# *State Environmental Quality Review Act (SEQRA)*
# *Findings Statement*

## *Highland Creek*
## *Planned Development District*

Town of Brunswick, Rensselaer County, New York

SEQRA Lead Agency: Town Board, Town of Brunswick
336 Town Office Road
Troy, New York 12180

DATE: May 11, 2006

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## 1. DESCRIPTION OF ACTION

Landmark Development Group, LLC ("Applicant") has made application to the Town of Brunswick Town Board pursuant to Article III, Section 10 of the Zoning Ordinance for the Town of Brunswick for a Planned Development District ("PDD") known as "Highland Creek".

The Highland Creek PDD site totals 210.5 acres. This is compliant with Article III, Section 10 of the Zoning Ordinance, which requires the site proposal for planned development to be at least ten (10) acres. The site is located on McChesney Avenue Extension, approximately 3,000 feet easterly from the intersection of McChesney Avenue and McChesney Avenue Extension. The project site is bounded by the following properties:

- On the south – McChesney Avenue Extension;
- On the north – Lands now or formerly of Smith, Howard, Guzzo, Layman, O'Malley, O'Connor and Purcell;
- On the east – Lands now or formerly of Flynn, Tomaro, Guzzo, and Sun Dog Realty, LLC;
- On the west – Lands now or formerly of National Grid, Balascio, Smith, Duncan, Baker, and Morse.

The applicant is proposing to develop the project site with three types of residential single family homes. These include carriage homes, traditional homes and manor homes. The project proposal includes a total of 170 residential lots, distributed by type of residential home as follows:

- 126 carriage home lots are proposed. The concept design for the carriage homes calls for single family detached homes designed for the "empty nester" owner, who desires to have a single family detached home but also desires a smaller lot with less exterior grounds maintenance. The minimum lot width at the building setback is 55 feet, and the minimum lot width depth is 125 feet. The front yard building setback for these lots is 20 feet. The rear yard setback for these lots is 15 feet. The minimum distance between structures on these lots is 15 feet.
- 31 traditional residential lots are proposed. The concept design for the traditional single family residential lots calls for single family homes ranging in size from 1,800 to 3,200 square feet with attached two car garages, and are designed to appeal to the first time and move up home buyer. The minimum lot width at the building setback line is 90 feet, the minimum lot depth is 120 feet. The front yard building setback for these lots is 30 feet. The rear yard setback is 25 feet minimum.
- 13 manor home residential lots are proposed. The concept design for the manor home residential lots calls for one story and two story single family homes, ranging from 2,000 to 3,500 square feet, and are designed to appeal to the luxury/high end home buyer. The minimum lot width at the building setback line is 100 feet, and the minimum lot depth is 130 feet. The front yard setback for these lots is 40 feet. The rear yard setbacks for these lots is 25 feet minimum.

The project also includes the creation of a Homeowners Association, whereby each lot owner within the Highland Creek project will be a member of the Homeowners Association. Approximately 151 acres of the total 210+/- acres of the project site will remain common open space, and will be owned by the Highland Creek Homeowners Association. Within the Homeowners Association common areas, a series of walking trails, picnic area and gazebo are planned. Aside from these site amenities, the Homeowners Association common open space will be restricted to prohibit any additional structures or development,

including further subdivision. This common open space will remain as green, undeveloped open space, and will be restricted to such use. This common open space will be subject to a conservation easement. The common open space totals approximately 74% of the project site.

All lots will have frontage on a new public roadway to be constructed in connection with the project. All road improvements include 26 foot wide roadways, with 2-foot wing gutters on each side of the road.

All lots will be provided with service hookups including public water, public sewer, electric, gas, telephone, and cable television.

## 2. SEQRA AND MUNICIPAL REVIEW PROCEDURE ON PDD APPLICATION

Landmark Development Group, LLC ("Applicant") submitted an application for a Planned Development District ("PDD") with the Town of Brunswick pursuant to Article III, Section 10 of the Zoning Ordinance of the Town of Brunswick. As originally filed, the PDD application sought approval for a 206 lot residential subdivision, consisting of 74 traditional single family homes, 20 manor homes, and 112 carriage homes, located on the 210+/- acre project site. In connection with the Highland Creek PDD application, Applicant filed a Full Environmental Assessment Form pursuant to the State Environmental Quality Review Act ("SEQRA") and its implementing regulations at 6 NYCRR Part 617.

The Town Board, upon receipt of the PDD application and Full Environmental Assessment Form, determined to undertake a coordinated environmental impact review pursuant to the SEQRA Regulations at 6NYCRR §617.6(b)(3). Toward that end, the Town Board prepared a Notice of Intent to Establish Lead Agency pursuant to SEQRA, and adopted that Notice pursuant to Resolution of April 14, 2005. The Notice identified the SEQRA involved agencies on the action, which include:

- Town of Brunswick Town Board, attention: Patrick Poleto, Councilman
- Town of Brunswick Planning Board
- Rensselaer County Health Department
- Rensselaer County Sewer District
- Rensselaer County Highway Department
- New York State Department of Environmental Conservation
- New York Office of Parks, Recreation and Historic Preservation
- New York State Department of Transportation
- U.S. Army Corps of Engineers

The Notice of Intent to Establish SEQRA Lead Agency was served upon all involved agencies on the service list on April 15, 2005.

The Town Board also directed that a copy of the PDD application and Full Environmental Assessment Form be forwarded to the Brunswick Planning Board and Brunswick Zoning Board of Appeals for their respective review and recommendation. Pursuant to Article III, Section 10 of the Zoning Ordinance, the Town Board is required to forward the PDD application to the Zoning Board of Appeals for its review and recommendation. As a courtesy, and as the Planning Board must review the detailed site plan and/or subdivision plat in the event the PDD is approved, the Town Board also forwarded the PDD application to the Planning Board for its initial review and recommendation.

A copy of the PDD application and Full Environmental Assessment Form were also sent to the Rensselaer County Department of Economic Development and Planning for County review pursuant to New York State General Municipal Law. The referral to the County Planning Agency was required as the project site is within 500 feet of a County highway (McChesney Avenue Extension is a County highway, owned and maintained by Rensselaer County).

The Town Board received written responses from all involved agencies to the Notice of Intent to Establish SEQRA Lead Agency. No involved agency objected to the Town Board assuming Lead

Agency status. Therefore, pursuant to a Resolution adopted May 12, 2005, the Town Board established itself as Lead Agency pursuant to SEQRA on the review of the Highland Creek PDD action.

Also by Resolution dated May 12, 2005, and upon complete review of the application materials and information contained in the Full Environmental Assessment Form, and in consideration of technical review of the application and SEQRA materials by the Town Board's consulting engineers, the Town Board adopted a positive declaration pursuant to SEQRA on the Highland Creek PDD action, determining that there may be significant adverse environmental impacts as a result of the action, warranting further investigation and review.

To determine all significant potential adverse environmental impacts requiring further investigation on this action, the Town Board determined to conduct public scoping for this action pursuant to 6NYCRR §617.8. According to 6NYCRR §617.8(b):

> If scoping is conducted, the project sponsor must submit a draft scope that contains the items identified in paragraphs 617.8(f)(1) through (5) of this section to the Lead Agency. The Lead Agency must provide a copy of the draft scope to all involved agencies, and make it available to any individual or interested agency that has expressed an interest in writing to the Lead Agency.

In compliance with the stated SEQRA Regulation, the applicant submitted a draft scope to the Town Board, listing issues to be studied in the Environmental Impact Statement ("EIS") for this action. The Town Board served a copy of the draft scope upon each member of the Brunswick Planning Board, each member of the Brunswick Zoning Board of Appeals, the Town Highway Department, the Town Water Department, and upon the following involved and interested agencies:

- Rensselaer County Department of Health
- Rensselaer County Highway Department
- Rensselaer County Sewer District
- Rensselaer County Department of Economic Development and Planning
- New York State Department of Environmental Conservation
- New York State Department of Health
- New York State Office New York State Department of Parks, Recreation and Historic Preservation
- New York State Department of Transportation
- United States Army Corps of Engineers
- Brittonkill Central School District (Brunswick)
- Center Brunswick Fire Department
- Brunswick No. 1 Fire Department
- Speigletown Fire Department
- Mountain View Fire Department
- Eagle Mills Fire Department

The Town Board also made a copy of the draft scope available for public review and inspection at the Office of the Town Clerk and at the Brunswick Community Library.

In addition, the Town Board served a Notice to all owners of real property within 500 feet of the project site that the draft scope was available for public review and inspection at the Office of the Town Clerk and the Brunswick Community Library, and that the Town Board would receive public comment on that document.

Written comments were received and reviewed by the Town Board concerning the adequacy of the draft scope. The Town Board undertook the review of all written comments received, and also forwarded a copy of all comments received to the applicant.

In response to the comments received on the draft scope, the applicant submitted a revised scope to the Town Board for review and consideration. The Town Board undertook to review the revised scope, both as to adequacy and completeness of response to public comments received.

On July 14, 2005, by Resolution, the Town Board adopted the Final SEQRA Scope for this action. A copy of the Final SEQRA Scope was distributed by the Town Board to all involved and interested agencies to which the draft scope had been sent. The Final SEQRA Scope was also placed in the Office of the Town Clerk and the Brunswick Community Library.

Given the adoption of the positive declaration and final scoping document pursuant to SEQRA, the Town Board sent letters to both the Brunswick Planning Board and the Brunswick Zoning Board of Appeals, stating that supplemental information would be received on the application pursuant to SEQRA, and that such information should be incorporated into each respective Board's review and recommendation on the PDD application. The Town Board also sent a letter to the Rensselaer County Department of Economic Development and Planning stating that additional information would be received through the SEQRA process, and that such information should be included in the County review pursuant to the General Municipal Law.

On or about October 7, 2005, the applicant submitted a Draft Environmental Impact Statement ("DEIS") for review by the Town Board. This preliminary DEIS was reviewed by the Town Board, and its legal and technical consultants, for adequacy and completeness in relation to the SEQRA Final Scope.

As discussed in the DEIS, the Applicant revised its project to reduce the total number of residential units to 190. The proposed lots and road system were distributed on 75+/- acres, constituting approximately thirty six (36%) percent of the project site. The remaining 135+/- acres, or approximately sixty four (64%) percent of the site, was to remain protected open space to be owned and maintained by the Homeowners Association.

Pursuant to Resolution dated November 10, 2005, the Town Board accepted the Highland Creek DEIS as complete and adequate for public review and inspection pursuant to 6NYCRR §617.9(a)(3). The Town Board adopted a Notice of Completion of DEIS and Notice of SEQRA Hearing, establishing a public hearing date on the DEIS and PDD application for November 28, 2005. A copy of the Notice of Completion of DEIS and Notice of SEQRA Hearing was sent to the following agencies:

- Town of Brunswick Planning Board
- Town of Brunswick Zoning Board of Appeals
- Rensselaer County Health Department
- Rensselaer County Highway Department
- Rensselaer County Sewer District
- Rensselaer County Department of Economic Development and Planning
- New York State Department of Environmental Conservation
- New York Office of Parks, Recreation & Historic Preservation
- New York State Department of Health
- New York State Department of Transportation
- U.S. Army Corps of Engineers
- Mountain View Fire Company
- Brunswick No. 1 Fire Company
- Center Brunswick Fire District
- Eagle Mills Fire District
- Speigletown Fire Company
- Brittonkill Central School District (Brunswick)
- Environmental Notice Bulletin

Also, a Notice of Public Hearing was prepared by the Town Board, both with respect to the DEIS and PDD application. That Public Hearing was posted on the notice board at the Brunswick Town Hall, as

well as posted on the Town's website. The Notice of Public Hearing was also published in the Record, the official newspaper for the Town of Brunswick. Further, a notice of the public hearing was sent to all owners of real property within 500 feet of the project site.

In addition, a complete copy of the Draft Environmental Impact Statement, including all Appendices, was provided by the Town Board to every member of the Brunswick Planning Board, every member of the Brunswick Zoning Board of Appeals, the Town Highway Department, the Town Water Department, the Town Assessor's Office, the Town Building Department, the Town Historian, and also upon the following agencies:

- Rensselaer County Health Department
- Rensselaer County Highway Department
- Rensselaer County Sewer District
- Rensselaer County Department of Economic Development and Planning
- New York State Department of Environmental Conservation
- New York Office of Parks, Recreation & Historic Preservation
- New York State Department of Health
- New York State Department of Transportation
- U.S. Army Corps of Engineers
- Mountain View Fire Company
- Brunswick No. 1 Fire Company
- Center Brunswick Fire District
- Eagle Mills Fire District
- Speigletown Fire Company
- Brittonkill Central School District (Brunswick)

Additionally, a complete copy of the DEIS, including Appendices, was made available for public review and inspection at the Office of the Brunswick Town Clerk and the Brunswick Community Library.

The Town Board opened the public hearing on the Highland Creek PDD application and DEIS on November 28, 2005. A stenographer was retained by the Town Board, and a stenographic transcript of the public comments received was prepared. A motion was made by the Town Board at the November 28, 2005 public hearing to keep the public hearing open, and to continue the public hearing on December 29, 2005.

The Town Board then prepared a Notice of Public Hearing for the continuation of the public hearing on the Highland Creek PDD application and DEIS to be held on December 29, 2005. Such Notice of Public Hearing was again published in the Record, the official newspaper for the Town of Brunswick, and posted on the Town website, and also posted on the notice board at Town Hall. Additionally, notice of the public hearing scheduled for December 29, 2005 was sent to all owners of real property within 500 feet of the project site.

On December 29, 2005, the Town Board continued the public hearing on the Highland Creek PDD application and DEIS, and received additional public comment. The Town Board again retained a stenographer for this public hearing, and a stenographic transcript was made.

At the December 29, 2005 public hearing, the Town Board closed the public hearing. At that time, the Town Board established a written comment period to continue through and including January 20, 2006, for the receipt of additional written comments on the Highland Creek PDD application and DEIS.

A notice of the written comment period on the Highland Creek PDD application and DEIS was prepared by the Town Board, which was posted at Town Hall and on the Town website. The public hearing transcripts were made available for public review as soon as they were available to the Town Board, and were available for review and consideration during the written comment period. This notice of written comment period was also sent to all owners of real property within 500 feet of the project site.

Written comments were received by the Town Board through and including January 20, 2006. These comment letters were reviewed and considered by the Town Board. In addition, a complete copy of the public hearing transcripts and written comments were forwarded to the applicant.

On February 16, 2006, the Brunswick Planning Board adopted its recommendation on the Highland Creek PDD application. While acknowledging the benefit of a clustered residential development to maintain open space, the Planning Board recommended, in part, that the total number of residential units should be reduced. The full recommendation was forwarded to the Town Board.

On March 20, 2006, the Brunswick Zoning Board of Appeals adopted its recommendation on the Highland Creek PDD application. The Zoning Board of Appeals concluded that the proposed project is consistent with other uses in the neighborhood, and will not have an adverse impact on the character of the community. The Zoning Board of Appeals also concluded that the clustered development proposed in Highland Creek to be fully consistent with the Town's Comprehensive Plan. The full recommendation was forwarded to the Town Board.

The Applicant prepared and submitted a Final Environmental Impact Statement ("FEIS") to the Town Board for review and consideration. The FEIS was reviewed by the Town Board, and also its legal and technical consultants. In response to comments received on the DEIS from the public as well as the Planning Board, and also in response to comments raised by the New York State Department of Environmental Conservation, the Applicant further reduced the project to a total of 170 residential units, and reduced the total amount of proposed roads for the project. The Applicant's reduction of proposed residential lots from the initial 206 to 170 represents an 18% reduction. The proposed lots, and road system are now distributed on 54+/- acres, constituting approximately twenty six (26%) percent of the project site. The protected open space to be owned and maintained by the Homeowners Association is increased to 151+/- acres, or approximately seventy four (74%) percent of the project site. The Town Board determined that the changes to the project incorporated by the applicant did not warrant an additional public hearing.

By Resolution dated April 13, 2006, the Town Board accepted the Highland Creek FEIS as complete, and adopted the same for this action. The Town Board prepared a Notice of Completion of FEIS, and served the same upon all involved agencies. The Notice of Completion of FEIS was published in the Environmental Notice Bulletin.

The Town Board made the Highland Creek FEIS available both in hard copy and electronic format. Hardcopy of the Highland Creek FEIS was made available for public review and inspection at the Brunswick Town Clerk's Office and the Brunswick Community Library, with complete copies of the FEIS, including Appendices, made available at both locations by April 18, 2006. In addition, an electronic format of the Highland Creek FEIS was made available on the Town of Brunswick website, at www.townofbrunswick.org, on April 18, 2006. Pursuant to the SEQRA Regulations at 6 NYCRR §617.11(a), the Town Board allowed the requisite 10 day period for receipt of comment on the Highland Creek FEIS to run through and including May 1, 2006. Notice of the acceptance of the FEIS and establishment of the comment period was posted at the Brunswick Town Hall, and also posted on the Town of Brunswick website.

Written comments on the Highland Creek FEIS have been received and considered by the Town Board.

In addition, the Town Board is in receipt of the written review and recommendation by the Rensselaer County Department of Economic Development and Planning concerning the Highland Creek PDD application. The Notification of Zoning Review Action received from Rensselaer County raises no objection to the proposal, and concludes that the Highland Creek PDD action does not have a major impact on County plans and that local consideration shall prevail.

## 3.0 LAND USE AND ZONING

### 3.1 Existing Land Use of the Project Area

The project site totals 210+/- acres. The project area is presently used as a working farm, with farm fields and a farm complex. The site also contains large areas of natural vegetation in the form of woodlands, meadows and a large wetland area along the Sweet Milk Creek.

The farm operation exists on approximately 54+/- acres of the total site.

### 3.2 Surrounding Land Uses

Land uses surrounding the project area within one-quarter mile radius include the following:

- ROUSE Senior Housing Complex, which includes multi-unit apartment buildings for low income senior housing.
- Sugar Hill Apartments, which includes multi-unit apartment buildings available to the general public. The Sugar Hill Apartment Complex is an approved Planned Development District in the Town.
- Commercial properties along Route 7, including the existing Walmart store and additional commercial lease space within the Walmart Plaza. The Walmart Plaza is also an approved Planned Development District within the Town.
- Single family residential homes located on McChesney Avenue Extension and McChesney Avenue.
- Agriculture uses.
- Brunswick Greens Golf Course.

