

**Town of Woodstock Planning Board
SEQRA / TWEQR - Type 1 Action
Environmental Quality Review
Findings Statement
For
Woodstock Commons
SPR 05- 322 & SUP 05-361**

Town of Woodstock, Ulster County, New York
July 01, 2010

Introduction

This Findings Statement (the “Findings”) has been prepared by the Town of Woodstock Planning Board (the “Planning Board” or “Lead Agency”) in accordance with the New York State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law and related Implementing Regulations found at Title 6 Part 617 NYCRR, and the Town of Woodstock Environmental Quality Review Law, Local Law No. 1, 1990 (“TWEQR”), which New York State and Town of Woodstock implementing regulations are identical in their stated procedures for the consideration and issuance of Findings, together with related filings, by a designated Lead Agency.

The Lead Agency has considered the relevant environmental impacts, facts and conclusions disclosed in the FEIS and has weighed and balanced relevant environmental impacts with social, economic and other considerations to provide a rationale for the Decision which is memorialized within this Findings Statement. The Lead Agency has, by adoption of a preferred alternative to the Project Sponsor’s original plan, mitigated significant adverse environmental impacts to the maximum extent practicable [6 NYCRR Part 617.11(d)].

The Findings Statement concerns a proposal by Rural Ulster Preservation Company, Inc. (“RUPCO”) as applicant (the “Applicant” or “Project Sponsor”) before the Town of Woodstock Planning Board for development of “Woodstock Commons” (the “Project”), an affordable, intergenerational housing community for seniors and families, consisting of a total of 52 units of rental housing, a caretaker’s unit, and supporting improvements within a development envelope (or maximum disturbance area) of 9.640 acres in the northerly and primarily upland portion of a single 28.026-acre parcel (the “Project Site”). The 52 rental units will be contained within ten separate buildings and the Project is classified as “multifamily dwelling (apartment)” under Chapter 260, Attachment 1, Schedule of Use Regulations, Code of the Town of Woodstock (“Town Code”). The Project is contiguous to and north of the Bradley Meadows on NYS Route 212 and extends between Playhouse Lane, a Town roadway, on the east and Elwyn Lane, a Town roadway, and Bob White Drive and Elwyn Quarry Road, two private roadways, on the west, being situate in the easterly area of the hamlet of Woodstock, within the Town of Woodstock, Ulster County, New York.

The Project Site, designated as Section 27.55, Block 2, Lot 3, on the Tax Maps of the Town of Woodstock, is owned in fee by EVK Realty, LLC, and subject of an Agreement for the a Purchase and Sale of Real Property executed by the owner and RUPCO. The Project Site is located within the Moderate-Density Residential 1.5 (R1.5) District as set forth within the Town of Woodstock Zoning Law and the Town of Woodstock Water District and Hamlet Sewer District. This location provides the owner of the Project Site legal access to both municipal water and municipal sewer facilities, subject to approval by the Town Board.

The Project Site further lies within other special districts as reflected in County and Town real property tax bills, these including the Town Lighting District, the Town Library District and the Town Fire District. The Project Site is served by the Onteora Central School District. Franchise utilities including electric service

by Central Hudson Gas & Electric Corporation and fiber-optic service from Time Warner are available on roadways adjacent to the Project Site.

The Project Site is also situate within a Town of Woodstock designated Critical Environmental Area as designated under TWEQR in accordance with SEQRA [6 NYCRR Part 617.14(g)], and as addressed within this document.

The proposed development is consistent with the Planning Board's "Preferred Alternative", as expressed in its memorandum of April 24, 2009, for the *Modified Alternate 3A Site Plan* set forth in the Draft EIS and its underlying reduced residential development program.

The residential development program provides for 20 senior units and 32 family units within the affordable intergenerational rental housing community. The senior units will consist of 20 one-bedroom units exclusively for people age 55 or older with incomes ranging from below 30% to a maximum of 60% of adjusted mean income ("AMI") as established annually by the U.S. Department of Housing and Urban Development. The family rental units will include a mix of one-bedroom, two-bedroom and three-bedroom units. The family rental units will serve eligible persons of any age including individuals, families and the disabled. The family units will serve households and individuals with incomes below 60% of the AMI. A lease-up process for the rental units will be initiated when construction is 75% complete; as part of this process RUPCO will open a satellite office in Woodstock and input will be provided and outreach assisted by a committee comprised of Woodstock residents. There is no present "waiting list" for either the senior or family rental units nor will one be established prior to the lease-up period. Preference will be given to qualifying "creative artists" in the leasing of 12 of the units.

The 52 senior and family rental units and all land, other structures and improvements within the Woodstock Commons development that will be owned

by the Playhouse and Elwynn Associates, LLP, and managed by RUPCO. In doing so, RUPCO will create separate family and senior rental operations as part of a single integrated affordable housing community.

As noted below * the open space lands within the development will be subject of a Conservation Easement or similar legal mechanism such as a deed restriction, which will prohibit further development thereon. The Conservation Easement or similar legal mechanism will restrict the affected lands from future development in deference to open space use. An affirmative easement will also be offered to the Town ensuring public access to the trails provided within Woodstock Commons for use by pedestrians and bicyclists.

* *While other terms such as “no build restriction”, “deed restriction” or “conservation easement agreement” do appear within the EIS, the Planning Board prefers that permanent protection of the open space occur pursuant to the terms of a Conservation Easement, as favored by Chapter 260-63M of Town Code. RUPCO will offer such Conservation Easement to public land trusts such as the Woodstock Land Conservancy (WLC) and similarly qualified 501.c.3 organizations. In the event the offer of grant of Conservation Easement is not accepted by the WLC or other qualified organizations, there will be a deed restriction or an alternative legal mechanism to permanently protect the open space and enter into a recorded agreement to ensure the Town of Woodstock holds third-party enforcement authority with respect to the mechanism provided.*

The form and content of the selected mechanism for open space protection will be subject to further review and approval by the Planning Board as site plan review continues beyond the completion of the SEQRA process.

Except for the installation of several hundred feet of sanitary sewer force main and water main and associated easements connecting private infrastructure within the Woodstock Commons development to municipal sewer and water facilities at off-site locations and the potential formation of a Drainage District for stormwater management, there are no lands or improvements within Woodstock Commons intended for dedication to the Town of Woodstock or otherwise proposed by RUPCO to become a responsibility for either the Town or any of its special assessment districts.

The Proposed Action subject of this Findings Statement includes issuance of a special use permit and site plan approval for multifamily dwellings and wetlands permit for disturbances within regulated areas by the Town of Woodstock Planning Board. The Proposed Action further includes other required permits, approvals and compliance determinations from involved agencies to authorize the intended development and occupancy of Woodstock Commons at the scale and location currently illustrated on the *Refined Modified Alternative 3A Site Plan*.

The issuance of this Findings Statement is a key step in the environmental review process through which the Town of Woodstock Planning Board and other involved and interested agencies have been afforded a clear understanding of the potential environmental impacts that might arise from the development and occupancy of Woodstock Commons. This environmental quality review has been conducted of the project throughout all of its formative stages and prior to any of the agency decisions or approvals which collectively comprise the Proposed Action.

Procedural Record / SEQRA and TWEQR Compliance

On September 15, 2005, RUPCO submitted initial Applications for Special Use Permit, Site Plan Approval and Subdivision Plat Approval to the Town of Woodstock Planning Board. Accompanying the Applications were two Site Plan drawings (*A0001, Original Site Plan North*, and *A0002, Site Plan South*) prepared by the Project Architect / Site Designer, Ashokan Architecture and Planning, LLC, and dated August 18, 2005. Related *Architectural Plans (A101 through A114, with exception of A105R and A106R; A201 through A205; A301 through A305; and A401)* were also submitted to both refine and further illustrate the overall design of the Woodstock Commons development under the *Original Site Plan* and its underlying residential development program consisting of a total of 63

affordable housing units, being 53 units including a caretaker's unit, 20 senior rental units and 32 family rental units under RUPCO management on one subdivision parcel, and 10 owner-occupied units for either seniors or families under separate ownership and subject to an homeowners association agreement on a second parcel.

The Planning Board accepted the Applications submitted by RUPCO for purposes of initial review under applicable Town land use controls and initiation of compliance with the environmental review criteria and procedures set forth within SEQRA and TWEQR.

The Planning Board identified itself as the principal permitting and approving agency and classified the "Proposed Action" as a "Type I Action" under SEQRA and in accordance with Articles 3, Chapter 65-12B(1)(a)[2] (concerning the number of housing units) and Chapter 65-12B(1)(b)(ii) (concerning Critical Environmental Areas) of TWEQR. The Planning Board identified all other involved agencies within local, county, state and federal government; distributed the Full Environmental Assessment Form, Part 1, ("EAF") prepared by the Project Sponsor to the other involved agencies, and notified them of the Planning Board's intent to serve as SEQRA / TWEQR Lead Agency for coordinated environmental quality review of the Woodstock Commons development. On December 5, 2005, the Planning Board declared itself Lead Agency after all other involved agencies assented to the Planning Board serving in this capacity.

In its SEQRA / TWEQR Lead Agency role the Planning Board, based on information contained in the EAF and its local knowledge, determined that the Proposed Action included potential for significant adverse environmental impacts and prepared, filed, distributed and published a Positive Declaration (Notice of Determination of Significance) on June 15, 2006, deeming an Environmental Impact Statement ("EIS") to be required.

A draft Scoping Document was prepared by the Project Sponsor and distributed by the Lead Agency to involved and interested agencies and persons. A Public Scoping Session was subsequently held on July 20, 2006 by the Lead Agency to receive public comments on the draft Scoping Document. Comments received at this Scoping Session, as well as written comments received through the public comment period, were considered and incorporated, as deemed appropriate by the Lead Agency, into the final Scoping Document (the "EIS Scoping Document" or "Scoping Document") issued by the Planning Board on September 13, 2006.

The Planning Board continued to hold meetings with the Project Sponsor throughout the preparation of the required Draft Environmental Impact Statement (the "Draft EIS" or "DEIS") to address the potential adverse environmental effects cited in the Positive Declaration and elaborated upon in the final Scoping Document.

During preparation of the Draft EIS, preliminary engineering plans were prepared by the Project Engineer, Morris Associates, PS, LLC, to complement the aforementioned Site Plan drawings. The engineering plans included a *Grading & Utility Plan (Original Plan C100 and C101)*, an *Erosion Control Plan (Original Plan 102)*, and several sheets of *Details (Original Plan C103 through C108)*. Among the *Details*, *Sheet C108*, presented a proposed "Stream Crossing Plan" and related measures that would be employed to protect Ferguson Brook.

Upon detailed review of the new material, the Planning Board instructed the Project Sponsor to prepare modified plans and other technical and engineering studies and reports to address sanitary sewage, water supply and storm water management requirements, traffic conditions, flood plain management and myriad other topics, including wetlands, terrestrial ecology, historic and cultural resources, and visual impact as related to the *Original Site Plan* and several alternate site plan configurations set forth in the final Scoping Document.

After identifying deficiencies in the DEIS submitted in March of 2007 and a revised EIS submitted in May of 2008, the Planning Board accepted the third Draft EIS December 18, 2008 as adequate for commencing public review. The Planning Board, as SEQRA / TWEQR Lead Agency, did this in consideration of the final Scoping Document. The Planning Board further established February 5, 2009, as the date for conduct of a public hearing on the Draft EIS, and distributed a Notice of Completion of Draft EIS and Notice of SEQRA / TWEQR Public Hearing. The public hearing on the Draft EIS began as noticed on February 5, 2009, and was then continued to, and closed on, February 12, 2009, while the period for receipt of written comments on the Draft EIS, as extended by the Planning Board, ended on February 27, 2009.

Public comments on the Draft EIS were carefully reviewed and thoroughly considered. Responses to all substantive comments received from the public, involved or interested agencies and persons and the Planning Board and its advisors were set forth within a Final Environmental Impact Statement (the "Final EIS" or "FEIS"). At the discretion of the Planning Board, the response to the comments set forth within the FEIS is based on consideration of the Planning Board's "Preferred Alternative", *Modified Alternate 3A Site Plan* as set forth in the Draft EIS. The "Preferred Alternative" is the "possible alternative" that was specifically cited in the Planning Board's Notice of Completion of Draft EIS; its underlying modified residential development program eliminates the 10 owner-occupied units cited above and concomitantly the related requirement for subdivision plat approval by the Planning Board and creation of a homeowners association, thus reducing the Woodstock Commons development to a total of 53 dwelling units on a single parcel under management by RUPCO.

This project modification resulted in the development no longer being federally funded and as a result, Woodstock Commons is not subject to review under the National Environmental Policy Act [NEPA] as part of coordinated SEQRA /

TWEQR review. Any analysis pursuant to NEPA would be the responsibility of the federal agency.

The FEIS incorporated the DEIS by reference and set forth specific modifications made subsequent to the DEIS resulting from either Planning Board request for expanded response to matters set forth within the Scoping Document or modifications in the interim in related laws or regulations. Among the specific modifications is acknowledgment that due to a recent amendment of the Town's Zoning Law, a Wetland Permit will be required for the Project, instead of the above-cited "additional SUP for development within 100 feet of a state designated wetland", and, even more recently, NYSDEC's issuance of SPDES Stormwater General Permit No. GP 01-10-001.

Discussion set forth in the Final EIS of the Preferred Alternative, or *Modified Alternate 3A Site Plan*, highlights throughout, and in summary within FEIS Chapter 5, how the SEQR process has effectively modified the *Original Site Plan* to both mitigate potential adverse environmental impacts to the maximum extent practicable and reflect the preferences of the Planning Board for the *Modified Alternate 3A Site Plan* and its underlying reduced 53-unit residential development program. The discussion further explains how the Modified Alternate 3A Site Plan was refined during the process of preparation of the Final EIS and concurrent site development plan review and the special use permit approval process before the Planning Board so as to become the *Refined Modified Alternative 3A Site Plan* which is the subject of this Findings Statement.

The Planning Board recognizes and takes note of the March 4, 2010, amendment, by written documentation submitted by the Project Attorney, of all instances within the DEIS whereby the FEIS acknowledges that the name Woodstock Commons Limited Partnership is no longer referred to and the name Playhouse and Elwynn Limited Partnership is substituted in its place for all project review purposes.

The Planning Board accepted a revised FEIS on March 4, 2010, prepared, filed and published a Notice of Completion of the Final EIS, and distributed the Final EIS to involved agencies and other interested parties. [6 NYCRR Part 617.12]. A twenty-one (21) day period for consideration by involved agencies and other interested parties was also established, this period terminating on March 26, 2010, and later extended, upon supplemental notice, to April 5, 2010, for involved agencies, as well as identified interested agencies.

These actions by the Planning Board satisfied both the requirement of 6 NYCRR Part 617.11(a) that involved agencies, interested agencies and members of the public be presented with a ten (10) day minimum opportunity to provide comment upon the FEIS and, owing to a portion of the FEIS Appendices being inadvertently omitted from the computer disc versions of the FEIS which were circulated to the involved and interested agencies, addressed this circumstance by providing additional time for involved and interested agencies to comment.

The Planning Board notes that there is no requirement in the SEQRA / TWEQR Regulations which would require the Lead Agency to respond to such public comments. 6 NYCRR Part 617.11(a) However, in the instant action the Planning Board has elected to duly consider the comments received and provide for address of the same within the Findings Statement.

The Lead Agency's role in the SEQRA / TWEQR process will conclude upon the Planning Board's issuance of this Findings Statement, and related filing and noticing thereof, in the manner provided under Article 8 ECL and Title 6 Part 617 NYCRR and TWEQR, which New York State and Town of Woodstock implementing regulations are identical in their stated procedures for the issuance of Findings, together with related filings and noticing, by a designated Lead Agency. [6 NYCRR Part 617.12}.

Each of the other involved agencies will however be required to consider the Findings set forth herein by the SEQRA / TWEQR Lead Agency in rendering any decision, approval or permit within its purview.

Substantive Record / SEQRA and TWEQR Compliance

In accordance with Title 6 NYCRR Part 617.9 presented below is a discussion of facts relied upon and related conclusions reached by the SEQRA / TWEQR Lead Agency in its consideration of the probable environmental effects of the Woodstock Commons development and related mitigation measures implemented during the pendency of SEQRA / TWEQR review.

Project Description

The below summary description of the Woodstock Commons development, as initially submitted, was presented by the Planning Board within the Notice of Completion of Draft EIS issued on December 18, 2008.

“Rural Ulster Preservation Company, Inc. (RUPCO) is proposing to develop an affordable housing community consisting of 12 residential structures, a multi-use community center, maintenance building, stormwater control facilities and a road system. A total of 63 dwelling units are planned. Ten will be owner occupied and on a separate lot (subdivision plats have been submitted). Another 52 units will be rentals and one unit will be provided for a caretaker. Of the 52 rental units, 20 are designated as senior housing and the remaining 32 units are designed as family housing. The projected number of occupants is 140 persons. Possible alternatives under consideration include the elimination of the 10 owner occupied units and subdivision proposal, for a 53 unit community on one parcel.

The 28.026 acre parcel located between Playhouse and Elwyn Lanes in the Town of Woodstock, contains approximately 12 acres of NYSDEC mapped wetlands, NWI wetlands and FEMA-designated flood plains are also present

on the site. NYSDEC mapped wetlands are designated Critical Environmental Areas pursuant to Section 3.010 and Appendix 'A' of TWEQR.

Municipal water supply and sanitary sewage services extensions are proposed; however, the applicant has allowed for the possibility of private systems.

3.12 acres of roads, buildings and other paved surfaces are proposed. 126 parking spaces will be constructed to accommodate residents' vehicles.

The parcel is in the R1.5 zoning district. Multi-family housing is an allowed use in this district with the application of a special use permit (SUP) and with site plan review in accordance with Section 3A-1 of the zoning law of the Town of Woodstock [hereinafter referred to as zoning law]. The use will require an additional SUP for development within 100 feet of a state designated wetland and Subdivision Approval, by Lot Line Revision, is also being sought pursuant to the Town of Woodstock Subdivision Regulations..."

Although other aspects of the project have been modified, as was the circumstance at the time of the Planning Board's Notice of Completion of the Draft EIS, and as have been present throughout the evolution of the Woodstock Commons development from the *Original Site Plan* to the *Modified Alternate 3A Site Plan* and ultimately the *Refined Modified Alternative 3A Site Plan* subject of this Findings Statement, the following basic design principles have been consistently applied by RUPCO:

- Principal vehicular access provided from Playhouse Lane to the east through design of an access roadway including crossing of the Ferguson Brook and installation of a pedestrian walkway from the residential core of Woodstock Commons to Playhouse Lane.
- An emergency-only vehicular access maintained to Elwyn Quarry Road to the west with bollards and chain, or similar device acceptable to the Town police, fire and emergency services personnel, intended to prevent unauthorized vehicular use of this emergency-only route.
- Pedestrian access provided at both of these locations and via an improved natural surface walking trail extending to the south through wooded and wetland area to the rear of the Bradley Meadows shopping plaza.
- Grading identified as necessary within the upland area of the Project Site to promote drainage and provide for acceptable grades for the proposed

buildings and other improvements within Woodstock Commons, with less extensive excavation occurring later during a subsequent portion of the construction period in the form of foundation excavation for buildings and trenching for the installation of water and sewer facilities, storm sewers and other storm water management devices, and franchise utilities.

All grading, excavation and/or trenching would occur within established “limits of disturbance” lines.

- Stormwater improvements designed to satisfy the water quality and quantity standards set forth in the *New York State Stormwater Management Design Manual* including the following requirements:
 - Incorporation of mitigating measures in project design to reduce peak stormwater flows from the Project Site in its proposed developed state to no more than the peak stormwater flows in its pre-development state under the conditions of 10-year and 100-year 24-hour storm events.
 - Design of the stormwater facilities to provide for 24-hour extended detention of the 1-year 24-hour storm event in order to provide stream channel protection (except in the case of discharge to a trout stream, such as Ferguson Brook, where 12-hour extended detention is required).
 - Implementation of a Stormwater Management Erosion Control Plan and a Stormwater Pollution Prevention Plan in order to meet the NYSDEC permitting requirements promulgated under the *SPDES General Permit* criteria for stormwater discharges.
- Connection to municipal water supply and sanitary sewage facilities at available points of connection.

A broad range of other site improvements and design amenities have consistently been planned for throughout the Woodstock Commons development, including but not limited to the following:

- Landscaping throughout the Project Site, ranging from the planting of 100% tall fescue, turf-type, grasses within all disturbed areas not otherwise landscaped to the planting of native trees, plants and bushes.
- A common area, including playground, adjacent to the Community Building and located central to the development and in close proximity to the family rental units.
- Trash enclosures conveniently located throughout the Project Site.

- An “identity sign” located alongside the entrance roadway and reading “Woodstock Commons / A RUPCO Community”.
- Dry-laid stone walls either preserved or rebuilt.
- Cluster mailboxes to serve the non-senior dwellings (with the senior dwellings served by an indoor mail room).
- Electrical transformers and pads linked to underground electrical conduit throughout Woodstock Commons.
- Telephone, CATV, and fiber optic installations similarly being underground installations throughout the development.
- Primary site lighting, intended to provide a safe level of illumination within the residential community consistent with the Town’s design standards and mitigated to the maximum extent practicable to avoid visual impact, consisting of shoe-box type, shielded luminaries, mounted on poles less than 20 feet above finished grade.
- A trail system for use by pedestrians and bicyclists and related trail related improvements, including but not limited to an improved natural surface, an outdoor gazebo, *parcours* fitness exercise stations, trail graphics and wetland & habitat interpretative signage.
- A program for wetland mitigation, subject to approval by the ACOE and the NYSDEC, to compensate for wetland loss caused by any necessary encroachment(s) within either State wetland or federal jurisdictional wetland, this mitigation into conservation, replacement, restoration, enhancement and long-term protection of wetland areas through Conservation Easement Agreement or similar mechanism.

Throughout the evolution of the Woodstock Commons development *Architectural Plans* have been presented providing both exterior building elevations, including material specifications, and full floor plans for each of the building types depicted on the pertinent site plan, ranging the Family Rental Townhouses, Senior Living Units, Community Center, Maintenance Building and Homeowner Townhouses depicted on the *Original Site Plan* to the Family Rental Townhouses, Community Center, Maintenance Building and re-designed Senior Living Units depicted on the *Modified Alternate 3A* and *Refined Modified Alternative 3A Site Plans*.

The *Architectural Plans* illustrate through individual building forms and overall exterior architectural features physical articulation of the Project Architect Brad Will's stated design goal:

“The concept behind Woodstock Commons is borrowed from the original layout of Woodstock itself. We hope to draw from the time-tested virtues of this early American model: higher density, direct access to a pleasant and welcoming public space, preservation of the surrounding wilderness, and a subtle variation of architectural form, scale, material and building interrelationships. In the context of Woodstock, we also seek to integrate the ‘artist studio’ aesthetic of combined shed and gabled roofs, large window fenestration, vernacular detailing, and somewhat playful building forms, into this curvilinear road and park-like setting site design. The goal is to create an environment that is comfortable and welcoming to all generations of residents, while fitting well into the natural surroundings and established hamlet neighborhoods of the town.”

Consistent with the objectives of the United States Green Building Council and its “LEED”, or Leadership in Energy and Environmental Design, Program, RUPCO has consistently incorporated in the planning and design of Woodstock Commons several features intended to reduce the impact of the development and occupancy of the residential community on natural resources.

- Notable among these has been the inclusion of ground source heat pump wells in the project design that will allow Woodstock Commons to draw upon the natural heat of the earth and be fully independent of fossil fuels for its heating, cooling and domestic hot water production.
- Other “green design” features of the Woodstock Commons development involve the selection of “environmentally-friendly” building materials (non-toxic and recycled products) and such site design practices as the conservation of wetlands, employ of low-impact stormwater management practices, retention of existing tree canopy around the perimeter of the housing, to the maximum extent practicable, and the introduction of indigenous tree and shrub species around the buildings and along the interior roads.

As noted above, pedestrian walking and biking trails are provided within the Woodstock Commons site to connect between Playhouse Lane and Elwyn Lane and lead to the Bradley Meadows shopping plaza and toward the hamlet center. Connection to municipal utilities also avoids the installation of redundant on-site facilities.

Project History and Background

The current proposal for the Woodstock Commons development evolved from the Town of Woodstock's efforts to address the community's affordable housing needs.

In 2002 the Town Board revisited an initiative begun at least 15 years earlier and appointed an Affordable Housing Committee. During the same time frame the community was engaged in updating the Town's Comprehensive Plan. The draft *Comprehensive Plan*, published in April 2003, identified both senior housing and affordable family housing as among the community's needs. The draft *Comprehensive Plan* further identified the Project Site subject to the Draft EIS as presenting, "... perhaps the Town's last chance to create a fully integrated housing development that incorporates green space and links back into the Hamlet center. The alternative would be typical suburban development on uniform lot sizes without an open space and trail network. The result of this alternative would not likely provide affordable housing opportunities for residents."

In the spring of 2003 the Affordable Housing Committee invited Rural Ulster Preservation Company to assist in addressing the issue of affordable housing within the Town. The Project Sponsor has stated that the Committee did so in recognition of RUPCO's stated mission as a private, not-for-profit housing organization.

RUPCO has further stated that it assisted the Affordable Housing Committee in its effort to define a program to meet senior housing and affordable family housing needs at the largest available site within the hamlet and at a location

with appropriate zoning and access to both public roadways and municipal water and sewer.

RUPCO held a series of workshops within the community in late 2004 and early 2005 to initiate discussion of its intended development as an 81-unit mixed income and intergenerational housing community for seniors and working families.

The Project Sponsor states in consideration of concern expressed during those workshops it down-sized its proposal. The applications submitted to the Planning Board on September 15, 2005, were for a for the 63-unit, rather than 81-unit, development consisting of 20 senior rental units, 32 family rental units, 10 owner-occupied units for either seniors or families and a caretaker's unit.

As the SEQRA / TWEQR process has evolved the Lead Agency has required RUPCO to further down-size the proposed development. The 10 owner-occupied units have been eliminated from the residential development program in response to the Planning Board's indication of its "Preferred Alternative" with the total number of proposed housing units within Woodstock Commons commensurately reduced from 63 to 53. A change in federal housing policy has allowed RUPCO to commit to providing up to 12 units for participants active in the "creative arts."

Eligibility Criteria and Rental Pricing Data

The residents of Woodstock Commons will be required to meet eligibility standards established pursuant to the Fair Housing Act and in accordance with income and other criteria set forth by the State agencies providing financial assistance for this development and will be in accordance with a procedure set forth in detail within the EIS. {Federal funds have been eliminated from use with respect to the Woodstock Commons project as set forth within the FEIS}.

Public Need for Affordable Housing

Public need for affordable senior and family housing within the Town of Woodstock, as would be provided by the proposed Woodstock Commons development, has been expressed, as noted within the EIS, in various forums and through a number of initiatives and publications within the past two decades.

Among the data referenced are the following:

1. Community surveys conducted as part of the 2002-2003 Comprehensive Planning process and select sections of the April 2003 draft *Town of Woodstock Comprehensive Plan*.
2. The Town of Woodstock's creation, on more than one occasion, of an Affordable Housing Committee.
3. The reporting by the Woodstock Times of the "public airing" conducted by the Planning Board on May 4, 2006, on the Woodstock Commons development.
4. The Ulster County Planning Department's work including the report "*Priority Strategies to Support Housing Development in Ulster County*" prepared in partnership with Environmental & Policy Resources and Crane Associates, LLC, for The Ulster County Housing Consortium, and its own "*2005-2006 Ulster County Rental Housing Survey*".
5. The *Market Demand Analysis / Senior Apartments* and the *Market Demand Analysis / Family Apartments* commissioned by RUPCO and prepared by Richard J. Lampert Real Estate Market Research and Consulting for the two components of the intergenerational rental community.
6. The issuance of funding commitments for the proposed Woodstock Commons development based on addressed need through programs administered by the New York State Division for Housing and Community Renewal (DCHR).
7. Housing affordability challenges of residents throughout Ulster, Orange and Dutchess Counties, have been recently addressed in a study cooperatively undertaken and released in June 2009 by their Planning Departments in consultation with Economic & Policy Resources, Inc.

