part of the wider urbanized landscape in the valley below. The GEIS had noted that Planning Board would pay careful attention during site-specific

review to landscaping and site lighting as well as the appearance and finish of the structures themselves in order to encourage a coordinated, attractive site appearance among other things.

Given comments from the Palisades Interstate Park Commission and others regarding the PIPC gorge trail adjacent to the Moodna Creek and other key vantage points, and given that the applicant will be seeking site plan approval for Lot 10 which is closest to the Moodna, the Planning Board requested supplemental visual impact analysis for Cornwall Commons. The potential visual impacts of siting of a 4-story congregate care building on a commercial lot was also evaluated, though no specific site plan approval is being sought for any commercial lot as part of this action. The DSEIS re-evaluated the potential visual impacts of the Lot 10 PAC development on key vantage points, based on a more specific site clearing, grading and development plan. While the Lot 10 site plan does incorporate some flexibility for the location of the single family dwellings, as described in more detail in Section A of these Supplemental Findings, enough is known about the site grading plans, the areas to be preserved as undisturbed, and the residential unit sizes and location, and a schematic site lighting plan, to determine potential visual impacts on key vantage points in accordance with DEC visual impact methodology.

The Supplemental DEIS included line of sight profiles developed to evaluate any viewshed changes for seven locations: Knox's Headquarters state historic site, two locations along the PIPC Moodna Gorge Trail, and four locations from Spaulding Farm (67 Forge Hill Road). Views from the 9W site access were also considered. It should be noted that all of these locations are typically only in use seasonally during daylight hours. Therefore, although the requirement that site lighting shall be fully shielded is important, if only to avoid skylighting, wasted energy and glare within the site, site lighting would not be expected to have any potentially harmful impacts on the identified visual resources. Adjoining residential properties are protected by wooded vegetated buffer strips shown on the plan, coupled with the shielding of lights and adherence to the lighting plan.

The Supplemental DEIS demonstrated that, even using a worst-case analysis where the peaks of the residential roofs were depicted as "boxes" instead of peaked and gabled, the site would not be visible from Knox's Headquarters, which is separated by roughly 400 feet of intervening vegetation on the park property. The two locations from the PIPC Gorge Trail were fully screened by roughly 150 to 200 feet of existing hardwood forest to remain. Spaulding Farm, which exists in an area that is currently visually degraded but may in future be somewhat improved by the demolition and removal of a degraded commercial structure there, is screened by approximately 150 to 200 feet existing hardwood forest vegetation from the site area, and even a 4-story congregate care building on the commercial lot closest to the Spaulding Farm will be virtually fully screened by the intervening vegetation.

The Lead Agency Planning Board also received comments regarding potential visual impacts to what was described as a pending multi-use Moodna Greenway-Recreational Corridor that would make use of additional properties off of the site

including the Spaulding Farm and the former railroad ROW adjoining the Cornwall Commons site. The revised Lot 10 plans provide a variable width of buffer between the Lot 10 development and the northern and western property line, ranging from as low as 110 feet to as high as 250 on the west, and as low as 58 feet on the north. The DSEIS and FSEIS evaluated visual impacts on the Moodna Creek on the west, and from the north towards Spaulding Farm, finding that the proposed development on Lot 10 would be heavily screened by existing vegetation both on and off the site.

Mitigation Measures/Policies and Procedures:

- G1. GEIS Finding G-1 had stated that the Planning Board would require site specific landscaping plans incorporating existing mature trees, to the extent the same are able to be retained, supplemented by new plantings to create a suitable buffer for screening the view of development and Frost Lane as part of any site specific application. The submitted plans fulfill this requirement; see also Finding G-4 below.
- G2. GEIS Finding G-2 had stated that during site-specific review of industrial plans, the Planning Board shall consider the needs for appropriate noise screening to be provided for any HVAC units, internal circulation areas or equipment areas if appropriate, in order to limit noise at any residential property lines. This Finding is no longer relevant, due to the annexation and change in the site's zoning and the fact that only residential uses will be closest to the existing off-site residential properties.
- G3. GEIS Finding G-3 had stated that the Planning Board will pay careful attention during site-specific review to landscaping and site lighting as well as the appearance and finish of the structures themselves in order to encourage a coordinated, attractive site appearance that considers the Cornwall component's role as gateway to the residential component in New Windsor. This Finding is no longer relevant, due to the annexation and change in the site's zoning to be consistent throughout the site.
- G4. The SDEIS shows that even under worst case visual impact analysis, the site development would not be visible from identified key vantage points of cultural significance, such as Knox's headquarters, the PIPC Moodna Gorge trail, and the Spaulding Farm. Plans were modified in the Supplemental SEQR review process to increase the wooded buffer closest to the Moodna gorge. The retention of existing areas of woodland vegetation as depicted on the Lot 10 site plan, coupled with the site supplemental planting plans and landscape plans.

H. Cultural Resources

The GDEIS had considered the possibility of cultural resources impacts of site development, including the possibility of visual impacts on any nearby structure or facility of cultural, historical, or archeological importance, and the GEIS had incorporated some cultural resources analysis. Additional cultural resources analysis was conducted in the fall of 2005, and was submitted to the NYS Office of Parks, Recreation and Historic Preservation in a report dated February of 2006. Phase I-B shovel tests were performed on the site, and the results concluded that the site had little value as an archeological resource and the state concurred that no further work was needed in this regard.

Visual impacts are discussed separately above in Section G of this document, demonstrating that the site development would not be expected to create any significant harmful visual impacts on architectural resources, such as structures listed on or eligible for nomination to the state or national Registers of Historic Places.

Cultural Resources Mitigation Measures/Policies and Procedures:

- H1. GEIS Finding H-1 concluded that no mitigation measures were needed in this subject area as no potential impacts were projected in this subject area. This Finding remains valid.

I. Energy Consumption

The buildings will comply with state energy code requirements including low flow water fixtures at a minimum, and may incorporate recycled content and additional energy saving and insulating features in the building foundations, structural elements, building exterior, windows and appliances. Because the applicant may not necessarily be the builder, this cannot be determined at this point. However, the Planning Board does note that the recent increases in the cost of energy are likely to increase the consumer demand for such features at a minimum.

The site landscaping incorporates native plants, which, once established, will require minimal maintenance and are not proposed to be irrigated after establishment.