The ROUSE Senior Housing Complex is located directly adjacent to the project site. The Sugar Hill Apartment Complex is located opposite the project site on McChesney Avenue Extension. Finally, the Brunswick Greens Golf Course borders the site along the northern property line.

### 3.3 Brunswick Zoning Law

The entire project area is located within an A-40 Zoning District under the Zoning Ordinance and Zoning Map of the Town of Brunswick. According to the Zoning Ordinance, permitted uses within the A-40 Zoning District include construction of single family dwellings on a minimum lot size of 40,000 square feet.

The Zoning Ordinance provides for the creation of Planned Development Districts within the Town. Pursuant to Article III §10 of the Zoning Ordinance, land and buildings on property of at least 10 acres in size may be used for any lawful purpose as authorized by the Town Board upon application duly submitted for a Planned Development District. Article III §10 of the Zoning Ordinance requires the Town Board upon receipt of an application for a PDD, to refer said application to the Brunswick Zoning Board of Appeals for review and recommendation. The Zoning Board of Appeals shall make such recommendation and report the same to the Town Board. In addition, Article III §10 requires the Town Board to hold a public hearing on the PDD application.

Although not required pursuant to the Brunswick Zoning Ordinance, the Town Board also refers the PDD application to the Brunswick Planning Board for its review and recommendation as well. As a courtesy, and as the Planning Board must review the detailed site plan and/or subdivision plat in the event the PDD is approved, the Town Board makes such referral to the Planning Board.

In the event the PDD application is approved by the Town Board, the applicant must file with the Brunswick Planning Board a detailed site plan or subdivision application pursuant to the Site Plan or

Subdivision Regulations of the Town of Brunswick, as the case may be. Such application proceeds through the full municipal review process before the Brunswick Planning Board.

## 4.0 DEMOGRAPHY

The Town Board has investigated statistical demographic data for the Town of Brunswick prepared by the US Census Bureau, based on the 2000 US Census Data. The following information is based on information provided by the US Census Bureau from the 2000 Census.

The total population of the Town of Brunswick is 11,664 persons. The total population of persons aged 65 years and over in the Town of Brunswick is 1,771, constituting 15.2% of the Town's population. This compares with the National Average of 12.4% of the National Population being 65 years and older.

Further, the total population of Town residents 55 years and over is 2,896, which calculates to 24.8% of the Town's population.

When factoring in all residents aged 45 years and over within the Town, this demographic segment totals 4,827 residents, or 41.4% of the Town population.

The median age of all residents in the Town of Brunswick is 40.3 years.

The total housing units in the Town of Brunswick is 4,808. Of this total, 4,613 housing units are occupied, representing 95.9% of the housing stock in the Town. Of the total occupied housing units in the Town, 3,692 are owner occupied, representing 80% of the occupied housing stock in the Town. This compares with 66.2% of owner-occupied housing units nationally. Of the total occupied housing units in the Town, 921 units are renter-occupied, representing 20% of the total occupied housing units. This compares with 33.8% of renter-occupied housing units nationally.

Of the total number of housing units existing in the Town, 2,911 units were constructed prior to 1970. This represents 60.5% of the total housing stock in the Town of Brunswick.

On average, the household size in the Town of Brunswick is 2.52 persons.

According to the US Census Bureau profile of selected housing characteristics, 81.7% of all household units in the Town of Brunswick have a total of 2 vehicles or less.

## 5.0 FINDINGS CONCERNING RELEVANT ENVIRONMENTAL IMPACTS

The Town Board makes the following findings on relevant environmental impacts concerning the Highland Creek PDD application:

### 5.1 GEOLOGY

#### 5.1.1 Subsurface

A geotechnical engineering report was prepared and reviewed by the Town Board and its consultants.

There are extensive portions of the property underlain by the folded shale bedrock of the Schodack Formation. The depth to bedrock ranges from 0 inches where outcrops can be observed to more than 15 feet in the valleys and wetlands.

The shale bedrock of the Schodack Formation in Rensselaer County can typically be ripped to a depth of 1 to 2 feet. Areas of exposed bedrock are harder and may not be susceptible to removal by mechanical

means. The Applicant has stated that limited blasting may be required during construction activities in the event rock removal by mechanical means is not available.

**MITIGATION:**

The Town Board finds that rock removal by mechanical means must be utilized if mechanically feasible. In the event blasting is required, notice to the Town Building Department and consulting engineer must be made, both verbally and in writing, prior to any blasting activities. The following best management practices for blasting must be complied with:

1. All blasts will be designed and implemented in accordance with all applicable state and federal regulations.
2. A licensed expert blaster will perform all blasting.
3. Blasting will be scheduled to avoid adverse weather conditions such as strong, low level thermal inversions and thunderstorms.
4. All blast holes will be loaded and implemented under the direct supervision of an expert licensed blaster.
5. The blast area will be secured prior to each blast.
6. Blasting will be done between 10:00 a.m. and 5:00 p.m. Monday through Friday. No blasting will occur on weekends.
7. All blasts will be monitored with a properly calibrated seismograph.
8. Records of all blasts, including seismograph data, will be prepared and maintained by the Applicant and/or blasting expert, and made available to the Town upon request.
9. The Applicant will promptly and professionally respond to and investigate all complaints.

In addition, the Applicant shall offer to all property owners within 1500 feet of proposed blast areas, or as directed by the Town's consulting engineer and Town Building Department, the opportunity to have a pre-blast survey conducted by the Applicant for all structures located within such area. This offer must be made in writing, with records of such written offer and/or pre-blast survey to be maintained by the Applicant and made available to the Town upon request.

### 5.1.2 Soils

A soils report was prepared and reviewed by the Town Board and its consultants.

Most of the soils on the site are well to moderately well drained soils formed in gravelly, fine loamy glacial till deposits on slopes ranging from 0 to >25 percent slopes. At the north end of the property hard shale bedrock is typically less than 40 inches below the surface and in places there are significant areas of exposed shale bedrock outcrops.

The shallow soils (<20" deep) are Nassau silt loam. The moderately deep soils (20 to 40 inches deep) are Manlius silt loam soils.

Deep glacial till soils (>40 inches) on ridges and hillsides are mostly well drained Bernardston silt loam or moderately well drained Pittstown silt loam.

Somewhat poorly drained Scriba silt loam, poorly drained Alden silt loam and very poorly drained Alden mucky silt loam are in small depressions and drainage ways surrounded by glacial till uplands. These soils are formed in fine textured glacial till with typically a thick mantle of silty sediment on the surface.

There is some Hoosic gravelly sandy loam soil formed in coarse textured glacial outwash sediments in small valleys between the hillsides at the southern end of the property adjacent to the flood plains of the Sweet Milk Creek and its tributaries. Hoosic soils are very deep, well to somewhat excessively drained and occur mostly on gentle slopes.

Limerick soils are in the broad wetland and inundated flood plain in the northeast corner of the property. Limerick soils are very poorly drained and subject to frequent and prolonged flooding. Limerick soils also have inclusions of areas of muck and peat.

The Fluvaquent-Udifluvent areas are formed in recent alluvial sediments and are in the most active portions of the flood plain. The texture of the sediments and drainage class vary in different positions within the flood plain.

The property in the town of Brunswick is a complex area of deep and shallow loamy textured soils on slopes ranging from nearly level to very steep.

Most of the soils are formed in gravelly loam or silt loam deposits of glacial till. At the north end of the property the soils are shallow or moderately deep over shale bedrock. The shallow soil; Nassau silt loam (Na or Nr) are well to somewhat excessively drained soils 0 to 20 inches deep over shale bedrock. In some cases Nassau soils are mapped in a complex with moderately deep Manlius soils (NaB & NaC), in other cases they are mapped in complex with shale rock outcrops (NrC & NrD).

The moderately deep soil, Manlius silt loam are well-drained soils 20 to 40 inches deep over shale bedrock. Typically, Nassau and Manlius soils (NaB & NaC) occur in the landscape in such an intricate and complex pattern that they cannot consistently be mapped separately. Nassau and Manlius are typically moderately permeable in the topsoil and subsoil. The bedrock is an impermeable boundary condition.

The shale bedrock below the Nassau and Manlius soils can typically be mechanically ripped to a depth of 1 to 2 feet. Exposed bedrock outcrops are probably more resistant. Nassau and Manlius soils are in hydrologic group D. Both soils are no more than moderately erodible on gentle or moderate slopes. Erodibility increases on steeper slopes and in areas of disturbance.

The deep glacial till soils on the rolling or hilly uplands are mostly well drained, Bernardston silt loam. Bernardston soils are typically gravelly silt loam in the surface layer and upper part of the subsoil. In the lower subsoil and substratum the texture may be very gravelly. The substratum in Bernardston soil is typically a very firm fragipan (hard pan). Bernardston soils are moderately permeable in the upper layers and very slowly permeable in the very firm fragipan, typically at 25 to 35 inches below the surface.

Bernardston soils are in hydrologic group C. Bernardston soils are no more than moderately erodible on gentle or moderate slopes. Erodibility increases on steeper slopes and in areas of disturbance.

In a few of the toe slopes of the glacial till uplands there are areas of moderately well drained Pittstown soils. Pittstown soils are similar to Bernardston soils except the fragipan (hard pan) is typically at 18 to 24 inches below the surface in which case the impermeable boundary condition maybe considerably closer to the surface.

At the south end of the property approaching Sweet Milk Creek there are some broad areas of gently sloping to nearly level soils formed in sandy and gravelly glacial outwash material. These very deep, well-drained soils are Hoosic sandy gravelly loam (HoB, HoC). Where the Hoosic soils approach the edge of Sweet Milk Creek there is a steep terrace face (HoD & HoE).

Typically, Hoosic sandy gravelly loam soils are rapidly permeable throughout the profile.

Alden silt loam (AnA) is in drainage ways and depressions within the rolling and hilly glacial till uplands. Alden soils are either poorly or very poorly drained. Very poorly drained Alden soils have mucky surface layers. Most of the year Alden soils have a water table at or near the surface.

Scriba silt loam (SrA) occupies landscape positions in transition between the sloping uplands and the low lying wetlands on the project site. Scriba soils are similar to Pittstown soils but the fragipan and perched high water table is usually at 6 to 18 inches below the surface. Often Scriba soils on nearly level slopes have areas that are included as federally regulated wetland.

The remaining portions of the property are wetlands. In the northeast corner of the property there is a very broad area of Limerick silt loam (LmA). Limerick soils are poorly or very poorly drained and consist of alternating layers of silt, sand and fine gravel. Broad areas of Limerick soils may also have inclusions of muck or peat.

Fluvaquents and Udifluvents (FlA) are a complex of soils that occupy the most active portions of the flood plain of Sweet Milk Creek and its tributaries. The soils consist of areas of silt and sand in alternating layers along with sand and gravel bars. There may also be some impounded swales, ox bow and secondary channels. Fluvaquents are federally regulated wetlands.

The glacial till soils on the property are typically gravelly silt loam or in some cases very gravelly silt loam. The well-drained shallow and moderately deep soils have shale bedrock at 0 to 40 inches below the surface. The bedrock is the boundary condition for most developmental uses.

The deep well or moderately well drained glacial till soils are gravelly or very gravelly silt loam. The deep glacial till soils have a very firm fragipan (hard pan) at 18 to 35 inches below the surface. The depth to the fragipan is a boundary condition for most developmental uses.

The somewhat poorly drained to very poorly drained glacial till soils have a perched seasonal or prolonged high water table. The depth to the high water table is the boundary condition for most developmental uses. The soils exhibiting prolonged wetness are typically regulated wetlands.

Soils formed in gravelly or sandy glacial outwash sediments are well drained and well suited for on site developmental uses.

The flood plain soils are formed in recent alluvial sediments. Some areas are broad, mucky and inundated.

A complete topographic survey has been completed for the project site. Slope analysis of the site revealed a range of slopes from nearly level up to 25% and greater. Elevation of the project site area ranges from 398 to 536 feet.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon project site soils.

The Town Board finds that the soil conditions on the project site are capable of residential development. The Applicant has designed the project to remove grading and construction activities from the areas of slopes and wetlands on the site, reducing potential erosion and siltation opportunities. In addition, the wetlands on site, particularly around the Sweet Milk Creek, have been avoided, and the Applicant has also included an adequate buffer area around the wetlands to further reduce potential wetland impacts. The Town Board notes that all activities are outside the boundaries of federally regulated wetlands, except for limited road and utility crossings subject to review by the US Army Corps of Engineers. The total wetland impacts are 0.48 acre. See Section 5.3.1. Also, the Town Board notes that the wetlands on the project site are not presently on the New York State Freshwater wetlands map, although such wetlands could qualify for State regulations. In this regard, the Town Board notes that the Applicant has worked with the New York State Department of Environmental Conservation to design a project layout which creates an acceptable buffer area around the site wetlands so as to protect wetland quality and function.

To address potential soil erosion and siltation impacts, the Applicant prepared a stormwater management analysis in accordane with NYSDEC Stormwater Management Design Manual.

The Applicant prepared hydrologic models of existing and developed drainage conditions utilizing the Hydro CAD Stormwater Modeling System computer program. Hydro CAD models the hydrology and hydraulics of stormwater runoff. Hyrdro CAD is based largely on hydrology techniques developed by the National Resources Conservation Service (NRCS), combined with other hydrology and hydraulic calculations. By using historic rainfall data compiled by the National Weather Service, and taking into account watershed surface characteristics and soil types, Hydro CAD generates hydrographs throughout the watershed. Comparisons of existing versus developed peak stormwater runoff rates are generated, and utilized to design appropriate stormwater control devices to address both water quantity and quality.

Analysis of 24-hour storm events for the 1-year, 10-year, and 100-year periods were prepared. Based on this analysis, the Applicant has designed a system of thirteen (13) stormwater management basins throughout the project site to provide both treatment and detention to mitigate stormwater runoff, particularly in light of soil conditions. The Town Board notes that all stormwater management facilities will be owned and maintained by the Homeowners Association pursuant to mandatory covenants in the Association by-laws.

Mapping was prepared to show existing and developed drainage patterns on the project site, and proposed grading in relation to developed drainage patterns.

## 5.2 GROUNDWATER

The geotechnical engineering report prepared for this site included field test pits, which disclose that the groundwater is observed at the depth of 3 to 6 feet in some areas of the project site. Additionally, there are no known aquifers or recharge areas located within the project site or in its vicinity.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon groundwater resources.

The Town Board notes that groundwater resources are not utilized for potable water purposes, as the project includes the extension and use of public water. See Section 5.8. Therefore, draw down or impact upon groundwater supply and residential wells is not anticipated.

The Town Board further notes that the project includes a stormwater management plan in compliance with NYSDEC Stormwater Management Design Guidelines. The NYSDEC regulations require analysis of both construction and post-construction stormwater runoff from the project site, both in terms of quantity and quality. In this way, impact to both surfacewater wetland areas as well groundwater resources are mitigated, particularly in terms of water quality.

The Town Board also finds that the Applicant has required all footings and foundations to be constructed above high groundwater levels, and installation of footing drainage systems. The Town Board makes such construction limits a condition to its finding, and requires the Applicant and Town Building Department to review and approve footings and foundation locations in relation to groundwater level on a lot-by-lot basis.

## 5.3 AQUATIC ISSUES

### 5.3.1 Wetlands

The wetlands on the site were delineated by Ingalls & Associates, LLP during April of 2005. A wetlands delineation report and the wetlands survey map were forwarded to the U.S. Army Corps of Engineers on July 22, 2005, with a request for confirmation of the delineation. The limit of the wetlands was field confirmed by the U.S. Army Corps of Engineers. The wetlands report was reviewed by the Town Board and its consultants.

Approximately 60 acres of Federally Jurisdictional wetlands are located on the property. The primary wetland complex is a large marsh located in the northeastern portion of the site. Approximately 45 acres of this wetland are located on property. This wetland can be characterized as an emergent marsh that is dominated by cattail and purple loosestrife, with scattered shrubs in the eastern site. The wetland is fed primarily by Sweet Milk Creek, however several other tributaries flow to the system from the surrounding landscape. The wetland is surrounded by a wooded upland buffer with the exception of one area where the wetland abuts the northern agricultural field.

The remaining wetlands on the site are associated with small streams, hedgerow ditches and low-lying field areas. The majority of these wetlands are disturbed from agricultural activities and are somewhat degraded by agricultural runoff, sedimentation and invasive species. Two of the linear wetlands are relatively undisturbed. They are forested and shrub/scrub wetland complexes located along woodland tributaries in the northern portion of the property and at the upper reaches of the stream that feeds the farm pond. These natural wetland areas are dominated by Green Ash, Red Maple and native shrubs and forbs.

All of these wetlands are considered part of the tributary system and are protected by the U.S. Army Corps of Engineers under the Clean Water Act.

All of the wetlands provide important environmental functions, including wildlife habitat, storm and flood water retention, wildlife habitat, water quality purification, open space and nutrient processing. The habitat functions of these wetlands area somewhat degraded in the agricultural areas; overall they are important resources for the environment and the watershed.

It should be noted that approximately 1.92 acres of isolated wetlands have been identified in the southern fields on the site. These wetlands are surrounded by agricultural fields and are dominated by common shrubs and herbaceous plants common to the region. These isolated pockets of wetlands are not unique, or pristine and provide minimal functions in the aquatic environment.

The proposed project will result in the loss of approximately 0.47 of an acre of degraded emergent and shrub/scrub wetlands and 0.01 of an acre of forested wetland areas by the construction of the proposed road other attendant features associated with the development. These impacts will require review and approval from the U.S. Army Corps of Engineers. The direct impacts to wetlands will involve the filling and grading activities with the wetlands. These impacts will result in a loss of the aquatic resource functions that these areas provide. Indirect impacts to the wetlands, such as yard chemical, disposal of yard and loss of native vegetation, will be minimal because the project sponsor proposes to maintain many of the wetland adjacent areas in a natural state.

The onsite wetlands are not identified on the Freshwater Wetlands Maps maintained by the New York State Department of Environmental Conservation (NYSDEC), and are currently not regulated by NYSDEC. However, during its review of the DEIS, which included the wetlands delineation information, NYSDEC commented that the on-site wetlands may be subject to State Regulation.