The study entitled "A Three-County Regional Housing Needs Assessment; Ulster, Orange and Dutchess Counties from 2006 to 2020" cites a number of

factors as contributing to a projected shortfalls in affordable housing, including but not limited to an influx of former metropolitan New York residents, loss of higher paying manufacturing jobs and their replacement with lower paying service sector jobs, the increasing cost of housing as a percentage of household income, an aging population, and local community resistance to affordable housing development.

The Regional Housing Needs Assessment quantifies the affordable housing need in terms of number of units required to address the affordability gap and presents this data not only regionally but on a county-by-county basis. Overall, the Assessment estimates the following:

“... in 2006 Ulster County had an affordability gap of 15,953 units (10,696 owner and 5,257 renter), which is expected to increase by 6,079 units by 2020. Ulster County could construct 6,624 units by calendar 2020 in order to begin to address the affordability gap faced by its residents. This portion was derived based on the demographic trend of a declining average household size, and the additional pressure that is placed on a housing stock as a result of this trend in all three counties.”

Data is also broken down within the Assessment on a municipality-by-municipality basis. Pertinent data setting forth from 2006 through 2020 first the affordability gap and total demand for each of the tenures, owner and renter, and then a distribution of “to be built” targets within these tenures throughout this period is compiled. Of most immediate note is the 2006 data, indicating an owner unit affordability gap of 496 units and a renter unit affordability gap of 175 units in the Town of Woodstock.

Benefits of the Proposed Action

The EIS identifies benefits to the community that will be provided by the Woodstock Commons development through its implementation of a key community planning objective, the creation of a significant number of affordable senior and family housing opportunities, while providing a number of ancillary benefits. The intended development does so not only on the one parcel within the hamlet of Woodstock that has been identified within the draft Town of Woodstock Comprehensive Plan and by the Town’s Affordable Housing Committee as being of a scale and with the necessary attributes of zoning, roadway access, municipal water and municipal sewer to accomplish the task but also with an experienced, local provider of housing and housing assistance

services involved both as the project developer and the long-term management entity.

As a consequence of the development of Woodstock Commons the following will have occurred:

1. A total of 52 LEED-certified affordable housing units consisting of 20 senior rental units and 32 family rental units will be provided to address in part the community's stated housing needs. Preference will be given to qualifying "creative artists" in the leasing of 12 of these units.
2. A total of not less than 16.12 acres of the Project Site will be permanently protected as open space under the terms of a conservation easement or similar legal mechanism.
3. Public access to the open space lands will be afforded through a public access easement and opportunity made available for pedestrian and bicyclist connection among the Playhouse/Whites/Edgewood Lane neighborhood, Woodstock Commons and the Elwyn Lane/Elwyn Quarry Road neighborhood, as well as to the Bradley Meadows shopping plaza.
4. Wetland mitigation that will be undertaken including both restoration of prior fill area as wetland and general cleanup of both the low-lying and upland areas of the Project Site.
5. An additional user will be in place to share in the costs of operating and maintaining of the Town's Water District and the Town's Hamlet Sewer District.
6. On-site infrastructure will be privately owned and maintained.

Consistency with Public Policy

As discussed within the EIS the Woodstock Commons development is, and has been, consistent with local public policy:

1. RUPCO initially conferred at its invitation with the Town of Woodstock Affordable Housing Committee and defined a specific program to respond to the community's stated senior housing and affordable family housing needs at what was publicly identified as the largest available site within the hamlet and

at a location with appropriate zoning and access to both public roadways and municipal water and sewer.

2. RUPCO did so through presentation in its initial applications to the Planning Board of the *Original Site Plan* and its underlying 63-unit residential development program in a manner that provided for affordable housing units, including both senior and family rental units and homeownership units, within an intergenerational community under a unified site development plan for the 28.026-acre Project Site. RUPCO did so in consideration of local land use policy evidenced by the existing R 1.5 District zoning of the Project Site and under State and federal environmental resource policy and implementing regulations concerning such environmental features as wetlands, stream courses and floodplains.
3. RUPCO assented to Planning Board directed mitigation measures during the SEQRA / TWEQR process which resulted in a reduction in the residential development program to 52 rental units and a caretaker's unit, and to the re-configuration of the proposed development in the manner depicted first on the *Modified Alternate 3A Site Plan* set forth in the Draft EIS and ultimately the *Refined Modified Alternative 3A Site Plan* set forth in the Final EIS and subject of this Findings Statement.
4. The Planning Board initiated these directives based upon its opinion that modification of the *Original Site Plan* was necessary to weigh and balance the potential environmental impacts against the identified social, economic and community character effects of the project and in order to (1) meet specific dimensional requirements set forth within the Town's land use laws for building massing, building separation and setbacks from property lines; (2) meet the more discretionary general planning considerations of site plan review and special use permit review, and (3) through the SEQR review process, mitigate the environmental impacts of the use of the property on the subject parcel and on adjacent lands.

The *Original Site Plan* presented a land use in keeping with the Zoning Law's Schedule of Use Regulations and density in keeping with the Schedule of Area and Bulk Regulations. It was, however, technically deficient in that several yard requirements (i.e., setbacks), building placement (i.e. separation), and building massing variances would be necessary. The *Original Site Plan* also placed, in the view of the Planning Board, insufficient emphasis on avoiding site constraints and its implementation would have caused direct and significant impacts on the northerly wetlands and possibly significant impacts on flooding potential.

While the use is residential in nature, as a multifamily use it is a more intense use of the land than the single-family residential uses to the east and west, and a less intense use than the various commercial uses to the south. A

noted concern of the Planning Board and Commission for Civic Design (CCD) was the massing of the proposed 20-unit senior building. The proposed density of this structure was not in keeping with Chapter 260-63N(2)'s maximum residential unit requirement of only eight units. It was felt that the size of the structure was out of scale with the remainder of the planned apartment structures and the scale of many of neighboring uses. The intensity of this structure and its associated visual impacts were decreased by breaking down the 20-unit senior building to meet the Zoning Law's multifamily building massing requirements.

The Planning Board further pushed site design concerns associated with the density and intensity of the use by requiring early on in the process both the increased property line setback of Chapter 260-62J of the Town Code and the vegetative screening options of Chapter 260-45 and 260-62E of the Town Code. These changes served to buffer the proposed development from Elwyn Quarry Road, preserve trees and buffer the NWI wetlands to the north. The above mentioned modifications, along with other site plan considerations such as avoidance of cars backing out onto the proposed internal road system, increase capacity for snow storage and stormwater drainage designs improvements, led in part to the overall reduction of the Proposed Action by 10 units.

Accordingly, the Planning Board views the modifications that have occurred in the proposed development, including but not limited to, the reduction in scope and scale, during the SEQRA/TWEQR process to be a required response to the Town's Zoning Law and planning standards and necessary mitigation measures to address the proposed development's potential impact on environmental resources and adjacent land uses.

In reducing the scale of the project the Planning Board finds that the following environmental impacts have been mitigated to the maximum extent practicable.

Environmental Setting, Impacts and Mitigation Measures

As set forth in the Scoping Document the EIS is organized under thirteen sub-categories and examines the potential impact of the Woodstock Commons development during both construction and occupancy phases on a broad range of natural and man-made environmental factors, specifically being the following:

- Geology, Soils and Topography
- Groundwater and Surface Water Resources

- Terrestrial Ecology
- Agricultural Resources
- Land Use, Zoning and Public Policy
- Visual Character
- Traffic and Transportation
- Cultural Resources
- Municipal and Franchise Utilities
- Community Facilities and Services
- Community Character
- Fiscal Impact
- Economic Impact.

This examination included for each of the above factors inventory of the existing environmental conditions within which the proposed Project would occur and projected these conditions to a future analysis year, assessed the potential environmental impact of the proposed Project on the future conditions, and presented and evaluated potential mitigation measures to either sufficiently reduce, or wholly avoid, any adverse environmental impacts that might occur.

Geology, Soils and Topography

The Woodstock Commons EIS addresses the probable effects of the proposed development on Geology, Soils and Topography as follows:

1. According to the New York State Museum and Science Service Map and Chart Series No. 15, Geologic Map of New York, Lower Hudson Sheet, the bedrock geology of the Project Site consists of Middle Devonian age Plattekill and Ashokan formations. These formations consist principally of shales and sandstones.
2. The predominant soils series found within the Project Site are two phases of Tunkhannock soils, which are deep, well-drained soils, throughout the upland area and Basher, Canandaigua and Rayhnam soils, each a hydric soil, within the lowland area. The Tunkhannock soils occupy 14.23 acres, or 50.8%, of the Project Site while the three hydric soils occupy a combined 12.82 acres,

or 45.7%, of the Project Site. The remaining soils found within the Project Site, each being a non-hydric soil, are limited in area and in total occupy 0.98 acre.

3. None of the soil within the Project Site is considered either “prime” or “important” farmland as defined by the United States Department of Agriculture (USDA) Soil Conservation Service.
4. The Project Site ranges in elevation from approximately 512 ASL along its southeasterly boundary where the Ferguson Brook exits the parcel in its southeast corner to approximately 542 feet ASL both on a knoll in the southeasterly portion of the proposed development area and along Elwyn Quarry Road.
5. The topography ranges from flat within the lower-lying wetland areas to moderately-sloping within its upland areas. Slope in excess of 15% is limited to approximately 1.43 acres of the Project Site, with some 0.11 acres of these 1.43 acres in excess of 25% slope. The balance of the Project Site, consisting of 26.60 acres or 94.9% of the total acreage, lies between 0 and 15% slope and is readily developable throughout except where wetlands, streams or associated floodplain areas are present.
6. Limited disturbance to bedrock is anticipated although some blasting may be required for utility installations should underlying shallow bedrock, that being red shale considered for the most part to be rip-able, be more generally encountered than anticipated by the Project Engineer based on borings heretofore undertaken.

In consideration of this circumstance the Planning Board required the Blasting Plan as set forth as FEIS Appendix D, prepared by the Project Engineer and reviewed by the Planning Board and its consultant. The Planning Board now finds adequate safeguards for adjacent neighbors have been presented on this matter.

7. As the project design has evolved during the SEQRA / TWEQR process from the *Original Site Plan* to the *Refined Modified Alternative 3A Site Plan* there has occurred a substantial reduction in the net surplus of cut material that would be generated during grading and site development.

This response to concerns of the Planning Board regarding land disturbance, stormwater runoff and truck traffic led to a more balanced cut and fill of the project site. The net surplus of cut material calculated for the *Refined Modified Alternative 3A Site Plan* is 1,094 cubic yards. This net surplus is some 9,170 cubic yards, or 88.5%, less than the 10,359 cubic yards calculated under the *Original Site Plan* and results in a commensurately reduced percentage in the number of truck movements required for removal

of surplus material from the Project Site. As a project mitigation, there is a substantial reduction from approximately 690 to 73 in the number of 15-cubic yard truckloads of surplus material that would be removed via local roadways from the Project Site when one compares this aspect of the *Refined Modified Alternative 3A Site Plan* and the *Original Site Plan*.

8. The maximum site disturbance area of 9.640 acres within construction limit lines under the *Refined Modified Alternative 3A Site Plan* is 0.040 acres, or 0.4%, less than the maximum site disturbance area of 9.680 acres under the *Original Site Plan*.
9. Disturbance within areas in excess of 15% slope is limited to approximately 0.288 acre and is necessary to carry out the proposed arrangement of roadways, sidewalks, buildings, common areas and stormwater management improvements. Avoidance of these areas would place development closer to either the delineated wetlands on site or the neighboring structures to the west.
10. Construction period impacts on the surrounding neighborhood have also been addressed through RUPCO's assent to some thirteen mitigation measures proposed by the Planning Board and now set forth within the *Refined Modified Alternative 3A Site Plan* drawings.
11. Additional mitigation will occur pursuant to a Stormwater Pollution Prevention Plan (SWPPP) prepared by the Project Engineer in accordance with NYSDEC guidelines and EPA Phase II Stormwater Regulations. The SWPPP includes both erosion and sediment control measures to be employed during the construction period and long-term stormwater management practices. [See also, discussion which follows in this document].

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Geology, Soils and Topography to the maximum extent practicable.

Groundwater Resources

The Woodstock Commons EIS addresses the probable effects of the proposed development on Groundwater Resources as follows:

1. The Project Site does not overlie a primary aquifer.

2. The Woodstock Commons development will be served by the Woodstock Water District including the District's water supply wells located near Bearsville and not draw upon the groundwater resources of the Project Site for its domestic water supply. Provision of domestic water service to Woodstock Commons will increase average daily water demand within the District by 8.2% to 162,500 GPD and consume only 9.1% of the District's safe yield residual supply of 138,000 GPD.
3. The Woodstock Commons development will be served by the Woodstock Hamlet Sewer District and not involve subsurface disposal of sanitary sewage to the groundwater. Sanitary sewage will be collected within the Project Site, pre-treated within on-site septic tanks where the solids will be collected and from time-to-time pumped out, and the sewage effluent will be conveyed to the Town's Wastewater Treatment Facility.
4. The utilization of best management stormwater practices will further ensure appropriate treatment of any stormwater pollutants before discharge to the groundwater resource.
5. The Planning Board's requirement, as noted on *Refined Modified Alternative 3A*, that the Project Sponsor employ Lawn Care and Road Care techniques to avoid pollutant loading that might be caused by other property maintenance applications.
6. The intended geothermal well installations on the Project Site will have no water quality effects, except for the limited possibility of short-term turbidity caused by the drilling of wells, on groundwater resources. As stated in Chapter 3.2.1 of the DEIS, possible turbidity is limited to a distance of 100 to 200 feet from the wells. Examination of the site plan shows only one residential structure outside of the Town Water District and within close enough proximity to planned wells to experience this temporary effect. The geothermal wells are designed and will be installed as a closed loop system that will not release any liquid into the ground. Further the geothermal wells will cause no hydraulic impact on water wells, if there are any, within the vicinity of the Project Site. The system is non-consumptive of the groundwater; there is no groundwater flow into or out of the wells.
7. There is no substantial modification in effect on the groundwater resources of the Project Site and its environs. Measures continue within the stormwater management plan for the *Refined Modified Alternative 3A* to cause a portion of the off-site stormwater previously being directed to the northerly stream course and a portion of the on-site post-development runoff (rooftop runoff) to infiltrate the groundwater. In addition, the employ of geothermal wells remains a key "green" component of the Woodstock Commons development.

8. The Planning Board finds that the benefit to be obtained in reduction of phosphorous loads to percentages commensurate with NYSDEC Guidelines at a location adjacent and proximate to the bridge is outweighed by the increased disturbance of wetlands which would be required in order to accomplish such reduction. This potential environmental impact has been examined at length by the Planning Board and the NYSDEC expressed no concerns with the Stormwater Pollution Prevention Plan during its review as an involved agency.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential adverse impacts on Groundwater Resources to the maximum extent practicable

Surface Water Resources

The Woodstock Commons EIS addresses the probable effects of the proposed development on Surface Water Resources, including the Ferguson Brook; Ferguson Brook's streambed, stream banks and floodplain; and NYSDEC and ACOE wetlands as follows:

1. The Project Site lies primarily within the drainage basin of the Ferguson Brook, *NYSDEC Water Index Number H-171-17-16*, which is a protected "Class C(t)" perennial stream as it traverses the property. The Ferguson Brook flows along the eastern side of the Project Site and continues southward under NYS Route 212, being a direct tributary to the Saw Kill.
2. Proposed development under the *Original Site Plan* was calculated by the Project Engineer to directly impact 590 square feet (0.014 acre) of the streambed and/or stream bank of Ferguson Brook and involve the construction of the 36-foot long, open bottom arch culvert stream crossing for the access roadway and associated sidewalk and the installation of underground water main and sanitary sewer force main to provide for connection, respectively, to municipal water and sanitary sewer facilities.

The Project Engineer's subsequent calculation of stream disturbance under the *Modified Alternate 3A Site Plan*, as continued in the case of the *Refined Modified Alternative 3A Site Plan*, indicates an increase in Ferguson Brook stream bed or stream bank disturbance from 590 square feet (*Original Site Plan*) and 650 square feet (*Alternate 3 and 3A Site Plans*) to 1,209 square feet (0.027 acre). This increase is attributable to the installation under *Modified Alternate 3A and Refined Modified Alternative 3A Site Plans*, of a

“Con Span” arch bridge over Ferguson Brook with greater span, i.e. 42 feet instead of the span of 36 feet earlier proposed and the addition under the *Refined Modified Alternative 3A Site Plan* of two corrugated metal arch floodplain bypass culverts (each 5.31’ wide x 3.25’ high) to the design of the proposed stream crossing in order to mitigate stream disturbance.

The proposed “Con Span” arch bridge structure has been selected by the Planning Board in consultation with the Project Engineer and its design refined in consultation with the Hydraulic Engineer and the Project Ecologist in order to avoid and otherwise minimize wetland and stream impacts. The proposed structure will span Ferguson Brook and eliminate permanent stream impacts while minimizing impacts to the banks of the brook. Through the use of the bridge, the natural integrity of the stream’s bed and banks will be maintained to the maximum extent practicable. The bridge will allow for the free flow of the brook during construction and post-development. The bridge will also allow for the movement of aquatic fauna including fish, invertebrates, mammals, reptiles and amphibians along and through the brook, this being a condition of the ACOE Nationwide Permits, as well as an address of concerns expressed by the Planning Board and members of the public.

To further mitigate any impairment to the movement of aquatic life, the two arch culverts will be installed at ground level under the road, to the west of the bridge structure, so that species of aquatic fauna can travel without having to cross over the access road. The pipes will be backfilled with soil and jute mesh that will also provide a level of protection for smaller organisms from predators. The arches will also allow water to flow under the road during heavy precipitation events and during flood conditions.

All work done within the bed or banks of Ferguson Brook will be restricted to the time period of May 1 through September 30.

To the extent any direct stream impacts are required to install the bridge and its footings, the activity will be conducted in accordance with the current NYSDEC stream crossing procedures. The temporary impacts will be included as part of a NYSDEC Protection of Waters Permit and an ACOE Nationwide permit, both of which are required to be in place and filed with the Town prior to construction initiation.

This work will be carried out in accordance with the terms and conditions of both a NYSDEC Protection of Waters Permit and an ACOE Nationwide Permit. Provided that this work is carried out in accordance with these permits and this Findings Statement, it is not anticipated that there will be any no significant adverse impact on Ferguson Brook, either from the standpoint of its classification as a C(t) trout stream or in terms of flood conditions experienced during a 24-hour, 100-year storm event.

3. Low-lying areas within the Project Site along Ferguson Brook and within the wetland areas are identified on the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) as "flood prone areas" subject to flooding upon occasion of a 100-year storm event. Disturbance within the 100-year flood plain totals 0.143 acre under the *Original Site Plan* and the Planning Board determined that further reductions in disturbed areas were desirable.

The Project Engineer's calculations of flood plain disturbance indicate a decrease in flood plain encroachment from 0.143 acre (*Original Site Plan*) to 0.012 acre under the *Modified Alternate 3A Site Plan*, this being a 0.131 acre, or 92%, reduction in flood plain encroachment between the *Original Plan* and the *Modified Alternate 3A Plan* and *Refined Modified Alternative 3A Site Plans* principally due to the relocation northerly of the stream crossing.

4. In addition, the Planning Board required the Project Sponsor to complete a HEC-RAS analysis of the Ferguson Brook. Through the HEC-RAS analysis it is demonstrated that the Woodstock Commons development under the *Original Site Plan* would not substantially increase the water surface elevation of the Ferguson Brook under the condition of a 24-hour 100-year storm event stream or significantly affect flooding conditions at the Project Site or in its vicinity. Under the most extreme case of a 100-year storm in Ferguson Brook occurring simultaneously with a 100-year flood event in the Saw Kill resulting in an elevated tailwater, the stream flow passes through the concrete arch bridge proposed under the *Original Site Plan* without overtopping the road. A maximum increase in water surface elevation of 0.41 foot was calculated to occur immediately north (upstream) of the intended bridge crossing of Ferguson Brook. This increase in water surface elevation will converge with grade line within 400 feet of the stream crossing. This increase of 0.41 foot is lower than the Town of Woodstock requirement set forth within former Section 5G-9 (now Article V, Section 260-35) of the *Town of Woodstock Zoning Law* which sets forth 1 foot as the maximum permitted increase at any point in the water level of the 100-year flood and also comports with the requirements of the *Town of Woodstock Flood Damage Prevention Law, Local Law No. 5, 1991*. The upstream water surface elevation increase could, however, directly impact contiguous upstream properties and cognizant of its ability under SEQRA to mitigate potentially adverse impacts to the maximum extent practicable the Planning Board requested modifications.

In consideration of further mitigation measures as required by the Planning Board, the Hydraulic Engineer's HEC-RAS model calculation of maximum increase in water surface elevation in Ferguson Brook, as would occur immediately upstream of the proposed arch bridge structure under the conditions of a 100 year, 24 hour storm event, decreases from 0.41 foot under the *Original Site Plan* and 0.21 foot while continuing convergence to existing grade line within a distance of not more than 400 feet under the

Alternate 3 and 3A Site Plans to 0.00 foot under the *Modified Alternate 3A Site Plan*.

The initial reduction from 0.41 foot to 0.21 foot between the *Original Site Plan* and the *Alternate 3 and 3A Site Plans* was attributable to the relocation of the proposed stream crossing approximately 270 feet northward from the downstream location proposed under the *Original Plan*.

The further reduction from 0.21 foot to 0.00 foot (i.e. no increase in water surface elevation both with and without the backwater effects of the Saw Kill Creek) under the conditions of a 100 year, 24 hour storm event, is attributable to the combined effect of maintaining the stream crossing at the upstream location under the *Modified Alternate 3A Site Plan* and re-designing the stream crossing to incorporate both increase in the span of the arch culvert bridge from 36 feet to 42 feet and, in the case of the *Refined Modified Alternative 3A Site Plan*, the addition of the two floodplain bypass culverts noted above. This reduction is acceptable to the Planning Board and fulfills one of the critical elements of the environmental review of the project.

5. 9.701 contiguous acres of federal jurisdictional wetland, as flagged by the Project Ecologist / Wetlands Delineator and subject of a Jurisdiction Determination issued by the U.S. Army Corps of Engineers on June 4, 2007, are found within the Project Site, with it noted there is no regulated buffer associated with a federal wetland. Cover type within these 9.701 acres has been identified as 8.72 acres of Palustrine forested wetland, 0.390 acres of Palustrine scrub-shrub wetland, and 1.139 acres of Palustrine emergent wetland.
6. Disturbance within ACOE jurisdictional wetland totals 0.145-acre under the *Original Site Plan*.

The Project Engineer has calculated direct encroachment within ACOE jurisdictional wetland under the *Modified Alternate 3A Site Plan*, and continued under the *Refined Modified Alternative 3A Site Plan*, to be reduced by 30% from 0.145 acre to 0.102 acre from the *Original Site Plan* and increased by 50% from 0.068 acre to 0.102 acre from the *Alternate 3 and 3A Site Plans*. This increase in direct encroachment from the *Alternate 3 and 3A Site Plans* is attributable to the required widening and related straightening of the principal access driveway and associated utility corridor between the stream crossing and the interior roadway network that occurs under the *Modified Alternate 3A Site Plan* and continues with the *Refined Modified Alternative 3A Site Plan* so as to accommodate comments offered by the Town Building Inspector and Town Highway Superintendent..

Both the intended work causing this disturbance and the extent of the disturbance are consistent with authorization provided under Nationwide

Permits 29 and 39; the issuance of a Section 404 Individual Permit by the ACOE is not anticipated to be required. The Planning Board finds that the improvements and environmental mitigation measures employed in the *Refined Modified Alternative 3A Site Plan* outweigh the *deminimus* increase in federal wetland disturbance when balanced as part of the review of the project in its entirety.

7. 10.349 acres of NYSDEC Freshwater Wetland WT-12, as flagged by NYSDEC, are found within the Project Site, being a portion of a "Class III" wetland which extends beyond the Project Site to both the north and south, thus being in excess of the State's 12.4-acre minimum threshold for regulation by NYSDEC.

Associated with Wetland WT-12 is a State-regulated 100-foot buffer ("Adjacent Area") which occupies an additional 6.881 acres within the Project Site.

8. Proposed disturbance within Wetland WT-12 under the *Original Site Plan* totals 0.185-acre with an additional disturbance of 0.789-acre within WT-12's regulated Adjacent Area.

The Project Engineer has calculated direct encroachment on NYSDEC Wetland WT-12 under the *Modified Alternate 3A Site Plan*, and as continued under the *Refined Modified Alternative 3A Site Plan*, to be reduced by 26% from 0.185 acre under each of the *Original, Alternate 3 and Alternate 3A Site Plans* to 0.136 acre. The Project Engineer's calculations further indicate direct encroachment within the regulated 100-ft Adjacent Area of Wetland WT-12 under the *Modified Alternate 3A Site Plan*, and as continued under the *Refined Modified Alternative 3A Site Plan*, to be reduced by 29% from 0.789 acre to 0.562 acre from the *Original Site Plan* and increased by 9% from 0.517 acre to 0.562 acre from the *Alternate 3 and 3A Site Plans*. As in the case of the increase in direct encroachment of federal wetlands this increase is attributable to the required widening and straightening of the principal access driveway and associated utility corridor (the "entrance road") between the stream crossing and the interior roadway network that occurs under the *Modified Alternate 3A Site Plan* and continues with the *Refined Modified Alternative 3A Site Plan* so as to adequately address comments offered by the Town Building Inspector and Town Highway Superintendent. Again, this slight increase in wetland buffer disturbance is outweighed by the improvements exhibited in the *Refined Modified Alternative 3A Site Plan* and analyzed throughout this document.

The intended work causing these disturbances must be authorized under both a Freshwater Wetlands Permit issued by the NYSDEC and a Nationwide Permit issued by the ACOE.

9. In order to offset the direct impacts to both federally and state regulated wetlands and the state regulated 100-ft Adjacent Area, RUPCO has developed a four-part strategy for wetland mitigation. The proposed mitigation plan consists of the below-cited wetland creation, wetland restoration, wetland enhancement and upland preservation components and, as such, provides compensatory mitigation and meets the “no net loss” policies implemented by the ACOE and as set forth by the Planning Board. The proposed mitigation plan is subject to the review and approval of both NYSDEC and the ACOE, and subject to final site plan authorization by the Planning Board.
- Wetland replacement through creation of new wetland (0.146 acre) and restoration of old wetland (0.040 acre) at a combined 1.4 to 1 ratio for wetland lost (0.136 acre) as a consequence of the development of Woodstock Commons.
 - Other wetland enhancement improving the function of 0.150 acre of existing wetland.
 - RUPCO’s execution of the Conservation Easement Agreement, or other similar mechanism, encompassing not less than 16.12 acres within Woodstock Commons, as cited above, including all created, restored, enhanced and other existing wetland (10.21 acres) and all associated NYSDEC-regulated Adjacent Area (5.91 acres).
 - An overall cleanup of litter and other non-hazardous debris, which have been left by trespassers throughout the property.
10. As noted earlier in this Finding Statement, early on in the site plan review process, after initial site visits to the property, the Planning Board required a 100-ft buffer area be established along the delineated boundaries of the northern NWI wetlands. The intent under the *Original Plan* was to build the internal road directly adjacent to the wetland resource. Land clearing and grading activities in anticipation of the road and structure development would have involved direct wetland impacts. By utilizing Chapter 260-62J and substantive abilities authorized by SEQR (*Town of Henrietta v. DEC 76 AD2d 215 (4th Dept 1980)*) these impacts have been avoided.
11. To further protect adjacent surface waters from potential adverse effects of routine road and lawn maintenance activities, the Planning Board has required specific , enforceable notation to be placed on the site plan as follows:

“Use of Salts and Deicing Chemicals: The use of salts and deicing chemicals shall be limited on site to the maximum extent practicable without impairing the safe use of vehicles and walkways, sidewalks and crosswalks for pedestrian traffic. To all

extent practicable the use of salt for snow and ice removal shall be as minimal as possible and the use of calcium magnesium acetate or potassium acetate should be utilized onsite where possible.

Use of Fertilizers and Pesticides: The use of fertilizers and pesticides for landscaping maintenance shall be limited to those that result in the least impact to groundwater. To all extent practicable the use of environmentally sensitive fertilizers and pesticides shall be utilized on site where possible and on a limited quantity as necessary.”

12. The Project Ecologist (NCES) has stated:

“The wetlands that surround the brook will be protected from future development and as a result, there are no anticipated alterations to normal flows of Ferguson Brook that would have a negative (direct or indirect) impact to the on-site wetlands as well as the down-gradient waters. The watershed that drains into the brook and its adjacent wetlands/floodplain will not be materially/significantly altered by the project and as a result, will function at pre-development capacities. The input of water into the brook and the wetlands that are down-gradient of the actual project’s location will not be altered as a result of the project. As a result of the wetland protection and associated mitigation measures planned for the project, the potential for significant adverse impacts to wetlands located down-gradient of the Project Site is not present. The wetlands to the south of the developed portion of Woodstock Commons receive hydrological input from a high groundwater table as well as runoff from the sources to the east of the subject property. This currently existing condition will not be adversely impacted by the project or the on-site wetland mitigation measures.”

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Surface Water Resources to the maximum extent practicable.

Terrestrial Ecology

The Woodstock Commons EIS addresses as follows the probable effects of the proposed development on Terrestrial Ecology including specific consideration of “Heritage Trees”, the Bog Turtle, the Indiana Bat, Ambystomid salamanders and the Wood Turtle:

1. Consideration of the potential impacts of a development project on terrestrial ecology, consideration for the Woodstock Commons development included contacting NYSDEC, which effort resulted in receiving the below-cited letters from the Department:

- Through letter of April 18, 2005, NYSDEC Region 3, Division of Permits, advised the Project Attorney

“DEC has reviewed the State’s Master Habitat Databank (MHDB) records. No records of sensitive resources were identified by this review.”

- Through letter of May 3, 2005, NYSDEC, Division of Fish, Wildlife & Marine Resources, New York Natural Heritage Program, advised the Project Attorney

“We have no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of your site.”

2. In addition to these routine contacts, field inventory and evaluation of the terrestrial ecology of the Project Site has been undertaken through multiple field visits and other investigations by the Project Ecologist, Mr. Stephen George of North Country Ecological Services, Inc. (NCES); Dr. Eric Kiviat of Hudsonia; Dr. Michael W. Klemens; Mr. Michael Fishman of Stearns & Wheler, LLC; Ms. Karen Gaidasz of C.T. Male and Ms. Robyn Niver of the United States Fish and Wildlife Service during the period of SEQRA / TWEQR environmental review. This work has included consultation by these parties with NYSDEC, the ACOE and the U.S. Fish and Wildlife Service (USFWS).

3. The Project Ecologists inventoried the Project Site and found two upland and three wetland community types to be present:

- Mature forested upland, and
- Early successional upland, total 17.677 acres;
- Palustrine forested wetland, 8.820 acres;
- Palustrine scrub-shrub wetland, 0.390 acres; and
- Palustrine emergent wetland, 1.139 acres.

Dominant vegetative species observed within each community was inventoried and no threatened or endangered species were identified during field surveys.

4. A field survey was conducted to identify and locate healthy trees in excess of 20” diameter breast height within the approximately 9-acre northerly upland portion of the Project Site where the Woodstock Commons development is proposed and the adjacent 1-acre low-lying corridor linking the primary

development area to Playhouse Lane. This survey indicated some 37 such “heritage trees” (the term used by the Planning Board in the Scoping Document) were located there, including 23 White pine (*Pinus strobus*) and 5 each Oak (*Quercus sp.*) and Ash (*Fraxinus sp.*).

Based upon the limited geographic extent of the Heritage Tree Survey, i.e. within the primarily upland communities and limited wetland communities’ portion of the Project Site where the proposed Woodstock Commons development would be constructed, it is conceivable all of the trees identified by the survey would have been lost under the *Original Site Plan* as well the *Alternate 2*, the *Alternate 3* and the *Alternate 3A Site Plans*, as a result of the proposed site development work at the Project Site.

Further mitigation measures were undertaken at the request of the Planning Board and while the maximum extent of vegetation removal within the Project Site decreases by only 0.4% from 9.680 acres under the *Original Site Plan* to 9.640 acres under the *Modified Alternate 3A Site Plan*, the reconfiguration of site layout and down-sizing of the project permit has permitted certain “heritage trees”, some 14 in number, to be preserved as integral parts of the overall landscaping plan for the Woodstock Commons development.

5. Based on the upland and wetland community types, and in field examination of the Project Site, the Project Ecologist inventoried the wildlife observed or expected to reside on the Project Site based upon the location, its environmental characteristics and study of similar sites within the vicinity.

Upon conclusion of this work, North County Environmental Services stated:

“Based on our review of the property, we did not identify any species or identify species by tracks, scat, or physical remains that are listed as endangered, threatened or of special concern.”

The Project Ecologist (NCES) did however go on to state:

*“Given recent correspondence received from the New York State Department of Environmental Conservation (DEC) and the U.S. Fish and Wildlife Service (USFWS), on other projects in the geographic region regarding the potential presence of the Bog Turtle (*Clemmys muhlenbergii*) and the Indiana Bat (*Myotis sodalis*), NCES also actively reviewed the property for the presence of habitat suitable for these two species during the June 2, 2005, site review. The purpose of this additional investigation was to determine whether or not the site has potential Bog Turtle and Indiana Bat habitat and what effects the future construction may have in their potential existence within the property boundaries.”*

While the Project Ecologist presented more background information and site-based observations concerning Bog Turtle and Indiana Bat habitat in a later September 8, 2005, report, substantially more detailed studies and other investigations concerning these species and their habitat have been subsequently conducted by NCES, Dr. Michael Klemens and/or Mr. Michael Fishman, as noted in below paragraphs 6 and 7.

This additional work addressed a letter of November 9, 2005, received by the Project Attorney from Mr. David A. Stilwell, Field Supervisor, the United States Department of the Interior Fish and Wildlife Service (USFWS) in response to the letter from Michael Moriello, Esq., of September 12, 2005, and a related inquiry several days earlier by NCES.

Excerpts from the USFWS letter indicated the following:

- *“There is potential for Federally-listed threatened and State-listed endangered bog turtle (*Clemmys muhlenbergii*) to occur within the proposed project area, which is within 5 miles of an historic bog turtle site ... Given the information provided, it appears that suitable habitat was located in at least one of the wetlands found within the proposed project area. Therefore, we recommend either avoiding all impacts to the wetland containing suitable habitat or Phase 2 surveys should be conducted. We understand that there are no direct impacts to the wetland. However, we generally recommend a minimum 300-foot buffer around the entire wetland (not just the portion of the wetland that contains suitable habitat for bog turtles) to reduce potential adverse impacts to water quality of the wetland.”*
- *“In addition, there is potential for the Federally- and State-listed endangered Indiana bat (*Myotis sodalis*) to occur within the project area, which is approximately 3 miles from a known roost and approximately 11.5 miles from known hibernacula in Ulster County. To avoid any risk of directly ‘taking’ (killing, injuring, harassing, etc.) Indiana bats that may be using the proposed project area, we recommend that you conduct tree-clearing activities between October 1 and March 30 ... Since the amount of potential habitat being removed appears minimal, we have no additional specific recommendations at this time.”*
- *“Except for the potential for bog turtle, Indiana bat, and occasional transient individuals, no other Federally-listed or proposed endangered or threatened species under our jurisdiction are known to exist in the project area. In addition, no habitat in the project area is currently designated or proposed ‘critical habitat’ in accordance with provisions of the Endangered Species Act.”*

6. The Project Ecologist prepared a March 30, 2006, "*Bog Turtle Habitat (Phase 1) Survey Report*" and peer review was conducted by a recognized expert in the field, Dr. Michael Klemens, of the work by NCES and related comments offered by Dr. Eric Kiviat of Hudsonia during the Town Planning's initial review of the Woodstock Commons' submission and the ensuing public scoping process.

The above-cited NCES "*Bog Turtle Habitat (Phase 1) Survey Report*" closed with the below "Summary":

"There were no bog turtles observed during the Phase 1 investigation and other visits to the Site. Due to the lack of key habitat requirements such as open emergent wetland with a prevalence of tussock sedge and Sphagnum moss, soft mucky soils and spring fed slow moving water, the wetlands on the Site should be considered unsuitable potential habitat for this species. Other than by definition as an emergent wetland, emergent wetland area 1 does not contain the components to be considered suitable, quality bog turtle habitat."

Dr. Michael Klemens reviewed the NCES *Survey Report* and further addressed the issue of Bog Turtle habitat within the below *verbatim* excerpt from his October 20, 2006 "*Letter Report, Peer Review Analysis: Bog Turtle and Other Herpetological Issues*":

"At the request of Rural Ulster Preservation Company and North Country Ecological Services, Inc., I conducted peer review of the following documents:

- *Bog Turtle Habitat (Phase 1) Survey Report for RUPCO-Bradley Meadows prepared by North Country Ecological Services dated 30 March 2006.*
- *Review of Woodstock Commons Endangered Species Evaluation prepared for Town of Woodstock Planning Board by Hudsonia dated 20 February 2006.*
- *Delineation of the Waters of the United States including Federal and State Wetlands for RUPCO-Bradley Meadows prepared by North Country Ecological Services dated 27 January 2006.*
- *Letter to Mr. Michael Moriello, Esq. from Stephen P. George of North Country Ecological Services dated 3 May 2006.*

I also conducted a site visit of the subject property on 1 July 2006 in order to reach my own independent conclusions as to the suitability of the site to support 'Clemmys muhlenbergii' and to examine the site's potential to

support various species of amphibians and reptiles. I should also be quite clear that I am conducting this work on your behalf as a peer review, and that I am not representing any other agency or interest in this matter.

The site contains a diversity of wetland habitats, and provides a variety of habitat niches, which is reflected in the diversity of wetland-dependent amphibians and reptiles that I located on site. The open wetland portion of the site that is located at the end of the site that borders Playhouse Lane and NY State Rte. 212 has been correctly identified by both Mr. George and Mr. Kiviat as the only portion of the site that could, based on canopy structure and calcareous soils support the bog turtle. However, examination of this site was disappointing. In many portions of the open floodplain meadow the mud is too compacted to support bog turtles with refusal at several inches to less than a foot. There are no springs flowing into the wetland; the pooled water on the floodplain appears surficial in origin and was very warm, even tepid, in shallow areas. The area is also subject to periods of high inundation as evidenced by the wrack spread around the meadow. There are no defined rivulets and channels on the floodplain.

The overall landscape context is also challenging. Rte. 212 separates this tributary stream from the Saw Kill valley by a band of urban development. I followed this stream upstream, to determine whether there would be additional open meadow habitats of higher quality, both on and off the subject parcel. However, the gradation of the stream becomes more steeply graded as it ascends a densely forested slope. Therefore, I do not consider this habitat to be functionally/ecologically connected to any other habitat that could support bog turtles.

In summary, the issues concerning the bog turtle have been resolved, I believe, to the satisfaction of the USFWS. Dr. Kiviat was correct that as of the time of his report to the Woodstock Planning Board the Applicant had not demonstrated that they had conducted a proper Phase One assessment that complied with USFWS guidelines. Since then the Applicant has conducted a proper Phase One survey, and has met with the USFWS on site. To those reports and field visits I can independently concur that the issues raised in Dr. Kiviat's report concerning bog turtles have been addressed satisfactorily. In addition it is my independent professional opinion that the emergent wetland/open floodplain on the site does not meet several of the key parameters of habitat suitability for bog turtles (depth of muck and groundwater inputs) as identified in the Phase one assessment process. There is no bog turtle habitat upstream of the subject parcel, and that the subject parcel is effectively isolated by urban development from any bog turtle upstream emigration."

USFWS correspondence dated January 30, 2009 agreed with the conclusion that bog turtles are unlikely to be impacted by the proposed project.

The above notwithstanding, the design of the Woodstock Commons development includes mitigative measures that would be applicable to the potential presence of the Bog Turtle had suitable habitat been observed, these including avoidance and minimization of direct impacts to aquatic habitats, implementation of appropriate upland buffers around wetlands, and the installation of separate wildlife crossing tunnels within the proposed access roadway leading from Playhouse Lane into the site.

7. Mr. Michael Fishman of Stearns & Wheeler, LLC, addressed the issue of Indiana Bat habitat within the below *verbatim* excerpt from his January 19, 2007 "Letter Report, Indiana Bat Habitat Assessment.

"Based on my assessment of the site, it is my opinion that the Woodstock Commons property contains appropriate foraging and travel habitat for Indiana bats, but lacks potential roost trees. A review of the site plans for the proposed Woodstock Commons residential development (Original Site Plan North and Alternate 3 Site Plan North, dated January 2, 2007), indicates that the proposed development calls for minimal disturbance of the riparian corridor, confined only to a single road crossing either about 270 feet west of the eastern property boundary (Original Site Plan), or roughly 30 feet from the eastern end of the site at a narrower point in the wetland (Alternate 3). Neither of these proposed disturbances of the riparian corridor will be significant enough to deter use of the corridor by bats. Further, both site plans indicate that a substantial upland buffer adjacent to the wetlands on the site will be maintained in an undisturbed condition. Disturbance for the development will otherwise be confined to upland areas of the site, which as I indicated above, do not contain suitable Indiana bat habitat. The Original Site Plan calls for higher density of buildings and a stormwater basin, yielding more disturbance of land overall, but the additional area of disturbance is within the area of dense young upland growth, which is not suitable for Indiana bat roosting, foraging, or travel, due to its cluttered growth habitat. Therefore, I would conclude that the proposed Woodstock Commons development, as illustrated on either the Original Site Plan or Alternate 3, will not adversely impact potential habitat for Indiana bats. I would recommend that tree clearing on the site be confined to the period between October 1 and March 31, when Indiana bats are typically in hibernation. Further, if snags are observed within the wetland or 100-foot buffer area, they should be left standing (if they pose no hazard to human health and safety) to provide potential roost sites for bats. These actions will avoid the likelihood of incidental take of Indiana bats as defined under the Endangered Species Act."

Correspondence from USFWS dated January 30, 2009 found that the project site is within the range of the Indiana bat and that the project site appears to have potentially suitable roosting and foraging habitat. To mitigate the potential for direct adverse impacts to Indiana bats, USFWS recommended that all tree removal occur between October 1 and March 31 for any given year. In addition USFWS summarized indirect potential impacts to Indiana bat which could include lighting impacts, and loss and/or fragmentation of roosting or foraging habitat. USFWS further encouraged the use of orange flagging/fencing to demarcate areas to be cleared versus those that would be protected, and to avoid the use of chemicals (i.e., copper sulfate) in stormwater detention basins.

In consideration of all the above mitigation measure recommended by Mr. Fishman and in accordance with the recommendations of the USFWS, the Planning Board has required that RUPCO conduct all tree clearing between October 1 and March 31 to avoid direct take of Indiana bats from loss or impact to roost trees and foraging areas when the bats may be present. The Planning Board further required all construction fencing demarcating the limits of clearing to be orange. Notation regarding tree clearing dated and fencing can be found on Sheets C100 and C104 of the site plan, respectively.

The Woodstock Commons site plan includes, among other features, maintenance of contiguous forest among the project site and adjacent parcels with, due to shifting of the location of the maximum develop envelope, the extent of removal of forested area reduced by 0.598 acres, or 6.7%, from 8.920 acres under the *Original Site Plan* to 8.322 acres under *Modified Alternate 3A Site Plan*.

Outdoor lighting will be as required by Town Code and utilize full cutoff luminaires.

The intended post-construction conservation easement and/or no build negative easement applying to the undisturbed area within Woodstock Commons will incorporate a specific provision stating that any snags observed within the wetland or 100-foot Adjacent Areas should be left standing (if they pose no hazard to human health and safety) in the interest of providing potential roost sites for bats.

In addition, RUPCO will be required to submit final project plans to ACOE and USFWS as part of the Nationwide Permit process. Such plans are required to be consistent with the plans provided to the Planning Board as part of the site plan review.

8. The EIS further examines concern expressed during the SEQRA / TWEQR process for the potential effect of the Woodstock Commons development on

Ambystomid Salamanders and the Wood Turtle, this work discussed in below paragraphs 9 and 10, respectively.

9. In response to comment by the Planning Board's consultant concerning the potential effect of development of the project site of *Ambystomid salamanders*, the Project Ecologist, NCES, stated within the below excerpt, being the first part and the related portion of the concluding paragraph of its letter of November 5, 2009:

"North Country Ecological Services, Inc. (NCES) has ... reviewed the comments provided and offer the following response with respect to the potential for presence of 'Ambystomid salamanders.'

*The term 'Ambystomid' refers to a collective group of salamanders that are found within the Mole Salamander family known as Ambystomidae and which possess the genus 'Ambystoma'. Therefore, an Ambystomid salamander is not a single species with the potential for presence on the property... For reference, there are five (5) species of Ambystomid salamanders that exist within New York State. These include the marbled Salamander (*Ambystoma opacum*), Jeffersons Salamander (*Ambystoma Jeffersonianum*), Blue Spotted Salamander (*Ambystoma laterale*), Spotted Salamander (*Ambystoma maculatum*) and Eastern Tiger Salamander (*Ambystoma tigrinum*).*

During the numerous property reviews held at various times within the past three years (which include the wetland delineation, endangered species surveys and various other technical reviews of the site), NCES searched the property for the presence of amphibian and reptilian species as well as completed an assessment of the existing mammals and flora that are found on the property. NCES also documented the ecological conditions present and potential habitats conducive to various endangered, threatened and/or rare species. This information was validated by Ms. Robyn Niver of the U.S. Fish and Wildlife Service, as well as Michael Klemens, PhD; Erik Kiviat, PhD; and Mr. Michael Fishman in three separate/additional peer reviews of the property. As a result of our review, NCES identified several obligate and facultative vernal/woodland pool species of amphibians. The only Ambystomid found on the property was the non-endangered and non-threatened Spotted Salamander.

As detailed in the letter report issued by Mr. Michael Fishman as a result of his peer review of the property, it was determined that the surveys conducted by NCES were completed during the appropriate times of the year and the surveys employed the necessary scientific techniques required to evaluate the vernal/woodland pools for the presence of amphibian and reptilian species.

For further clarification, the vernal pool habitats are contained within the delineated boundaries of the wetland complex designated as wetland area 1. Based upon the proposed development plans, there are no proposed direct or indirect impacts upon these habitats or their existing, natural drainage areas. As a result, they are to be maintained as vernal pool habitat and will continue to be utilized by the common obligate and/or facultative vernal pool breeding amphibian species that were identified by NCES.

In light of this information, it is the opinion of NCES that an additional spring survey for breeding amphibians ...is not warranted for this project. The species of amphibians and reptiles found on the property has been adequately documented and the locations/configurations of the vernal pool and wetland habitats have been adequately reviewed and documented. Adequate mitigative measures to avoid and minimize impacts to these habitats have been implemented into the project design. Conducting an additional spring survey is highly unlikely to result in the identification of any new species information.”

10. Wood turtles are not listed on the Endangered / Threatened Species List and are classified as a species of special concern by the NYSDEC. However, the Planning Board required further analysis in this regard. The observed presence of a Wood Turtle on the project site has been addressed within the Final EIS within the below excerpt, being the second part and including the related portion of the concluding paragraph, of the Project Ecologist's letter November 5, 2009:

“Additionally, based upon the ecological surveys that have been conducted over a three-year, multi-season review period at the site and given the reports compiled and submitted by NCES, it is highly unlikely that there is a substantial population of Wood Turtles that exists at the site. In this regard, NCES did not identify any Wood Turtles on the property and Michael Klemens, PhD, only found one Wood Turtle during his site assessment. It has been noted that Wood Turtles are highly transitory, especially when found in a solitary condition, and that the presence of one Wood Turtle does not indicate a viable population of the species at the site.

However, given that a Wood Turtle was found on the property and suitable habitat exists at the site for the existence of the species, appropriate mitigative measures with respect to avoiding impacts to Wood Turtles and their associated habitat have been implemented into the project design.

These mitigative measures are similar in nature to that which was accomplished for the Bog Turtle, which includes avoidance and minimization of direct impacts to aquatic habitats, implementation of

appropriate upland buffers around wetlands, and the installation of separate wildlife crossing tunnels within the proposed access roadway leading from Playhouse Lane into the site. As a result, the natural movement/migration of any un-identified Wood Turtles through the site will be maintained.

In light of this information, it is the opinion of NCES that ... a formal population study for Wood Turtles is not warranted for this project. The species of amphibians and reptiles found on the property has been adequately documented and the locations/configurations of the vernal pool and wetland habitats have been adequately reviewed and documented. Adequate mitigative measures to avoid and minimize impacts to these habitats have been implemented into the project design ...”

The Planning Board took under advisement the comments from each of the consultant ecologists and finds that there have been adequate investigations of the habitat values of the property, since the Planning Board has ensured that the design has proceeded on the assumption that species for which the habitat was believed present and which have been the subject of special additional studies, may in fact be present. It has considered the ecological impacts of the project, including on Indiana Bats that may forage on site, on Wood Turtles and other turtles, and on salamanders, that may be on site. It finds that any adverse effects from the development have been suitably mitigated by the design, including the preservation of both the wetlands and the 100 foot buffer areas upland of them, the wildlife crossing tunnels, the wetland enhancement proposal and the full cutoff luminaires in the outdoor lighting plan.

In consideration of the above facts, all of which remain applicable to the *Refined Modified Alternative 3A Site Plan*, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Terrestrial Ecology to the maximum extent practicable.

Stormwater

The Woodstock Commons EIS addresses as follows the probable effects of the proposed development on Stormwater:

1. The extent of the increase in the impervious surface area created under the *Modified Alternate 3A Site Plan*, as continued under the *Refined Modified Alternative 3A Site Plan*, some 3.338 acres, is 0.187 acre or 6% greater than the 3.201 acres of impervious surface created under the *Original Site Plan* and 0.054 acre or approximately 1.5% less than the 3.392 acres created under the *Alternate 3 and 3A Site Plans*.
2. The Project Engineer has prepared a report entitled "*Preliminary Stormwater Pollution Prevention Plan (SWPPP) for Woodstock Commons (Refined Modified Alternative 3A)*" to evaluate and respond to the potential stormwater effects of the grading of the Project Site and the introduction of these impervious and/or less pervious surfaces in development of the proposed residential community. The SWPPP addresses the interrelated topics of stormwater management, stormwater quality, erosion and sediment control, and stormwater infrastructure maintenance for Woodstock Commons, both during the construction period and over the long-term.

The SWPPP first documents the existing, or pre-development, conditions within a 29.39-acre "contributing drainage area" tributary to a chosen design point downstream of the developed portion of the Project Site, including some 19.3 acres of the Project Site and 10.1 acres of tributary off-site area. In consideration of the proposed development, the SWPPP next presents a post-development condition analysis which documents that the development of Woodstock Commons, inclusive of chosen stormwater management practices, will cause no detrimental downstream effects with respect to stormwater quantity under the conditions of 1-year, 10-year and 100-year 24-hour storm events.

The SWPPP further presents demonstration of the capability of these stormwater management practices to meet long-term stormwater quality requirements, including consideration of the factors of water quality volume, stream channel protection, overbank flood protection, and extreme flood protection requirements for the Woodstock Commons development as addressed below.

3. The *SWPPP* documents the methodology employed by the Project Engineer, presents data concerning existing drainage conditions and the potential impacts of the Woodstock Commons development, identifies water quantity and water quality design standards for compliance with pertinent NYSDEC and EPA Phase II regulations, presents a hydraulic routing analysis, and identifies proposed mitigation measures ("stormwater management practices") that have been incorporated in the "*Grading and Utility Plan /*

Modified Alternative 3A” and the “Erosion Control Plan / Modified Alternative 3A”.

In accordance with NYSDEC regulations any increase in peak stormwater runoff flows must be mitigated such that the proposed (“post-development”) peak runoff rates are no greater than that of the existing (“pre-development”) condition rates for the 1-year, 10-year and 100-year 24-hour storm events for the developed portions of the Project Site. In addition, the stormwater facilities shall be designed to provide for required pollutant removal and allow for 24-hour extended detention of the 1-year 24-hour storm event (12-hour extended detention when discharging to potential trout streams).

In order to meet these requirements, a drainage network of catch basins and manholes will be placed along each roadway and parking area that will collect and convey approximately 97% of the stormwater runoff from the developed portions of Woodstock Commons towards a proposed stormwater management pond constructed within the southern portion of the proposed development, wholly outside the 100 foot wetland buffer area.

The pond is designed as a “Micro Pool Extended Detention Pond, P-1” and will treat the majority of the water quality volume through extended detention, and incorporates a four foot (4’) deep micro pool at the outlet of the pond to prevent sediment re-suspension. This practice provides for both water quality and quantity treatment prior to discharging to Ferguson Brook. The pond will incorporate a four foot (4’) deep pretreatment sediment forebay at the primary inflow location. The forebay is designed to provide storage which serves to trap and settle incoming coarse sediments before they accumulate within the main treatment area. Flora enhancement of the stormwater pond will be provided for both aesthetic and functional reasons.

The stormwater pond will outlet to the adjacent wetland buffer using a concrete box multi-outlet structure and a discharge pipe. Additionally, the pond will contain an emergency spillway to convey extreme flows from unusual runoff events. An access drive and/or access point will be provided for maintenance of the pond features located off the proposed emergency access road.

In addition to the stormwater management pond, “StormChamber Infiltrators” will be provided to capture, treat and infiltrate the roof top runoff associated with the proposed buildings throughout the site to the extent soil conditions permit. The infiltrators were added at the request of the Planning Board and are identified as low impact development (LID) practices for water quality treatment, temporarily storing the water quality volume beneath the chamber and within the void spaces of the surrounding gravel media as it infiltrates into the soil, replenishing the groundwater supply. These practices are targeted at

improving water quality but also provide additional water quantity control benefits.

Stormwater runoff from limited developed areas of Woodstock Commons cannot, due to grade, be conveyed to the stormwater management pond, these areas being at the proposed entrance drive from Playhouse Lane and approximately 30 feet northwest of the entrance adjacent to Ferguson Brook. Two (2) "Hydrodynamic Devices" are proposed to treat the water quality volume associated with these areas prior to discharging to Ferguson Brook. These hydrodynamic units accelerate the separation and deposition of sediment from the runoff by moving the water in a circular, centrifugal motion providing water quality treatment and removal of coarse particles.