Specifically, in a comment letter dated December 21, 2005 with respect to the Department's DEIS comments, NYSDEC stated that the wetlands delineation report, as well as aerial photographs, suggest that the on-site wetlands meet the minimum statutory requirements for regulation under Article 24 of the Environmental Conservation Law. However, the wetlands do not appear on the Department's Freshwater Wetlands Mapping for Rensselaer County. The Department went on to state:

> To address the present situation of an unmapped wetland on the site of the proposed development, we encourage the project sponsor to voluntarily modify the projects present design to minimize potential wetland impacts by avoiding more direct wetland impacts and moving more of the project out of the areas within 100 feet of the wetland boundary. The alternative would be for the Department to take the necessary steps to assert formal jurisdiction by initiating a map amendment procedure for the wetland. This would involve sending notification by certified mail to all affected landowners, providing a copy of the proposed wetland addition to the Town of Brunswick Clerk and publishing our intent to add the wetland to the map in the legal notice section of two local newspapers and the Departments Environmental Notice Bulletin with a 30 day comment period. According to the regulation (NYCRR Section 664.7(2)(l)), once an amendment procedure has been initiated, no activity subject to regulation under Article 24 can be initiated until the map has been amended. The amendment procedure typically takes several months to a year. The Department prefers to work with the project sponsor to find a mutually acceptable development plan that avoids impacts to the wetland and adjacent area to the maximum extent practicable.
>
> It appears that most of the plan construction has been kept away from the wetland boundary which was delineated by the consultant and confirmed by the U.S. Army Corps of Engineers. However, in light of the existence of a State regulated wetland on the sight, the applicant should review the plans to determine whether other changes can be made to the project design to move as much disturbance out of the 100´ adjacent area as possible.

These comments from NYSDEC were submitted on the DEIS, which described the project when 190 residential units were proposed.

Subsequent to the comment letter from NYSDEC, the Applicant amended the project design to eliminate 20 residential units, and further remove construction elements from the area 100´ of the wetland boundary. Significantly, the project was modified to further remove construction activities from the area of the Sweet Milk Creek and associated wetland.

Following project modification, the Applicant met with NYSDEC staff, which reviewed the proposed project design modifications in light of its December 21, 2005 comment letter. The record discloses that the Department considers the project design acceptable, and finds that the development plan avoids impacts to the wetland and adjacent areas to the maximum extent practicable.

The proposed project may result in positive impacts to the wetlands located adjacent to the agricultural fields. Currently these wetland areas are exposed to sediment loading and other pollution associated with unmanaged agricultural runoff. These impacts will be eliminated by converting the landscape to residential use.

Temporary impacts from construction activities will be avoided by the use of proper erosion and sediment controls. This is required pursuant to an erosion and sediment control plan as part of the overall stormwater management plan for the site.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon wetlands.

The Town Board notes that through project design, the total wetland impacts are 0.48 acre. The Town Board acknowledges that such wetland impact is subject to review by the US Army Corps of Engineers, and will require permitting by that federal agency. The project is expressly conditioned upon further

review by the US Army Corps of Engineering, and receipt of all necessary permits and/or approvals for work in wetlands.

The Town Board further notes that the wetlands are not presently identified on the New York State Freshwater Wetlands map. However, NYSDEC has identified potential State regulatory jurisdiction, and consequently commented on the project impacts upon wetland and buffer areas. To address these concerns, the Applicant modified the project design to further reduce construction activities in the buffer zone surrounding the actual wetland boundaries. The total impact to wetlands is 0.48 acre. Further, the project design modification reduced impact to the buffer zones surrounding the wetland boundaries to the maximum extent practicable. The record discloses that NYSDEC has reviewed the project design modification, and finds it acceptable.

### 5.3.2 Streams

Approximately 5,965 linear feet of stream were delineated on the property during the wetlands delineation process. The majority of these streams are noted as perennial on the Averill Park USGS Quadrangle. The majority of these streams flow through agricultural hedgerows, with the exceptions of Tributary C, and the upstream reach of Tributary A. These two tributaries flow through woodlands on the site.

The primary stream on the site is Sweet Milk Creek, which is a tributary to the Poestenkill. This stream has perennial flow that traverses the southeastern portion of the site, until it crosses under Route 134. A small section of 100-year floodplain is mapped on the property near the Route 134 crossing. The stream is approximately 12 feet wide and is surrounded by established woodlands to the south and agricultural shrub lands to its north. The stream is classified as a "C(TS)" by the New York State Department of Environmental Conservation. This classification means that the stream has a somewhat degraded water quality, but may also provide opportunities as a trout-stocking stream.

The remaining streams on the site are small tributaries and sub-tributaries that meander through woodlands and agricultural fields. These streams are classified as "C" by the NYSDEC and are not known to be an important fisheries resource. Overall, the streams on the site are somewhat degraded by the agricultural and suburban runoff from the surrounding landscapes in their headwaters and adjacent lands.

The project proposes to cross streams at 3 new locations on the site to construct the municipal roads for the subdivision. These crossings have been in place for many years to facilitate farming operations. These crossings will be reconstructed for the subdivision road. In addition, the existing road crossing just below the pond outlet will be upgraded to current standards. The impacts would result in the loss of streambed habitat, but are not expected to result in any change in the streams stability or water quality. There will be no direct impact to Sweet Milk Creek.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon streams.

The Town Board acknowledges that stream crossings will be required for the infrastructure installation on the project. However, the Town Board notes that the crossings areas have been in place for many years to facilitate farming operations, and will be upgraded to meet current road standards.

The Town Board finds it significant that no direct impact to the Sweet Milk Creek will result from the project.

The Town Board further finds that stormwater management plan implementation in compliance with NYSDEC stormwater management design standards will reduce stormwater runoff impacts to streams to the maximum extent practicable.

### 5.3.3 Ponds

There is one open water pond located along the north side of Bonesteel Lane near the western property boundary. This pond is a manmade farm pond that was constructed in an unnamed stream corridor and wetland system many years ago. The pond's outlet is a concrete sluiceway structure that releases flow into a deep ravine and then crosses under Bonesteel Lane.

The pond depths are relatively shallow and its water clarity is significantly degraded from excessive algae blooms and duck weed invasion. In addition purple loosestrife is dominating much of the open shorelines and upstream wetland areas. Nitrogen and phosphorous runoff from agricultural operations is generally the cause of excessive nutrient loading, which converts the system to an oxygen-depleted and muck landed waterway. In its current state the pond has limited ability to support fish and offer quality wildlife habitat.

The proposed project will not involve any direct or indirect adverse impacts to the pond. The majority of the pond will be included on a single lot to be held by the current property owner. The remaining pond areas will be deeded to the Homeowners Association as part of the Open Space parcel. The proposed project may result in a minor improvement to the water quality of the pond by reducing agricultural runoff.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon the pond located on site.

The Town Board finds that the project design has eliminated any impact to the pond by removing the pond from construction activities, and placing it in the area to be maintained as perpetual green open space, subject to a conservation easement.

In addition, the Town Board notes that the elimination of agricultural runoff may improve water quality in the pond, providing enhanced opportunity for wildlife habitat.

The Town Board further finds that stormwater management plan implementation in compliance with NYSDEC stormwater management design standards will reduce stormwater runoff impacts to the pond to the maximum extent practicable.

### 5.3.4 Flood Plain

FEMA flood insurance map identifies a 100-year flood zone area located at Sweet Milk Creek crossing with McChesney Avenue Extension. A small portion of the project’s proposed road system will be constructed through this flood plain.

**MITIGATION:**

The Town Board finds that potential impact from a 100-year flood upon the designed entrance roadway will be mitigated by the use of Bonesteel Lane as an alternative access during this rare 100-year storm event. Bonesteel Lane is outside the 100-year flood zone. This will provide continued access to the site, even during the 100-year storm event. The Applicant will also install final pavement elevation 2 feet above the 100-year flood level on new Bonesteel Lane.

## 5.4 VEGETATION

A field analysis of the vegetation on the project site was conducted by Copeland Environmental LLC during September of 2005. Additional vegetative sampling was completed during the wetland delineation completed by Ingalls & Associates. These studies were reviewed by the Town Board and its consultants.

The property consists of a working farm that has a long history of agricultural production and land management activities. The site supports various vegetative cover types including; maintained lawn, working agricultural fields, agricultural hedgerows, deciduous upland forests, emergent marshes, forested wetlands and shrub/scrub wetland.

Approximately 54.5 acres (26%) of the property is open field that is managed in crop rotations for hay, clover, fodder and other commodities. Because the fields are mowed or tilled up to the woodland, hedgerows and wetland boundaries, they provide very few opportunities for native plant species to become established. The other open landscapes on the site include the open wetland marshes, and the manicured lawn areas surrounding the farmhouse, barns and outbuildings.

Hedgerows on the site border many of the open fields, and are dominated by a mix of wetland and upland trees and shrubs. These hedgerows are relatively narrow extending approximately 10 feet across in many areas. They also have a sparse tree canopy of young maple, ash and elm. Shrubs and vines in these areas consist of Staghorn Sumac, Honeysuckle, Wild Grape, Buckthorn, Wild Rose and Dogwood.

The forests on the site comprise approximately 87 acres. These woodlands are typical northern hardwood deciduous forest, dominated by White Pine, Maple, Red Oak, Beech, Wild Cherry, Hickory, Hemlock and Ash, in addition to other common northeastern woodland shrubs and forbs. Within several areas in the southwestern portion of the site, older growth White Pine trees were found. These large pines have an average diameter at breast height (DBH) of 48 inches and are remnants of the historical woodlands that once dominated the region. Logging activities have degraded the under story around these trees. The remaining forests on the site have an average DBH of 8-12 inches, which is typical of second generational forests in the region.

The majority of the forests on the site have clear evidence that selective logging has been ongoing over the past 50+ years. This evidence includes logging debris piles, open staging areas in the forests that are dominated by opportunistic species of Wild Raspberry and Goldenrod, tree stumps that are in various stages of decomposition, and openings in or a thinning of the tree canopy. The woodlands that appear to be less disturbed by logging activities include areas of steep slopes along the eastern portion of the site and a fairly young forest area along the northern central fields.

The project sponsor coordinated with the U.S. Fish and Wildlife Service (USFWS) and the New York State Department of Environmental Conservation Natural Heritage Program to obtain information on the presence of any endangered, threatened or otherwise protected species on the site. Given the history of disturbance to the site from agricultural and logging activities on the site, it seems highly unlikely that any pristine or unique vegetative species would inhabit the site.

The NYS Natural Heritage Program and the USFWS stated that they have no records of any endangered or threatened species, significant natural communities or other significant habitats on or in the immediate vicinity of the site.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon existing site vegetation.

The Town Board notes that through project design, the proposed development will primarily occur with the agricultural lands fields, eliminating any impacts to native vegetation in these areas.

The Town Board acknowledges that removal of some of the forested area on site will occur, but finds that the project design has minimized impacts to the maximum extent practicable. Approximately 24 acres of forest will be disturbed by the project, but these woodlands have a history of logging disturbance. Throughout the site, tree and shrub clearing will be kept to the minimum necessary. The steeply sloped lands are where the majority of the larger White Pine trees are located. These areas will be preserved. The project sponsor considers these trees an important aesthetic feature of the development. Only those trees that are diseased or a safety hazard are proposed to be removed. In this way, the Town Board finds that the project design has allowed for the maintenance of significant vegetation, through conservation easement and perpetual open space, which will enhance wildlife habitat opportunities as well as scenic areas.

## 5.5 FISH AND WILDLIFE

The landscape characteristics of the site provide a variety of wildlife habitats that are utilized by many species for foraging, shelter, breeding, nesting and migration. The woodlands provide habitat for birds, large and small mammals, amphibians, reptiles and macro invertebrates. These species include deer, toads, fox, groundhogs, rodents, birds, snakes, insects, and other species. Even though the woodlands are disturbed from logging activities and the fringing effects of the active agricultural fields, they remain functional woodland ecosystems. In some ways the logging activities have created micro niches that can offer foraging opportunities for birds, insects, reptiles and small mammals. Over time, these disturbed areas will revert to shrub pockets and eventually develop into woodland habitat.

The heavy agricultural use within the field areas on site has eliminated many of the important ecological niches that encourage wildlife use. The fields are regularly tilled, sprayed, fertilized and mowed, which leaves wildlife population constantly reacting to changing conditions. The fields do provide foraging opportunities for wildlife and insects; but they also leave wildlife susceptible to agricultural pollutants, and also increase the risk of being preyed upon by others.

The wetland and stream corridors on the property, along with the forests and shrub land adjacent to them, offer the most important wildlife habitat on the site. Wetlands and riparian corridors are the foraging grounds for almost all wildlife species. They provide the breeding grounds for large populations of insects and amphibians that are consumed by birds and mammals. They also provide the habitat and nursery grounds for small freshwater fish populations.

It should be noted that the aquatic resources on the site are degraded by the long history of agricultural runoff, erosion and sedimentation and invasive species. This degradation limits the value of these resources for wildlife habitat.

The project sponsor has coordinated with the State and Federal natural resource agencies about the presence of any potential endangered, threatened, or otherwise protected species on the site. The agency responses expressed no concern about this site. Due to the limited natural habitat on the site, the ongoing logging disturbances within the woodlands and the degradation of the aquatic resources, the site provides no unique or rare habitat for wildlife.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse effect upon wildlife habitat.

The Town Board notes that through project design, most of the residential areas and construction activities are limited to the area currently farmed. The agricultural activities have already impacted wildlife habitat opportunities.

The Town Board further notes that the wetland and stream corridors on the site offer the most important wildlife habitat on the site. Through project design, these areas are predominantly left intact, and preserved. These areas will be subject to a conservation easement, and restrictions through the Homeowners Association, which will own the common areas and be legally responsible for future maintenance.

## 5.6 TRAFFIC

To fully assess the potential traffic generation from this project and impact upon existing road systems and traffic flow, the Town Board required the Applicant to perform a traffic impact study. The Applicant retained the firm of Creighton Manning Engineers to undertake and complete the traffic impact study. Further, the Town Board retained a traffic engineer to assist it in the review and analysis of the traffic impact study. The Town Board retained the firm of Transportation Concepts, LLP as a technical consultant for the traffic-related issues.

The Applicant's consultant, Creighton Manning, undertook its traffic impact report according to the SEQRA Scope. The traffic impact report is summarized below.

The potential traffic impact of the proposed project was determined by documenting the existing traffic conditions in the area, projecting future traffic volumes, including adding traffic associated with other developments in the area, adding the peak hour trip generation of the site, and determining the operating conditions of the study area intersections after development of the proposed project.

The Creighton Manning report first identified the existing roadways serving the project site, and focused on the study area intersections. The studied roadways included the following:

- NYS Route 7 – Route 7 is a state road that provides east-west access through Rensselaer County. Route 7 provides access to residential and commercial properties. In the vicinity of the site, Route 7 is approximately 48-feet wide with one lane in each direction and a center two-way left turn lane (TWLTL) with a speed limit of 45-mph.

- NYS Route 2 – Route 2 is a state road that provides east-west access through Rensselaer County. Route 2 provides access to residential and commercial properties. In the vicinity of the site, Route 2 is approximately 22-feet wide with one lane in each direction and a speed limit of 40-mph.

- McChesney Avenue (CR 134) – McChesney Avenue is a county road providing east-west travel parallel to Route 7. Near the project site McChesney Avenue consists of a single 10-foot wide travel lane in each direction with 1-foot shoulders. The posted speed limit is 30-mph and the land uses along McChesney Avenue is primarily residential and commercial.

- McChesney Avenue Extension (CR 134) – McChesney Avenue Extension (CR 134) is a county road providing east-west travel between McChesney Avenue and Moonlawn Road (CR 133). At the project site access, McChesney Avenue Extension consists of a 23-foot wide roadway with no shoulders. The land use along McChesney Avenue Extension is primarily residential. The posted speed limit is 35-mph.

- Moonlawn Road (CR 133) – Moonlawn Road (CR 133) is a county road providing north-south travel from NYS Route 278 to NYS Route 2. The intersection of McChesney Avenue Extension/Moonlawn Road consists of a single 10-foot wide travel lane in each direction with 1-foot shoulders. The posted speed limit is 30-mph and the land uses along Moonlawn Road are primarily residential.

The study area intersections included the following:

- Route 7/McChesney Avenue (east intersection) – This is a three-leg intersection operating under stop-sign control on the McChesney Avenue northbound intersection approach. A single lane is provided on each intersection approach for shared travel movements. There is a TWLTL and sidewalks on both sides of the road on both Route 7 approaches.

- Route 7/McChesney Avenue (CR 134)(west intersection) – This is a three-leg intersection operating under signal control. The eastbound approach of Route 7 provides a through lane and an exclusive right turn lane. The westbound approach of Route 7 provides an exclusive left turn lane and a through lane. The northbound approach of McChesney Avenue (CR 134) provides an 11-foot wide lane for shared travel movements.

- McChesney Avenue (CR 134)/McChesney Avenue Extension (CR 134) – This is a three-leg intersection operating under stop-sign control on the westbound McChesney Avenue Extension intersection approach. A single lane is provided on each intersection approach for shared travel movements.

- McChesney Avenue Extension (CR 134)/Moonlawn Road (CR 133) – This is a three-leg intersection operating under stop-sign control on the eastbound McChesney Avenue Extension intersection approach. A single lane is provided on each intersection approach for shared travel movements.

- Route 2/Moonlawn Road (CR 133) – This is a three-leg intersection operating under stop-sign control on the southbound Moonlawn Road intersection approach. A single lane is provided on each intersection approach for shared travel movements.

Transportation Concepts recommended the inclusion of the Route 2/Moonlawn Road intersection, which was added to the traffic impact analysis. While comments received from the public identified approximately 40 intersections for analysis, accepted traffic engineering practice identified the stated intersections as relevant for an analysis of the Highland Creek project. Also, Transportation Concepts recommended evaluation of traffic for both AM and PM peak period weekday commuter traffic. The AM and PM peak period weekday commuter traffic analysis was incorporated into the traffic impact study. The AM/PM peak period analysis is a standard, accepted traffic engineering approach, as the analysis evaluates a conservative estimate of peak period traffic generation for residential developments.