In addition to the above practices, the *SWPPP* provides that additional measures will be installed throughout the site to provide "low impact development" (LID) solutions for treatment and conveyance of stormwater runoff. These include structural practices such as catch basins with deep (2 foot) sumps throughout the site, rip-rap outlet protection on all culvert outfalls to the stormwater pond and grass pavers on the emergency access road between the C1 senior housing buildings. Furthermore, the runoff flowing into the development from an offsite drainage area to the northwest will be conveyed to a 215 linear foot 12 inch diameter perforated pipe which will allow a portion of the runoff to infiltrate into the ground, recharging the groundwater table, prior to flowing towards the stormwater pond and discharging to Ferguson Brook. Vegetated filter strips will also be utilized throughout the site between the developed portions and forested areas. Filter strips slow runoff velocities resulting in a reduction in pollutant transport capacity and overall pollutant loading providing pretreatment prior to stormwater runoff entering the forested buffer between the wetlands and stream channel.

The *SWPPP* states that use of these additional LID practices would not only provide supplemental water quality treatment and pollutant removal, but also a reduction in runoff and increase in groundwater recharge. These practices are illustrated on the engineering design plans with the exception of the vegetative filter strips. The Planning Board shall require addition of the vegetative filter strips as part of its continuing site plan review process.

The Lead Agency emphasizes that neither the FEIS nor these Findings are based upon any of the abovementioned LID practices being necessary as the stormwater mitigation measures employed meet applicable stormwater regulations.

In addition to the permanent stormwater management practices, temporary erosion and sediment control practices are to be installed during the course of site development and construction consistent with NYSDEC regulations and

guidelines presented in the NYSDEC publication entitled *“New York State Standards and Specifications for Erosion and Sediment Control.”* These practices have been incorporated into the project design by the Project Engineer to minimize and reduce the potential soil erosion and sediment impacts from construction activity involving soil disturbance. The SWPPP also sets forth both a plan for phasing of site disturbance to comply with the maximum overall site disturbance limit of 5.0 acres set forth within the SPDES General Permit Requirements for Stormwater Discharges and a schedule for maintenance of the stormwater management practices. The Planning Board shall require this plan to be further revised to eliminate conflicts between the buffer preservation illustrated on site plans TSO2 & A001 and placement of a temporary rip-rap swale on erosion control plan C103.

The *SWPPP* was further revised on February 11, 2010, by the Project Engineer, Morris Associates, in accordance with the requirements of NYSDEC Stormwater General Permit # GP 0-10-001, as effective January 29, 2010, and successor to General Permit # GP 0-08-001.

4. While the term “stormwater management agreement” appears within the EIS, the Planning Board’s preference is that a Town drainage district be created by the Town Board to own and maintain the stormwater management facilities within Woodstock Commons while being empowered to defray the cost thereof by levying a special assessment on the property.

If a stormwater management district is created the facilities are typically dedicated to the Town. On the other hand, if only a stormwater management agreement is provided, the facilities typically remain privately owned and maintained with the Town having access and maintenance rights and opportunity to assess related costs against the property owner upon failure of the owner to appropriately maintain the facilities.

RUPCO has expressed its agreement to further the drainage district option with the Town Board in accordance with the Planning Board’s preference and the Planning Board’s assumption the Town Board will desire such a district be formed. The Planning Board intends to require formation of the district as a condition of any approval given; however, private ownership and maintenance of the stormwater facilities remains a possibility if the drainage district formation is not approved.

5. Based upon all the studies, analysis and mitigation measures employed by the Project Sponsor and the Planning Board’s review, the Stormwater Pollution Prevention Plan has been designed to address any potential significant adverse impact concerning either storm water quantity or quality during both the construction period and in the post-development phase of the Woodstock Commons development by avoiding to the maximum extent

practicable impact on the streams, wetlands and flood-prone areas within the Project Site.

6. The Planning Board acknowledges public commentary that further qualitative analysis of existing surface water conditions should be undertaken, but notes that the acceptability of the revised SWPPP and the implementation of additional LID practices, as well as, the extensive study of existing site conditions, retention of the majority of existing vegetation and proposed utilization of the Town sewer and water system make testing of existing water quality unnecessary.
7. All proposed development will be carried out in accordance with applicable NYSDEC stream protection, NYSDEC freshwater wetland, Federal wetland, including Nationwide Permit, and FEMA flood plain management standards and regulations and cause no significant adverse impact on these resources in consideration of the proposed mitigation measures. Additional mitigation measures include clear delineation of construction / disturbance limit lines, seasonal timing of work in accordance with requirements imposed by the regulatory agencies, implementation of a construction period erosion and sediment control plan, and implementation of long-term stormwater management measures considering both water quantity and water quality pursuant to EPA Phase II and NYSDEC Stormwater Regulations.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts related to Stormwater to the maximum extent practicable

Agricultural Resources

The Woodstock Commons EIS addresses the probable effects of the proposed development on Agricultural Resources as follows:

1. Neither the Project Site nor any lands either adjacent to or within ½ mile of the Project Site presently support any farm operation or other agricultural activity.
2. While the Project Site exhibits some evidence of prior agricultural use, with the stone walls and forest cover suggesting pasture and limited hay meadow, in the 19th century and perhaps extending into the earlier 20th century, as noted earlier in these Findings none of the soils found on the Project Site are considered either “important” or “prime” farmland as defined by the United States Department of Agriculture (USDA) Soil Conservation Service.

3. The Project Site is neither located within nor adjacent to a Certified Agricultural District.

In consideration of the above, the Planning Board finds that the Woodstock Commons development will have no impact on Agricultural Resources.

Land Use, Zoning and Public Policy

The Woodstock Commons EIS addresses the probable effects of the proposed development on Land Use, Zoning and Public Policy as follows:

1. The Project Site is undeveloped, vacant land predominantly upland forest throughout its northern portion and low-lying land within its southern portion and exhibits no evidence of prior intensive use.

There are no buildings within the Project Site and no foundations have been located or would be expected to be found based upon review of historical maps of the property dating back to 1853, none of which indicate any structures within its boundaries. The stonewalls found within the parcel suggest prior farm use, while local knowledge indicates and the lands appear to have continued in such agricultural use as part of the Riseley Farm into the early 20th century.

A perennial Class C (t) stream, Ferguson Brook, flows along the easterly property boundary, continues off-site under NYS Route 212 and discharges into the Saw Kill. The easterly and southerly portions of the Project Site include areas of 100-year and 500-year flood plain, State wetland and federal wetland as indicated on Federal Emergency Management Agency (FEMA), NYSDEC and National Wetland Inventory (NWI) maps, respectively.

2. The Project Site is contiguous to, and north of, Bradley Meadows and situate between Elwyn Lane and Elwyn Quarry Road and Playhouse Lane in the easterly area of the hamlet of Woodstock. Neither the general public, abutting property owners nor any other party have any known right of use of any portion of the 28.026-acre parcel.
3. Adjacent land uses to the south are the Bradley Meadows shopping plaza (containing several commercial establishments) and Cumberland Farms convenience store. The Woodstock Playhouse, banks, pharmacies, restaurants, mixed residential/business uses and other retail businesses are also located to the south in this commercial area along NYS Route 212 (Mill

Hill Road). An informal dirt walking path enters the Project Site from a location behind the Bradley Meadows shopping plaza.

Adjacent land uses to the east, west and north are primarily residential. To the west dwellings border, or are in immediate vicinity of, the property line along Elwyn Lane, Elwyn Quarry Road and Bob White Drive while the Woodstock Cemetery and Andy Lee Field lie farther west along Rock City Road. The adjacent dwellings appear to be single-family residences with an exception of a mixed office/residential use, a state-run group home and a historic stone farmstead home, the Hasbrouck House, and its barn-type associated outbuildings. The Hasbrouck House appears to be occupied today as multi-family residential premises. Between the farmstead home and the Project Site is a row of evergreens planted on the farmstead parcel and providing a visual screen between the two properties. Informal dirt walking paths enter the Project Site from the east in the vicinity of Bob White Drive and employ in part the remnants of the west-to-east “dirt road” bisecting the Project Site and shown on the plans for the Woodstock Commons development.

To the east, single-family dwellings are located on individual lots, ranging upward from approximately ½ acre, and primarily within a late 1950’s and 1960’s residential subdivision along Playhouse Lane, Plochmann Lane and Whites Lane depicted on a subdivision plat prepared for Woodstock Heights Inc., approved on November 11, 1954, and filed in the Ulster County Clerk’s Office as Filed Map 1711. To the north residential land use is sparse and heavily forested land is predominant.

4. The Project Site is classified in its entirety within the Moderate Density Residential R1.5 (R1.5) District as established and regulated under the Town of Woodstock Zoning Law.

The Town Zoning Law presents within the “Zoning Schedule of Use Regulations” in Article III, “Use Regulations”, a broad list of “permitted uses” and “special permit uses” within the R1.5 District including but not limited to the following:

- *Single-family detached and semi-detached dwellings, two-family dwellings and mobile homes as residential uses permitted by right.*
- *Multi-family dwellings and boarding and rooming houses as residential uses subject to special permit.*
- *Conservation uses and agriculture, including the keeping of fowl or animals, artist studio, church or other place of worship, and municipal facilities as general uses permitted by right.*

- *Private non-profit academic, parochial or technical school; day nursery or nursery school; hospital; nursing home; cultural facilities (library, museum, etc.); art gallery; non-profit club or non-profit recreation use; cemetery or human crematory; and golf course or country club as general uses subject to special permit.*
- *Home occupation – Class A (occurring wholly within a dwelling); accessory apartment; guest cottage; stable for livestock for non-commercial purposes; and a customary accessory use incident to any of the principal permitted or special permit uses as permitted accessory uses.*
- *Home occupation – Class B (occurring outside or within a customary accessory building) as an accessory use subject to special permit.*
- *Funeral home; veterinarian’s office, animal hospital; kennels; school conducted for profit; hotel or motel development; newspaper office; health services facility or clinic; school conducted for profit; and bed and breakfast establishments as business uses subject to special permit.*
- *Town of Woodstock municipal garage or maintenance facility as a permitted principal use.*
- *Town of Woodstock communications receiving and transmitting antennae; and public utility station or structure as light industrial uses subject to special permit.*

The Town Zoning Law further presents within Article IV, “Area and Bulk Regulations”, the “Schedule of Area and Bulk Regulations” dimensional standards for all uses within the Residential (R1.5) District and indicates that these standards are “*supplemented, as appropriate, by other provisions of this Local Law, including the extraordinary standards for certain special permit uses as stated in Article VI of this Local Law*”. The dimensional standards being:

- Minimum lot area ranging from 15,000 square feet with central water and common sewer to 1.5 acres without central water or common sewer.
- Maximum structure coverage of 25% with central water and sewer and 10% without both of these utilities.
- Minimum open space ranging from 50% with central water and common sewer to 70% without either of these utilities.
- Maximum building height of 35 feet.

- Minimum lot width of 100 feet except in the absence of central water and common sewer where 150 feet is required.
 - Minimum front yard, side yard and rear yard of 25 feet, 25 feet and 50 feet, respectively.
 - Maximum floor area ratio (FAR) of 0.63 with central water and common sewer and 0.25 in the absence of either or both utilities.
5. A discussion has been presented within the EIS explaining how the *Modified Alternate 3A Site Plan* and the *Refined Modified Alternative 3A Site Plan* comply with applicable local laws as a result of review before the Planning Board and in response to public comments. The information is formatted to first outline existing conditions and followed then by consideration of potential environmental impacts and proposed mitigation measures.

In consideration of the *Refined Modified Alternate 3A Site Plan*, the applicable local laws are now considered to be the Town Zoning Law, including the recently-enacted Wetland and Watercourse Protection Standards set forth therein, the Town Flood Damage Prevention Law, the Town Hamlet Wastewater District Sewer Use Law, the Town Subdivision Regulations (with respect to the roadway standards stated therein) and the Town Water District Law. Unlike in the instance of the *Original Site Plan*, the Town Subdivision Regulations do not more generally apply to either the *Modified Alternate 3A Site Plan* or the *Refined Modified Alternative 3A Site Plan* each of which maintains the 28.026-acre Project Site as a single parcel and no longer includes a home owner component.

6. The Woodstock Commons development, as determined by the Town Building Inspector in his written determination, is a “multi-family dwelling (apartment)” in accordance with the Schedule of Use Regulations and subject to a special permit use. The EIS contains a point-by-point discussion of the compliance of Woodstock Commons development under the *Modified Alternate 3A Site Plan* and the *Refined Modified Alternative 3A Site Plan* with both the “General Standards” pertaining to all special permit uses and the “Additional Specific Standards” for “multi-family dwelling”, as found, respectively, at Article VI, Section 260-2 and Article VI, Section 263 (N) of the Zoning Law.

In the matter of the General Standards set forth at Section 260-62, and as part of the evolution of project changes which occurred during review by the Planning Board, the EIS presents the following:

- A. *The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets providing access shall be in harmony with the orderly development of the district.*

The Woodstock Commons development is an allowed land use (i.e. multi-family dwelling) within the R1.5 District and is consistent with all area and bulk parameters, including allowable density and required yards (i.e. setbacks), as set forth within the Zoning Law for the proposed use at the proposed location. The size of the site, some 28.026 acres, is large enough to accommodate the intended structures, road system and other site improvements while still permitting the permanent protection of more than 18 acres of natural area, including wetlands identified by the Town of Woodstock as a Critical Environmental Area, wetland buffer or “adjacent area”, and the majority of a C(t) classified stream corridor. As the SEQR process has illustrated, restricting development to the upland portion of the site, through conservation easement, will have the least impact on environmental resources and subsequently on neighboring uses.

If the intensity of land use is defined as a measure of the extent to which a land parcel is developed in conformity with the local zoning ordinance, then the proposed density (i.e. number of units) is much less than allowed under the Zoning Law. Calculations show that over 300 units could be permissible on a 28.026 acre lot when Town sewer and water are available. Alternatively, if standard land-use classification systems such as Anderson are applied, the intensity of the use, (i.e. multi-family housing) is of less intensity than the commercial uses to the south and of similar or greater intensity than the residential uses to the east and west, as it has been noted during the SERQ review process that the proposed density of 53-units on 28.026 acres corresponds to the density of similar sized areas of single-family residential parcels to the east and southwest. The proposed use is of equal or less intensity than other uses permitted as-of-right within the R1.5 District, including churches or places of worship; municipal police, fire and rescue squad stations; medical or dental clinics and municipal garages.

Access to the site, for both routine and emergency purposes, as well as access/circulation/parking within Woodstock Commons, has been designed by the Project Engineer in accordance with Town standards, reviewed by the Town Building Inspector and Fire Chief and found to be adequate in both instances. The suitability of the principal access location on Playhouse Lane and the sufficiency of the adjacent roadway network have also been studied by the Planning Board and traffic engineers, including both Creighton Manning Engineering and John Collins Engineers. The access location has been found to be in compliance with Town standards, including sight distance, and, albeit involving a stream crossing, will not be inundated under even the occurrence of a 100-year flood event. The adjacent roadway network has been found to have the capacity to accommodate the projected traffic; certain improvements desirable to address existing conditions involving the adjacent network

have been identified though their implementation is neither a prerequisite to the development of Woodstock Commons nor within the purview of the Project Sponsor. Access placement will not interfere or preclude the development of any future streets or access to neighboring parcels.

- B. The location, nature and height of the buildings, walls and fences, and the nature and intensity of intended operations, should not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.*

The Planning Board, through both its SEQR and site plan review processes, required modifications to the site design to ensure the proposed development does not discourage the appropriate development or use of adjacent lands. It looked at possible impacts to adjacent lands due to proposed land disturbance activities, noise, traffic generation, stormwater management design, outdoor lighting levels, building design, site layout, pedestrian movements and maintenance activities.

The Planning Board utilized provisions in the special use permit section of the Zoning Law and its authority as Lead Agency to require proposed land disturbance activities along Elwyn Quarry Road to be setback 100-feet from the westerly property line. This setback will allow the retention of existing vegetation that will provide visual screening. This 100-foot setback was additionally applied to portions of the northerly property line in order to provide a buffer to the NWI wetlands and stream corridor in this location. Both setbacks have allowed for increased stormwater retention opportunities. The proposed arch bridge structure was redesigned under the *Modified Alternate 3A Site Plan* to eliminate the potential for backwatering or flooding to affect upstream properties.

The Planning Board has required that the 20-unit senior building originally proposed for the northwest corner of the site to be broken down into separate structures to: 1) comply with the multi-family massing requirements of Chapter 260-63N(2) of the Zoning Law, 2) more closely match the massing of other proposed structures on site and 3) more closely relate to the scale of existing off-site structures.

The Project Sponsor has stated that the Woodstock Commons development has been designed by the Project Architect to be compatible in building form and materials with the design character found at various locations throughout Woodstock. The proposed development is residential in character with all buildings and appurtenance consistent with the dimensional and other requirements set forth for the authorized multi-family dwellings use in the R1.5 District. The Woodstock Commons development, in each instance of setback, either meets or exceeds the setback (i.e. required yard) standards from property boundaries as

required in the Zoning Law. Setbacks from natural areas, except as required for development of the principal access roadway and associated installations connecting to *in situ* municipal and/or franchise utilities, meet or exceed the requirements set forth in pertinent Town and NYSDEC regulations. Within the setback areas substantial natural buffers are being protected during construction, enhanced during site development to the extent specified within the project plans, and conserved *in perpetuity* as open space serving, among other functions as visual buffer and wildlife habitat, through the execution and recording of a conservation easement agreement. In this manner, the adjacent residential neighborhoods, and the range of housing choices in the vicinity thereof, are being reinforced with the addition of a multi-family residential development that presents an affordable housing opportunity while doing so within the framework of an authorized land use and density under the Town's Zoning Law and with a design character compatible with the community.

The density and intensity of the use was discussed above and found to be in keeping and complimentary to the surrounding neighborhoods.

No empirical data or studies have been presented to the Planning Board illustrating that the proposed use will impair adjacent property values. Instead, studies presented by the Project Sponsor, during SEQR review have illustrated that development such as is being proposed does not impair the value of adjacent lands.

- C. All proposed traffic accessways shall be adequate but not excessive in number; adequate in width, grade, alignment and visibility; sufficiently separated from street intersections or other places of public assembly; and meet similar safety considerations.*

Design standards for off-street parking can be found in Chapter 260-30B of the Zoning Law. Other than the driveway standards for single-family or two-family dwellings found in Chapter 260-57, the Zoning Law is absent of additional specific access standards and instead leaves many of the determinations on adequacy to the discretion of the Planning Board, Building Department and Highway Department. The Woodstock Planning Board Design Manual contains guidelines of vehicular access beginning on page 12.

Proposed access to the site, consists of the principal vehicular entrance onto Playhouse Lane (east side of site) and an emergency-only vehicular entrance onto Elwyn Quarry Road (west side). Pedestrian access will be provided by both a pedestrian walkway to Playhouse Lane and a natural surface walking trail to Bradley Meadows shopping plaza. Access, for both routine and emergency purposes, as well as circulation/parking within Woodstock Commons, has been designed by the Project Engineer in

accordance with available Town standards, reviewed by the Town Building Inspector, Highway Superintendent, Fire Chief and Planning Board consultants, and found to be adequate in all instances; including the necessity for certain waivers from the roadway specifications set forth in the Town Subdivision Regulations. These subdivision standards and waivers are analyzed within the EIS and listed within paragraph 8 herein. While their applicability can be considered discretionary in absence of a subdivision, their application is relevant in light of the number of units proposed.

The Woodstock Planning Board Design Manual states, "Access drives should be limited to one parcel unless a traffic impact analysis or the site's unique circumstances justify additional curb cuts. The more curb cuts, the more frequent traffic flow delays and higher number of accidents..." In this case, the site's unique circumstances that would justify a second access are a stream crossing (although the potential for flooding has been shown to be extremely minimal) and 53-units of housing. Chapter 202-32C of the subdivision regulations, require a lot to have at least two connections to existing roads when 20 or more lots is planned. Based on these factors, and the abovementioned engineering reviews, the Planning Board finds traffic accessways to be *"adequate but not excessive in number."*

The suitability of the principal access location on Playhouse Lane and the sufficiency of the adjacent roadway network have also been studied by traffic engineers, including both Creighton Manning Engineering and John Collins Engineers. The access location was chosen from several alternatives due to its lesser degree of impact on Ferguson Creek and its compliance with available Town standards, including sight distance. And, albeit involving a stream crossing, the access will not be inundated under even the occurrence of a 100-year flood event. The adjacent roadway network has been found to have the capacity to accommodate the projected traffic. Certain improvements which could potentially improve existing conditions along the adjacent road network have been identified in the EIS, though their implementation is not a prerequisite to the development of Woodstock Common as the Planning Board has found the project's contribution to these conditions minimal.

The access (curb cut) width and access drive widths are both found to be adequate. The curb cut width, except for a portion of the proposed flares, does not exceed the 30-foot maximum recommended on Page 12 of the Woodstock Planning Board Design Manual. The access drive has a proposed 22-foot carriageway with 2-foot shoulders on each side for a total width of 26-feet. This 26-foot width is necessary to meet the aisle width requirements of Chapter 260-30B(4)(a) of the Zoning Law and the actual 22-foot carriageway width does not exceed the maximum 24-foot

width guideline found on page 13 of the Woodstock Planning Board Design Manual.

The site is relatively flat with finished grades not exceeding 5% slope. Road grades will be similar or less and are therefore adequate.

As stated above, the principal vehicular entrance onto Playhouse Lane is sufficiently located and aligned with adjacent streets as to meet the minimum site distance requirements of Chapter 202-32F(6) of the subdivision regulations. Although placement is not “twice the width of the proposed drive, plus 15 feet” from White’s Lane as suggested on Page 13 of the Woodstock Planning Board Design Manual, it has been selected to limit to the impact on wetland, wetland buffer and stream corridor, while providing a suitable access location as judged by the Project Engineer, Morris Associates, and traffic engineers, Creighton Manning Engineering and John Collins Engineers.

In addition, the intersection of Playhouse Lane and Whites Lane has been studied in light of Access Management Guidelines [2003] for Ulster County and no significant impacts have been identified when the low traffic volumes, stop sign utilization and proximity of driveways is taken into consideration. The Planning Board therefore finds the access drive adequately located.

D. Adequate provision for safe and accessible off-street parking and loading spaces shall be made.

A key listing parking requirements can be found on Sheet TS01 of the site plan. Chapter 260-30A requires two parking spaces per dwelling unit. One hundred and six spaces have been provided for the 53 units and an additional five “guest” or “visitor” spaces are shown. The Planning Board has also required that open space be reserved on the site plan for twelve additional spaces if needed in the future. As noted above, design standards for off-street parking can be found in Chapter 260-30B of the Zoning Law. Parking meets these standards. Parking areas do not encroach on any required yards or public right of ways. Effective visual screening has been provided between parking areas and adjoining properties. Parking has not been placed in the front yard as defined under the zoning law. The 9-foot by 20-foot stall size complies with the law. Aisle width is 26-feet in width as required. Parking areas will be suitably drained and have a suitable wearing surface. Parking will not back out into a public street, road or highway. The Planning Board has required site plan modifications to lessen the number of vehicles backing out onto the private drive.

- E. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees, particularly those over eight inches in diameter, to the maximum extent possible.*

As noted above, vegetative screening has been left between the proposed use and adjacent uses. Parking is effectively screened by vegetation and the proposed buildings. The Planning Board has requested a “heritage” tree inventory be undertaken and these trees be preserved when possible. A landscaping plan has been submitted and found acceptable by the Planning Board.

- F. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.*

The Planning Board has reviewed the site plan and consulted with the Town Building, Highway and Fire Departments regarding safe emergency access. Road design, building placement and building separation were reviewed and found to be adequate, with no impediments to first responders.

The applicability of sprinklers systems for certain structures has been thoroughly reviewed.

In consideration of the above commentary and with acknowledgment of continuing requirements for final review of plans by the Building Inspector prior to issuance of permits to construct/install safety related installations, this general standard will be strictly met.

- G. The character and appearance of the proposed use, buildings, structures and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would the operations of any permitted use and shall not adversely affect the general welfare of the inhabitants of the Town of Woodstock. The days and hours of operation may be limited by the Planning Board to minimize disturbance to neighbors.*

These issues consumed a major portion of the Lead Agency's efforts during the pendency of review. The project alternatives and project modifications reflect an emphasis on the character and appearance of the proposed use and its relation to the surrounding neighborhood, as set forth in numerous areas of this Findings Statement. As previously noted, the density and the intensity of the proposed 53-unit multifamily dwellings

on 28.026 acres were compared to neighboring districts and uses. The Planning Board found the proposed use's intensity in keeping with the mix of neighboring uses and to be less intense in terms of noise generation, vibrations, flashing lights or similar objectionable features than the operation of other uses currently permitted within the R1.5 zoning district, such as medical clinics, emergency services or municipal garages.

Regarding the character and appearance of the proposed residential structures, the Project Architect stated in the EIS that, *"The concept behind Woodstock Commons is borrowed from the original layout of Woodstock itself. We hope to draw from the time-tested virtues of this early American model: higher density, direct access to a pleasant and welcoming public space, preservation of the surrounding wilderness, and subtle variation of architectural form, scale, material and building interrelationships. In the context of Woodstock, we also seek to integrate the 'artist studio' aesthetic of combined shed and gable roofs, large window fenestration, vernacular detailing, and somewhat playful building forms, into this curvilinear road and park-like setting site design. The goal is to create an environment that is comfortable and welcoming to all generations of residents, while fitting well into the natural surroundings and established hamlet neighborhoods..."*

"From an 'urban / rural design standpoint', the Woodstock Commons development conforms to the scale, style and mass of both village and town structures: residential detailing, one- and two-story structures, primarily four-unit buildings that are no larger than many single family residences. The distribution, orientation and scale of the buildings are designed to create a pedestrian-friendly and slower trafficked village setting, with trees and open areas similar to those found in Upstate New York and New England towns."

The chosen architectural styles and materials match closely the stated preferences in the Woodstock Planning Board Design Manual for, "cottage-style or artist bungalow-style buildings and New England clapboard structures." By breaking down the mass of the proposed Senior building the Planning Board required that a, "proportional relationship between the proposed building and neighboring ones" be incorporated into the design, again, in keeping with the Board's Design Manual.

The reduction in the intended residential development program which underpinned the presentation of the *Modified Alternate 3A Site Plan* [and ultimately the *Refined Modified Alternative 3A Site Plan*] was a direct response by RUPCO to the Planning Board opinion throughout late 2006 and early 2007 that the overall scale of the proposed 63-unit housing community was too large and its overall density too high to accommodate the environmental protections and site design elements required by the

Planning Board. The 10-unit reduction in the residential development program afforded the Project Architect / Site Designer greater flexibility in placing the remaining 20-unit senior housing component, 32-unit family housing component, community building (with caretaker's unit) and maintenance building within the same overall development envelope as *Alternate 3A Site Plan*. This reconfiguration provided for a less dense development pattern, reduced massing of buildings, greater separation between buildings and increased land area for vehicular access and parking areas, pedestrian ways and a variety of passive and active open spaces, and required infrastructure.

As in the case of the *Alternate 3* and *Alternate 3A Site Plans*, the *Modified Alternate 3A Site Plan* continued to embrace each of the following design criteria as set forth by the Planning Board in its Scoping Document when setting forth the "Alternatives" to be examined in the Draft EIS:

- Provision of greater separation of proposed development areas from Ferguson Brook to the north of the Project Site.
- Break down and reconfiguration of the senior building so that the massing and scale of the senior housing component is compatible with other buildings proposed on the site.
- Placement of the senior housing component at both a less visible location and one more distant from adjacent residential properties.
- Provision of a 100-foot buffer from the northern wetlands and "Elwyn Lane Extension" (actually Elwyn Quarry Road).
- Modification in project layout or configuration, or other circumstance that would either eliminate requirement for area variance(s), waiver(s) and/or subdivision or reduce the magnitude of any area variance(s) or waiver(s) that may be required.