The Creighton Manning report analyzed existing traffic conditions. Intersection turning movements counts were conducted at the study area intersections on Wednesday, June 1, 2005 from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. The intersection of Route 7/McChesney Avenue (CR 134) was counted on Wednesday, February 2, 2005 during the same time periods. In addition, an automatic traffic recorder (ATR) was placed on McChesney Avenue Extension adjacent to the project site to record hourly traffic volumes and travel speeds from Wednesday, June 1, 2005 to Friday, June 3, 2005. Existing traffic volumes at the study area intersections were presented in the traffic impact report.

The following observations were presented based on the existing traffic volume data:

- The morning peak hour of adjacent street traffic generally occurred from 7:15 to 8:15 a.m. The afternoon peak hour of adjacent street traffic occurred from 4:15 to 5:15 p.m.

- The two-way traffic volume on McChesney Avenue Extension near the project site is approximately 85 vehicles during the AM peak hour and approximately 215 vehicles during the PM peak hour.

- During the AM and PM peak hours, 3% to 8% of the traffic on Route 7 was heavy vehicles. On McChesney Avenue and McChesney Avenue Extension, less than 1% of all traffic was heavy vehicles.

- During the AM and PM peak hours less than 10 pedestrians or bicyclists were observed at the study area intersections.

To evaluate the impact of the proposed Highland Creek project, Creighton Manning prepared traffic projections for the expected year of completion. It was estimated that the proposed project would be fully developed by the year 2010. To evaluate the impact of the project, a comparison was made between the traffic volumes in 2010 with and without the proposed residential development. Transportation Concepts had recommended that separate figures for no-build/background growth and Highland Creek build-out conditions be presented for clarity. This analysis by Creighton Manning is presented below.

**(1) 2010 No-Build Traffic Volumes**

The 2010 No-Build traffic volumes were based on an analysis of traffic growth trends and other potential traffic generating projects in the area. The background growth rate was estimated using information published by NYSDOT in the 2003 Traffic Volume Report. Based on the NYSDOT data, traffic volumes in the project area have varied greatly over the past decade with growth rates on the major roads fluctuating from -3.7% on Route 7 to 3.5% on Route 2. Creighton Manning assumed a positive growth rate of 1% for its analysis. Therefore, the existing traffic volumes were increased by 1% per year for five years to develop the 2010 background traffic growth. This is consistent with the growth factor used in NYSDOT's Route 7 reconstruction design report. Other projects in the area, including Phases 1 and 2 of the Hudson Hills Residential Development, located between NYS Route 7 and County Route 144 with accesses on Betts Road, and the redevelopment of the vacant Grand Union grocery store on NYS Route 7 west of Betts Road were presumed to be completed in 2010. Traffic volumes associated with the 668 apartment units and 33,250 square foot grocery store were added to the background growth to develop the 2010 No-Build traffic volumes. It is noted by the Town Board that the traffic generated by the existing Walmart on Route 7 is included in this analysis. Further, the Town Board notes that the analysis of traffic generated from a 33,250 square foot grocery store simulates potential traffic generated from the addition of groceries to the existing Walmart as described in the proposed Walmart Supercenter PDD application. In this way, the cumulative impact of existing traffic plus proposed residential and commercial development along the Route 7 corridor has been considered. This projected cumulative traffic was the analyzed for each intersection identified for analysis. However, it is noted that at this time, the old Grand Union store is vacant and the proposed Walmart Supercenter is subject to further evaluation by the Town Board and other various approving and regulatory agencies, and is not approved.

**(2) Trip Generation**

Trip generation determines that quantity of traffic expected to travel to and from a given site. The Institute of Transportation Engineers (ITE) Trip Generation, 7$^{th}$ Edition, provides trip generation data for various land uses based on studies of similar existing developments located across the country. Creighton Manning prepared its traffic impact report for the DEIS based on 190 residential units. Thus, 61 traditional and manor homes proposed at that time were expected to be of moderate to large in relative size corresponding to ITE land use code (LUC) 210 for Single Family Detached Housing. The 129 carriage homes proposed at that time were expected to be smaller in size and are comparable to townhouses or condominiums. LUC 230 for Residential Condominium/Townhouse was used to estimate the number of trips generated by the proposed carriage homes. The peak hour trip generation estimate is summarized below:

## Trip Generation Summary

| Land Use | AM Peak Hour | | | PM Peak Hour | | |
|---|---|---|---|---|---|---|
| | Enter | Exit | Total | Enter | Exit | Total |
| 61 Traditional/Manor Homes | 13 | 39 | 52 | 43 | 26 | 69 |
| 129 Carriage Homes | 11 | 52 | 63 | 50 | 24 | 74 |
| Total | 24 | 91 | 115 | 93 | 50 | 143 |

The estimated trip generation for the proposed project is approximately 115 vehicle trips during the AM peak hour (24 trips entering and 91 trips exiting). During the PM peak hour, the project is expected to generate approximately 143 vehicle trips (93 trips entering and 50 trips exiting). This analysis was based on 190 residential units as proposed in the DEIS.

In response to comments by the public and review by Transportation Concepts, Creighton Manning provided additional information on trip generation. According to the Transportation Statistics Annual Report 2000, and also the 2001 National Household Travel Survey, Bureau of Transportation Statistics, Creighton Manning provided the following table to illustrate the trend in the national average number of vehicles per household:

| Year | Vehicles Per Household |
|---|---|
| 1977 | 1.59 |
| 1983 | 1.68 |
| 1990 | 1.77 |
| 1995 | 1.78 |
| 2001 | 1.90 |

Additionally, based on the U.S. Census 2000 data, the average number of vehicles per household for Rensselaer County is 1.60 vehicles. This is consistent with U.S. Census data for the Town of Brunswick, which provides that 81.7% of all household units in the Town of Brunswick have a total of 2 vehicles or less. Based on the average of 1.60 vehicles, the resident population of Highland Creek would own approximately 304 vehicles. However, not all of these vehicles will be driven at the same time. Based on approximately 350 studies of similar types of developments compiled by the Institute of Transportation Engineers (ITE) and used as the industry standard, approximately 115 trips (a vehicle entering or exiting the development) would be generated during the morning peak hour, and 143 trips during the afternoon peak hour for the proposed Highland Creek development. These peak hours represent the highest hours of traffic flows from the project site and are considered conservative estimates of peak period demand.

In addition, this traffic study is based on the assumption that the project will be occupied by average homeowners, most of which will commute to work each work day. As described herein, the project is designed for “empty-nesters” to reside in the proposed carriage homes. If these carriage homes are filled predominantly with empty-nesters, and given that the traffic impact study presumed average homeowner occupancy with AM and PM commuting to work, the traffic analysis presents an overlay conservative condition. In the event the carriage homes are occupied by “empty-nesters”, then the anticipated traffic, predominantly in the AM and PM peak periods, will be reduced below the stated analysis.

**(3) Trip Distribution**

Trip distribution describes where traffic originates or where traffic is destined. Traffic generated by the proposed project was based on the existing travel patterns and the locations of population centers and major travel routes in the region. Creighton Manning concluded that 60% of the site generated traffic will travel to and from the west via Route 7 and 40% of the site generated traffic will travel to and from the east via Moonlawn Road (CR 133).

Creighton Manning's report then combined the results of its trip generation and trip distribution analysis to determine specific paths and roadways that are likely to be used by traffic from the proposed project. The project site generated traffic was then added to the 2010 No-Build traffic volumes to develop projected 2010 Build traffic volumes. Creighton Manning analyzed both Level-of-Service and Sight Distance issues.

## A. Level of Service Analysis

Intersection Level of Service (LOS) and capacity analysis relate traffic volumes to the physical characteristics of an intersection. Intersection evaluations were made by Creighton Manning using the latest version of the highway capacity software (HSC version 4.1e) which automates the procedures contained in the 2000 Highway Capacity Manual.

The relative impact of the proposed project can be determined by comparing the level of service during the 2010 design year for the No-Build and Build traffic volume conditions. This is presented in the following table:

### Level of Service Summary

| Intersection Approach | | | AM Peak Hour | | | PM Peak Hour | | |
|---|---|---|---|---|---|---|---|---|
| | | | 2005 Existing | 2010 No Build | 2010 Build | 2005 Existing | 2010 No Build | 2010 Build |
| Route 7/McChesney Avenue (East) | | U | | | | | | |
| Route 7 SB | L | | A (7.9) | A (8.2) | A (8.2) | A (9.3) | B (10.0) | B (10.1) |
| McChesney Ave WB | LR | | B (10.9) | B (13.3) | B (13.1) | C (16.0) | C (23.0) | C (23.3) |
| Route 7/McChesney Avenue (West) | | S | | | | | | |
| Route 7 EB | T | | A (7.3) | A (8.0) | A (8.0) | B (12.4) | C (33.7) | C (33.7) |
| | R | | A (5.3) | A (5.3) | A (5.3) | A (5.5) | A (5.5) | A (5.7) |
| Route 7 WB | L | | A (5.2) | A (5.2) | A (5.2) | A (5.6) | A (7.6) | A (7.6) |
| | T | | B (10.2) | B (17.5) | B (17.5) | B (10.1) | B (16.6) | B (16.6) |
| McChesney Ave NB | LR | | C (23.1) | C (23.3) | C (24.8) | C (23.3) | C (23.6) | C (24.2) |
| Overall | | | B (10.5) | B (14.6) | B (15.0) | B (11.8) | C (24.8) | C (24.4) |
| McChesney Ave/McChesney Ave Ext | | U | | | | | | |
| McChesney Ave SB | L | | A (7.6) | A (7.6) | A (7.6) | A (7.6) | A (7.7) | A (7.8) |
| McChesne Ave Ext WB | LR | | A (9.5) | A (9.7) | B (10.3) | B (10.2) | B (11.1) | B (12.0) |
| McChesney Ave Ext/Moonlawn Rd | | U | | | | | | |
| Moonlawn Rd NB | L | | A (7.6) | A (7.6) | A (7.6) | A (7.5) | A (7.5) | A (7.6) |
| McChesney Ave Ext EB | LR | | A (9.3) | A (9.4) | A (9.7) | A (9.9) | B (10.0) | B (10.4) |
| Route 2/Moonlawn Rd | | U | | | | | | |
| Route 2 EB | L | | A (8.8) | A (8.9) | A (8.9) | A (8.1) | A (8.2) | A (8.3) |
| Moonlawn Rd SB | LR | | B (14.7) | C (15.5) | C (17.1) | C (17.8) | C (19.5) | C (22.6) |
| McChesney Ave Ext/Bonesteel Lane | | U | | | | | | |
| McChesney Ave Ext EB | L | | ___ | ___ | A (7.4) | ___ | ___ | A (7.6) |
| Bonesteel Lane SB | LR | | | | A (9.3) | | | B (10.1) |

Key: X (Y.Y) = Level of Service (Delay, seconds per vehicle)
NB = Northbound, SB = Southbound, EB = Eastbound,
WB = Westbound,
L = Left-Turn, T = Through, R = Right-Turn
U = Unsignalized; S = Signalized

Creighton Manning offered the following conclusions:

- Route 7/McChesney Avenue (East) – This intersection currently operates at LOS A/B during the AM peak hour and LOS A/C during the PM peak hour. After the full build-out of the project the intersection will continue to operate at LOS A/B during the AM peak hour and LOS B/C during the PM peak hour.

- Route 7/McChesney Avenue (West) – This intersection currently operates at an overall LOS B. For the AM peak hour the overall level of service is expected to remain the same with relatively small increases in delay, less than five seconds, to each intersection approach through full build-out of the proposed project. For the PM peak hour, the delay to the through movements on Route 7 will increase through the No-Build condition increasing to an overall LOS C. During the Build condition levels of service will remain unchanged from the No-Build condition.

- McChesney Avenue/McChesney Avenue Extension – This intersection currently operates at LOS A/B and is expected to operate at LOS A/B through the Build condition with short delays.

- Route 2/Moonlawn Road – This intersection currently operates at LOS A/B during the AM peak hour and LOS A/C for the PM peak hour. The AM peak hour will operate at LOS A/C after the full build-out of the proposed project with less than 3 seconds of additional delay. The PM peak hour will operate at similar levels of service through the Build condition with short delays.

- McChesney Avenue Extension (CR 134)/Bonesteel Lane – The LOS analysis indicates that the approaches to this intersection will operate at LOS A/B during both peak hours. It is recommended that a stop sign be installed on the southbound Bonesteel Lane with a single lane ingress and egress lane.

These data results and conclusions were reviewed by Transportation Concepts. The traffic data presented is well documented, thorough, and prepared in accordance with accepted traffic engineering standards. The scope of the roadways and intersections studied and analyzed is likewise in accordance with accepted traffic engineering standards, and is appropriate for an analysis of the proposed Highland Creek project. In this regard, mitigation measures related to project development are presented below.

In addition, these data results and conclusions were likewise forwarded to the Rensselaer County Highway Department and NYSDOT for review and consideration. No objection has been received by the Town Board from either public agency as to the data and conclusions set forth in the traffic impact study.

It is noted that at the request of the Town Board, updated traffic counts were obtained by NYSDOT in March, 2006 for Route 7. These data results are attached as Appendix "A" to this Findings Statement. According to NYSDOT, total daily traffic counts on Route 7 have decreased in the last 5-7 years. Also, the NYSDOT realignment of McChesney Avenue and Route 7 has improved traffic flow and safety, including the dedicated turn lanes on both east bound and west bound Route 7 travel lanes.

**B. Sight Distance Analysis**

A sight distance evaluation was completed at the proposed relocation of Bonesteel Lane along McChesney Avenue Extension. The available intersection sight distance was measured from the perspective of a driver exiting the project site looking left and right. In addition, the sight distance for vehicles traveling along McChesney Avenue Extension and turning left into the site was measured. ATR data collected by Creighton Manning indicated that the 85$^{th}$ percentile speed is approximately 50-mph.

The sight distances measured in the field were compared to the appropriate guidelines presented in the American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets, 2004 using the 50-mph design speed. The results of the sight distance analysis by Creighton Manning is presented in the following table:

**Intersection Sight Distance Summary**

| Location | | Intersection Sight Distance (feet) | | |
|---|---|---|---|---|
| | | Right-Turn from Site Driveway [1] | Left-Turn from Site Driveway [2] | Left-Turn from Major Road [3] |
| McChesney Avenue Extension/ Site Driveway | Available | 710 | 650 | 690 |
| | Recommended | 480 | 555 | 405 |

1 = Sight distance looking left along the major road for vehicles to complete a right-turn or crossing maneuver from the site.
2 = Sight distance looking right along the major road for vehicles to complete a left-turn from the site.
3 = Sight distance looking straight on the major road for vehicles to complete a left-turn into the site.

The results of the sight distance evaluation indicate that the available intersection sight distance for a right-turn and left-turn exiting the site driveway and for a left-turn entering from the main road exceed the AASHTO guidelines for the 50-mph design speed.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon traffic conditions.

The Town Board notes that a thorough and reliable traffic engineering report was prepared and reviewed by the Town Board and its consultants, including Transportation Concepts, LLP. The Town Board finds the traffic engineering data to be consistent with accepted standards and practices of traffic engineering.

The Town Board further notes that the traffic report and data was forwarded and reviewed by the Rensselaer County Highway Department and New York State Department of Transportation. No objections to the traffic study was presented by either agency.

Notwithstanding that the project will not have significant adverse impact upon traffic, the Town Board incorporates the following recommendations in the interest of additional public safety:

1. A stop sign shall be installed on the southbound Bonesteel Lane with a single lane ingress and egress lane.
2. The intersection of Moonlawn Road/Route 2 meets accepted level-of-service conditions under the Highland Creek full build-out scenario. Nonetheless, the Town will make a request to NYSDOT for further consideration of traffic control devices at this intersection, including but not limited to signage, caution lighting, or other traffic safety devices.
3. NYSDOT realignment of McChesney Avenue and Route 7 has improved traffic flow and safety, including the dedicated turn lanes on both east-bound and west-bound Route 7 travel lanes. Nonetheless, the Town Board will request NYSDOT to further review the traffic light timing at Brunswick Plaza and McChesney Avenue intersections to coordinate signalization to promote traffic flow.
4. No significant impact on traffic on McChesney Avenue Extension will occur under the Highland Creek full build-out scenario. Nonetheless, the Town will make a request to Rensselaer County Highway Department for consideration of alternative traffic calming and safety features, including but not limited to intersection lighting and lane widths.
5. Bonesteel Lane must be maintained as a secondary site emergency access way.

## 5.7 AIR QUALITY

The project site is located in Rensselaer County, which is classified as marginal non-attainment for ozone and attainment for carbon monoxide. New York State collects air quality data for numerous pollutants at monitoring stations in each County through a program operated by the Bureau of Air Quality Surveillance. The EPA prescribes what pollutants are to be monitored at different locations based on the characteristics of each region. Therefore, monitoring stations are disbursed throughout New York State with each station monitoring certain pollutants. The data from each monitoring station is recorded and summarized in the New York State Air Quality Report, air monitoring system. The latest data tables available are for the year 2004.

A monitoring station located in Grafton Lakes State Park, approximately 10 miles east of the project site, monitors ozone. This station was in compliance with the one-hour New York State and National Ambient and Air Quality Standards (NYSAAQS, NAAQS) with no observations recorded of greater than 0.12 parts per million (PPM). However, the 4$^{th}$ highest daily maximum 8-hour average for the last 3 years exceeded the NYSAAQS and NAAQS of .08 PPM by .005 PPM.

The monitoring station in Grafton Lake State Park also monitors sulfur dioxide. This station was in compliance with the NYSAAQS and NAAQS for the 1 hour and 8 hour averages for sulfur dioxide in 2004.

The closest station which monitors carbon monoxide in located in Loudonville, approximately 12 miles west of the project site in Albany County. The Loudonville station was in compliance with the 1 hour and 8 hour averages for carbon monoxide in 2004. The Loudonville station also monitors ozone, and was in compliance with the 1 hour and 8 hour standards for the year 2004.

The Town Board notes that the data collected by these monitoring stations provide a general background information collected continually by the New York State Department of Environmental Conservation, and does not directly relate to a specific project site. Further, the Town Board notes that the NYSAAQS – NAAQS excedents for the 8 hour average ozone data at Grafton Lake State Park does not directly impact the analysis for the project site, but merely confirms the attainment status of marginal non-attainment for ozone for Rensselaer County.

Air quality issues associated with this action include both air emissions from traffic, as well as air emissions during construction activities. These are discussed below.

In connection with its traffic impact analysis report, the applicant's traffic engineers, Creighton Manning Engineers, prepared an Air Quality Analysis resulting from projected traffic from the project. This analysis was performed when the project envisioned 190 units. In that analysis, Creighton Manning noted that Bonesteel Lane is an existing roadway that will be relocated approximately 420 feet east of its existing location as part of this project. The intersection of McChesney Avenue Extension and Bonesteel Lane will remain an unsignalized intersection through the build conditions with higher volume movements on McChesney Avenue Extension projected to remain unobstructed. Therefore, Creighton Manning concludes that the project will not result in vehicle queues to through vehicles on McChesney Avenue.

In connection with its traffic impact report conclusions, Creighton Manning recommended the installation of a stop-sign on Bonesteel Lane at its intersection approach to McChesney Avenue Extension. Creighton Manning concluded that the vehicle queues experienced on the stop-sign control of Bonesteel Lane southbound intersection approach to McChesney Avenue will be minimal, as vehicles will experience short delays and average vehicle queues of less than one vehicle during the peak hours are projected.

Creighton Manning also observed that the only signalized study area intersection is the Route 7/McChesney Avenue (west) intersection, which will operate at an overall level service B through the build conditions of the AM and PM peak hours. The remaining 4 study area intersections (which include NYS Route 7/McChesney Avenue (east intersection); McChesney Avenue/McChesney Avenue Extension; McChesney Avenue Extension/Moonlawn Road; Moonlawn Road/Route 2) operate as unsignalized intersections. According to the New York State Department of Environmental Conservation procedures outlined in the New York State Department of Transportation Environmental Procedures Manual (January, 2001), unsignalized intersections and signalized intersections operating at an overall level of service A, B, or C conditions screen out from requiring a detailed air quality analysis. Therefore, based on air quality procedures, Creighton Manning concludes that traffic volumes at this site access intersection and other study area intersections associated with the build conditions will not increase traffic volumes, reduce source-receptor distances, or change other existing conditions to such a degree as to jeopardize attainment of the NYSAAQS – NAAQS parameters.

With respect to construction impacts, air quality within the project area may experience short-term impacts due to construction activities. During construction, airborne particulates will increase as dust is raised by construction vehicles in motion. This increase is expected to be sporatic and short-term in nature, and will be most noticeable in the area immediately adjacent to the construction. The impact should be minimized by the use of dust inhibitors, such as calcium chloride or other dust control provision found in the NYSDOT Standard Specifications for construction.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon air quality.

The Town Board will require dust control measures to address dust or airborne particulate during construction activities. This will include the use of water spray during dry conditions, and compliance with all ground cover and/or seeding requirements in the erosion and sediment control and stormwater management plan.

## 5.8 PUBLIC WATER SUPPLY

The Town of Brunswick has a contract with the City of Troy to supply water with a current maximum allowed average daily usage of 4 million gallons. Based on recent metered readings from the Town, the average water use is approximately 650,000 gallons/day or roughly 16% of the allowable.

Estimate for the consumption of water by the project, based on a consumption rate of 100 gallons per person per day for the 540 person population served, is estimated to be 54,000 GPD. This increase in demand of 54,000 gallons/day is 1.6% of the remaining capacity that Troy is obligated to supply to the Town of Brunswick, or 54,000 GPD out of 3,335,000 GPD of surplus.

The point of connection for the water supply will be from Water District No. 10 at the intersection of McChesney Ave. Extension and Country Way. A 12" diameter main extends east from McChesney Ave. along McChesney Ave. Extension to the ROUSE senior citizen housing facility. This water main is in the town high pressure system supplied from the town 2.0 million gallon water storage tank.

A hydrant flow test was conducted on September 22, 2005. The hydrant at the entrance to ROUSE senior housing facility served as the flow hydrant, while the next westerly hydrant from ROUSE, approximately 800 feet away, serving as the gage hydrant. The results are:

| | | |
|---|---|---|
| Gage Hydrant: | Static pressure | = 109 PSI |
| | Residual Pressure | = 55 PSI |
| Flow Hydrant: | Pitot-Tube Pressure = | 33.5 PSI |

Based on these results and an outlet coefficient of 0.90 the discharge rate is computed to be 972.5 GPM. Adjusting the flow for pressure of 20 PSI equates to a flow of 1,274 GPM at the flow hydrant point of connection.

The McChesney Ave. Extension's 12 inch diameter water main will be extended as a 12 inch diameter main to supply water to the project area. The project will connect to that extended public water supply main at McChesney Ave. Extension and distribute water through the project site with 8 inch diameter water mains and 1 inch house service laterals constructed to the street right-of-way. Hydrants will be installed throughout the project to provide fire protection capabilities.

Based on the September 25, 2005 hydrant flow test the static pressure within this project will range from 135 PSI to 104 PSI. The proposed 12 inch water main will be extended to the end of Bonesteel Lane within the project. This water main at the end of Bonesteel Lane can provide a 1,000 GPM fire flow at 40 PSI residual pressure.

The water supply and distribution system will be constructed in accordance with Rensselaer County Department of Health, New York State Health Department, and Town of Brunswick requirements.

All costs associated with the formation of a new Water District for the project area and all project construction costs including legal, fiscal, and inspection will be paid for by the project sponsor.

A 12 inch diameter water main with value will be installed to allow a future water supply connection to loop the water main to Freeman Ave. area.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon public water supplies.

The Town Board finds that adequate public water supply is available for this project, without impact upon service to existing water supply users.

The Town Board notes that the Applicant must make application for the creation of a water district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The Town Board action is expressly conditioned upon such district being legally established.

The Town Board also notes that all improvements constructed in conjunction with providing a system of water supply and distribution will be, upon satisfactory completion by the developer, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

## 5.9 PUBLIC SEWER

An 8-inch diameter gravity sewer system exists in McChesney Ave. Extension, 2300 feet from the proposed new Town Road. The terminal manhole of this system is located at the ROUSE senior citizen housing facility at Country Way. This gravity sewer system flows west along McChesney Ave. Extension, across McChesney Ave. to Brunswick Sewer District No. 6(BSD6) pumping station, behind the former Grand Union Building on NYS Route 7. Flows from this pumping station are conveyed with an existing 6-inch diameter force main to a recently installed 12-inch diameter gravity sewer located at NYS Route 7.

Information was gathered relative to the wastewater inflow and capacity of the BSD6 pumping station. Based on recorded running times for BSD6 pumping station pumps the existing flow into BSD6 pumping station is estimated at 50,000 gallons per day. The Town conducted a draw down test of BSD6 pumping

station on August 25, 2005. That draw down test determined a single pump-pumping rate of 223 GPM and a double pump-pumping rate of 288 GPM.

During significant rain events it is estimated that an additional I & I flow of 50 GPM enters the wastewater collection system and impacts BSD6 pumping station.

The Highland Creek project's water usage, based on a consumption rate of 100 gallons per person per day for the 540 person population served, is estimated to be 54,000 GPD.

The estimated 54,000 gallons per day of wastewater to be generated by Highland Creek project will be disposed of at an estimated average daily flow rate of 38 GPM or a peak flow of 152 GPM.

The projected peak flow to BSD6 pumping station is estimated to be 104,000 GPD, which represents the estimated existing flow of 50,000 GPD and estimated Highland Creek's flow of 54,000 GPD. The average daily flow of 104,000 GPD equates to 72 GPM or a peak flow of 288 GPM (peaking factor 4). Considering 50 GPM of I & I flow the projected inflow to the BSD6 pumping station can be as high as 338 GPM. To address the increase in flow from Highland Creek and provide additional reserve capacity, an upgrade of BSD6 pumping station to 400 GPM at 57 feet of TDH is proposed by the Applicant.

The Applicant proposes to place a Smith and Loveless Wet Well Mounted Pump Station on top of the existing wet well. The Smith and Loveless station's suction piping, two 6" PVC pipes, and 6" force main can fit within the existing wet well hatch opening. Within the existing wet well, the pump components, including slide rail assemblies, would be removed. Pump station force main would connect to one of the two existing force main pipes that currently protrude into the wet well. The second force main segment would be capped. A plan and section of this configuration was provided by the Applicant.

Under the Applicant's proposal, alignment of the Smith and Loveless station would be such that the two suction pipes would be along the 36" hatch dimension. The station's steel base would be fabricated to entirely cover the hatch opening. The station's fiberglass insulated hood would open away from the building wall. If addition protection from foul weather is desired an awning or extension of the roof above the new packaged pump station could be provided. Wet well access would be via the steel check plate hatch that is integrated into the packaged pump station base plate. This should be able to be accomplished with minimal or no modifications to the concrete wet well structure.

The existing pump stations controls in the existing pump station building would be abandoned, as the Smith & Loveless station would include a new integrated control panel. Existing force main valves would no longer be required.

Wastewater will be treated at Rensselaer County Sewer District No. 1 plant.

Highland Creek's wastewater collection system will consist of an 8 inch diameter gravity sewer system together with 6" house laterals constructed to property line of each lot. The 8" diameter gravity sewer will be constructed to collect and convey residential wastewater generated by the Highland Creek project to a new pumping station located on the project site. The Highland Creek pump station will convey wastewater via a force main west along McChesney Ave. Extension to the gravity sewer system located at ROUSE senior citizen housing facility. Via gravity, wastewater will be conveyed to BSD6 pumping station.

Pump station will be configured as a partial-bury installation. This will minimize the visual impact of the pump station, but would also facilitate easy access for maintaining the station. Sited with the pump station would be a pumping station operation building to house accessory equipment including a standby generator set for operation during power outages. All costs associated with the formation of a new sewer district for the project area and all project construction costs including legal, fiscal, administrative on-site construction observation will be paid for by the project sponsor.

The sanitary sewers will be designed utilizing 8 inch diameter mains and 6 inch diameter house connections.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon the existing sanitary sewer system when considering project funded upgrades. The Applicant shall be responsible for all costs associated with immediate upgrades to the BSD6 pump station pursuant to the proposal submitted by the Applicant and described herein. Further, the Town Board has considered the fact that additional wastewater flows from this action as well as other pending PDD applications may support the construction of a new pump station for BSD6. Therefore, the Town Board requires the Applicant to pay the sum of $100,000.00 or other amount as may be determined by the Town Board in connection with other project reviews, to be used toward the cost of design and construction of a new wastewater pump station. Such amount shall be placed in an escrow account dedicated to the design and construction of a new wastewater pump station for BSD6, if required.

The Town Board notes that the Applicant must make application for the creation of a sewer district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The Town Board action is expressly conditioned upon such district being legally established.

The Town Board also notes that all improvements constructed in conjunction with providing a system of wastewater collection and disposal and will be, upon satisfactory completion by the developer, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

## 5.10 SCHOOLS/EDUCATIONAL FACILITIES

The Highland Creek PDD will be serviced by the Brunswick Central School District (Brittonkill) ("BCSD"). Students living within the Highland Creek PDD attending public schools would attend the following schools:

| GRADES | SCHOOL |
|---|---|
| K-5 | Tamarac Elementary School |
| 6-8 | Tamarac Secondary School |
| 9-12 | Tamarac Secondary School |

Based on the Fiscal Impact Analysis Guidebook (2nd Edition), Capital District Regional Planning Commission, the Applicant projects a total of 114 school-age children to be added as a result of the Highland Creek project. Of this total, and again based on factors published by the Capital District Regional Planning Commission, the Applicant projects a total of 100 students to enter public school. All of the projected public school-age children are within the Brittonkill Central School District.

During the Public Hearing held on November 28, 2005 concerning the Highland Creek PDD application and DEIS, several comments were received by the Town Board concerning potential impacts of this project upon the Brittonkill Central School District. These comments included assertions that the current school population at Brittonkill is 1,400 students, and that the current Brittonkill School buildings could only house 1,600 students in total. Several commenters were concerned that the Highland Creek projections on total school-age children were in error, and that the project would generate in excess of 200 additional students and that the Brittonkill Central School District would need to construct a new school. Several commenters stated that new school building construction would raise taxes for everyone within the school district.

The Town Board acknowledged these comments, noting that a complete copy of the DEIS had been forwarded to the Brittonkill Central School District for review and comment.

In addition, the Town Board requested additional information from the Brittonkill Central School District. In particular, and in order to adequately assess the Highland Creek project and the public comments received concerning school population and potential new school building construction, the Town Board requested the Brittonkill Central School Board, in conjunction with the Superintendent and Office of Business Operations, to provide to the Town Board all demographic and planning data prepared by the Brittonkill Central School District. Pursuant to the Regulations of the Education Department at 8 NYCRR Part 155, each school district must develop and keep on file a comprehensive long range plan pertaining to educational facilities. The Regulations require that such plan be reevaluated and made current on at least an annual basis and must include present and projected pupil enrollments. In this regard, pupil enrollment projections must be based on a school district census projection of each grade level. Elementary grade enrollments, including Kindergarten through 6$^{th}$ grade, must be projected on a maximum of 5 years. Secondary grade enrollments, including 7$^{th}$ through 12$^{th}$ grade, must be projected a maximum of 10 years. Additionally, the Education Regulations require the school district to prepare 5 year capital facility plans, which need to be updated annually. All of this information was requested from the Brittonkill Central School District. The Town Board sought this information to fully assess the potential impact to the Brittonkill Central School District resulting from Highland Creek, and to review and rely upon competent, professional, and independent data.

In response, demographic and planning data was forwarded to the Town Board by the Brittonkill Central School District. Additionally, and significantly, the District informed the Town Board that a new school enrollment projection report for the Brittonkill Central School District was being completed by the Capital District Regional Planning Commission, and would be available for the Town Board's review during late December, 2005.

In addition, members of the Town Board met directly with the Brittonkill Central School District Superintendent, Dr. Teresa Snyder, to discuss the potential impacts of the Highland Creek PDD project upon the Brittonkill Central School District.

In late December, 2005, the report prepared by Capital District Regional Planning Commission on school enrollment projections for the Brittonkill Central School District was made available. That report was forwarded by the school district to the Town Board pursuant to the Town Board's request.

In addition, and significantly, the Brittonkill Central School District, through its office of Business Operations, informed the Town Board that according to State Education Guidelines, the school buildings located on the Brittonkill campus have a capacity of 2,215 students.

The School Enrollment Projections Report for the Brittonkill Central School District prepared by the Capital District Regional Planning Commission analyzed historic census data; historic school enrollment data beginning in the 1985-1986 school year; annual birth data for the period 1979-2003; building permit data to determine the number of housing units added or deleted due to demolitions, new construction or rehabilitation for the district for the period 1982-2005; and anticipated residential building activity in the district through 2010. Under this latter scenario, Capital District Regional Planning Commission analyzed several pending residential and planned development district applications in the Town of Brunswick, including the Highland Creek PDD application[1]. With respect to this latter category, the School Enrollment Projections Report considered 3 future building scenarios:

1. No construction of any planned development district applications, including Highland Creek.

[1] The CDRPC Report included analysis of the Highland Creek PDD application, Hudson Hills PDD application, and Carriage Hill PDD application. The factors also presumed average residential development in the Town irrespective of the planned development districts, based on historical building and construction trends.

2. Full build-out of all residential planned development district applications in 5 years, including Highland Creek, with the carriage homes successfully marketed to empty nesters. In this scenario, Capital District Regional Planning Commission used a factor of 0.24 students per carriage home unit.
3. Full build-out of the residential planned development districts in 5 years, including Highland Creek, with the carriage homes marketed to the general public, and not limited to empty nesters. In this scenario, a factor of 0.77 students per residential unit was applied.

Initially, the Capital District Regional Planning Commission projected that over the studied term, student enrollment at the Brittonkill Central School District is anticipated to decline. This conclusion is set forth in the first studied scenario, which anticipated average residential construction conditions without planned development district approvals. In this regard, the report states that enrollment in school year 2005-2006 was 1,383 students. The report concludes that such number is expected to remain stable through 2008-2009, and then begin to decline as the larger classes, currently in 4th through 9th grades, begin to graduate.

Under the second scenario, which presumes planned development district approval and full build-out within 5 years, including Highland Creek, with a factor of 0.24 students per carriage home unit, total school population is expected to grow from the current 1,383 students to 1,502 by 2010. This represents an 8.6% increase over the current enrollment, or an additional 119 students. This projection included Highland Creek, but also included projected students from additional planned development district applications pending before the Town Board and located, in part, within the Brittonkill Central School District boundaries. This projection of 1,502 total students is well within the capacity of the Brittonkill School buildings of 2,215 students.

Under the third scenario, which projects approval of all residential planned development districts, including Highland Creek, and utilizes a factor of 0.77 students per residential unit, projected student enrollment is expected to increase from the current 1,383 to a total student population of 1,596 by 2010. This represents a 15.4% increase over the current enrollment, or an additional 213 students. Again, this projection includes approval and build-out of all planned development district applications pending before the Town Board and located, in part, within the Brittonkill Central School District boundaries. This projection of 1,596 total students is well within the capacity of the Brittonkill School buildings of 2,215 students.

In order for the Town Board to fully comprehend and apply the conclusions set forth in the School Enrollment Projections Report to the Highland Creek PDD application, the Town Board invited the Capital District Regional Planning Commission to a meeting of the Town Board to present the report. That presentation occurred at the Town Board meeting held on January 12, 2006.

In addition, the Town Board and the Brittonkill Central School District Board of Education held a joint meeting on February 13, 2006 to discuss the pending residential projects in the Town of Brunswick and potential impacts upon the school district. The School Enrollment Projections Report for the Brittonkill Central School District prepared by the Capital District Regional Planning Commission was discussed at length. It was noted by the Town Board that members of the Board of Education questioned certain of the assumptions and methodologies used by the Capital District Regional Planning Commission in preparation of its School Enrollment Projections Report. Additionally, certain members of the Board of Education sought to have an additional school enrollment projection report prepared. While the Town Board acknowledges that certain members of the Board of Education had questions and/or concerns regarding the Capital District Regional Planning Commission's School Enrollment Projections Report, the Town Board views the Capital District Regional Planning Commission as a competent, professional, qualified, and well-regarded planning agency, relied upon by several members of the Capital District, both public and private, pertaining to planning issues. The Town Board finds the conclusions of the Capital District Regional Planning Commission set forth in its School Enrollment Projections Report for the Brittonkill Central School District to be competent and reliable.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon public schools.