The Planning Board has found proposed signage for compliance to Chapter 260-31 of the Zoning Law and appropriately placed.

H. The Planning Board may issue a special use permit for a limited period of time and may place specific conditions for its renewal thereafter. The investment of an applicant shall have no bearing on the issuance or renewal of a special use permit.

While the Planning Board has no precedent for limiting the days and hours of operation for residential uses, it has placed specific restrictions on construction activities and enumerated on the site plan, *Refined Modified*

Alternative 3A Site Plan, to lessen construction impacts on surrounding neighborhoods.

I. Driveways shall be so located and, where possible, relocated, as to minimize the impact of vehicular traffic on neighboring properties.

The locations of the principal access driveway and the emergency access driveway to the Woodstock Commons development have been selected and their design presented to reduce impacts to natural areas and adjacent properties to the maximum extent practicable.

The principal access location set forth as part of the *Modified Alternate 3A Site Plan* has been selected to limit to the extent practicable impact on wetland, wetland buffer and stream corridor, as these factors were considered in the field in consultation with NYSDEC, while providing a suitable access location as judged by the Project Engineer, Morris Associates, and traffic engineers, Creighton Manning Engineering and John Collins Engineers, retained by the Project Sponsor, both in terms of its operation and its distribution of site-generated traffic to the adjacent roadway network. Moreover, the safety of the selected location upon specific application of the Town's sight distance standard has been documented in this Final EIS and this location is the preferred choice of the Planning Board.

As to the emergency access location, this too was selected in consultation with NYSDEC, being moved from its initial more southerly location to avoid wetlands impact. The legal and physical sufficiency of the emergency access route, both off-site and within Woodstock Commons, has been evaluated and judged by the Project Engineer and the Traffic Engineer, Creighton Manning Engineering, to be adequate for this purpose. Upon field review the Town Building Inspector, Highway Superintendent and Fire Chief concurred through letter of September 10, 2009, subject to implementation of the improvements discussed and later satisfactorily set forth either within the *Refined Modified Alternative 3A Site Plan*, as prepared during preparation of the Final EIS and in accordance with review thereof that had been initiated by the Planning Board under site plan review, or otherwise depicted on an supporting survey and engineering plan prepared by Christopher Zell, PLS, and Morris Associates entitled "*Elwyn Lane & Elwyn Quarry Road Emergency Vehicle Turning Path*" dated August 5, 2009, and revised to December 11, 2009.

J. "...Wherever the Planning Board deems it appropriate for the special permit use, the following standards shall apply... No building shall be erected closer than 100 feet to any street or lot line."

As noted above, the Planning Board utilized this section of the zoning law to set back proposed structures from Elwyn Quarry Road.

In the matter of the Additional Specific Standards set forth at Section 260-63 (N), the EIS recites each of these standards and identifies no instance of non-compliance therewith by the Woodstock Commons development under the *Refined Modified Alternative 3A Site Plan*:

1. *The number of dwelling units allowed on a lot shall be calculated as follows:*
 - a. *For lots in the R5, R3 and NC Districts, and lots in the R1.5, HR and HC Districts without central water and common sewer, the minimum lot area per dwelling unit requirement shall apply for the first two (2) units in a multi-family structure. In a two-story structure, each additional unit shall require twenty-five percent (25%) of the dwelling unit density. In a single-family structure, each additional unit shall require fifty percent (50%) of the per dwelling unit density. Approximately 70 units would be allowed when this formula is applied to the site.*
 - b. *For lots with Town-provided central water and common sewer in the R1.5, HR and HC Districts, four (4) units may be built on a lot meeting the minimum lot area per dwelling unit requirement provided all other requirements of this Local Law and all applicable laws, rules and regulations are strictly met. For each additional unit after the first four (4), twenty-five percent (25%) of the per dwelling unit density shall be required. Over 300 units would be allowed when this formula is applied to the site.*
2. *No individual multi-family structure shall contain more than eight (8) residential units in the case of two-story apartment buildings, with four (4) units allowed in each floor, nor more than six (6) units in the case of a single-story multi-family structure. Proposed structures are two-story and no structure exceeds the eight unit requirement.*
3. *Adequate common water supply and common sewage disposal facilities shall be provided in full accordance with the requirements of the Town of Woodstock and the Ulster County Health Department. The Planning Board has reviewed the proposed water and sewer system designs and found the designs adequate to date; however, the Planning Board shall require, as a condition of any approval given, review and approval of the designs by all other applicable agencies (i.e., town, county and state).*
4. *Common open space totaling not less than fifty percent (50%) in the R5 and R3 Districts and not less than twenty-five percent (25%) in the R1.5, HR, HC and NC Districts of the total multi-family development site shall be*

provided in perpetuity for the use and beneficial enjoyment of all residents within the multi-family development. The project sponsor's proposed conservation of 18 out of 28.026 acres more than exceeds the 25% rule.

5. *A deeded conservation easement or similar mechanism for the long term ownership and maintenance of common open space shall be provided, subject to approval of the Planning Board during the special use permit review process.* The Planning Board has expressed its preference for a conservation easement and will require this as a condition of any approval given.
6. *The minimum front, rear and side yards required by Section 260-16, the Schedule of Area and Bulk Regulations, for the zoning district in which the development is proposed shall be doubled – that is, increased by one hundred percent (100%) – in the R5 and R3 Districts to establish the minimum front, rear and side yards required for the development.* The project is not in the R3 or R5 District; therefore this rule does not apply.
7. *The Building Inspector shall inspect all the rental units every three (3) years to ensure that they have been maintained in habitable condition and that there are no violations of this Local Law or any other applicable rules and regulations related to multi-family dwelling units.* This shall be a requirements of any approval given.
7. Further presented in the EIS is discussion of the compliance of the *Modified Alternate 3A* and *Refined Modified Alternative 3A Site Plans* with Supplementary Regulations set forth within Article V of the Zoning Law that are also pertinent to the design of the Woodstock Commons development. These include but are not limited to “General Performance Standards” within Section 260-29 (including noise and outdoor lighting standards), “Parking and Loading Standards” within Section 260-30 and “Sign Regulations” within Section 260-31.
8. Unlike the *Original Site Plan* which would have required several waivers and/or variances prior to going forward, the *Refined Modified Alternative 3A Site Plan* has been determined to be consistent dimensionally with all zoning standards and, as such, eliminate requirement for area variances.

The only waivers, as identified in the Final EIS, and cited earlier in this Findings Statement, pre-requisite to the implementation of the Woodstock Commons development as shown on the *Refined Modified Alternative 3A Site Plan* are contained in the Town's “minimum design standards and specifications” for minor roads, Chapter 202-32 of the Town's Land Subdivision Regulations as follows:

- From the minimum radius of horizontal curvature standard of 100 feet at the six (6) locations listed below:
 - Station 2+97.96 to Station 3+48.03
 - Station 6+14.08 to Station 6+74.43
 - Station 9+13.32 to Station 9+56.18
 - Station 10+87.61 to Station 11+71.80
 - Station 13+43.71 to Station 14+10.42
 - Station 15+59.56 to Station 16+35.49
- From the maximum length of vertical curve standard of 100 feet throughout the roadway.

Request for these waivers is supported by the following statement set forth in the Final EIS:

“As determined by the Project Engineer the proposed roadway as configured is consistent with the minimum design standards and specifications set forth at Section 4.F of the Town’s Land Subdivision Regulations for a minor road except in the instance of minimum radius of horizontal curvature and maximum length of vertical curves, for which a waiver is requested in consideration of the areas of analysis set forth within Section 5.E.2 of said Regulations, (a) the adequacy of the proposed roadway with respect to public health; safety and general welfare, (b) the special circumstances of the particular roadway, and (c) the ability of service and emergency vehicles to gain unobstructed access via the proposed roadway throughout the Woodstock Commons development.”

Further support for the waivers is memorialized by the meetings with the Town of Woodstock Building Inspector, Highway Superintendent and Fire Chief. [See also, letter dated September 10, 2009, by these various officials.] And, as previously stated, application of the subdivision design standards in absence of a subdivision and in absence of specific access design standards within the zoning law is at the discretion of the reviewing agencies.

9. Due to the presence of NYSDEC wetland, a portion of the Project Site has been identified as a Critical Environmental Area (CEA) by the Town of Woodstock pursuant to the aforementioned Local Law No. 1, 1990.
10. Portions of the Project Site lie within the Town Water District and the Hamlet Sewer District. This location provides the owner of the Project Site legal access to both municipal water and municipal sewer facilities, subject to Town Board approval.

The Project Site further lies within other special districts as reflected in County and Town real property tax bills, these including the Town Lighting District,

the Town Library District and the Town Fire District. The Project Site is served by the Ontario Central School District. Franchise utilities including electric service by Central Hudson Gas & Electric Corporation and fiber-optic service from Time Warner are available on roadways adjacent to the Project Site.

11. The Project Site lies within the only area of the Town, the hamlet of Woodstock, within which municipal water and/or municipal sewer facilities have been made available through the creation and operation of special utility districts to accommodate the residential, commercial, civic and institutional uses either existing or proposed to be located there in accordance with Town and County land use plans and related land use and development regulations.
12. The Town of Woodstock *Draft Comprehensive Plan (2003)* includes the Project Site in its entirety within the “hamlet boundary” and goes on to identify the Project Site as presenting

“... perhaps the Town’s last chance to create a fully integrated housing development that incorporates green space and links back into the Hamlet center. The alternative would be typical suburban development on uniform lot sizes without an open space and trail network. The result of this alternative would not likely provide affordable housing opportunities for residents.”

Moreover, the draft *Town Comprehensive Plan* includes the below description of the residential settlement pattern in the community and its relationship to the delivery of affordable housing again reinforcing the view of the Town’s Affordable Housing Committee that the Project Site is critical to achievement of a meaningful measure of the Town’s affordable housing objectives:

“The residential settlement pattern in the Town has created a unique setting. Development outside of the hamlet of Woodstock is generally on larger wooded lots with some development extending upon the hillsides. Development in the hamlet is much more dense, thus offering a diversity of options including more affordable housing. The challenge of the plan is to create opportunities for all residents to reside in the community, regardless of income bracket”.

13. The Ulster County Master Plan is supportive of “smart growth” and the encouragement of development within or adjacent to established centers where municipal facilities are located.

The work of the Ulster County Planning Board, both independently and as staff to the Ulster County Housing Consortium emphasizes the importance of housing as an element in the County’s planning program. As stated in the

preamble to the July 2005 report, *Priority Strategies to Support Housing Development in Ulster County*:

“... the Ulster County Housing Consortium’s mission is to promote a cooperative and collaborative environment in which all persons and entities can work together to effectively and efficiently garner and use resources to ensure safe, decent, affordable housing and related support services which meet the diverse housing needs of all Ulster County residents.”

14. Upon completion of its review of the special permit and site plan applications for Woodstock Commons by the Ulster County Planning Board (UCPB) pursuant to Section 239 of the General Municipal Law, the County Planning Board issued a Recommendation citing the proposed plan’s role in implementing the Town Comprehensive Plan “by providing affordable infill development, avoiding wetlands and floodplains while providing trails that connect it as part of the hamlet” and stating the UCPB “generally supports this project”.

At the same time, UCPB offered advisory comments concerning the desirability of further evaluating left-turn movements from Route 212 and the management of the emergency access point. These comments are addressed later in this Findings Statement under “Traffic and Transportation”.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on land use, zoning and public policy to the maximum extent practicable.

Visual Character

The Woodstock Commons EIS addresses the probable effects of the proposed development on Visual Character both in the previous discussion on the character and appearance of the proposed use and as follows:

1. Creative Visuals, Inc. first carried out a comprehensive program to photographically document the appearance of the Project Site from six (6) viewpoints selected by the Planning Board during its initial consideration of the potential environmental significance of the proposed Woodstock Commons development and subsequent consideration of the Draft EIS Scoping Document.

In its effort the Planning Board examined with the cooperation of the Project Sponsor, and under “leaf-less (or ‘leaf-off’) conditions”, both potential viewing points at higher elevations within a five mile range of the Project Site and potential viewpoints either directly or substantially adjacent to the Project Site.

As a consequence of this examination the Planning Board:

- Concluded upon inspection of “visual transects” prepared by the Project Engineer in consultation with Creative Visuals, Inc. for selected locations on Meads Mountain Road, California Quarry Road, and Ohayo Mountain Road that direct visual access to the Project Site was obstructed by intervening landform and/or vegetation and deemed further evaluation of potential visual impact of the Woodstock Commons development from these locations would not be pursued either as an independent study or within an EIS.
- Determined upon consideration of viewpoints recommended by Creative Visuals, Inc., on December 15, 2005, and in consideration of methodology outlined in a follow-up letter of January 21, 2006, evaluation of the potential visual impact of the Woodstock Commons development should occur from the below six (6) locations either directly or substantially adjacent to the Project Site:
 - View Point 1. On the west side of the Project Site along Elwyn Quarry Road at the location of the proposed emergency access road, as relocated northward on the *Alternate 2* and *Alternate 3 Site Plans*, and just to the north of an existing row of conifers.
 - View Point 2. On the west side of the Project Site, approximately 269 feet north of View Point 1, at the 117 Elwyn Quarry Road location of a yellow house and yard area at a higher elevation than Elwyn Quarry Road, at which location permission for on-site photography recommended by Mr. Heimel was later granted.
 - View Point 3. On the west side of the Project Site, approximately 200 feet north of the above-cited yellow house and 469 feet north of View Point 1, at an intersection (just before Elwyn Quarry Road rises quickly in elevation) with a driveway leading in a westerly direction to the house.
 - View Point 4. On the east side of the Project Site, approximately 200 feet south of the proposed Woodstock Commons entrance road, as located on the *Original* and *Alternate 2 Site Plans*.

- View Point 5. On the east side of the Project Site, directly below the dwelling at 36 Playhouse Lane, slightly north and across from the proposed entrance to Woodstock Commons, at which location permission for recommended on-site photography was denied.
 - View Point 6. On the east side of the Project Site, near the front yard of the dwelling at 16 Whites Lane, at which location permission for recommended on-site photography was subsequently granted.
2. In accordance with the methodology described by Creative Visuals, Inc., within the aforementioned letter, as more fully detailed in this Draft EIS, the Visual Consultant created photo-simulations from each of the chosen View Points of the Woodstock Commons development. The extent of this work included both day-time, leaf-less condition, photo-simulation of the *Original Site Plan* subject of this Draft EIS and of the two principal project layout alternatives, the *Alternate 2 Site Plan* and the *Alternate 3 Site Plan*, later discussed in DEIS Chapter 5 at Section 5.2.2 and Section 5.12, respectively.

In addition to the day-time photo-simulated views, at the request of the Planning Board the Visual Consultant also created a photo-simulation of the night-time view of the Woodstock Commons development for both the *Original Site Plan* and each of two principal project layout alternatives, the *Alternate 2 Site Plan* and the *Alternate 3 Site Plan*. The location chosen for this night-time simulation was View Point 2, being on the west side of the Project Site at the location of a yellow house at 117 Elwyn Quarry Road and considered by the Planning Board to have the greatest “visual access” to the proposed developed area of Woodstock Commons.

3. Examination of the above-cited photo-simulations of the *Original Site Plan* reinforced the earlier opinions expressed by the Planning Board and Town of Woodstock Commission for Civic Design that the massing of the proposed 20-unit senior building was out of scale with the overall development and a filtered view of the development was more in keeping with the special use permit and screening requirements of the Zoning Law.

The Planning Board acknowledges the stated opinion of the Project Sponsor and Project Architect that no further mitigation with respect to visual character of the structures was required, based on the Architect’s stated view that,

“The concept behind Woodstock Commons is borrowed from the original layout of Woodstock itself. We hope to draw from the time-tested virtues of this early American model: higher density, direct access to a pleasant and welcoming public space, preservation of the surrounding wilderness, and a subtle variation of architectural form, scale, material and building interrelationships. In the context of Woodstock, we also seek to integrate the ‘artist studio’ aesthetic of combined shed and gabled roofs, large

window fenestration, vernacular detailing, and somewhat playful building forms, into this curvilinear road and park-like setting site design. The goal is to create an environment that is comfortable and welcoming to all generations of residents, while fitting well into the natural surroundings and established hamlet neighborhoods of the town.”

4. The Planning Board required during the course of preparation of the Final EIS one additional night-time simulation depicting the visual effect in a leafless condition of the Woodstock Commons development from near the front yard of 16 Whites Lane, this location being in the immediate vicinity of the entrance roadway at the intersection of Playhouse and Whites Lane. This night-time simulation completed in December 2009, illustrates the more prominent foreground view of the entrance roadway’s bridge spanning Ferguson Brook and the distant view of lights, principally being from interior light passing through windows of the residential dwelling units. The Planning Board accepted the Project Sponsor’s proposal to reduce the foot-candle values of the proposed lighting at the entrance roadway as a mitigation measure and found the remaining visual effects to be non-significant in light of the absence of the escape of fugitive light from the site and the other mitigation measures referenced above.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will through site, building and infrastructure design and the maintenance and enhancement of vegetative buffers avoid or mitigate to the maximum extent practicable impacts to Visual Character.

Traffic and Transportation

The Woodstock Commons EIS addresses the probable effects of the proposed development on Traffic and Transportation including consideration of vehicular traffic, pedestrian traffic and public transportation as follows:

1. The applicant’s Traffic Engineer has undertaken a Traffic Impact Study (TIS) to assess the character of the existing local roadway network and evaluate the effect of the development of Woodstock Commons on the roadway network.

The TIS was prepared in accordance with methodology and trip generation rates by land use type established by the Institute of Traffic Engineering (ITE)

and accepted by NYSDOT. The sequence of tasks in preparing the TIS included the following:

- Inventory of existing roadway network conditions including conduct of detailed turning movement counts at ten (10) intersections within the vicinity of the Project Site during peak traffic hours.
- Capacity analysis of each of these intersections for existing traffic conditions, this being known as the 2006 Existing Condition.
- Capacity analysis of each of these intersections for future traffic conditions in the 2009 Design Year without development of Woodstock Commons, but with the addition of both a “background growth factor” of 1.0 percent annually as established by NYSDOT, this being known as the 2009 No-Build Condition.
- Projection of the traffic that would be generated by Woodstock Commons and directional assignment of this traffic to the local roadway network based upon observed travel patterns within the vicinity of the Project Site.
- Capacity analysis of each of the 10 intersections and the new access roadway intersection that would be created as part of the development of Woodstock Commons for future traffic conditions in the 2009 Design Year and in consideration of the traffic that would be generated by the Woodstock Commons development, this being known as the 2009 Build Condition.

Related work undertaken by the Traffic Engineer includes an evaluation of sight distance at certain existing and proposed intersections and review of NYSDOT accident data.

2. The TIS includes description of the limited facilities available to pedestrians or bicyclists (other than sharing of vehicular roadways) within the vicinity of the Project Site on adjacent or nearby Town roadways such as Elwyn Lane, Playhouse Lane, Whites Lane or Edgewood Lane, and an inventory of the small number (less than 5) of pedestrians observed while manual traffic counts were conducted in June and November 2006 during the Peak AM or Peak PM hours of vehicular traffic at such intersections as NYS Route 212 with Playhouse Lane, NYS Route 212 with Elwyn Lane, or NYS Routes 212 and 375.

The TIS includes related discussion of the improvements intended within the Woodstock Commons development to provide safe and convenient opportunities for pedestrians and bicyclists resident in either Woodstock Commons or adjacent neighborhoods. The pedestrian ways developed within Woodstock Commons, all of which will be available for use by the public in

accordance with terms spelled out within an affirmative access easement, will provide opportunity for pedestrian movement between Woodstock Commons, the Playhouse Lane to Plochmann Lane residential neighborhood, the Elwyn Lane residential neighborhood, and the commercial Bradley Meadows shopping plaza and Mill Hill Road areas. Via these pedestrian routes Woodstock Commons will lie within a convenient walking distance of about 0.5 to 0.6 mile from the center of the hamlet, the Woodstock Green at the intersection of Mill Hill Road, Tinker Street and Rock City Road.

3. The TIS indicates public transportation is provided within the vicinity of the Project Site by Ulster County Area Transit (UCAT) as described below in a recent letter to RUPCO:

“UCAT operates a deviated fixed route bus service throughout Ulster County. Service is available in Woodstock sixteen times each weekday, offering low cost transportation to and from such destinations as Kingston, Saugerties, Phoenicia, Shandaken, the Town of Ulster mall area and SUNY Ulster. One round-trip is available on Saturday to the mall area. Connections can also be made to other transportation services for travel to other areas.”

UCAT presently picks up and discharges passengers in the vicinity of the Project Site on NYS Route 212 (Mill Hill Road) at the Bradley Meadows shopping plaza. RUPCO has discussed with UCAT the possibility of routing its transit vehicles into the Woodstock Commons development (which among other factors would be a decision based upon operating efficiency and the number and age group of bus passengers generated) and has evaluated both the ability of the proposed private roadway configuration within Woodstock Commons and existing public roadways in the vicinity of the Project Site to accommodate larger transit bus movements from NYS Route 212.

4. The TIS identified several less than optimal existing physical conditions in the vicinity of the project site, none of which are identified as requiring further mitigation for the Woodstock Commons development.

Prominent among these was commentary concerning the sight distance limitation present at the Route 212 / Playhouse Lane Intersection. At the time of acceptance of Draft EIS NYSDOT had indicated it would carry out but had not specifically scheduled maintenance improvements at the Route 212 / Playhouse Lane intersection in response to communication received from then Town Supervisor Jeremy Wilber concerning an existing deficiency in sight distance. NYSDOT carried out improvements at this location on November 2, 2009, including the removal of vegetation within the State highway right-of-way and the establishment of a “No Parking” zone within the vicinity of the intersection. These improvements have resulted, as determined through measurements undertaken by the Project Engineer at the request of

the Planning Board, in adequate sight distance of 846 feet to the left and more than 1,000 feet to the right for vehicles exiting Playhouse Lane.

Other existing conditions cited have included sight distance limitations at the Route 212/Plochmann Lane intersection; the need for additional pavement lane striping at the Route 212/Route 375 intersection; and vehicles that back onto Route 212 from commercial establishments in the vicinity of the Route 212 /Playhouse Lane intersection. The Planning Board acknowledges each of these matters is beyond the purview of the Project Sponsor and within the purview of NYSDOT. Further, none of these existing conditions requires additional mitigation in order for the Woodstock Commons project to go forward due to the minor degree of negative impacts which can be directly or indirectly attributed to the proposed action now before the Planning Board.

The minor nature of the impacts is supported by the applicant's traffic studies, peer review of these studies and the Planning Board Members personal familiarity with the areas in question. Further, NYSDOT was brought to the site, notified of the applicant's traffic engineer's findings, requested to make changes and to date has only implemented improvements to the Rt. 212/Playhouse intersection, indicating that NYSDOT's assessment of the issue is that the conditions are not pressing concerns.

The Planning Board further finds that parking at the Playhouse Plaza does, in some instances, result in vehicles backing out onto Route 212. The Lead Agency agrees that this condition exists and that the sight distance improvements and pavement marking improvements would help mitigate the negative effects of this condition. However, this condition is not caused by the project nor will it be particularly exacerbated by the project. The Planning Board members have personal familiarity with the intersection and how it is used and do not find this off-site and pre-existing condition significantly impacted by the Woodstock Commons project, nor does it pose significant safety threat based upon the administrative record.

5. Additional input from NYSDOT concerning the Route 212 / Playhouse Lane intersection was set forth within a subsequent letter of January 11, 2010, this in response to a recommendation by the Ulster County Planning Board during its Section 239 GML review of the special permit and site plan applications for the Woodstock Commons development that NYSDOT evaluate whether a left turn lane should be provided at this intersection. NYSDOT responded that a left turn lane at the intersection of NYS Route 212 / Playhouse Lane to accommodate vehicular movements into Playhouse Lane, as UCPB recommended be evaluated by NYSDOT, is not required.
6. Several traffic and transportation issues raised by the Planning Board and its consultants in their review of the Draft EIS were further addressed during the period of preparation of this Final EIS, these including emergency access, the

internal roadways, and pedestrian access, as noted in below paragraphs 7 through 9, respectively.

7. Emergency access to the Woodstock Commons development from Elwyn Quarry Road has been examined in detail by the Project Engineer in consultation with the Town Building Inspector, Highway Superintendent and Fire Chief. The Planning Board, as part of its site plan review process, reviewed the design and required specific width and surface improvements. This process resulted in the issuance of a joint letter from these three Town officials on September 10, 2009, this letter reading in its entirety:

“Based upon our review of the Woodstock Commons Plans, the Map of Elwyn Lane and Elwyn Quarry Road, as prepared by Christopher J. Zell, PLS and the conduct of our August 27, 2009 site visit, it is our opinion that emergency personnel, associated equipment and fire fighting apparatus are capable of effective four season access to the Woodstock Commons project from Elwyn Lane and Elwyn Quarry Road in their current roadway conditions.

The suggested improvements to the existing sixteen (16) foot wide right-of-way and the utilization of emergency signage, as designed by Darin DeKoskie, PE and as shown upon the Map, will further assist with emergency vehicles.

In addition, the main access and internal roadway is acceptable as shown upon the latest site plan.”

8. As the Woodstock Commons layout has evolved from the *Original Site Plan* to the *Modified Alternate 3A Site Plan* and ultimately the *Refined Modified Alternative 3A Site Plan* the internal roadways depicted on the site layout have been modified to include increased turn radius and a wider bridge at the principal private access roadway and incorporation of broader roadway width and greater curve radii throughout Woodstock Commons so as to meet design criteria established by the Town Building Inspector and Highway Superintendent. The overall effect of these modifications has caused these Town officials, and the Town Fire Chief, to state in reiteration of the final sentence of their above-cited joint letter of September 10, 2009, to the Planning Board:

“In addition, the main access and internal roadway is acceptable as shown upon the latest site plan.”

9. The Planning Board has stressed during the review process the importance of creating and maintaining pedestrian access to the Bradley Meadows shopping center to encourage pedestrian rather than vehicular trips. RUPCO has maintained dialogue with the owner of the Bradley Meadows shopping

plaza property in the interest of securing a long-term pedestrian easement across the private lands lying between the southerly end of the Woodstock Commons site and its "Interpretive Nature and Fitness Trail", to which public access will be afforded, and the public sidewalks on Mill Hill Road (Route 212). The Final EIS includes a draft Declaration of Covenants, Easements and Restrictions, incorporating consideration of this pedestrian easement and the Planning Board will require completion of the Declaration as a condition of any approval given.

10. In consideration of the mitigation measures which were undertaken at the request of the Planning Board and the concomitant down-sizing of the Woodstock Commons development from 63 housing units to 53 housing units during the SEQRA / TWEGR process, the TIS presented in the Draft EIS for the 63-unit residential development program takes on the characteristic of a highly conservative analysis when employed in consideration of the 53-unit modified residential development program on which the *Modified Alternate 3A* and *refined Modified Alternative 3A Site Plans* are based. Some 23% of the AM Peak Hour traffic movements and some 17% of the PM Peak Hour traffic movements estimated to be generated by the Woodstock Commons development within the TIS are attributable to the 10 townhouses which have been eliminated under the *Modified Alternate 3A Site Plan* and so continue with the *Refined Modified Alternative 3A Site Plan*.

The Planning Board further notes that the legal status of Elwyn Quarry Road, Elwyn Quarry Road Extension and Playhouse Lane have been extensively addressed by the Project Attorney through various legal memorandums, surveys and title documentation and the Planning Board has found countervailing authority of record with regard to the same. This analysis has included, but is not limited to, the use, width and configurations of the roads, legal title easements, right-of-ways and filed map depictions; all as detailed within the EIS.