The Town Board incorporates the conclusions of the School Enrollment Projections Report for the Brittonkill Central School District prepared by the Capital District Regional Planning Commission concerning the impact of the Highland Creek project upon the Tamarac Elementary and Secondary Schools. The Town Board finds it significant that the Capital District Regional Planning Commission included all of the PDD applications pending before the Town Board that lie within the Brittonkill District boundaries, and concluded that under a worst-case scenario where all residential units are built and considered single family dwellings with school-age children, no significant impact will result to the Brittonkill District and that sufficient capacity exists within the existing school buildings to accommodate students under such worst-case scenario.

## 5.11 PUBLIC SAFETY

### 5.11.1 Police Protection

Police services within the Town of Brunswick fall under the jurisdiction of the Rensselaer County Sheriff's Department and New York State Police. Each of these agencies has been advised of the proposed project. No response indicating any concern with respect to the Project was received from either the Rensselaer County Sheriff's Department or New York State Police.

The Town Board finds that the project will not have a significant adverse impact upon public police/sheriff services.

### 5.11.2 Fire Protection

Most of the Project is located within Center Brunswick Volunteer Fire Company district, with a small portion at the eastern end of the project located within the Brunswick Fire Company No. 1 district. Each of these companies and neighboring Mountain View Volunteer Fire Co. has been advised of the proposed project. The Applicant met with members of the Center Brunswick Volunteer Fire Company and Brunswick Fire Company, No. 1 on September 27, 2005 to review the project. Two concerns were raised and addressed as follows:

(1) Emergency Access. Access to the Community is from the project's main entrance on McChesney Avenue Extension. It was requested that additional consideration be given to a second means of access to the project from Route 7 (Hoosick Road) through either Harris Avenue or Freeman Avenue. After further consideration, it was determined that access through either of these streets is not reasonably practical at this time due to topographical constraints that would not allow construction of a town road complying with town standards over the lands the Applicant owns. A consideration of possible water main looping to Harris Avenue and/or Freeman Avenue areas is desirable from the standpoint of eliminating dead end water main and providing source of water from two directions. If this connection is considered with this project, the water main will need to be constructed through hard-to-reach areas due to topography, which could create problems should maintenance or repair be required.

This project road system site provides for a possible road extension to lands of O'Malley located between the project and the Harris/Freeman Avenue area. There seems to be a potential that if a project is constructed on the lands of O'Malley, the water main connection could be accomplished there.

This project will provide a water main stub from which the water main can be extended.

Moreover, sufficient emergency access to homes within the project is provided by the project's overall roadway design in having alternate routes of emergency access to homes within the project. All roads in the project have sufficient width and turning radius to accommodate fire-fighting apparatus. Thus, in the event of an emergency during which access to a portion of the project via one route is limited due to the emergency event, or must be restricted to emergency vehicles, access to this portion of the project, as well as other portions of the project, can be easily maintained via other routes within the project.

(2) Fire Flow. Water distribution system for this project is proposed to be connected with high-pressure water main supplied from the Town water storage tank.

A 12" water main will be extended from the ROUSE senior complex to the project site and then through the site to the end of the proposed Bonesteel Lane. At the end of the proposed Bonesteel Lane, the fire flow will be in excess of 1,000 gpm with 40 psi residual. Fire flow for the project will be adequate to afford fire protection.

The proposed development will create an increased demand on fire response services; however, the increased demand is not anticipated to be significant. The Project will be served by the extension of the municipal water system, which will include fire hydrants that will be located throughout the Community in conformance with will applicable state and local regulations, augmenting fire fighting capability.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon fire protection services.

The Town Board notes that the Applicant met with both the Center Brunswick and Brunswick No. 1 Fire companies, and incorporated comments from these companies into the project design. Significant design features include the installation of a water main stub for future extension and looping in the event of future off-site development, extension of public water with adequate fire flow standard, installation of fire hydrants within the proposed project site, and road system design to foster alternative traffic and pedestrian flow in the event of fire or other emergency.

### 5.11.3 Ambulance Services

Ambulance services for the Project are provided by Mohawk Ambulance Service. A letter was sent to Mr. Richard Brant, Vice President of Operations, Mohawk Ambulance Service regarding the proposed Project. No response indicating any concern with respect to providing ambulance service to residents of the Project was received.

The Town Board finds that the project will not have a significant adverse impact upon ambulance services.

## 5.12 RECREATION

The Town of Brunswick operates a Town beach and park located on North Lake Avenue, which is open to Town of Brunswick residents only. The Town also operates the Brunswick Family Community Center located on Keyes Lane. The Town also owns public recreation fields on Route 2, currently providing baseball, softball, football, and soccer facilities.

As reported by the U.S. Census Bureau, Census 2000, the population of the Town of Brunswick was 11,684 people. Over the projected six-year build-out of the Project, assuming all residents within the

Project were new to the Town, the Project would result in an increase in the Town population of less than 1% per annum.

The Project will also include the following site amenities:

- walking paths
- gazebo/sitting areas

The Project amenities will mitigate the impact on Town recreational facilities by providing alternate facilities for residents of the Project. However, it is noted that the on-site amenities are private and available only for use by residents in the Highland Creek project.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon recreation facilities in the Town.

The Town Board notes that under Town Local Law, the Applicant will pay a fee of $500.00 per unit for parks and recreation impacts. This will generate $85,000 to the Town for use in its parks and recreation facilities and youth programs.

## 5.13 VISUAL RESOURCES

To assess the potential visual impact of the proposed action upon surrounding properties, a viewshed analysis was conducted to evaluate the potential impacts created by the construction of single family residential detached structures on the project site. The Town Board and its consultants reviewed and considered this viewshed report. The assessment was conducted in accordance with NYSDEC guidelines, and included a three dimensional computer simulation of views from several locations. The applicant prepared this visual assessment, and undertook the following steps:

1. Convert the existing topographic survey in two foot contours into a three dimensional computer model.
2. Collect spot elevations from off-site locations.
3. Prepare a three dimensional rendering of proposed buildings and incorporate building perspectives into a three dimensional model of site plan at appropriate locations and heights.
4. Add appropriate mitigation, including vegetative screening and landscaping.

Computer image snapshots of views from various vantage points around the project site were prepared. Three simulated post-development views were presented. Although computer representations, these views present realistic conditions from each vantage point looking toward the project site. Digital photographs of existing conditions from these vantage points were used to subsequently insert proposed buildings, vegetation and other features.

The viewshed analysis indicates that portions of the project will be visual from each of the identified off-site locations, although mitigated to a degree by topography and existing vegetation. The three dimensional computer simulation renderings were included in the DEIS at Appendix I, and reviewed and considered by the Board.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon visual resources.

The Town Board acknowledges that portions of the project will be visible from identified off-site locations, but finds that the project design has reduced visual impacts to a significant degree. Further, the Town Board finds it significant that under current A-40 Zoning, houses could be constructed over the entire project site, but that the project design has maintained 151+/- acres, or 74% of the project site, as open green space. This significantly reduces potential visual impacts, and fosters the Town goal of preserving open space and scenic vistas.

## 5.14 NOISE

The additional traffic generated by this project and activities associated with normal residential living will produce an incremented increase of ambient noise levels.

Also, temporary ambient noise level increase will be by construction equipment.

At the Public Hearings concerning this action, the Town Board received comment concerning the noise created by air-conditioning units for the proposed residential dwelling units. The Applicant was directed to supply additional noise information concerning air-conditioning units to be installed on this project.

The Applicant, in the FEIS, stated that air-conditioning units on each proposed residential structure will be an optional amenity, and will not be included as standard. For those that are installed, the air-conditioning condensing units will be installed on one side of the home and in a staggered fashion so that each condensing unit will be separated by a combined side yard width of 15 feet plus one residential building. In this way, there will not be two air conditioner units placed in adjacent side yards. The resulting distance separation will help to mitigate noise impacts.

The Applicant further provided specifications on proposed air-conditioning unit. The discharge pattern on the top grill provides minimum air restriction, resulting in quiet fan operation. The condensing units feature a single speed motor designed for low speed, quiet, energy saving operation. The scroll compressor is hermetically sealed and incorporates internal high temperature motor overload protection, and durable insulation on the motor windings. The unit is externally mounted on rubber grommets to reduce vibration and noise.

It is noted that all homes in the proposed project will comply with the New York State Building Code. There is no specification standard in the Building Code for the State of New York regulating sound levels of air-conditioning units.

The Town Board has also considered the fact that the two residential apartment projects located in close proximity, the Sugar Hill Apartments and ROUSE Senior Apartments, had not generated significant noise impacts, whether from air conditioner units or otherwise.

The Town Board also notes the residential construction is proposed for the interior of the project site, with 74% of the project's site remaining preserved as open space, with the maintenance of existing vegetation. This vegetative buffer and distance to project site boundaries further reduces any potential impact from noise generated by air conditioner units.

**MITIGATION:**

The Town Board finds that the project will not result in significant adverse noise impacts.

The Town Board conditions this finding upon the installation of air conditioning units in a staggered fashion to ensure each condensing unit is separated by a combined side yard width of at least 15 feet plus one residential building.

The Town Board also requires installation of air conditioning units in compliance with all applicable standards, including the New York State Building Code.

## 5.15 SOLID WASTE

Collection of solid waste will be by private waste collection companies or will be the responsibility of the individual homeowners within the Highland Creek PDD. The Town of Brunswick operates the Brunswick Recycling center located on Town Office Road behind the former Town Hall building. The Center accepts recyclable materials free-of-charge and also accepts trash and garbage for nominal fees. The fees charged for disposing of bagged trash and certain other items, along with the sale of recyclable materials brought to the center, fund the recycling Center. Some of the recyclable materials now accepted at the Center include glass bottles and jars, tin food and beverage cans, plastic containers with a number 1, 2 or 3 in the recycling logo, newspapers and magazines, and corrugated cardboard. The Brunswick Recycling Center is open to Town residents.

Persons living within the Project will generate solid waste increasing the demand for solid waste disposal. It is estimated that solid waste will be generated by persons living within the Project at the rate of 4.4 pounds per person per day, or approximately 423 tons per year. Solid waste disposal is an issue that is addressed at local and regional levels.

The Town Board finds that the project will not have a significant adverse impact upon solid waste production or disposal facilities.

## 5.16 HISTORIC AND ARCHAEOLOGICAL ASSESSMENT

The NYS Office of Parks, Recreation and Historic Preservation (OPRHP) requested that a Phase I Archaeological Survey be undertaken for the Highland Creek Planned Development Project in April of 2005. Specific tasks to be conducted for the cultural resource investigations adhere to the OPRHP accepted guidelines as outlined within the “Standards for Cultural Resource Investigations and the Curation of Archaeological Collection in New York State" and the “State Historic Preservation Office Phase I Archaeological Report Format Requirements”. This work is designed to follow the instruction and intent of Section 106 of the National Historic Preservation Act, as amended (Public Law 89-665), and the Procedures for the Protection of Historic and Cultural Properties (36 CFR 800), in compliance with the National Environmental Policy Act, CFR 14 (1963).

Phase I investigations consist of two main components including a Phase IA literature review and sensitivity evaluation followed by practical Phase IB archaeological field investigations.

The intent of the Phase IA is to create a predictive sensitivity profile for the property to be developed and function as a guide for any subsequent archaeological field investigations. Thus, the research is designed to outline the prior occupation and use of the property and identify the types of archaeological features and resources that may be present within the limits of project disturbance. The study documents the environmental setting as it relates to the potential occupation and use, as well as identifies archaeologically and culturally sensitive areas. Standing structures constructed prior to 1950 within or contiguous to property limits are evaluated and OPRHP Building/Structure Inventory forms prepared.

The Phase IB Investigations consist of practical field investigations to identify subsurface deposits, features and artifacts in an archaeological context in order to identify specific project impacts to cultural resources. Although the precise techniques and methodologies utilized as part of this procedure may vary and will reflect the existing ground conditions, project disturbance, and anticipated archaeological remains, two methodologies are generally implemented at this level of the investigations. These are 1) a systematic visual inspection and 2) some level and type of subsurface examination including, but not limited to, the hand excavation of shovel tests to assess the stratigraphy and evaluate the potential for the location of archaeological evidence. In areas where deeply buried resources or buried soils horizons are anticipated, controlled trench excavations may also be required.

The Phase I Cultural Resource Investigations were undertaken from June through September of 2005, with additional work undertaken to address alternative project impacts conducted through October of 2005.

The Phase IA study revealed that at least 4 (OPRHP) and 1 (NYSM) archaeological sites have been reported within one mile of the project limits, with an additional six sites located just over one mile away. Many of these sites are associated with the Poestenkill and its tributaries. The Sweet Milk Creek extending along the perimeter of the project area is one of these streams. As such, the presence of these known sites supported the generally high potential for the location of related or similar Native American resources within the confines.

From an historical perspective, settlement in the Town of Brunswick was relatively early. The first settlers to this area were reputedly German arriving in 1760. By 1791, the Town was formally organized. As part of the Phase IA study, detailed historic maps were reviewed to aid in an evaluation of the potential to encounter historic resources within the project limits. Maps examined included the early USGS topographical quadrangles and the available 19th century land ownership maps (1854-1900). These maps revealed that the project area was once part of the P. McManus farm by 1854 and remained within the McManus family through at least 1861. A review of the early topographic maps also revealed that the property remained as a rural farmstead from 1928 through the present. According to the former landowner, Mr. Bonesteel, the farm had been owned and operated by his family from about 1900 until it was sold in the last quarter of the 20th century. As the property has been maintained as a working farm since at least 1854 it was reasonable to assume that historic resources would also be identified within an archaeological context. Therefore, Phase IB archaeological field investigations were warranted to determine presence or absence of resources or artifacts within the area to be subjected to the project development.

The Phase IB archaeological field investigations were conducted from June through September of 2005. These investigations consisted of the excavation of 550 shovel tests and the visual examination of approximately 40 acres of plowed fields. During this work evidence of Native American land occupation and use was identified at three distinct locations within the property and designated as Sites P1, P2 and P3. Additional excavations conducted within site areas P1 and P2 confirmed that these two sites represented stray or isolated occurrences. As such, no further work is recommended for these two sites. Site P3 represents an occupation area and further archaeological work will need to be undertaken in coordination with OPRHP.

Additionally, two historic sites have been identified. One of these include the extant farm buildings and house formerly known as the Bonesteel Farm. This is designated as BS-1 or the Bonesteel/McManus Farm Complex. The second historic site is archaeological in nature and represents the foundation and cellar hole related to the earlier occupation by Phillip McManus (1854). This site has been designated as H-1. Historic resources were also recovered during the visual inspection and the shovel testing. This material appears to represent scattered late 19-20th century resources deposited as casual use and the presence of midden materials scattered by subsequent plowing activity.

Additional Phase IB archaeological field investigations were undertaken on October 27, 2005 to address potential alternative locations for the Bonesteel Lane road re-alignment and to evaluate information provided by Sharon Zankel, the Town Historian, on October 23, 2005. This work included the excavation of 36 shovel tests distributed at 25-foot intervals along projected course of the alternative route for Bonesteel Lane. No additional resources were identified that would be affected by the re-alignment of the roadway.

Subsequent contact with the Town Historian revealed the presence of a small family cemetery associated with the McManus homestead. According to her data, the remains in this cemetery were relocated to Oakwood Cemetery in 1883. However, it is unclear how many people were actually moved and whether all the remains were relocated, or just those with standing headstones. Therefore, detailed interviews and specific field investigations were undertaken to locate the former cemetery grounds. Physical evidence of

the former cemetery grounds was recovered on October 27, 2005. Additional fieldwork will be required to define the limits of the former burial grounds during site construction. It is noted that the former cemetery grounds appear to be located entirely in the open space area, and therefore can be avoided. Final boundary delineation will be undertaken during construction.

The identified Native American archaeological site (P3) is located in part of the development area and might not be easily avoided. Further archaeological work at the Phase II level will serve to refine site boundaries and will define the geographic and stratigraphic limits of the site. This will be performed in coordination with OPRHP.

Scattered historic resources were identified that represent casual deposition. Since these resources represent secondary depositions and do not appear to have integrity of location, or present viable research potential, they have not been determined to be significant. As such, no further work is recommended for these types of resources.

Two historic archaeological sites have been identified: One of these includes the extant farm buildings and house formerly known as the Bonesteel Farm. As the outbuilding and house will be maintained in their current state on a distinct lot, no direct project impacts are anticipated to this property.

The second historic archaeological site encompasses the foundation and cellar hole related to the earlier occupation by Phillip McManus circa 1854. However, since testing conducted in the project area adjoining these remains did not recover related resource, the site appears to be situated entirely on the adjoining property or outside the defined zone for the project. Thus, no impacts are anticipated.

The former location of the McManus family cemetery has been identified within the project area. Since it is unclear if all human remains were removed in 1883, minimally, the boundaries of the cemetery will need to be established. Since these grounds currently appear to be in an open space area, it may be possible to avoid direct impact once clear boundaries have been established.

**MITIGATION:**

The Town Board finds that the project will not have a significant adverse impact upon historic and archeological resources, and that the same will be mitigated to the maximum extent practicable.

This finding is conditioned upon the following:

1. The Applicant must comply with all requirements of OPRHP with respect to Site P3. No construction or land disturbance may occur on the project site until written confirmation has been received by the Town that OPRHP has approved activities in the area of Site P3.
2. The Applicant must delineate the boundaries of the former cemetery grounds on the project site prior to any construction or land disturbance in the area of the former cemetery grounds. The Applicant must coordinate with the Town Historian on the final cemetery boundary delineation.

**5.17 OPEN SPACE**

The Town Board acknowledges that the preservation of open space and maintenance of scenic vistas are significant factors in land use planning decision making, and important issues for the Town of Brunswick. In this regard, the Town Board acknowledges that the Town Comprehensive Plan dated February, 2001, expressly provides for the preservation of open space as supporting the maintenance of the rural character of the Brunswick community. The Town Board further acknowledges actions of prior Town Board administrations in creating an Open Space Trust Fund. Pursuant to Resolution No. 39 of 1990, an Open Space Trust Fund was established to be used solely for the acquisition of development rights and property easements. This Resolution expressly provided that the objective of the Open Space Trust Fund is to

preserve, protect and maintain the rural character of the Town by promoting farmlands, scenic views, and open spaces within the Town of Brunswick for the long term benefit of the community.