In addition, the intersection of Playhouse Lane and Whites Lane has been studied in light of Access Management Guidelines [2003] for Ulster County and no significant impacts have been identified with respect thereto as a result of low traffic volumes, stop sign utilization and proximity of driveways.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Traffic and Transportation to the maximum extent practicable.

Air Quality and Noise

The Woodstock Commons EIS addresses the probable effects of the proposed residential development on Air Quality and Noise as follows:

1. Based on comments received during the public hearing on the DEIS the Planning Board issued a memorandum on April 30, 2009, stating that further consideration should be afforded to mitigating construction impacts on the surrounding neighborhood (1) by limiting work on Playhouse Lane and Elwyn Quarry Road to off-peak hours, (2) by limiting speeds on unpaved construction roads, (3) by removing of dirt spilled in roads daily, (4) by ceasing grading and excavation activities when wind speeds exceed 25 miles per hour, (5) by requiring a water truck on site at all times during the grading/initial construction phase, (6) by requiring covering of all haul trucks if the cut and fill is not "balanced" as described in the preferred alternatives, (7) by phasing construction to minimize daily air emissions, (8) by scheduling several potentially noisy operations concurrently to reduce the overall length of exposure, (9) by limiting potentially noisy activities to times when a majority of people are at work, (10) by choosing alternatives to driving piles, such as vibration of hydraulic insertion techniques, (11) by using electric or contained gasoline compressors or those with baffles to abate noise levels, (12) by choosing contractors with newer, low emissions or alternative energy construction vehicles, (13) by minimizing idling times, and (14) by any other land, air or noise abatement techniques deemed reasonable.

RUPCO has agreed to the proposed mitigation measures to reduce air and noise impacts, except when a potential impact is proscribed by law, such as the required presence of backup beepers on construction vehicles. Subject to the cited exceptions, RUPCO has incorporated Planning Board Memorandum of items 1 through 13 above as conditions of site plan approval and, as a consequence, has specifically noted each of these construction mitigation measures on *Refined Modified Alternative 3A Site Plan Drawing C102*.

2. In order to address questions concerning blasting protocol, the Project Engineer, Morris Associates, has prepared a technical report entitled "*Blasting Plan for Woodstock Commons (Modified Alternative 3A --- Site Design)*".

The Blasting Plan has been prepared in recognition that prior geotechnical analysis and on-site soil testing have indicated that rock removal may be required to undertake proposed construction within portions of the Project Site and that in certain situations such removal might most efficiently employ controlled blasting techniques. Blasting is however neither intended to be substituted for use of a rock hammer where minor areas of rock may be practicably removed using a rock hammer, nor will blasting be carried out should rock be encountered under or near the limits of Ferguson Brook. Any required rock removal at the latter locations will be removed by hammering.

Any such blasting would, as stated in the technical report, be carried out consistent with applicable cited New York State and Federal statutes and safety regulations. This includes, but is not limited to, a strict liability standard of care as a matter of law upon all blasting contractors. Any such blasting would, as stated in the technical report,

“be undertaken by licensed contractors and conducted in a manner to reduce the maximum particle velocity to less than 2 inches per second at property limits. Depending on location and sensitivity of neighboring properties the threshold may be lowered, if possible, to accommodate such concerns.”

In addition, and again stating from the technical report,

“Airblast pressure from blasting will be limited to less than 0.014 psi, as measured from the nearest occupied structure.”

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Air Quality and Noise to the maximum extent practicable.

Cultural Resources

The Woodstock Commons EIS addresses the probable effects of the proposed development on Cultural Resources, including consideration of both Archaeological and Historic Resources as follows:

1. The Project Archaeologist has completed a Phase 1A Literature Search and Feasibility Study and a Phase 1B Field Investigation for the Project Site in accordance with the New York State Standards for Cultural Resource Investigation (CRI). The Project Archaeologist concluded the Woodstock Estates development will have no significant adverse impact on historic, cultural or archaeological resources listed on, or eligible for listing on, the State or National Register of Historic Places.
2. Upon review of Dr. Diamond’s report NYSOPRHP concurred. Through letter of June 8, 2005, Ruth L. Pierpont, Director, Historic Preservation Field Services Bureau stated the following in the matter of 05PR01008:

“We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places."

3. The above notwithstanding, a change in circumstance occurred and NYSOPRHP issued a subsequent letter on June 17, 2009 requiring evaluation of the potential effect of the Woodstock Commons development on an adjacent property, the Jonathan Hasbrouck House, which it had deemed eligible for listing on the National Register of Historic Places, to wit:

"The property identified above is historically significant in the area of architecture as a largely intact example of late-18th c. upscale stone house in Ulster County, and for its historic association with Judge Jonathan Hasbrouck, an early prominent figure in 18th and early 19th c. Ulster County history. Distinctive features of the building include 2-1/2 story/3x4 bay/front-gabled form w/ side-hall entry and Palladian gable window/cornice band w/deep returns. 19th c. modifications include 2-story frame side wing/full-width, open front porch across wing and main block/2-over-2 windows. Stone house and associated 18th/19th c. barn sit on approximately 2 acres of what was originally a 500 acre farmstead/country property. Located at the edge of modern development and on a dirt road, the historic rural country setting to the rear of these buildings remains largely intact and contributes to their historical accuracy.

... Based upon our continuing review, the OPRHP does not have further concerns regarding archaeology and the project. Although it appears the existing plant material may provide adequate screening for the historic property, we were informed that some type of 'visual simulations' were being prepared for the project. Please forward additional information regarding the potential visual impacts that the proposed development may have on historic resources so that we can complete our review and offer our formal comment.'

4. The above-cited "visual simulations" were a reference and response to then on-going additional work by RUPCO's visual consultant, Creative Visuals, Inc., as requested by the Planning Board. A discussion of the methodology employed in undertaking this work (which had been reviewed with the Planning Board at its meeting of June 4, 2009) and presentation of the generated work product occur in a report entitled 'Visual Analysis Exhibits' and dated June 2009.
5. The Project Sponsor forwarded the report as set forth within the FEIS and reviewed the same with the NYS Office for Parks, Recreation and Historic Preservation.

Consideration by NYSOPRHP first resulted in the issuance of a conditional “No Impact” in July 2009 reading in its main body:

“Based upon our review of the submitted simulations, the evaluation of the historic resource and a recent visit to the site, it is OPRHP’s opinion that the project will have No Adverse Impact on properties in or eligible for inclusion in the National Register of Historic Places. However, this ‘no adverse impact’ is based on the provision that the existing woods on the property border be retained up to the proposed interior drive on the north and toward the northeast by the storm water retention pond (see enclosed map). The proposed 35’ buffer appears to consist of no more than a few ornamental/exotic trees that are planted just beyond the property line. The trees that would remain on the Hasbrouck property would not be enough to adequately screen it from the new construction. Retaining the existing trees into this area will not only properly screen the new construction from the historic resource it would have the additional benefit of diminishing the suburban ‘corporate woods’ image the development would otherwise introduce into the local rural environment.”

6. The Project Sponsor addressed NYSOPRHP’s stated conditions in the manner set forth below:

- By depicting on the *Refined Modified Alternative 3A Site Plan* drawings a “no disturbance area” on the Project Site coincident with that proposed by OPRHP and within which existing trees will be retained to complement trees on the adjacent Hasbrouck property to, in the words of OPRHP, “properly screen the new construction from the historic resource”. In May of 2010 the Planning Board directed the Project Sponsor to resolve any conflicts between the overall *Site Plan* and the erosion control plans in favor of maintaining the buffer shown on the overall site plan and as recommended by OPRHP.
- By providing specific measures including conspicuous fencing to protect the existing trees within the “no disturbance area” during the construction period.
- By committing to provide through specific mention in EIS text and location on appurtenant mapping this “no disturbance area” within those portions of the Woodstock Commons development subject of the proposed Conservation Easement Agreement or other similar mechanism.

Upon submission by RUPCO on October 30, 2009, of a copy of the “*Partial Site Plan North / Modified Alt 3A*”, as then revised to September 1, 2009, to NYSOPRHP for its review, OPRHP superseded its conditional “No Impact” letter of July 9, 2009, with an unconditional “No Impact” letter dated November 18, 2009.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Cultural Resources, including both Archaeological and Historic Resources, to the maximum extent practicable.

Municipal and Franchise Utilities

The Woodstock Commons EIS addresses as follows the probable effects of the proposed development on Municipal and Franchise Utilities:

1. Portions of the Project Site lie within both the Woodstock Town Water District and the Woodstock Town Hamlet Sewer District. This circumstance provides the owner of the Project Site legal access to both municipal water and municipal sewer facilities subject to Town Board approval.
2. RUPCO intends to meet as an in-district user the water supply and sanitary sewage requirements of Woodstock Commons by installing on-site improvements and off-site connections to the municipal infrastructure.
3. The Woodstock Water District operates a Public Water Supply (*NY PWS No. 5503394*) and serves 743 customers (i.e. metered connections) within the hamlet of Woodstock and extending from the vicinity of Bearsville on its west to The Route 375 vicinity on its east. Portions of Project Site are located within the Water District and Woodstock Commons will utilize the Water District as its sole potable water supply source.

The Water District secures its water supply from drilled gravel wells in the western portion of the District near the Saw Kill. As indicated in the Engineer's Report these wells have a reported estimated combined capacity of 575 gallons per minute (GPM) and estimated total safe yield of 400 GPM. On the basis of this estimated total safe yield of 400 GPM and based upon 12 hours, or 720 minutes, of well pumping per day, the estimated daily safe yield of the District's wells is reported to be 288,000 GPD.

The estimated daily safe yield of 288,000 GPD is more than twice the Water District's reported 2005 estimated average demand of approximately 140,000 gallons per day (GPD), as set forth in the most recent annual drinking water quality statement (2005) for the District.

More recently, in a letter of January 29, 2007, Kevin Hunter, Town Water/Sewer Superintendent, advised of a current average water demand of approximately 150,000 GPD and indicated the safe yield of the District's wells to be about 300,000 GPD. With respect to any deficiencies in the present system, Mr. Hunter reported on efforts to detect and repair leaks in the distribution system and re-calibrate the pump house meters, and stated his opinion that

"The key to maintaining an ample water supply to accommodate future needs for now appears to be chasing down leaks in the almost sixty year old system."

Water storage exceeding NYSDOH standards is provided by a 1,000,000 gallon storage tank near the Bearsville pump houses, along with two (2) separate 200,000 gallon and 300,000 gallon storage tanks located near the northern end of the water system in the vicinity of the intersection of Meads Mountain and California Quarry Roads.

The Water District's distribution system consists of approximately 8.25 miles of 6", 8" and 12" water main throughout the District. In the vicinity of the Project Site, an 8" water main is located on Whites Lane approximately 285 feet north via Playhouse and Whites Lanes of the proposed entrance roadway to Woodstock Commons and is the intended point for connection of a water main installed by the Project Sponsor to the Water District's facilities.

Based upon a domestic water and fire flow water distribution model analysis of the Water District's facilities previously undertaken by the Town Engineer, Brinnier & Larios, P.C., it is understood that adequate pressure is maintained throughout the system during domestic flow (average daily and peak) conditions, with the estimated pressures at the nearest node to Woodstock Commons (being the proposed connection point) between 91 and 103 pounds per square inch (psi), consistent with Mr. Hunter's observation that

"The average pressure in the Playhouse Lane area is around 90 psi".

The Brinnier & Larios analysis however indicated that providing a residential fire flow of 750 GPM within the Water District would be limited by the existing water main size within the District, specifically the existing 6" water main along NYS Route 212. The analysis conducted at 750 psi resulted in some existing pressures falling below 20 PSI, which is the minimum required pressure to be maintained for a residential fire protection system based upon "Ten States Standards". The pressures at the nearest node to the Project Site were however reported above 20 psi under this scenario. Therefore, the fire demand capacity at the site is estimated to be in the range of 500 to 750 GPM.

4. The Woodstock Commons development will be served as an in-district user by the facilities of the Town of Woodstock Water District. Water supply to accommodate the 53-unit residential development program subject of the *Refined Modified Alternative 3A Site Plan* will be provided commensurate with Woodstock Commons' estimated average daily water demand of 12,500 GPD (this figure being reduced from 16,500 GPD under the *Original Site Plan*) within the limits of the safe yield of the District's existing wells. More specifically, the provision of domestic water service to Woodstock Commons will increase average daily water demand within the District by 8.2% to 162,500 GPD and consume 9.1% of the District's safe yield residual supply of 138,000 GPD (being the lower of the 138,000 GPD and 150,000 GPD estimates cited above).

Except for the intended point of connection to the Water District's facilities to the east of the Project Site on Whites Lane, the average daily water supply demand of 12,500 GPD can be readily accommodated without any improvements or upgrades to the municipal water system.

5. The principal water system improvement installed within Woodstock Commons will be a looped water main with hydrants, valves and service connections for distribution of water supply throughout the developed portion of the Project Site. A single master meter for the entirety of the combined 53-unit senior and family rental communities, including caretaker's unit, all as managed by RUPCO, will also be installed at a location readily accessible from the principal entrance roadway. The water main will extend along the Woodstock Commons access driveway, being sleeved in a casing where passing under Ferguson Brook, and connect off-site to the Water District's existing 8" water main located on Whites Lane.

The intended on-site water improvements, and the off-site connection to the municipal distribution, treatment and supply facilities, will comply with all applicable standards for design and operation as administered by the NYS Health Department, the NYS Department of Environmental Conservation and the Ulster County Health Department.

Once the water improvements are operational, water rent (based on metered sales) will be paid by the owner of the 53-unit senior housing and family rental community in accordance with the schedule uniformly established by the Town Board for all in-District water customers.

In addition, sprinkler systems will be employed in Building Types "C", "C1" and "D", as depicted on the *Modified Alternate 3A and Refined Modified Alternative 3A Site Plans*, to supplement the fire flow capability of the municipal water system. This is in accordance with Town of Woodstock review and the August 16, 2007, determination by Cheryl A. Fischer.

Assistant Director for Code Interpretation, New York State Department of State.

6. The Woodstock Hamlet Sewer District operates an effluent (liquid only) sewer system serving approximately 412 users within the hamlet of Woodstock. The Project Site is located within the Hamlet Sewer District and Woodstock Commons will collect and pre-treat its sanitary sewage, i.e. removing solids within on-site septic tanks which must be pumped out periodically as a matter of routine maintenance, and direct the remaining liquid sewage to the Sewer District's existing facilities for further conveyance and treatment at the Town's Wastewater Treatment Facility.

In the area immediately to the east of the Project Site sewage flows in a 4" sewer main along Edgewood Lane from east to west to a manhole at the intersection of Playhouse Lane and Edgewood Lane, at which location a sanitary force main installed by the Project Sponsor will connect to the Hamlet District's existing facilities. From this manhole sewage is discharged through a 6" diameter sewer main along Playhouse Lane and three (3) sanitary sewer manholes before reaching the larger sewer main along NYS Route 212. From NYS Route 212 the sewer main flows, via gravity, downgrade toward the Woodstock Waste Water Treatment Facility located along Route 212 between Easton Lane and Zena Road.

The Waste Water Treatment Facility (WWTF) is the subject of *NYSDEC State Pollutant Discharge Elimination System (SPDES) Permit NY 010 9711* and can be referred to as *DEC ID No. 3-5158-00034/00002*. The *SPDES Permit*, as last reissued on October 1, 2006, with an expiration date of September 30, 2011, authorizes the District to discharge to the Saw Kill from the WWTF a 30 day monthly average of 230,000 gallons per day (GPD) of treated effluent.

Examination presented in the EIS of monthly *Waste Water Operations Reports* for the Waste Water Treatment Facility indicates an average daily treated sewage flow of approximately 102,000 GPD, this being 44.4% of the 230,000 GPD discharge authorized under the WWTF's *SPDES Permit*.

7. The Woodstock Commons development will also be served as an in-district user by the Woodstock Hamlet Sewer District. Accommodation of the sanitary sewage flows generated by Woodstock Commons under the 53-unit residential development program subject of *Refined Modified Alternative 3A Site Plan* by the Woodstock Hamlet Sewer District will increase sewage flow to the Waste Water Treatment Facility by an estimated 10,000 GPD (this figure being reduced from 13,500 GPD under the *Original Site Plan*). The provision of sanitary sewage service to Woodstock Commons will increase average daily sewage flow within the District by 9.8% to 112,000 GPD and consume 7.8% of the District's residual authorized effluent discharge of 128,000 GPD.

Except for the intended point of connection to the Sewer District's facilities to the east of the Project Site at a manhole at the intersection of Edgewood and Playhouse Lanes, the average daily sewage flow of 10,000 GPD can be readily accommodated without any improvements or upgrades to the municipal sanitary sewage system.

8. The principal sanitary sewage system improvements installed within and adjacent to Woodstock Commons will be the following:
 - Sanitary sewer pipe connections conveying sewage between buildings and 6 septic tanks, to filter the raw sewage and remove solids to meet the requirements of Town's "liquid only" system.
 - Sanitary sewer mains and manholes conveying the liquid sewage from the septic tanks by gravity to a sewage pumping station located on the Woodstock Commons site.
 - A sanitary force main with cleanouts extending from the sewage pumping station along the Woodstock Commons access road, passing through a portion of designated wetland and underneath Ferguson Brook, and then along the westerly edge of Playhouse Lane to an existing manhole at the intersection of Playhouse and Edgewood Lanes.

Woodstock Commons' sewage will then discharge through the connecting manhole to the existing 6" sanitary main and flow into the existing municipal sewer system and ultimately to the Town of Woodstock Waste Water Treatment Facility (WWTF) where the sewage will be treated.

The intended on-site sanitary sewer collection facilities, and the off-site connection to the municipal sewage conveyance and treatment facilities, will comply with all applicable standards for design and operation set forth within *Recommended Standards for Waste Water Treatment Works ("Ten States Standards")* as administered by the NYS Department of Environmental Conservation and the Ulster County Health Department. As set forth in the EIS, Installation of the sanitary sewer main through a portion of wetland area will require authorization by the United States Environmental Protection Agency (EPA) Regional Administrator pursuant to a special condition related to EPA Construction Grant C-36-798 as received by the Town of Woodstock about two decades ago in the matter of construction of its Hamlet Sewer District facilities.

Once the sanitary sewers become operational, sewer use charges will be paid by the owner of the 53-unit senior housing and family rental community in accordance with the schedule uniformly established by the Town Board for all in-District sewer customers.

9. Central Hudson Gas & Electric Corporation (Central Hudson) and other franchise utilities, including Verizon and Time Warner, provide electric, telephone, CATV and fiber optic internet services both to adjacent residential and commercial properties and throughout the hamlet of Woodstock in accordance with Public Service Commission regulations and franchise requirements.

Central Hudson has stated in a November 3, 2005, letter to the Project Engineer:

“The purpose of this letter is to respond to your request about electric availability on Playhouse Lane in Woodstock for the Woodstock Commons project. There is an existing primary distribution line that extends up Playhouse Lane from Tinker Street that has sufficient capacity to supply service to this project.”

The Project Sponsor has since relocated the proposed electric service to the west side of the Project Site, and will access Central Hudson Poles off Elwyn Lane, in order to mitigate potential impacts the stream and wetland areas.

Detailed project planning with Central Hudson for accessing electric power and with franchise communications providers typically occurs following Preliminary Site Plan Approval by the Planning Board.

All such installations will be in accordance with the requirements of the local franchise agreements and regulations promulgated by the NYS Public Service Commission, including but not limited to standard Easement Agreements facilitating utility service to the Project Site.

The Project Sponsor will seek no waiver of applicable standards, including all requirements for underground facilities within the Project Site except where the installation of overhead facilities may serve as mitigation of environmental impacts to streams or wetlands, and anticipates none will be requested by the franchise utilities.

10. The *Modified Alternate 3A Site Plan* reduces commensurate with the reduction from 63 dwelling units to 53 dwelling units the anticipated user demand on franchise utilities and services while incorporating no modifications in site design or building layout that would affect the ability of the service providers to extend their facilities to the Woodstock Commons site.

As depicted on the *Grading & Utility Plans for Refined Modified Alternative 3A* franchise utilities are now intended to be carried as overhead facilities into Woodstock Commons from Elwyn Quarry Road, which has also been judged

by CHG & E to be a viable point of connection, a distance of approximately 77 feet to a single pole and then installed underground throughout the development.

This re-location from both the *Original Site Plan* and the *Alternate 2 and 3 Site Plans* to a location on the west of the Project Site mitigates the visual and other environmental effects during construction and continuing line maintenance of carrying overhead facilities from Playhouse Lane for a distance of approximately 300 feet across Ferguson Brook and adjacent low-lying floodplain and forested wetland areas

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Municipal and Franchise Utilities to the maximum extent practicable.

Community Facilities and Services

The Woodstock Commons EIS addresses as follows the probable effects of the proposed development on Community Facilities and Services, including consideration of Private Organizations and/or Volunteer Services:

1. Under the *Original Site Plan* and its associated 63-unit residential development program an initial projection of the total resident population within the Woodstock Commons development was prepared based upon demographic multipliers set forth by housing type, bedroom count and state within the Rutgers University Center for Urban Policy Research (CUPR) June 2006 publication *Residential Demographic Multipliers, Estimates of Occupants of New Housing*. This projection indicates a total resident population of 159 persons, including 26 senior residents and 42 school-age children, will reside in the 63 dwelling units at Woodstock Commons. 128 persons would reside within the 53-unit senior and family rental communities and 31 persons would reside within the 10 owner-occupied homes.

An alternate calculation based upon the “occupancy density range” set forth for the intergenerational community in an application to the New York State Division of Housing and Community Renewal indicates a total of 172 persons, including 30 senior residents, 26 school-age children and 10 pre-school-age children would reside within Woodstock Commons.

In consideration of these alternate methodologies, the evaluation of probable effects on Community Facilities and Services, as well as the related

consideration of Fiscal Impact, assumed a total population under the Original Site Plan within the overall range of 159 to 172 persons, but did in the interest in presenting a conservative analysis, employ 42 as the projected number of school-age children.

2. Under the *Refined Modified Alternative 3A Site Plan* and its associated 53-unit residential development program employ of the same alternate methodologies for projecting the resident population of Woodstock Commons results in a total population of between 128 and 141 persons, including 34 school-age children, 29 of whom would be expected to attend public schools.
3. The anticipated proportional demand caused by these residents on such Community Facilities and Services as public schools, fire protection, emergency medical services, police protection, recreation, highway maintenance, town library, other Town general government or special assessment district services, as well as private organizations / volunteer services, has been examined within the EIS.
4. While there will typically be a commensurate loss of residual capacity, there is no significant requirement for expansion experienced in these Community Facilities and Services and no significant adverse impact with respect to these services has been identified.
5. Mitigation will occur in the form of the real property tax levy on the Woodstock Commons development at the level statutorily authorized in consideration of the applicability of Section 581-A of the Real Property Tax Law of the State of New York (RPTL) to affordable rental housing and the payment of special district user charges, as noted in the above discussion of Municipal Utilities, in accordance with uniform schedules established by the Town Board.
6. While the development of Woodstock Commons is not anticipated to have a substantial impact on private organizations and/or volunteer services in the community, the residents of Woodstock Commons will add to the pool of potential workers and/or volunteers for these organizations, including but not limited to the well-elderly residing in the 20 senior housing units. To the extent any specialized services are required for the Woodstock Commons rental population, including those who may be disabled and residing in certain "set-aside units", coordination will be provided by RUPCO as discussed in the EIS and in referenced applications for funding submitted to the NYS Division of Housing and Community Renewal.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Community

Facilities and Services including Private Organizations and Volunteer Services to the maximum extent practicable.

Community Character

The Woodstock Commons EIS addresses as follows the probable effects of the proposed development on myriad aspects of Community Character, with below paragraphs 1 through 4 citing technical discussion initially set forth in the Draft EIS and paragraphs 5 through 20 citing the principal components of a more “planning sense” discussion in the Final EIS. These later paragraphs were in response to the Planning Board directives (as provided below) upon its completion of review of the Draft EIS:

“In addition to the discussion (or cross-referenced information) on neighboring land uses and densities, recreation/open space considerations, aesthetic, visual and safety issues presented in the Community Character section of the Draft EIS, presentation of ‘discussion in the Final EIS referring readers to other community character issues addressed in the DEIS, namely (1) reference to the traffic impact and historic resources study conducted, (2) reference to data on Woodstock’s current housing developments and the need (if any) for the type of housing offered, (3) the ‘sustainability’ of the project and its adherence to smart growth principles, (4) the adherence of the preferred alternative to the zoning code and (5) the effect of the proposal on local social institutions’.”

1. The existing aesthetic and visual resources of the Project Site have been described within the EIS under the caption “Natural Resources”, including but not limited to consideration of the site’s topography, its surface water resources and its terrestrial ecology. Many of these existing resources are also seen on the existing condition photographs discussed in the section entitled, “Visual Character”, and set forth in the *“Visual Assessment Report / Woodstock Commons”*.

The potential impacts of development of Woodstock Commons on these visual and aesthetic resources are likewise both detailed throughout the EIS and shown in the post-development photo-simulations presented in the *“Visual Assessment Report”* incorporated within the Draft EIS and that additional visual analysis set forth within the Final EIS, both as related to the Hasbrouck House and in terms of a night-time simulation of view experienced

looking from Playhouse Lane into Woodstock Commons along its principal access roadway.

2. The overall pattern of land use within the vicinity of the Project was earlier discussed in the summary of "Land Use, Zoning and Public Policy", with among others mention of the following adjacent land uses:
 - The Bradley Meadows neighborhood shopping plaza and a Cumberland Farms convenience store to the south within a commercial area along NYS Route 212 (Mill Hill Road) including the Woodstock Playhouse, a convenience store, a drug store, banks, restaurants, mixed residential/commercial uses and other retail businesses.
 - Residential uses to the east, typically single-family dwellings located on individual lots, ranging upward from approximately ½ acre and primarily within a late 1950's and 1960's residential subdivision along Playhouse Lane, Plochmann Lane and Whites Lane.
 - Residential uses and mixed residential/commercial uses to the west, including a New York State Office of Mental Retardation & Developmental Disability Group Home, Hasbrouck House premises, single-family dwellings, an art gallery and a dentist office.
 - Sparse residential use with heavily forested land predominant to the north.

Within this context the Project Architect conducted an inventory of existing structures within four developed 7.5-acre land areas lying adjacent to the Project Site (i.e., the commercial / residential area to its west, the commercial and gateway commercial areas to the south, and the residential area to the east). He then prepared an illustration, "*Relative Densities & Building Counts of Existing Neighborhood & Proposed Housing*", depicting the above four areas and comparing them to a fifth 7.5-acre area, the portion of the Woodstock Commons development intended to be occupied by buildings.

The Project Architect opined that the comparison of existing adjacent development and the intended Woodstock Commons development indicates the proposed residential development is substantially consistent with the land use pattern and densities where development has occurred within its environs:

- A total of between 10 and 18 structures (average of 14.5 structures) are located within the four areas of existing development. By comparison 12 structures proposed within the comparable 7.5-acre developed portion of Woodstock Commons.

- A total of between 26,925 square feet and 44,387 square feet of building footprint (average of 35,540 square feet of building footprint) are located within the four areas of existing development, with 39,214 square feet proposed within the comparable 7.5-acre developed portion of Woodstock Commons.
 - Building coverage of between 8.2% and 13.6% exists within the four areas of existing development, with building coverage of 12.0% proposed within the comparable 7.5-acre developed portion of Woodstock Commons.
3. The Project Site is private land and, with the exception of opportunity for observation of its natural features from beyond its boundaries, provides no open space or recreational opportunities, for any party other than the owner and the Project Sponsor. However, upon completion of the Woodstock Commons development open space and recreational opportunity will exist on the Project Site for the residents of Woodstock Commons, their guests, their neighbors and the entire Woodstock community. More than 16 acres in the southerly portion of the site will be permanently conserved open space land traversed by a network of interpretive nature & fitness trails providing access for pedestrians and bicyclists.
 4. The Project Sponsor, having conducted both a *“Phase 1 Environmental Site Assessment”* and a *“Survey Report: Explosive and Flammable Hazards”* has no knowledge of any safety issues present within the Project Site or in its immediate vicinity.
 5. As first noted earlier In this Findings Statement under “Cultural Resources”, the cultural resource investigation set forth within the Draft EIS and the Visual Assessment Study found compositely in the Draft EIS and the Final EIS which upon review by NYSOPRHP caused SHPO to determine that the Woodstock Commons development would have “No Adverse Impact” on the cultural / archeological or historic / architectural resources within or adjacent to the Project Site that either might be, or have been determined to be, eligible for listing on the National Register of Historic Places.
 6. As noted earlier in this Findings Statement under “Cultural Resources”. the *“Visual Analysis Exhibits”*, which in particular addressed the presence of an adjacent property, the Jonathan Hasbrouck House, deemed eligible upon resource evaluation by NYSOPRHP for inclusion on the National Register of Historic Places and the related commitment by the Project Sponsor to implement required mitigation measures as stated by NYSOPRHP within its conditional “No Impact” letter of July 9, 2009, were found acceptable by NYSOPRHP and so stated within NYSOPRHP’s subsequent letter of November 18, 2009.

7. In the matter of population and distribution, RUPCO's Woodstock Commons project site consists of a total of 28.026 acres with an overall resident population of between 128 and 141 persons forecast based on either the 53-unit *Modified Alternate 3A Site Plan* or *Refined Modified 3A Site Plan*. This total population translates to an average of between 4.5 and 5.0 persons per acre of land area permanently committed through site plan and conservation easement to the development. As to distribution, the concentration of resident persons within the 9.640--acre developed portion of Woodstock Commons translates to between 13 and 15 persons per acre.
8. As noted earlier in the "Land Use, Zoning and Public Policy" section, when the intensity of land use is defined as a measure of the extent to which a land parcel is developed in conformity with the local zoning ordinance, then the proposed density (i.e. number of units) is much less than allowed under the Zoning Law. Calculations show that over 300 units could be permissible on a 28.026 acre lot when Town sewer and water are available. Alternatively, if standard land-use classification systems such as Anderson are applied, the intensity of the use, (i.e. multi-family housing) is of less intensity than the commercial uses to the south and of similar or greater intensity than the residential and mixed uses to the east and west, based on the Project Architect's findings on density noted above and Planning Board observation of contiguous development patterns. The proposed use is also of equal or less intensity than other uses permitted as-of-right within the R1.5 District, including churches or places of worship; municipal police, fire and rescue squad stations; medical or dental clinics and municipal garages.
9. As noted earlier in this Findings Statement under "Traffic and Transportation", RUPCO has engaged in continuing discussion with the owner of the planned Woodstock Commons premises, EVK Realty, LLC, regarding the reservation of a pedestrian easement by the latter across a portion of the Bradley Meadows shopping plaza. The applicant will provide this easement so as to permit pedestrian/bicyclist traffic to connect between the trail network proposed within the Woodstock Commons and the public sidewalks along Mill Hill Road in the center of the hamlet.
10. Complementing the earlier examination of "safety considerations", an analysis was conducted of the potential for Karst topography at the Woodstock Commons premises, with Charles Merguerian, PhD, concluding in a report dated August 26, 2008, and entitled "Geological Conditions and Potential for Karst, Woodstock Commons Development" that "geomorphic signs of karstic terrain" are not found in the Woodstock area.
11. The Planning Board has taken note of the general observation by a party commenting on the Draft EIS that "...SEQRA regulations define 'environment' as the physical conditions that will be affected by a proposed action, includingexisting community character or neighborhood character", it is noted that

the elements of the physical environment evaluated in the Draft EIS pursuant to the EIS Scoping Document issued by the Planning Board are legion, including but not limited to, among natural resources, geology, soils and topography, groundwater and surface water resources, terrestrial ecology, and agricultural resources, and among man-made resources, land use, visual character, traffic and transportation, cultural resources, municipal and franchise utilities, and community facilities and services.

12. In the matter of land use, an expanded discussion of “Land Use, Zoning and Public Policy”, updated to reflect both the recent codification of the Town of Woodstock Zoning Law and the adoption of the Town Wetlands Law, occurs within the Final EIS.

Among other matters, this discussion sets forth the classification of the Woodstock Commons development as a “multi-family use”, which use is permitted within the R1.5 District subject to, among other reviews, the issuance of a special use permit.

The Planning Board further takes notice of certain case law submitted by the Project Attorney within the Final EIS in relating this circumstance to the matter of Community Character as follows:

“The inclusion of a use in a zoning law as a special permit use is tantamount to a legislative finding that the permitted use is consistent with a community’s general zoning plan and will not adversely affect the neighborhood. Retail Property Trust v. Zoning Board of Appeals of the Town of Hempstead, 98 NY2d 190 (2002), Wegmans Enterprises, Inc. v. Lansing, 72 NY2d 475 (1988).

The designation of a use as a special permit use further results in a strong presumption in favor of the use, Cove Pizza, Inc. v. Hirshon, 61 AD2d 210 (2d Dept. 1978) and constitutes a per se finding that the use is in harmony with the neighborhood. Pilato v. Zoning Board of Appeals of the Town of Mendon, 155 AD2d 864 (4th Dept. 1989).”

The above notwithstanding, the Planning Board understands its obligations under SEQR to mitigate significant impacts to the environment to the maximum extent practicable and that the cases referenced also note that failure of an applicant to adhere to all general and specific special use standards as prescribed by local law would be grounds for denial of the special use permit.

13. In the matter of urban design, the Project Architect’s has responded within the Final EIS to the mitigation requirements of the Planning Board throughout the

project review that massing be decreased, units be eliminated, and open space be preserved as follows:

“From an ‘urban / rural design standpoint’, the Woodstock Commons development conforms to the scale, style and mass of both village and town structures: residential detailing, one- and two-story structures, primarily four-unit buildings that are no larger than many single family residences. The distribution, orientation and scale of the buildings are designed to create a pedestrian-friendly and slower trafficked village setting, with trees and open areas similar to those found in Upstate New York and New England towns.”

14. In the matter of socioeconomics, an earlier listing in this Findings Statement of the “Benefits” of the Woodstock Commons development, includes the availability of the affordable housing units to address (in part) the community’s affordable housing needs, substantial construction period and limited post-development employment, additional purchasing power within the community, the conservation of significant open space, and the presence of an additional user to share in the costs of operating and maintaining the Town’s Hamlet Wastewater and Water Districts.

Due to existing site conditions (i.e., vacant land), the development of Woodstock Commons will not result in the displacement of any existing housing opportunities or commercial establishments.

The below discussion in this Findings Statement of “Fiscal Impact” summarizes the analysis presented in the EIS of the proposed development’s fiscal impact. This analysis takes into account the presence of NYS Real Property Tax Law Section 581-A which establishes New York State criteria that must be followed by the Town, County and School District in levying real property taxes on residential rental projects including not less than 20% of the units as affordable housing units.

A discussion has also been presented within the EIS and this Findings Statement on the projected impact of the proposed development on “Private Organizations; Volunteer Services” and notes the following:

“The development of Woodstock Commons is not anticipated to have a substantial impact on private organizations and/or volunteer services in the community and none of these organizations have expressed any reservation in delivering whatever services may be required by the ... residents. In addition, the residents of Woodstock Commons will add to the pool of potential workers and/or volunteers for these organizations, including but not limited to the well-elderly residing in the 20 senior housing units.

To the extent any specialized services are required for the Woodstock Commons rental population, including those in certain 'set-aside units', coordination will be provided by RUPCO ... ”.

15. As noted earlier in this Findings Statement in the discussion of “Traffic and Transportation”, a TIS describing the existing setting, projecting probable effects, and recommending appropriate mitigation measures to address impacts on vehicular traffic, pedestrian traffic and public transportation traffic associated with the development of Woodstock Commons, both during the construction period and upon its occupancy, is set forth within the EIS.
16. In the matter of noise, attention is directed to the discussion of noise set forth within the EIS, including acknowledgment of the applicable noise standards set forth within Article V, Section 260-29A (former Section 5A-1) of the Town’s Zoning Law for land uses within a residential district and, while such noise standards would not be applicable to construction period noise, acceptance as reasonable certain mitigation measures with respect to noise during the construction period proposed by the Planning Board, these having been earlier listed within this Findings Statement under “Air and Noise”.
17. In the matter of lighting, attention is directed to acknowledgment within the EIS of the applicable lighting standards set forth within Article V, Section 260-29C (former Section 5A-3) of the Town’s Zoning Law and the night-time simulation RUPCO has presented of the appearance of the Woodstock Commons development from in front of 16 Whites Lane, in the immediate vicinity of its entrance roadway at the intersection of Playhouse and Whites Lanes under a leafless seasonal condition, the result of this night-time simulation being as reported earlier within this Findings Statement under “Visual Impact”:

This night-time simulation completed in December 2009, illustrates the more prominent foreground view of the entrance roadway’s bridge spanning Ferguson Brook and the distant view of lights, principally being from interior light passing through windows of the residential dwelling units.

As a mitigation measure the lighting at the roadway entrance at Playhouse Lane has been reduced in foot-candles and the light poles interspersed throughout the Woodstock Commons project have been lowered to minimize the potential for bright lights.

18. In the matter of reference to data on Woodstock’s current housing developments and the need (if any) for the type of housing offered, attention is directed to the discussion of “Public Need” set forth earlier in this Findings Statement.

Included therein is not only a summary of twenty or so years of study and dialogue on the topic within Woodstock but also reference to a recently issued report entitled **A Three County Regional Housing Needs Assessment: Ulster, Orange and Dutchess Counties From 2006 to 2020.**

Moreover, as is supported by examination of the record, requirement for additional affordable housing opportunities within the Town of Woodstock was cited by many of those commenting on the EIS, including many of those who stated opposition to the development of Woodstock Commons.

19. In the matter of the “sustainability” of the project and its adherence to smart growth principles, RUPCO and its LEED-certified Project Architect have, as discussed in detail in the EIS, designed Woodstock Commons as a “green building” project in both its construction and its long-term maintenance. By virtue of its location Woodstock Commons represents an exercise in “smart growth”; the proposed location is near the hamlet center of Woodstock and, being situate within the Town’s Hamlet Wastewater and Water Districts, benefits from both legal and physical access to existing municipal sanitary sewer and water systems. Further the project provides for the long-term protection through conservation easement of NYSDEC Wetland WT-12 and its Adjacent Area, this wetland designated as a Critical Environmental Area by the Town.
20. In the matter of the adherence of the preferred alternative to the zoning code, attention is directed to the conformance without exception of the proposed Woodstock Commons development with all pertinent provisions of the Town’s Zoning Law related in general to the R1.5 District and specifically to the development of “multi-family dwellings” therein
21. In the matter of the effect of the proposal on local social institutions, the Woodstock Commons development will create additional housing opportunities for those who might contribute as members of the community to its local social institutions, including but not limited to its volunteer and civic organizations, its religious organizations, its social clubs and its arts-related endeavors. Particularly significant in this respect is the preference that will be afforded RUPCO to the rental of 12 of the Woodstock Commons units to those active within the “creative arts”.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential impacts on Community Character to the maximum extent practicable.

Fiscal Impact

The Woodstock Commons EIS addresses the probable Fiscal Impact of the proposed development as follows:

1. In consideration of the projected resident population cited earlier in the discussion of “Community Facilities and Services” projections based upon accepted proportional methodology of the fiscal impact of the increased demand for services on the Town of Woodstock, the Onteora Central School District and the Ulster County community caused by the development of Woodstock Commons are presented, with this data provided for both the 63-unit residential development program consisting of the caretaker’s unit, 52 rental housing units (20 senior units and 32 family units) and 10 owner-occupied units, and the modified 53-unit residential development program consisting of the caretaker’s unit and the 52 rental units (20 senior units and 32 family units).

Application of this accepted “worst case” methodology has included the following calculations:

- An estimate of the real property taxes that would be paid by RUPCO upon the development of Woodstock Commons and a calculation of the net increase that would occur over and above the real property taxes presently levied on the Project Site.
 - In consideration of the respective budgets of the Town of Woodstock, the Onteora Central School District and Ulster County, estimate of both the overall increased expenditures that would be incurred by these jurisdictions and the amount that would be anticipated to be borne by required increase in real property tax revenue.
 - In consideration of the required increase in real property tax revenues and the present level of real property tax revenue generated, projection of an increased tax rate for the jurisdiction.
2. Under either residential development program the analysis indicates the anticipated proportional costs for meeting the projected increased demand for public services will exceed the net additional real property tax revenues generated by the Woodstock Commons development.

This circumstance is principally due to the applicability of Section 581-A of the Real Property Tax Law of the State of New York (RPTL) to the 52 affordable rental units within Woodstock Commons under either of the residential development programs.

3. The analysis indicates the following in the case of the 63-unit residential development program which underpinned the *Original Site Plan* and its related resident population of 159 to 172 persons, including 42 school-age children, 36 of whom would be expected to attend public schools:
 - For the Town of Woodstock additional proportional projected real property tax supported expenditures exceeding by between \$80,236 and \$87,704 net additional real property tax revenue, which as a stand-alone factor would require a compensating increase of between 1.46% and 1.60% in the combined Town-wide (General, Highway, Fire and Library) real property tax rate.
 - For the Onteora School District additional proportional projected real property tax supported expenditures exceeding by \$548,622 net additional real property tax revenue, which as a stand-alone factor would require a compensating increase of 1.62% in the District's real property tax rate.
 - For Ulster County additional proportional projected real property tax supported expenditures exceeding by between \$38,753 and \$42,788 net additional real property tax revenue, which as a stand-alone factor would require a compensating increase of between 0.056% and 0.061% in the County's real property tax rate, this involving a negligible increase of about \$0.55 in the annual real property tax levy to the owner of a \$250,000 home in the Town of Woodstock..

Continuing the translation into actual real property tax dollars paid, the EIS calculates as \$57.59, or 1.28%, the increase in the total combined annual real property tax bills (Town, School District and County) for the owner of the \$250,000 home within the major portion of the Town of Woodstock served by the Onteora CSD upon development of Woodstock Commons under the 63-unit residential development program.

4. With respect to mitigation of the foregoing fiscal impacts, the analysis indicates the following in the case of the 53-unit modified residential development program underpins *Modified Alternate 3A* and *Refined Modified Alternative 3A Site Plans* and their related resident population of 128 to 141 persons, including 34 school-age children, 29 of whom would be expected to attend public schools:
 - For the Town of Woodstock additional proportional projected real property tax supported expenditures exceeding by between \$69,877 and \$77,345 net additional real property tax revenue, which as a stand-alone factor would require a compensating increase of between 1.27% and 1.41% in the combined Town-wide (General, Highway, Fire and Library) real property tax rate.

- For the Onteora School District additional proportional projected real property tax supported expenditures exceeding by \$455,931 net additional real property tax revenue, which as a stand-alone factor would require a compensating increase of 1.35% in the District's real property tax rate.
- For Ulster County additional proportional projected real property tax supported expenditures would be slightly more negligible, an additional annual real property tax levy of \$0.50 instead of the \$0.55 projected above in the case of the 63-unit residential development program.

Continuing the translation into actual real property tax dollars paid, the EIS calculates as \$48.78, or 1.08%, the increase in the total combined annual real property tax bills (Town, School District and County) for the owner of the \$250,000 home within the major portion of the Town of Woodstock served by the Onteora CSD upon development of Woodstock Commons under the 53-unit modified residential development program. These figures represent a reduction of \$8.81, or 15.3%, in the increase associated with the 63-unit residential development program.

5. Comparable effects will not occur with respect to special districts, i.e. the Town of Woodstock Water District and the Hamlet Sewer District, for Woodstock Commons will be subject to the same water rents and sewer rents as any other customers within these Districts. The payment of special assessment district charges are not affected by the presence of RPTL Section 581-A.

The new revenue created by the Woodstock Commons development for these Districts (which has been estimated to be in the range of 12% to 15% of current total water and sewer rents in the case of the *Original Site Plan* and 10% to 12% in consideration of the reduced residential development program underlying the *Refined Modified Alternative 3A Site Plan*) will likely exceed the per unit costs incurred due to lack of requirement for the construction or installation of any capital facilities to meet the additional demand and the presence of economies of scale in distributing fixed costs across a broader base.

In consideration of the above facts, the Planning Board finds that the Woodstock Commons development will avoid or mitigate potential Fiscal Impact to the maximum extent practicable in consideration of the applicability of Section 581-A of the Real Property Tax Law of the State of New York (RPTL) to affordable housing throughout the State such as the 52 affordable rental units within Woodstock Commons.

The Planning Board further notes that purely economic arguments have been disallowed by the courts as a basis for agency conclusions when developing Findings. Therefore, potential effects of a proposed project on factors such as property values are not environmental factors requiring mitigation. *East Coast Development Company v. Kay and Wal-Mart Stores v. Planning Board of the Town of North Elba* 238 AD2d 93 (3d Dept. 1998). Notwithstanding, the Planning Board has carefully reviewed Fiscal and Economic Impacts.

Economic Impact

The Woodstock Commons EIS addresses the probable Economic Impact of the proposed development as follows:

1. Economic analysis is presented in the EIS based on projected construction costs, with breakdown provided of labor and material components, including projection of FTE man-years of employment by RUPCO's construction management personnel, while a forecast of spending power within the community is provided based on the limited aggregate income of those who would be income-eligible to be residents of the Woodstock Commons development.
2. Under the *Original Site Plan* during the 16-18 month short-term construction period a projected total of 52 man-years of FTE ("full time equivalent") construction employment throughout various trades (heavy equipment operators, laborers, carpenters, masons, electricians, plumbers, etc.) would have been directly generated by the construction of the Woodstock Commons development. Some indirect benefits will also be realized, but the level and geography of these benefits is difficult to estimate with any accuracy.

During this short-term construction period approximately 15% less labor-related expenditure would occur under the *Modified Alternate 3A and refined Modified Alternative 3A Site Plans* when compared to the labor-related expenditure under the *Original Site Plan* with the projected man-years of FTE ("full-time equivalent") construction employment generated anticipated to be 44 instead of the 52 earlier projected.

3. During the short-term construction period some direct economic benefit will be experienced by local retail and service uses, generally commensurate with

the level of FTE construction employment, perhaps most notably the convenience mart / gasoline sales establishment in the vicinity of the Project Site and to some degree the long-established local hardware store. For the most part however materials used during the construction period are not routinely available at the retail and other business establishments within the hamlet (or elsewhere within the Town of Woodstock) and will be “imported” to the Project Site by suppliers elsewhere in Ulster County and throughout the region.

4. During the long-term operational period direct permanent employment generated by the Woodstock Commons development will consist of one full-time job, the on-site caretaker. There will also be administrative and clerical duties to be performed by RUPCO staff in managing the distinct senior housing and family housing components of the intergenerational campus which will result in additional FTE employment of two or three other person(s).
5. A positive economic effect on retail and other hamlet land uses will occur both in terms of the spending power of the 63 households within Woodstock Commons under the *Original Site Plan* (estimated to have aggregate household income of between \$1.6 and \$1.8 million at initial occupancy) and in the ability of these establishments to employ in either full-time or part-time positions persons who have been able to find through the development of Woodstock Commons affordable housing within the community.

During the long-term operational period the aggregate annual household income of the 53 households within Woodstock Commons will be approximately 20% less under the *Modified Alternate 3A* and *Refined Modified Alternative 3A Site Plans* when compared to the aggregate annual household income of \$1.6 to \$1.8 for the 63 households under the *Original Site Plan*. This greater than proportional reduction is caused by the elimination of the homeownership units with the highest income eligibility level (i.e. 80% of median income adjusted by household size) within Woodstock Commons. Accordingly, there will be an estimated \$320,000 to \$360,000 fewer dollars available that might be spent in part at retail and service users within the hamlet of Woodstock and its environs. However, this effect is outweighed by the benefits to the environment which will result from the reduction in the numbers of households as part of the mitigation for the Woodstock Commons project and as detailed herein.

6. The mitigation measures which have been incorporated in the design of the Woodstock Commons development as it has evolved from the *Original Site Plan* to the *Refined Alternative 3A Site Plan* have resulted in an overall project plan which addresses to the maximum extent practicable through both the preservation of vegetated buffers and conservation of other environmental resources and the location and design of buildings and other improvements

concern expressed by some that the presence of the Woodstock Commons development might adversely affect neighboring residential property values.

In addition, upon specific request of the Planning Board, RUPCO also secured an opinion letter from a local appraisal firm on the feasibility and relevance of producing a study on the proposed development's impacts on adjoining property values or of studying the impact of a comparable project on property values. Ms. Michelle Grinder of Valuation Consultants Incorporated advised RUPCO's Director of Community Development through the principal body of a letter set forth in its entirety within the EIS:

“As per our conversation concerning the impact of affordable housing developments on adjacent or nearby properties, it has been our experience as based on appraisals conducted by our firm in years prior to 2006, that affordable housing did not have a negative impact on the property values in the surrounding neighborhood assuming the project is well managed and maintained. Examples of such projects in Ulster County include the Birches at Saugerties in the Town of Saugerties; Chamber Court in the Town of Ulster; Birchwood Village in the City of Kingston; and Elsie's Meadow in the Town of Shawangunk. Given the residential market conditions over the past two years, the impact of such a project would become increasingly difficult to prove, as buyers' and sellers' motivations have been influenced by the significant decline in residential values. Additionally, there are limited new affordable housing projects being constructed in Ulster County, aside from senior housing. A feasibility study would most likely offer little proof of the direct impact of affordable housing projects on the surrounding community.”

In consideration of the above facts, The Planning Board finds that the Woodstock Commons development will avoid or mitigate potential Economic Impact to the maximum extent practicable and create beneficial Economic Impact. during both its short-term construction and long-term operational periods.

Alternatives Considered in the EIS

As required by the final Scoping Document the Draft EIS analyzed a series of Alternatives for the Project Site, including the “No Action” Alternative mandated under the SEQRA Implementing Regulations, and compared each to the *Original Site Plan*.

As to the “No Action” Alternative, the Lead Agency further emphasizes that the premises is privately owned and has been frequented by trespassers who have, at times, camped out, left waste and detritus and removed items thereon. The development will eliminate these occurrences. It is further noted that “No Action” is to be viewed in context, as developable lands will likely be developed in the future, irrespective of any current project. A building permit might be issued at any time without requirement for additional review for construction of a single-family dwelling as a permitted use of the land as a matter of right.

Included among the Alternatives considered were a number of “alternative layouts” to the *Original Site Plan* that addressed requirements set forth within the *Scoping Document* and determinations made during the Planning Board’s initial “completeness review” of July 19, 2007, of the preliminary Draft EIS that modifications to the original design were in the Planning Board’s view necessary to more fully mitigate environmental concerns. In addition, certain “design feature alternatives” were addressed, including but not limited to alternative site access, an alternative stream crossing location and the alternative development of an on-site sanitary sewage treatment facility.

Three of the “alternative layouts” presented were particularly noteworthy. Both the “*Comprehensively Revised Site Layout Plan / Alternate 3 Site Plan*” and the “*Alternate 3A Site Plan*” presented site layout, building configuration and other design modifications to address the Planning Board’s concerns within the context of the same 63-unit residential development program subject of the *Original Site Plan*. The “*Comprehensively Revised and Reduced- Scale Layout / Modified Alternate 3A Site Plan*”, expanded upon the site layout, building configuration and other design modifications presented in the *Alternate 3* and *Alternate 3A Site Plans* by eliminating the home ownership units, thereby reducing the overall residential development program from 63 dwelling units to 53 dwelling units and eliminating any requirement for subdivision plat approval by the Planning Board and creation of a homeowners’ association.

The related examination of the “design feature alternatives” confirmed principal access to Woodstock Commons should be provided from Playhouse Lane as originally intended; indicated the Ferguson Brook stream crossing should be shifted to the north from the location initially intended; and further indicated connection to municipal sanitary sewage facilities, legally as an in-district user and physically as readily accommodated, should occur and that the concept of constructing an on-site sanitary sewage treatment facility, although feasible, is not preferred.

The reduction in the intended residential development program which underpinned the presentation of the *Modified Alternate 3A Site Plan* was a direct response to the Planning Board's position throughout late 2006 and early 2007 that the overall scale of the proposed 63-unit housing community was too large and its overall density too high. The 10-unit reduction in the residential development afforded the Project Architect / Site Designer greater flexibility in placing the remaining 20-unit senior housing component, 32-unit family housing component, community building (with caretaker's unit) and maintenance building within the same overall development envelope as the *Alternate 3A Site Plan*, in fewer buildings (a total of 13 instead of 16 buildings) and at the general building locations established under the *Alternate 3* and *Alternate 3A Site Plans*. This reconfiguration provided for a less dense development pattern with a reduction in the massing of buildings, greater separation between buildings and increased land area for vehicular access and parking areas, pedestrian ways and a variety of passive and active open spaces, and required infrastructure.

As in the case of the *Alternate 3* and *Alternate 3A Site Plans*, the *Modified Alternate 3A Site Plan* continued to embrace each of the following design criteria as set forth by the Planning Board in its Scoping Document when setting forth the “Alternatives” with respect to site layout to be examined in the Draft EIS:

- Provision of greater separation of proposed development areas from Ferguson Brook to the north of the Project Site.
- Break down and reconfiguration of the senior building so that the massing and scale of the senior housing component is compatible with other buildings proposed on the site.
- Placement of the senior housing component at both a less visible location and one more distant from adjacent residential properties.
- Provision of a 100-foot buffer from the northern wetlands and “Elwyn Lane Extension” (actually Elwyn Quarry Road).
- Retention of existing trees along Elwyn Quarry Road.
- Modifications in project layout or configuration, or other circumstance that would either eliminate requirement for area variance(s), waiver(s) and/or subdivision or reduce the magnitude of any area variance(s) or waiver(s) that may be required.
- Modification of the design plan if warranted on the basis of consideration of alternative stream crossing(s).

Among the principal features noted in comparing the *Alternate 3A Site Plan* and the *Modified Alternate 3A Site Plan*, all of which have been continued in the instance of the *Refined Modified Alternative 3A Site Plan* subject of this Findings Statement, were the following:

- The intersections of the principal private access driveway with Playhouse Lane and the emergency access driveway with Elwyn Quarry Road remained at the same locations, with broader curve radii provided as required by the Town Building Inspector at both locations under the *Modified Alternate 3A Site Plan*.

The principal access roadway’s intersection with Playhouse Lane was maintained under the *Alternate 3A* and *Modified Alternate 3A Site Plans* approximately 270 feet to the north of the location depicted on the *Original Site Plan*, this relocation having been recommended by NYSDEC during a field visit on November 9, 2006, and subsequently endorsed by the ACOE.

The emergency-only access roadway’s intersection with Elwyn Quarry Road was maintained under the *Alternate 3A* and *Modified Alternate 3A Site Plans* approximately 550 feet to the north of the location depicted on

the *Original Site Plan*, this relocation having also been devised by the project team and endorsed by NYSDEC during its field visit in the interest of reducing the impact on NYSDEC Wetland WT-12 buffer by 0.422 acres and on the 100-year flood plain by 0.055 acre.