The Highland Creek PDD site totals 210+/- acres. The entire project area is located within an A-40 Zoning District under the Zoning Ordinance and Zoning Map of the Town of Brunswick. According to the Zoning Ordinance, uses within the A-40 Zoning District include construction of single family dwellings on a minimum lot size of 40,000 square feet.

Under current Zoning Regulation, single family residential housing is an allowable use. Further, current Zoning Regulation does not prohibit a residential project design which would encompass placement of residences and infrastructure throughout the project site.

The Applicant initially proposed the construction of 206 residential lots and associated road and utility infrastructure. Part of the original project design included maintenance of open space to be owned and maintained by a Homeowners Association to be created in connection with the project.

However, in connection with the planning and environmental review process, and in consideration of comments received by the Town Board concerning the density of the project, the project design has been modified to reduce the total number of lots to 170 residential lots, and a reduction in the total amount of proposed roads for the project. The proposed lots and road system now are distributed on 54+/- acres of the project site, constituting approximately 26% of the project site. The residential lots themselves total approximately 19% of the project site. With the project design revision, the protected open space to be owned and maintained by the Homeowners Association is increased to 151+/- acres or approximately 74% of the project site.

The Applicant proposes to restrict allowable uses on the common open space under covenants and restrictions of the Homeowners Association. The Applicant proposes to include a trail system, as well as gazebo and picnic area within the common open space. Aside from these limited site amenities, the Applicant proposes to restrict the common open space for no future development or resubdivision, and to keep the area as perpetual greenspace.

The Town Board has investigated the impact of this action upon the totality of land uses within the Town of Brunswick. The Town Board has identified on a map all current land uses with the municipal limits of the Town. The Highland Creek project site, as well as the sites of the four (4) other PDD applications pending before the Town Board (Hudson Hills, Carriage Hill, Brunswick Meadows, Walmart Supercenter), have been considered. The Town Board finds that the Town of Brunswick is and will remain predominately rural, including agricultural land, vacant land, forested land, and residential land.

The Town Board finds that the project will not have a significant adverse impact upon open space and visual resources. In this regard, in addition to the restrictive covenants in the Homeowners Association by-laws, the Town Board will require the Applicant, individually and as representative of the Homeowners Association, to grant a conservation easement to the Town of Brunswick over the 151+/- acre common area, in a form acceptable to the Town Board and Town Attorney.

## 5.18 CONSISTENCY WITH COMPREHENSIVE PLAN

The Town of Brunswick has in place a Comprehensive Plan dated February 6, 2001. This Plan was prepared following extensive interaction with community residents, to gain public input on identifying and promoting critical factors to guide future land use decisions in the Town of Brunswick.

The Town created a Comprehensive Planning Committee to assist in the preparation of the Comprehensive Plan. Members of the Comprehensive Planning Committee included Philip H. Herrington, Town Supervisor; Shawn Malone, Planning Board Chairman; Caroline Trzcinski, Zoning

Board of Appeals Member (and Chairperson at time of Comprehensive Plan adoption); and Town Board Members, including Carolyn Abrams, Sam Salvi, Patrick Poleto, and Carl Clemente.

The Town Comprehensive Plan set forth a summary of major recommendations. These include the following:

**1. Land Use Policies**

Brunswick will encourage enhancement of site development standards, promotion of cluster development, conservation of natural resources and use of buffer areas. These policies will work to regulate commercial growth, improve the community's appearance and balance property rights with health, safety and welfare.

The Plan specifically provided that the Town should embrace progressive forms of land use policies to encourage development that is environmentally friendly and provide buffers and open space.

**2. Environmental Policies**

Brunswick should formulate environmental policies, guided by existing County, State and Federal Regulations, to conserve and protect natural resources. Brunswick will encourage activities to ensure that conservation of natural resources in the Town is maintained.

The Plan specifically provided that, to the extent practical, public water and sewage systems will be encouraged. Areas of high density residential developments will be encouraged to use or development public water and sewer systems. Steps will be taken to ensure that any development is in compliance with Rensselaer County Health Department requirements.

**3. Economic Development Policies**

Brunswick will encourage development in locations were the integration of residents, business and commerce protects the natural environment and preserves the historical flavor of the Town.

The Plan specifically provided that Brunswick will embrace policies that strike a balance between generating operational costs for the Town's many services and providing tax rates compatible with residents. The Town should encourage opportunities to broaden the tax base without burdening services or negatively impacting natural resources or quality of life.

**4. Transportation Policies**

Brunswick will continue its partnership with the New York State Department of Transportation.

The Plan specifically provides that the Town should continue to work with the New York State Department of Transportation to improve traffic flow on and along the Route 7 corridor.

**5. Community Issues Policies**

Brunswick will continue to support the development of senior housing. The Plan specifically provided that the Town should embrace senior housing within Brunswick.

With respect to Land Use Policies, the Comprehensive Plan provides the following:

> The Town of Brunswick should upgrade current standards for site development. The Town should encourage attractive growth that blends with or extenuates one

of the Town's most valuable resources - scenic rural beauty. This policy is intended to apply to commercial, industrial, multi-family and residential development.

This review would consider physical characteristics such as layout, access, appearance, signage, landscaping, parking as well as the project's harmony and compatibility with the surrounding neighborhoods.

The majority of soils within the Town are not capable of high-density development where community sanitary sewer systems are unavailable. By using cluster development practices, it is possible to consolidate homes and maintain small land disturbance. These development include fewer roadways and reduced development costs for utility infrastructure while maintaining open lands.

Developers should be encouraged to maintain existing land forms and/or vegetative buffers between existing and proposed development.

The Plan promotes the use of various planning techniques, including Planned Development Districts. Through the use of such planning techniques, the Plan also envisioned the maintenance of buffered areas between existing and new areas for development.

The Plan also identified and acknowledged that land use planning must provide for a balance between individual property rights and the legitimate public need to protect health, safety and welfare. In this regard, the Plan provided that the Statutes of New York State and the Law as established by the New York Court of Appeals and the United States Supreme Court recognized that modern planning and zoning entails a balancing of property rights of citizens and the protection of the residents health, safety and welfare.

In terms of property development, the Comprehensive Plan highlighted the need to preserve scenic vistas and rural land qualities. In this regard, the Plan identified the use of the SEQRA process to analyze these issues.

The Comprehensive Plan also acknowledged the growing senior population in the Town of Brunswick, and promoted the availability and enhancement of the quality-of-life factors of housing, education, healthcare, senior citizen facilities, and emergency services for this growing segment of the Brunswick community.

In terms of Recreation Policies, the Plan identified the growing need for recreation facilities in the Town, and encouraged utilization of its Land Use and Subdivision Regulations to enhance recreation availability. In this regard, the Plan urged the Town to research sources for funding of recreation land acquisition, buildings, and associated appurtenances. The Plan also supported and encouraged the implementation of trails and pathways in future land use planning and decision making.

The Comprehensive Plan also identified the rich history and important place of agriculture and open space in the Town of Brunswick. In this regard, the Comprehensive Plan supported the maintenance of agricultural land use, but also acknowledged that "lower profit margins for agricultural activities have contributed to the decline in the number of farms and other agricultural business operating in the Town". While the Plan promotes the maintenance of agriculture, it also identified that a principle benefit of agricultural use was the maintenance of open space and scenic vistas in the Town. In order to promote the maintenance of open space and scenic vistas, the Plan also encourages the use of conservation easements to cover areas where property owners agree to leave certain areas undeveloped and in the care of the entity which is responsible for overseeing the resource. The use of conservation easements for the maintenance of open space was identified as a method for preserving the rural character of the Town.

**MITIGATION:**

The Town Board finds that the project is consistent with the goals and objectives set forth in the Town Comprehensive Plan.

The finding is premised upon the following:

1. The project design uses a cluster approach, which conserves natural resources and promotes the use of buffer areas as protected open space.
2. The project incorporates the use of public water and public sewer, thereby avoiding potential impact to groundwater and surface water resources by eliminating on-site private wells and private septic systems.
3. Coordination has been made with Rensselaer County Highway Department and New York State Department of Transportation on all traffic and road related issues.
4. The project promotes housing for the "empty-nester" population, generally 55 years and older, which is identified as a substantial and growing segment of the Town population.
5. The project design, by incorporating 151+/- acres, or 74% of the project site, as perpetual open green space, blends attributes of the Town's scenic rural beauty with balanced residential growth for the overall benefit of the community.
6. The project design has considered and incorporated the physical properties of the site, including wetlands and slopes, and preserves those areas of open space.
7. The clustered design also results in less roadway network, reducing future maintenance costs to the Town after dedication and acceptance as public roadways.
8. The project design includes a trail network on the open space for the benefit of the lots owners in the project. For public recreational facilities, the Town will receive a fee of $85,000.00 from the Applicant.
9. While 54+/- acres of farmland will be lost, the Town will gain 151+/- acres of open space subject to a conservation easement, while acknowledging that nearly 7,000 acres of agricultural land remains in the Town. See Section 8.0.

### 5.19 Economic Considerations

In the DEIS, the Applicant supplied projected property tax revenues generated on 190 residential units. The project has now been reduced to a total of 170 units, including 126 carriage homes, 31 traditional homes, and 13 manor homes. The projected property tax revenues have been adjusted accordingly, and are presented in Appendix "B" attached to this Finding Statement.

As set forth in the revised Projected Property Tax Revenue analysis, the Highland Creek project will generate annual property tax revenues totaling $1,468,322.00. This total is segregated as follows:

| | |
|---|---|
| County | $319,364.00 |
| Town | $125,946.00 |
| School | $931,551.00 |
| Fire District | $91,461.00 |

With respect to the projected school tax revenues, these estimates presumed that all lot owners within the project will include a $700.00 per unit STAR Exemption. However, this presents a worst-case scenario, as it is unknown whether the 44 traditional and manor homes would receive the STAR Exemption.

These projected revenues do not include sales tax revenues associated both with construction as well as commercial retail sales by residents of the Highland Creek community.

In terms of future maintenance costs for the roadways within the Highland Creek project that will be dedicated as public roadways to the Town of Brunswick, the Town Board has analyzed the average cost for road maintenance by the Town Highway Department on a per mile basis. The calculation undertaken by the Town Board identifies the current annual budgetary outlay for the Town Highway Department of $1,442,098.00. The Town currently maintains approximately 104 miles of Town roadways. Using the total average highway budget divided by the total miles of public roadway maintained by the Town to present a worst-case scenario, the Town spends $13,866.00 in maintenance costs for Town roadways on a per mile basis. The proposed road system in the Highland Creek project is approximately 2.3 miles in length. This computes to an anticipated future annual maintenance cost for the road system in the Highland Creek project of approximately $31,892.00. The Town Board also finds that no additional equipment or employees will be needed for future maintenance responsibilities for the road system within the Highland Creek project.

In terms of fiscal impacts to the Brittonkill Central School District, and based upon information supplied by the Superintendent of the Brittonkill Central School District, the Town Board accepts the average figure of $9,000.00 per student expended by the Brittonkill Central School District to provide educational services. The Town Board further finds that when the proposed number of residential units in the Highland Creek project was 190, the projected number of school age children who would attend public school was estimated at 100 students, based upon factors in the *Fiscal Impact Analysis Guidebook Second Edition*, Capital District Regional Planning Commission. The Town Board notes that the total project lot count has been reduced to 170, which would result in a reduced number of projected public school students. However, still utilizing the 100 student figure, and utilizing the accepted average cost per student of the Brittonkill Central School District of $9,000.00, a worst-case scenario for fiscal impacts to the Brittonkill Central School District is $900,000.00 per year. The Town Board notes that the revised Projected Tax Revenues based on 170 units totals $931,551.00.

The Town Board further notes that a park and recreation fee will be paid by the Applicant in the amount of $85,000.00.

The Town Board also finds that all future costs associated with provision of public water and public sewer facilities will be borne initially by the Applicant in the construction of such facilities, and thereafter by property owners within the public water district and public sewer district which will be required in association with this project. Special assessments will be levied against the property owners within the newly created public water and public sewer districts, without additional fiscal impact upon the Town.

The Town Board also notes that police protection within the Town is provided by the Rensselaer County Sheriffs Department and New York State Police. Also, the Town Board notes that ambulance service is provided by Mohawk Ambulance, which is privately owned and operated.

With respect to fiscal impacts to the Center Brunswick Fire Department and Brunswick No. 1 Fire Department, the Town Board notes that projected annual revenues for fire districts generated by the Highland Creek project total $91,461.00. Upon review of the Highland Creek project plans, neither the Center Brunswick Fire Department nor Brunswick No. 1 Fire Department indicated that any additional equipment or trucks were necessitated or required as a result of this project.

Based upon these economic projections, the Town Board finds that the project will not have a significant adverse impact upon public expenditures, including Town of Brunswick public services.

## 6.0 CUMULATIVE IMPACTS

The SEQRA Regulations provide that the Lead Agency must consider, in assessing the significance of a proposed action:

> Reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:
>
> (i) included in any long-range plan of which the action under consideration is a part;
> (ii) likely to be undertaken as a result thereof; or
> (iii) dependent thereon.

6NYCRR Section 617.7(c)(2). Impacts resulting from projects other than the one immediately under consideration must be considered, then, when the projects are related to one another by a long-range plan, likely sequential action, or interdependency.

The SEQRA Regulations also provide that cumulative impacts should be analyzed "where applicable and significant". 6NYCRR Section 617.9(b)(5)(iii). Cumulative impact assessment is applicable where the action is deemed to integrally related with other projects, through a common plan of development either by the applicant(s) or by the municipality.

The New York Court of Appeals has ruled upon the issue of cumulative impact analysis under the SEQRA Regulations. The Court has identified those circumstances of which the projects themselves are not part of the same plan by one or more sponsors, but do satisfy the "relatedness" necessary for cumulative impact review. In *Long Island Pine Barrens Society, Inc.* the Planning Board of the Town of Brookhaven, AD NY2d 500, 606 NE2d 1373, 591 NYS2d 982 (1992), the Court ruled that for purposes of determining environmental significance, the Lead Agency is required to consider "cumulative effects of projects other than the one immediately proposed" only if the actions are related, including actions proposed in areas in which there are "actual municipal development plans". *Pine Barrens*, at 513.

In the absence of projects that actually depend on one another or a part of one overall plan by one or more project sponsors, i.e. interdependent road systems or infrastructure, the Court explained that municipal development plans provide the "cohesive framework" for cumulative review. *Pine Barrens* at 514. Courts have found such plans expressed in special development districts. *CEG Save the Pinebush Inc. v. City of Albany,* 70 NY2d 193, 512 NE2d 526, 518 NYS2d 943 (1987) (project part of a government plan to balance commercial development with ecological integrity through the creation of a special Pine Barrens Development District); *Chinese Staff and Works Association v. City of New York* 68 NY2d 359, 502 NE2d 176, 509 NYS2d 499 (1986) (Project within special Manhattan Bridge District created to preserve residential character of China Town).

According to the Court in the *Pine Barrens* case, consideration of cumulative effects of various projects is not legally required in environmental impact assessment unless (i) the municipality has a special development district or regulatory structure, as opposed to a mere general policy, or (ii) the various projects are actually interdependent with one another, through road system, infrastructure, or otherwise. See Pine Barrens at 512-513; See also *Village of Tarrytown v. Planning Board of the Village of Sleepy Hollow*, 292 AD2d 617, 741 NYS2d 44 (2d Dept. 2002) (other proposed development in Town was independent from project under consideration and not part of an overall development plan by the municipality such that cumulative impact analysis was not required; *Village of Westbury v. Department of Transportation*, 75 NY2d 62, 549 NE2d 1175, 550 NYS2d 604 (1989) (construction of interchange and widening of roadway were actually related and cumulative effects must be considered).

Notwithstanding this legal framework under SEQRA, and while not required to do so under applicable law and regulation, but in light of other planned development district applications pending before the Town Board, the Town Board did undertake an assessment of those cumulative effects deemed applicable and significant. In this regard, the Town Board considered the cumulative impact of pending PDD applications on the issues of traffic, public water supply, public sewer, schools, and open space resources within the Town. On these issues, the Town Board expressly incorporates by reference the discussion in Sections 5.6, 5.8, 5.9, 5.10, and 5.17.

The Town Board finds that the applicable and relevant areas of potential cumulative environmental impacts have been fully considered. The Town Board further finds that all other identified areas of potential environmental impact are relevant only as to site specific conditions, and have been fully analyzed by the Town Board.

The Town Board finds that there are no significant adverse cumulative environmental impacts concerning this action.

## 7.0 UNAVOIDABLE IMPACTS

The Town Board finds that unavoidable impacts are effectively mitigated to the maximum extent practicable.

The Town Board finds that there will be an avoidable change of the project site from agriculture use to residential use. However, the Town Board finds that the maintenance of 74% of the project site as forever open, greenspace subject to a conservation easement in favor of the Town of Brunswick is a significant mitigating factor. Further, the maintenance of 74% of the site as open space is consistent with the Town goals of preserving open space and scenic areas, while also balancing private property rights. The Town Board also notes that all of the project site was subject to residential development under current zoning, without the requirement for significant set aside for open greenspace to provide for conservation and scenic purposes. It is also noted by the Town Board that 151 acres which was potentially subject to residential development on this project site will be perpetual open space that will be subject to a conservation easement in favor of the Town of Brunswick, and that such open space will be obtained and maintained without any cost to the Town of Brunswick. In this regard, and while acknowledging the existence of the Brunswick Open Space Trust Fund for the maintenance of open space and scenic areas, the Town Board is achieving these goals without the necessity of economic outlay. The Town Board recognizes that 54+/- acres of existing agriculture land will be changed to residential use, but finds that the preservation of 151 acres of open space subject to a conservation easement and prohibitions on future subdivision or development strikes an appropriate balance between municipal goals of open space preservation and private property rights. The Town Board finds that the use of the Planned Development District tool is an effective planning mechanism to achieve this result.