In that the location of the principal access roadway also serves as a utility corridor for routing connection to municipal infrastructure so as to avoid redundant wetland and other site disturbance, the access roadway at this location, in contrast to the location depicted on the *Original Site Plan*, increases by 270 feet the length of the sanitary force main to be dedicated to the Woodstock Hamlet Sewer District and reduces by 270 feet the length of the water main to be dedicated to the Town Water District. No demonstrable adverse effects have been identified as resulting from the sanitary sewer and water main changes.

- An increase in the width of the principal private access roadway, two-lane roadway, to 26 feet and incorporation of minimum turn radii of 30 feet occurred throughout the development under the *Modified Alternate 3A Site Plan* as required by the Town Building Inspector and Town Highway Superintendent in order to meet the aisle width requirements of Chapter 260-30B(4) of the Zoning Law and accommodate larger design vehicles.
- Maintenance of H-25 loading design criteria for the proposed Con-arch bridge crossing of Ferguson Brook which criteria is in excess of the H-20 loading design requirement for supporting construction vehicles, fire apparatus, busses and other heavy vehicles.
- A decrease in the width of the emergency access roadway to 16 feet occurred under the *Modified Alternate 3A Site Plan* with however, as recommended by the Traffic Engineer, a greater width of 19 feet provided for a distance of 50 feet from the 30' turn radius at Elwyn Quarry Road.
- A curvilinear roadway network was maintained throughout Woodstock Commons with the addition of a more accessible cul-de-sac configuration in the southwesterly portion of the development where the senior housing component is located under the *Modified Alternate 3A Site Plan*.

Other modifications depicted in the internal roadway network were some straightening of the private access driveway between the stream crossing and the interior roadway network, realignment of the internal roadway network to both meet the dimensional criteria established by the Building Inspector and Highway Superintendent and accommodate the relocated buildings and associated parking areas, and addition of marked raised crosswalks, ADA-compliant curb-cuts and other "pedestrian-friendly" features.

As determined by the Project Engineer the proposed roadway as configured is consistent with the minimum design standards and specifications set forth at Section 4.F of the Town's Land Subdivision Regulations for a minor road except in the instance of minimum radius of horizontal curvature and maximum length of vertical curves, for which a waiver has been requested in consideration of the areas of analysis set forth within Section 5.E.2 of said Regulations, (a) the adequacy of the proposed roadway with respect to public health; safety and general welfare, (b) the special circumstances of the particular roadway, and (c) the ability of service and emergency vehicles to gain unobstructed access via the proposed roadway throughout the Woodstock Commons development.

- In contrast to the *Alternate 3A Site Plan*, a majority of required off-street parking spaces were reconfigured under the *Modified Alternate 3A Site Plan* to be within parking areas instead of a perpendicular parking arrangement along the principal private access driveway.

More specifically, except in the less-traveled northwest corner of the development where 32 perpendicular parking spaces were provided under the *Modified Alternate 3A Site Plan*, provision of all other required parking spaces within Woodstock Commons occurred within off-street parking areas. This modification was requested by the Planning Board to eliminate the need to back out of the parking spaces onto the principal private driveway and to give precedence to pedestrian traffic.

- The provision of 109 off-street parking spaces under the *Modified Alternate 3A Site Plan* was established as not only compliant with the Zoning Law standard of two (2) parking spaces per dwelling unit within a multi-family development but additionally deemed by two independent traffic consultants retained by RUPCO, namely Philip J. Greal, Ph.D, P.E., of John Collins Engineers, and Kenneth Wersted, P.E., of Creighton Manning Engineering, as adequate for the proposed use.

The above notwithstanding, land areas are reserved under the *Modified Alternate 3A Site Plan* for installation of an additional 17 parking spaces if required to accommodate guests, these spaces configured within a 6-stall off-street parking area and as 11 parallel parking spaces.

- As in the case of the *Alternate 3A Site Plan* a stormwater management pond with adequate capacity to meet water quality and water quantity mitigation requirements was located in the central portion of the Project Site.
- Snow storage areas were depicted on the *Modified Alternate 3A Site Plan* as requested by the Planning Board and their location was reviewed by

the Project Engineer as to any potential conflict with the functioning of stormwater management facilities.

- The Community Building (the “D” Building) and its associated structured playground and parking areas are relocated under the *Modified Alternate 3A Site Plan* to a location adjacent to the Senior Housing as was recommended by the Woodstock Commission for Civic Design. As a further mitigation measure, the prior site of the Community Building under the *Alternate 3 Site Plan* was redeployed as a landscaped 0.83-acre park, or multi-purpose “community green” which could serve as an informal active recreation area. A 212 s.f. gazebo/bandstand would also be constructed here, serving a range of functions ranging from being a quiet sitting area to a focal point for musical performances.

The Community Building provides for a capacity of 79 persons, includes an Office and Caretaker’s Housing Unit, and would be served by an automatic sprinkler system. The Community Building is intended for the exclusive use of the tenants of Woodstock Commons; rules governing their private use of the Community Building will be refined as the project proceeds within the site plan review process but are intended to be quite similar, if not identical, to those governing use of the community facilities within RUPCO’s Park Heights development in Rosendale.

The Caretaker’s Unit would be occupied on a full-time basis by a superintendent employed by RUPCO. The live-in superintendent would be responsible for the day-to-day maintenance operations, utilities and energy plan for Woodstock Commons.

- The Senior Housing component (the two one-story 6-unit “C1” Buildings and the two-story 8-unit “C2” Building with RUPCO office, elevator and central stairway) instead of the single two-story 20-unit building depicted on the *Original Site Plan* was maintained in the southeasterly area of the Woodstock Commons development under the *Modified Alternate 3A Site Plan* though with greater building-to-building separation, additional conveniently-accessible parking, an enlarged pocket park and the introduction of other landscape amenities such as a vegetable garden and a flower garden. This complex of three buildings is located not less than 400 feet from the nearest neighboring residential property, that being a single-family dwelling on Playhouse Lane.

All three buildings will have a community room, mechanical room and HC-accessible rest room. An automatic sprinkler system, though not required under the Uniform Fire Prevention and Building Code for the one-story buildings, would be installed in each of the three senior buildings.

The configuration of the Senior Housing component continued, as in the case of the *Alternate 3 Site Plan*, to address a “problem area” noted by the Town of Woodstock Commission for Civic Design in its letter of February 10, 2006, in its capacity as advisor to the Planning Board, concerning the *Original Site Plan*:

“The proposed 2 story senior building, over 60 feet wide and 200 feet long is out of scale with the development site and the scale of smaller adjacent apartment buildings. CCD concerns are less with materials and roof form than with the proposed size and bulk of this building. It has the configuration of a ‘nursing home’. It is at odds with the intimate, clustered grouping of the other buildings.”

- The Maintenance Building (the “E” Building) was relocated under the *Modified Alternate 3A Site Plan* from its prior highly-visible location in the northeasterly portion of the development along the principal access driveway to a less prominent location previously occupied by a “B” Building (one of the Family Rental Housing dwellings) in the southwesterly portion of Woodstock Commons. The 474 s.f. Maintenance Building is of scale similar to a 2-car garage that might be found on residential premises.
- The 10-unit Family Homeowner component (the two “F1” Buildings and the “F2” Building) in the westerly portion of Woodstock Commons was eliminated under the *Modified Alternate 3A Site Plan*; 12 units of the 32-unit Family Rental Housing component (two “B” Buildings and an “A1” Building) were substituted there in similar footprint and with the same required 100-foot setback from the westerly property boundary as established by the Planning Board. This extraordinary setback provided opportunity for introduction of evergreen plantings nearer the dwellings to complement the retention of existing vegetation nearer Elwyn Quarry Road.
- 16 units of the 32-unit Family Rental Housing component (two “A1” Buildings and two “A2” Buildings) and associated off-street parking areas were relocated across the northerly portion of Woodstock Commons under the *Modified Alternate 3A Site Plan* within land area occupied under the *Alternate 3A Site Plan* by both 20 units of Family Rental Housing (the two “A1” Buildings, the two “A2” Buildings and a “B” Building) and the Maintenance Building (the “E” Building).
- The remaining 4 units of the 32-unit Family Rental Housing component (an “A2” Building”) were relocated within the south-central portion of Woodstock Commons to a land area occupied by 12 units of Family Rental Housing (an “A1” Building, an “A2” Building and a “B” Building) under the *Alternate 3A Site Plan* and proposed instead under the *Modified*

Alternate 3A Site Plan as the location for the Maintenance Building, the above-cited “A2” Building and the Community Building.

- Each of the proposed buildings and parking areas is set back a minimum of 10 feet from all wetland and stream course buffers, with this dimension expanded to 15 feet in the case of Senior Buildings “C1” and “C2”.
- An emergency access to the Senior Housing component is provided over “grasscrete” pavers in an area between the Community Center “D” Building and the “C1” Buildings.
- As a result of the modifications employed, as many as 14 of “heritage trees” within the developed portion of the Woodstock Commons Project Site, all of which would likely have been lost under the *Original Site Plan*, would likely be maintained under the *Modified Alternate 3A Site Plan*.
- As in the case of the *Alternate 3A Site Plan*, a 100-foot buffer from any disturbed area would be maintained to the Ferguson Brook and wetland areas to the north of Woodstock Commons, thus continuing to remove some 1.18 acres there from consideration as potentially developable area, whether for buildings, roadways, stormwater management facilities, or other improvements, in respect for preference expressed by the Planning Board.
- The proposed routing into Woodstock Commons for primary service electric and other franchise utility services would be re-directed from Playhouse Lane to Elwyn Quarry Road. Overhead lines would connect for a short distance of approximately 77 feet from an existing utility pole on Elwyn Quarry Lane to a proposed utility pole within the Project Site. Electrical (and other franchise) services will continue on from this on-site utility pole via underground trenching throughout Woodstock Commons.
- In addition to the Interpretive Nature & Fitness Trails, signage and site lighting, such other site appurtenances as mail boxes, covered bicycle racks and a bus shelter are depicted on the *Modified Alternate 3A Site Plan*.

During the course of preparation of this Final EIS and concurrent initiation of the site development plan review and special permit approval process by the Planning Board, the Modified Alternate 3A Site Plan (as such was termed in the Draft EIS) has been thrice refined through submissions of July 9, September 1 and December 11, 2009, to the Planning Board. In doing so the RUPCO project team has addressed comments received by the Planning Board on the Draft EIS,

responded to the requirements set forth by the Planning Board in its memoranda of April 30, November 24 and December 17, 2009, and addressed technical comments presented by the Planning Board's consultant, C.T. Male Associates, in draft on October 12, 2009, and in both final correspondence dated November 5, 2009, and a review letter of January 25, 2010, to Ms. Dara Trahan, Town Planning Specialist. The latest of the submitted materials constitutes the "*Refined Modified Alternative 3A Site Plan*" (as such was agreed to be termed by the Applicant and Planning Board) subject of both this Final EIS and the Planning Board's on-going site development plan review and special use permit approval process, including the Public Hearing held on September 24, 2009, which was recessed until January 14, 2010, whereupon additional testimony was taken and the public hearing was thereafter closed on January 21, 2010, relating to the same.

Adverse Effects That Cannot Be Avoided If Project Is Implemented

The development of Woodstock Commons is however not without the "adverse environmental effects that cannot be avoided if project is implemented".

Under the *Original Site Plan* these effects would have included the following:

- Land disturbance, involving site clearing and grubbing, grading and construction activities, will remove existing vegetative cover, disturb soils and modify topography within a maximum 9.680 acres of the Project Site.
- The above-cited land disturbance involving 8.692 acres of upland area beyond any regulated wetland buffer, and 0.988 acre of lowland area and related regulated buffer (in the case of NYSDEC Freshwater Wetland WT-12).
- Disturbance within the lowland area and related regulated buffer of NYSDEC Freshwater Wetland WT-12 consisting of the following:
 - 0.185 acre of NYSDEC Wetland WT-12.

- 0.789 acre of regulated 100-foot buffer of NYSDEC Wetland WT-12, and whatever additional buffer disturbance may be authorized by NYSDEC to carry out a wetland mitigation program accepted by the NYSDEC and the ACOE.
- 0.143 acre of FEMA-regulated 100-year floodplain.
- A crossing of Ferguson Brook, involving disturbance of 590 square feet (0.014 acre) of its stream bed and/or stream banks.
- 0.145 acre of federal jurisdictional wetland.
- Construction of buildings and the installation of other improvements resulting in the presence of 3.201 acres of impervious surface (rooftops and roadway, parking and sidewalks) and 0.181 acres of other less pervious surface (gravel roadways) within the 9.680-acre maximum disturbed area with the balance of 6.298 acres restored to a pervious condition as lawn, meadow or other landscaped area.
- Commensurate with the removal of existing vegetation cover, temporary loss of wildlife habitat within a maximum of 9.680 acres of the Project Site, including some 8.920 acres of forested area.
- Commensurate with the introduction of 3.382 acres of impervious and less pervious surface, long-term loss of wildlife habitat on this acreage, and conversion of wildlife habitat on the remaining 6.298 acres of maximum disturbed area from habitat associated with forested or early successional growth area to habitat associated with lawn, meadow and related landscaped areas.
- Avoidance of disturbance on not less than the 18.346 acres of the Project Site lying outside the maximum disturbed area, including 16.242 acres of the 17.230 acres lying within either the protected lowland area or on upland area within the regulated buffer 100-foot buffer on NYSDEC Wetland WT-12.
- Short-term and long-term visual effects associated with site development and project construction activities as well as occupancy of the housing community.
- Short-term effects on ambient noise levels associated with site development and project construction activities, short-term impact on adjacent roadways caused by construction related traffic and work associated with municipal utility connections, and potential for short-term turbidity in neighboring water supply wells, if any, caused by drilling of on-site geothermal wells.

As the Woodstock Commons development has evolved, there are, as cited within the plans, reports and other data set forth in the Final EIS, several modifications in these adverse environmental effects that would occur under either the *Modified Alternate 3A Site Plan* or the *Refined Modified Alternative 3A Site Plan* and their underlying 53-unit residential development program when compared to the *Original Site Plan* and its underlying 63-unit residential development program, these being:

- The portion of the Project Site within construction limit lines would be reduced to 9.640 acres, including commensurate reduction in maximum extent of removal of existing vegetation and wildlife habitat, displacement of existing soils and alteration of site topography.
- The extent of direct disturbance to ACOE jurisdictional wetland would be reduced to 0.102 acre.
- The extent of direct disturbance to NYSDEC Wetland WT-12 and its 100-foot regulated buffer would be reduced to 0.136 acre and 0.562 acre, respectively.
- The extent of short-term temporary disturbance to the streambed and stream banks of Ferguson Brook would be increased to 0.028 acre as a result of the improved stream crossing.
- The extent of overall project impervious surface created would be reduced from 3.382 acres to 3.338 acres.

Irreversible and Irretrievable Commitment of Resources

The development of Woodstock Commons is also not without certain “irreversible and irretrievable commitments of resources”, as cited in the below comparison of these commitments under the *Original Site Plan* and *Modified Alternate 3A* and *Refined Modified Alternative 3A Site Plans* based upon the plans, reports and other data set forth in the EIS:

- The amount of capital committed to project development would be reduced by approximately 15% to approximately \$11 million.
- Construction materials, labor and petrochemical energy resources committed, and consumed by, the work would be commensurately reduced.
- The extent of loss experienced of “heritage trees” would be reduced.
- The extent of loss experienced of existing DEC/ACOE wetland would be reduced from 0.185 acre to 0.136 acre.
- The loss experienced of residual capacity in existing highways and intersections within the vicinity of the Project Site would be reduced by approximately 23% in the AM Peak Hour due to 8 fewer vehicle trips and 17% in the PM Peak Hour due to 9 fewer vehicle trips.
- The loss experienced of residual treatment / effluent discharge capacity of the Woodstock Waste Water Treatment Facility under its SPDES Permit would be reduced by 4,000 GPD, or approximately 8%.
- The loss experienced of residual safe yield capacity of the municipal system’s water supply wells would be reduced by 4,000 GPD, or approximately 12%.
- The increased demand on most community facilities and services would be reduced by approximately 18% commensurate with the reduction in total projected resident population; the increased demand on public schools would be reduced approximately 20% commensurate with the reduction in the number of projected public school children.

Based upon the EIS and the project changes, the effects upon the foregoing resources have been mitigated to the maximum extent practicable.

Growth-Inducing Aspects

As in the case of the development of Woodstock Commons as a 63-unit residential community under the *Original Site Plan*, its development as a 53-unit community under the *Refined Modified Alternative 3A Site Plan* would not directly induce significant growth either in the vicinity of the Project Site or elsewhere throughout the Town of Woodstock that would not have otherwise occurred. This

Finding is made in consideration of the totality of the project review as analyzed within the EIS, and more specifically in the Community Facilities and Services and Fiscal Impact sections, and all documentation submitted of record. The proposed use serves to satisfy existing housing needs and it not anticipated to create additional needs as would a large-scale commercial or manufacturing use.

As set forth within the EIS, the Planning Board further finds that the Woodstock Commons project will not result in impacts which would rise to a level which would require catastrophic impact analysis and such analysis is not required.

Effects on the Use and Conservation of Energy

When compared to the 63-unit residential community under the *Original Site Plan*, the development of Woodstock Commons under the 53-unit *Refined Modified Alternative 3A Site Plan* would reduce the energy demand of Woodstock Commons by approximately 18%, roughly commensurate with the reduction in overall building square footage, and reduce the amount of solid waste generation by roughly the same percentage, in the latter case commensurate with the reduced resident population.

The Project Sponsors are seeking LEED certification of the proposed action and the Planning Board has reviewed and accepted the inclusion of ground source heat pump wells (geothermal technology).

Cumulative Effects

The Planning Board has considered the reasonably related long-term, short-term, direct, indirect and potential cumulative impacts, including other simultaneous or subsequent actions and has found there to be no reasonably anticipated

cumulative effects associated with the Woodstock Commons development unaddressed within the Draft EIS and/or Final EIS. In this regard, the Planning Board finds: (1) the development does not have significant common impacts with other proximate projects in the Town of Woodstock; and (2) the development is not included in a common plan or policy of other projects in the Town of Woodstock; and (3) other related projects in the Town of Woodstock have not been specifically identified and consequently cannot be related to the development.

Matters to Be Decided

The SEQRA / TWEQR Lead Agency acknowledges implementation of the Woodstock Commons project will require permits, approvals, waivers and/or compliance determinations from not only the Planning Board but also a number of other government agencies following completion of the Planning Board's environmental review process through issuance of this Findings Statement. Included among these permits, approvals, waivers and/or compliance determinations are various permits and approvals from other involved agencies. The SEQRA Implementing Regulations require that each other involved agency makes its own SEQR Findings prior to granting the requested permit or authorization. However, the SEQRA Implementing Regulations require that the Lead agency make its Findings first and do not allow another involved agency to make Findings or approve any aspect of the Proposed Action until the issuance of SEQR Findings by the Lead Agency.

In order to comply with the requirements of SEQRA, and properly respect the independent jurisdictions of the other involved agencies, while at the same time providing a mechanism to assure that the proper safeguards and mitigation discussed in the EIS are in place prior to final implementation of the Proposed Action, this Findings Statement acknowledges these other permits, approvals,

waivers and/or compliance determinations which will be either be completed by the Planning Board or treated as conditions of approval by the Planning Board.

These permits, approvals, waivers and/or compliance determinations are in addition to heretofore issued Interpretations by the Town Building Inspector, Section 239 GML review by the Ulster County Planning Board, advisory comments of the Woodstock Commission for Civic Design, consideration of intersection improvements by NYSDOT, and other non-permit determinations by agencies reviewing the project. Matters of financing approval, while essential to the implementation of the development and cited within the EIS, are not included for such matters are not within the purview of the Town except to the extent performance guarantees are required under applicable local laws and/or regulations.

Town of Woodstock Planning Board

- Completion of SEQRA and TWEQR Compliance
- Special Use Permit Approval
- Wetlands Permit Approval
- Waiver of Road Specifications
- Site Development Plan Approval

Town of Woodstock Town Board

- Acceptance of Sanitary Sewer Force Main on behalf of Hamlet Sewer District
- Acceptance of Water Main on behalf of Town Water District
- Acceptance of Public Access Easement
- Formation of Stormwater Management District (if required)
- Acceptance into the Town Lighting District of the applicant's infrastructure

Town of Woodstock Highway Department

- Highway Access Permit
- Highway Work Permit

Town of Woodstock Water and Sewer Superintendent

- Approval of Connections to Municipal Water and Sewer Facilities

Town of Woodstock Building Inspector

- Flood Plain Permit
- Sign Permit
- Building Permits
- Certificates of Occupancy

Ulster County Department of Health

- Utility Plan Review
- Water System and Sanitary Sewage System Improvements

New York State Department of Environmental Conservation

- Approval of Sanitary Sewage System Plans
- Freshwater Wetlands Permit
- Protection of Waters (Stream Disturbance) Permit
- Water Quality Certification
- SPDES General Permit for Stormwater Discharge
- Geothermal Well Review

New York State Office of Parks, Recreation and Historic Preservation

- Confirmation of “No Impact” Determination pursuant to Section 14.09 Inter-Agency Agreement

United States Army Corps of Engineers

- Federal Wetlands Nationwide Permits 29 and 39 and coordination with the United States Fish and Wildlife Service as to conditions

United States Environmental Protection Agency

- Approval by EPA’s Region 2 Administrator of hookup to federally-funded sewage treatment infrastructure or facility pursuant to special condition related to EPA Construction Grant C-36-798

Future Actions

Approval of the Woodstock Commons Findings Statement does not commit the Planning Board to any particular course of action with respect to future

development of the project site beyond what has been analyzed within the EIS and this document. Any future physical expansion of the Woodstock Commons project will require an independent and separate environmental review pursuant to SEQRA / TWEQR, unless the same is lawfully determined to be designated as a Type II Action, or an Exempt Action.

The Planning Board notes that there has been public controversy, both for and against the Woodstock Commons project, since its inception and that such controversy will persist following adoption of this Findings Statement. This type of controversy is ordinary, customary and to be expected in the Town of Woodstock and the determinations made within this Findings Statement have not been influenced one way or the other as a result of such controversy.

Public Consideration of the FEIS

The Planning Board has reviewed and considered the written comments received from involved agencies, interested agencies and members of the public during the March 4, 2010, through April 5, 2010, period for consideration of the FEIS and incorporates said comments within the Administrative Record and references the comments herein, as if fully set forth.

In this regard, the Planning Board received two (2) comments from regulatory agencies; the New York State Department of Environmental Conservation [Involved Agency] and the U.S. Fish and Wildlife Service [Interested Agency].

Neither of these agencies have noted that additional studies and/or data regarding the project was necessary from a substantive standpoint. No other involved or interested administrative agencies offered comments during the consideration period.

With respect to additional interested agencies and members of the public; a total of twelve (12) written comments were received. These comments were made by a total of six (6) individuals and one (1) public interest group, namely SAGE, in the form of a Memorandum prepared by Tim Miller Associates, Inc.

Based upon the Lead Agency's review of all of the comments received during the FEIS consideration period, the Lead Agency finds that none of the comments result in the identification of areas of environmental concern which would require substantive project modification or a change of circumstance requiring the Lead Agency to substantively modify the Decision to certify, adopt and issue the Woodstock Commons Findings Statement.

In this regard, the public comments received addressed and were concentrated in the following relevant areas:

- Project Descriptions and Affordability.
- Ecology and Biology.
- Land Use, Zoning and Public Policy.
- Transportation.
- Cultural and Historic Resources.
- Municipal and Franchise Utilities.
- Community Facilities and Services.
- Community Character.
- Fiscal Impacts.
- Visual Impacts.
- Stormwater and Flooding.
- Wetlands [State, Federal and Local].
- Noise.
- RUPCO Corporate / Company Structure.
- Traffic Roadway and Parking Impacts.
- Conflicts of Interest.
- Artist Qualifications.
- Architectural Details.
- Accessory Structures.
- Missing FEIS Appendices.
- Endangered Species, Threatened Species and Species of Special Concern.
- Additional Mapping.
- Neighboring Property Effects.

- Alternative Sites.
- Scoping Document Ignored.

The Planning Board finds that each of the foregoing areas has been comprehensively examined during the 4 ½ years of environmental review of the Woodstock Commons project and that impacts associated therewith have been adequately addressed and/or mitigated to the maximum extent practicable as set forth within the EIS and this Finding Statement.

The Planning Board recognizes that there is not unanimity of opinion as to all of the potential environmental effects of the Woodstock Commons project. However, after some fifty-five (55) months of review, thousands of pages of studies/analysis, over forty (40) public meetings, various public hearings, review by involved/interested agencies and public participation [both pro and con] on a scale rarely seen before in the Town, the Planning Board has determined to issue the SEQRA / Findings Statement upon the Administrative Record.

Conclusions / Recommendation to Approve

In issuing this Findings Statement, the Planning Board, as SEQRA / TWEQR Lead Agency, has carefully examined and given due consideration to the record relating to the Woodstock Commons development, including the DEIS, the FEIS, the numerous exhibits and appendices incorporated therein, the public and agency comments thereon, and such other communications as comprise the administrative record. In this process the Planning Board has also given due consideration to laws, policies and planning objectives of the Town of Woodstock, Ulster County, the State of New York and Federal agencies as identified herein. In so doing, the Planning Board has weighed and balanced the potential environmental impacts with social, economic and other conditions relating to the Woodstock Commons development.

This Findings Statement is the result of a long and demanding environmental review and the Planning Board accepts that there has been public controversy related to the intended Woodstock Commons development for numerous reasons as stated in the record. The Planning Board has carefully addressed each of the substantive concerns which have been identified with respect to the intended Woodstock Commons development, mitigated environmental impacts to the extent the Planning Board deemed practicable, including but not limited to requiring the pursuit of an Alternative Site Plan, the *Modified Alternate 3A Site Plan*, and a reduced 53-unit residential development program instead of RUPCO's *Original Site Plan* and/or its associated 63-unit residential development program, and found the resulting *Refined Modified Alternative 3A Site Plan* and an associated 53-unit residential development program to be consistent with local land use policy, SEQRA / TWEQR and applicable law.

The Planning Board further understands this one housing development is not the panacea that will address (due to the number of units it can deliver or the tenant eligibility requirements that must be met) all of the community's needs for more affordable housing stock. The proposed development of Woodstock Commons is however an important step to providing affordable housing within the Woodstock community.

After thorough consideration, the Planning Board finds the Woodstock Commons development, as set forth on the *Revised Modified Alternative 3A Site Plan* and based on its underlying 53-unit residential development program consisting of a caretaker's unit, 20 senior housing units and 32 family housing units, to be a reasonable and viable alternative. Implementation of the Woodstock Commons development will be required to be consistent with the cited Site Plan and Special Use Permit requirements and will incorporate the mitigation measures detailed previously in these Findings. Accordingly, the Planning Board finds that the adverse environmental effects of the Woodstock Commons development, as

revealed in the DEIS and the FEIS, and as set forth within the record thereon, will be avoided or minimized to the maximum extent practicable.

Certification of Lead Agency Findings to Approve

In consideration of the foregoing, the Town of Woodstock Planning Board, as duly confirmed SEQRA / TWEQR Lead Agency for the Proposed Action, hereby certifies the following:

1. The relevant environmental impacts, facts and conclusions disclosed in the Final EIS have been considered;
2. the relevant environmental impacts have been weighed and balanced with social, economic and other considerations;
3. a rationale has been provided for the agency's decision;
4. the requirements of Title 6 Part 617 NYCRR have been met; and
5. consistent with the social, economic and other considerations from among the reasonable alternatives thereto, the action proposed for approval is one that avoids or minimizes adverse environmental effects, as disclosed in the EIS, to the maximum extent practicable, and
6. consistent with the social, economic and other essential considerations, from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