The Town Board also finds that there will be grading and modification to existing land forms in the project area. However, the Town Board finds that the project has been designed to avoid areas of slopes and wetlands, and to conform to the natural topographic features to the maximum extent practicable. The Town Board also finds that additional stormwater runoff from topographic modification and creation of impervious surfaces has been adequately addressed by the Applicant through its Stormwater Management Plan designed in accordance with NYSDEC Guidelines. This Plan will adequately address stormwater runoff, both in terms of quantity and quality. In this regard, the Town Board finds the potential for improvement in conditions in wetlands and streams on the project site through the reduction of use in the amount of fertilizers, pesticides, and herbicides employed in the current agricultural use of the project site. Also, stormwater is presently allowed to runoff the site without quantity or quality treatment, including areas plowed or cut resulting in the potential for sediment and silt runoff to surface water bodies. The stormwater plan designed for this project will decrease sedimentation and siltation through required quality treatment on site, with the potential of improving water quality in the surrounding wetlands and streams.

## 8.0 ALTERNATIVES

The Town Board considered alternative land uses for the project site.

First, the Town Board reviewed the potential use of the project site for residential development under existing A-40 Zoning. This Zoning District would permit the development of the entire project site with single family residential structures on minimum 1 acre lots, together with infrastructure to service each

residential lot. The Town Board considered the fact that the area impacted by such residential development under A-40 Standards may be greater than the Highland Creek PDD proposal, in that single family residences could be located throughout the entire project site, whereas the Highland Creek PDD proposal limits the site development area to 26% of the site. The Highland Creek PDD proposal will create 151 acres, or 74% of the total project site area, as perpetual greenspace, subject to a conservation easement and prohibition on future subdivision or development. The Town Board further notes that construction under current A-40 Zoning District Requirements would likely prevent the offering of the varied types of housing opportunities which are proposed for the Highland Creek PDD, including the carriage home which is designed to serve the "empty-nester" population. The Town Board acknowledges information provided by the Applicant which shows the empty-nester home buyer is seeking to maintain a single family detached residential dwelling, but smaller in size and placed on a smaller lot, together with a Homeowners Association or other entity to perform exterior grounds maintenance, including snowplowing, mowing, and landscaping. Finally, residential development under the A-40 Zoning Requirements would necessitate the construction of additional infrastructure, most particularly a road system to service lots which would be located over the entire project site. Such onsite road system, upon completion and dedication to the Town as public roadways, would result in increased maintenance costs to the Town in the future. The Highland Creek PDD proposal results in less infrastructure dedicated to the Town, reducing future maintenance costs to the Town while still maintaining increased residential tax base.

The Town Board also considered continued agricultural use of the project site. The Town Board acknowledged that 54+/- acres of the project site is currently in agricultural use, and will be changed to residential use under the Highland Creek proposal. The Town finds that while the project site sits in the agricultural, A-40 Zoning District, only 54+/- acres of the total 210+/- acres is currently in agricultural use. While a loss of agricultural land is not favored, the Town Board finds that the loss of 54 acres of agricultural property is balanced against the preservation of 151 acres of open space. Also, based on statistics obtained by the Town Board from the United States Department of Agriculture, approximately 7,000 acres of agricultural property are located in the Town of Brunswick. While the loss of 54+/- acres from this total acreage has been considered, the Town Board finds that the benefit of maintenance of 151 acres of open space together with the continued operation of nearly 7,000 acres of agricultural land in the Town represents an appropriate planning balance.

Finally, the Town Board has considered the "no action" alternative. On this issue, the Town Board notes that while the "no action" alternative would impact the Highland Creek PDD application, current zoning under the A-40 Standards would permit residential construction throughout the project site. The Highland Creek PDD proposal includes residential development on the project site, but also provides for the preservation of 151 acres as perpetual open greenspace. The Town Board acknowledges that the maintenance of 74% of the project site as open space is balanced against smaller residential lots which do not comply with the current 1 acre zoning for the project site, but finds that project layout and lot size is acceptable in relation to the maintenance of open space and scenic areas on the project site. Also, the Town Board notes that the Applicant has made project design modifications, including the reduction in density and requested number of residential lots, to address site features, most particularly appropriate setbacks from onsite wetlands and streams.

## 9.0 ENUMERATED CONDITIONS ON PDD

The Town Board establishes the following conditions on the Highland Creek project:

1. The Highland Creek project shall include 170 residential lots in the general layout and location as set forth on the "Revised General Development Plan" prepared by Ivan Zdrahal Associates, PLLC, dated March, 2006, and identified as "S-1", Drawing No. 06-15-L ("Revised General Development Plan"). No further subdivision or resubdivision of any property located within the project site, including residential lots and common open space, shall be permitted.

2. All roads within the Highland Creek project shall be in the general location as set forth on the Revised General Development Plan. Such roads shall be 26 feet wide, constituting two 13 feet wide travel lanes, plus 2 foot wide gutters on each side of the roadway. Other than these enumerated specifications, all roads within the Highland Creek project shall otherwise conform to the Town of Brunswick road specifications. Extent and location of sidewalks within the Highland Creek project shall be established by the Town of Brunswick Planning Board during the subdivision review process.

3. A Bonding Security Agreement for all roads within the Highland Creek project in a form and content acceptable to the Town Board and Town Attorney must be executed by the Applicant prior to a final subdivision plat being stamped or signed by the Town of Brunswick Planning Board.

4. The Applicant must provide to the Town of Brunswick a performance bond or other acceptable financial undertaking for the construction of all proposed roadways in the Highland Creek project prior to a final subdivision plat being stamped or signed by the Town of Brunswick Planning Board. The form and content of such performance bond or other acceptable financial undertaking is subject to approval by the Town Board, Town Attorney, and Town Consulting Engineer.

5. A Declaration of Easements and Road Maintenance Agreement in form and content acceptable to the Town Board and Town Attorney must be executed by the Applicant and recorded in the Office of the Rensselaer County Clerk at the expense of the Applicant. Proof of such filing with the Office of the Rensselaer County Clerk must be provided to the Town of Brunswick prior to the final subdivision plat being stamped or signed by the Town of Brunswick Planning Board, and shall be an express condition of final subdivision approval.

6. Until the roadways within the Highland Creek project are completed, offered for dedication, and accepted by the Town Board, the Applicant shall be responsible for all subdivision roadway maintenance, including paving, repairing, and snowplowing, for the benefit of all homeowners within Highland Creek, to ensure that all roadways are open, passable, and accessible to McChesney Avenue Extension, and further that such roadways are open, passable, and accessible to and by emergency vehicles. In addition, until such time as all roadways are offered for dedication and accepted by the Town Board, the Applicant shall be responsible for the maintenance of a sign at the entrance to the Highland Creek project providing the following: “NOTICE: streets in this plot are being maintained by the developer. Upon completion and final inspection they will be taken over by the Town of Brunswick”.

7. All roadways within the Highland Creek project are designed to be public roadways. Upon construction of roadways in compliance with applicable specifications, the Applicant shall offer for dedication as public roadways all such roads within the Highland Creek project.

8. The Highland Creek Homeowners Association documents, including its covenants, restrictions and by-laws, are subject to review by the Town Board, Town Attorney, Town of Brunswick Planning Board, and Town of Brunswick Planning Board Attorney, prior to filing with the Office of the New York State Attorney General to insure compliance with the requirements of this Findings Statement.

9. The area identified on the Revised General Development Plan as “common open space” under the caption “project data” shall be maintained as open green space. No subdivision, resubdivision, development, or construction of any kind, including pathways, trails, roads, structures, or other amenities, other than those identified on the Revised General Development Plan, is permitted. The Applicant shall execute a conservation easement in favor of the Town of Brunswick in a form acceptable to the Town Board and Town Attorney covering all property

within the "common open space" as depicted on the Revised General Development Plan. Such conservation easement will be recorded, at the expense of the Applicant, in the Office of the Rensselaer County Clerk.

10. All rock, including bedrock, must be removed by mechanical means, if it is determined to be mechanically feasible. In the event blasting is required to remove such rock, notice to the Town Building Department and consulting engineer must be made, both verbally and in writing, prior to any blasting activities. The following best management practices for blasting must be complied with:

    a. All blasts will be designed and implemented in accordance with all applicable state and federal regulations.
    b. A licensed expert blaster will perform all blasting.
    c. Blasting will be scheduled to avoid adverse weather conditions such as strong, low level thermal inversions and thunderstorms.
    d. All blast holes will be loaded and implemented under the direct supervision of an expert licensed blaster.
    e. The blast area will be secured prior to each blast.
    f. Blasting will be done between 10:00 a.m. and 5:00 p.m. Monday through Friday. No blasting will occur on weekends.
    g. All blasts will be monitored with a properly calibrated seismograph.
    h. Records of all blasts, including seismograph data, will be prepared and maintained by the Applicant and/or blasting expert, and made available to the Town upon request.
    i. The Applicant will promptly and professionally respond to and investigate all complaints. Applicant shall make all necessary repairs to homes and property if it is determined that such damage is causally related to the blast.
    j. In addition, the Applicant shall offer to all property owners within 1,500 feet of the blasting areas, or as directed by the Town's consulting engineer and Town Building Department, the opportunity to have a pre-blast survey conducted by the Applicant for all structures located within such area. This offer must be made in writing, with records of such written offer and/or pre-blast survey to be maintained by the Applicant and made available to the Town upon request.

11. The Applicant must comply with all New York State Department of Environmental Conservation (NYSDEC) Stormwater Regulations. In addition to any mandatory notice of intent to commence construction activities, the Applicant must submit a complete Erosion and Sediment Control Plan (ESCP) and Stormwater Pollution Prevention Plan (SWPPP) to NYSDEC. Prior to any grading or other construction activities on the construction site, the ESCP and SWPPP must be reviewed and approved in writing by NYSDEC, with written notice and a copy of such NYSDEC written approval provided by the Applicant to the Town of Brunswick.

12. All Stormwater Management facilities shall be constructed in compliance with the approved SWPPP. All Stormwater Management facilities shall be owned and maintained by the Highland Creek Homeowners Association. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such Stormwater Management facilities. This obligation shall be set forth in the Homeowners Association By-laws, Covenants and Restrictions. The Town of Brunswick shall be granted an easement for access to such Stormwater Management facilities pursuant to the Homeowners Association By-laws, Covenants and Restrictions. The form and content of the Homeowners Association By-laws, Covenants and Restrictions as to Stormwater Management facility ownership, operation, maintenance, insurance and access, including the easement granted in favor of the Town of Brunswick for access, shall be subject to review by the Town Board, Town Attorney, and the Town of Brunswick Planning Board prior to filing with the Office of New York State Attorney General. The Town of Brunswick shall have no responsibility or liability with respect to such Stormwater Management facilities.

13. All footings and foundations for all residential structures in the Highland Creek project must be constructed above the high groundwater level, and installation of footing drainage systems if necessary. The Applicant and the Town Building Department will review and approve footings and foundation locations in relation to groundwater levels on a lot-by-lot basis.

14. The Applicant must obtain all necessary permits and/or approvals from the United States Army Corps of Engineers (ACOE) with respect to impacts to Federal Wetlands resulting from the Highland Creek project. No work shall commence in the Federal Wetlands prior to the Applicant obtaining such permit and/or approvals. A copy of all such permits and/or approvals shall be provided to the Town of Brunswick Building Department and consulting engineer prior to any grading or construction activities in the Federal Wetlands. The Applicant must comply with the terms and conditions of such permit and/or approval, including all pre-construction notification requirements to ACOE.

15. The Applicant must comply with all setbacks from site wetland boundaries as set forth on the Revised General Development Plan to provide adequate buffer areas from wetland boundaries. In addition to compliance with all pre-construction notification requirements to ACOE, the Applicant will provide pre-construction notification to NYSDEC prior to any grading or other construction activities in the wetlands or wetlands setback areas.

16. The Applicant must complete the alternate emergency access road on existing Bonesteel Lane prior to the issuance of any Certificate of Occupancy for any home in the Highland Creek project. The emergency access road will be subject to the conditions and requirements of the Declaration of Easement and Road Maintenance Agreement.

17. The following conditions apply with respect to traffic:

    a) A stop sign should be installed on the southbound Bonesteel Lane with a single lane ingress and egress lane.
    b) The intersection of Moonlawn Road/Route 2 meets accepted level-of-service conditions under the Highland Creek full build-out scenario. Nonetheless, the Town will make a request to NYSDOT for further consideration of traffic control devices at this intersection, including but not limited to signage, caution lighting, or other traffic safety devices.
    c) NYSDOT realignment of McChesney Avenue and Route 7 has improved traffic flow and safety, including the dedicated turn lanes on both east-bound and west-bound Route 7 travel lanes. Nonetheless, the Town Board will request NYSDOT to further review the traffic light timing at Brunswick Plaza and McChesney Avenue intersections to coordinate signalization to promote traffic flow.
    d) No significant impact on traffic on McChesney Avenue Extension will occur under the Highland Creek full build-out scenario. Nonetheless, the Town will make a request to Rensselaer County Highway Department for consideration of alternative traffic calming and safety features, including but not limited to intersection lighting and lane widths.
    e) Bonesteel Lane must be maintained as a secondary site emergency access way.

18. Dust control measures must be instituted to address dust or airborne particulate during construction activities. This will the include of water spray during dry conditions, and compliance with all groundcover and/or seeding requirements in the ESCP and SWPPP.

19. The Applicant must make application for the creation of a water district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The application for creation of water district will be subject to full municipal review by the Town Board.

20. All improvements constructed in conjunction with providing a system of water supply and distribution will be, upon satisfactory completion by the Applicant, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

21. The Applicant shall post a performance bond or other acceptable financial undertaking for all improvements in conjunction with providing a system of water supply and distribution in an amount to be approved by the Town Board in consultation with its consulting engineer. The form and content of such performance bond or other acceptable financial undertaking shall be subject to review and approval by the Town Attorney. This will be included in the Bonding Security Agreement.

22. All improvements constructed in conjunction with providing a system of wastewater collection will be, upon satisfactory completion by the Applicant, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

22a. The Applicant must make application for the creation of a sewer district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The application for creation of the sewer district will be subject to full municipal review by the Town Board.

23. The Applicant shall post a performance bond or other acceptable financial undertaking for all improvements in conjunction with providing a system of wastewater collection and distribution in an amount to be approved by the Town Board in consultation with its consulting engineer. The form and content of such performance bond or other acceptable financial undertaking shall be subject to review and approval by the Town Attorney. This will be included in the Bonding Security Agreement.

24. The Applicant shall be responsible for all costs associated with immediate upgrades to the BSD6 pump station. The Applicant shall pay to the Town the sum of $60,000.00 to be used for the pump station upgrades.

25. The Applicant shall pay to the Town the sum of $100,000.00, or other amount as may be determined by the Town Board in connection with review of other pending Planned Development District applications, to be used toward the cost of design and construction of a new wastewater pump station for BSD6. Such amount shall be placed in an escrow account dedicated to the design and construction of a new wastewater pump station for BSD6, if necessary in the future.

26. The Applicant must install a water main stub in a location acceptable to the Town Board, Town Engineer, and Town Water Department in the area of the lands of O'Malley as depicted on the Revised General Development Plan, accessible for future connection to the Harris Avenue/Freeman Avenue area.

27. Final location and specifications of fire hydrants in the Highland Creek project will be coordinated with the Center Brunswick Fire Department and Brunswick No. 1 Fire Department, and also with the Town Board and Town Engineer.

28. The Applicant shall pay the sum of $85,000.00 as a park and recreation fee. Payment of this park and recreation fee by the Applicant must be received by the Town of Brunswick prior to any final subdivision plat being stamped and signed by the Town of Brunswick Planning Board, and will be an express condition of final subdivision approval in the event the same is granted by the Brunswick Planning Board.

29. All air-conditioning units in the Highland Creek project must be installed in a staggered fashion to ensure each condensing unit is separated by a combined side yard width of at least 15 feet plus one residential building. The installation of air-conditioning units must be made in compliance with all applicable standards, including the New York State Building Code.

30. The Applicant must comply with all requirements of the Office of Parks Recreation and Historic Preservation (OPRHP) with respect to archeological Site P-3. No construction or land disturbance may occur on the project site until written confirmation has been received by the Town that OPRHP has approved such activities in the area of Site P-3.

31. The Applicant must delineate the boundaries of a former cemetery grounds on the project site prior to any construction or land disturbance in the area of the former cemetery grounds. The Applicant must coordinate with the Town Historian on the final cemetery boundary delineation.

32. All site work and construction activities on the project site shall be limited to the following hours of operation:

    Monday through Friday 7:00 a.m. to 7:00 p.m., Saturday 7:00 a.m. to 5:00 p.m.

    No site work or construction activities shall be permitted on Sundays or legal holidays.

33. The Applicant shall pay all consulting review fees incurred by the Town Board in connection with the review of the Highland Creek PDD application. A final accounting for all such fees shall be made, and all such fees shall be paid by the Applicant within 30 days of notification of such final accounting.

34. The Applicant shall be required to establish at the Town of Brunswick an engineering review escrow account in an amount to be determined by the Town Board upon review with its consulting engineer. The Town Board shall retain an engineer for purpose of providing engineering review and oversight on all construction plans and site construction activities related to the Highland Creek project. In addition, such consulting engineer shall assist the Town Building Department in all mandatory inspections pursuant to all applicable codes. All fees for engineering oversight shall be the responsibility of the Applicant, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such escrow account shall be subject to review from time to time by the Town Board during construction activities on the Highland Creek project. At no time shall such account be in an amount less than $20,000.00. In the event the Applicant fails to maintain such escrow account in a balance of at least $20,000.00, a Stop Work Order will be issued by the Town of Brunswick Building Department on all construction activities at the site. The Applicant shall be entitled to an accounting of all invoices for engineering review fees. At the conclusion of construction and completion of engineering oversight activities and upon a final accounting of all engineering fees, all funds remaining in such escrow account shall be returned to the Applicant.

35. The Highland Creek project shall be subject to full review by the Town of Brunswick Planning Board pursuant to the subdivision regulations of the Town Code of the Town of Brunswick.

## 10.0 CERTIFICATION

The Town Board hereby certifies that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Highland Creek PDD action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts are avoided or minimized to the maximum extent practicable by incorporating as conditions to the Town Board action on the Highland Creek PDD application those mitigating conditions that have been identified in this Findings Statement.