

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

*Hudson Hills Apartments
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: August 9, 2007

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1. DESCRIPTION OF ACTION

Capital District Properties, 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 “Hudson Hills Apartments”.

The Hudson Hills Apartments PDD site totals approximately 77± acres, and the proposed two Babe Ruth baseball fields total an additional 25± acres (collectively, the “project site”). The size of the proposed PDD site complies with Article III, Section 10 of the Zoning Ordinance, which requires the site proposal for planned development to be at least 10 acres. The project site is located off Betts Road, off NYS Route 7. The PDD proposal seeks approval for construction of 250 apartment units. The project site is situated between NYS Route 7 to the south and North Lake Avenue to the North.

The Applicant’s PDD application originally proposed the construction of 1,116 apartment units in four phases on 215± acres. The Application was later revised to reduce the total number of apartment units to 668 to be constructed in three phases, remaining on the 215± acres. The Application was further revised to reduce the total number of apartment units to 250, constituting primarily the first phase of construction under the 668-unit proposal, and also reducing the total acreage in the PDD to 77± acres. This is further discussed in Section 2 below.

The Applicant is proposing to develop the PDD site in one phase, with full build-out consisting of:

- 21 multi-family apartment buildings within the PDD site
- Access roads and utilities within the PDD site
- PDD amenities, including a clubhouse (with meeting room, media center, fitness center) and pool within the PDD site.

The project, at full build-out, will also include construction of a community benefit area within the project site consisting of:

- Babe Ruth Baseball Fields – The Applicant proposes to construct two youth Babe Ruth baseball fields in the northwestern portion of the original 215± acre parcel. The 25± acres on which the Applicant proposes to construct the fields are not within the proposed planned development district, and are currently owned by the Applicant. Upon construction of the fields (as well as the access roads, water and sewer infrastructure, customary accessory structures, and parking areas to service the fields (collectively, “service features”)), the Applicant will dedicate the fields and service features to the Town of Brunswick. The fields and service features will be constructed for the benefit of the residents of the Town of Brunswick. Lighting is not proposed as part of the fields or the service features.

Between the 25± acre parcel on which the fields will be located and Betts Road is a parcel of 39± acres. The 39± acre parcel is not part of the “project site” as that term is used herein. The 39± acre parcel shall be subject to a deed restriction which shall prohibit the development thereon of non-owner occupied multi-family structures. The 39± acre parcel shall not be subject to the conservation easement on the “project site”, which is discussed in more detail throughout this Findings Statement.

The Applicant describes the Hudson Hills Apartments PDD as a premier Capital District luxury multi-family garden apartment community, intended to fulfill a housing need resulting from regional economic growth identified by the applicant's 30-mile radius market research. The Capital District Regional Planning Commission has estimated population changes in the Capital District, and the Applicant has included the relevant portions of those projections in the Final Environmental Impact Statement at Appendix I. As indicated by Appendix I of the Final Environmental Impact Statement, the Capital District Regional Planning Commission projects a steady increase in the population in the Capital District over the next thirty-five years. The project's design, layout and sizing, as well as the proposed community benefit areas are tailored to the following demographics:

- Empty Nesters (35%), which include those in the 50+ age level who may no longer have children at home and who seek high-level dwelling units without what they may consider to be the burdens of home ownership.
- Young Professionals (35%), which include those young people with professional skills coming to or remaining in the Capital Region, thereby creating the upwardly mobile, dual-earning family structure.
- Young Emerging Families (30%), which include young married couples in the professional fields who may have a young child and are likely pursuing private home ownership.

Primary access to the project site is proposed as an extension to Betts Road (off of NYS Route 7). An emergency access route is proposed to connect with Belair Lane at the north end of Lord Avenue off of NYS Route 7. The application requests that the Town rezone the 77± acre PDD site from Agricultural A-40 to Planned Development District. The Applicant also proposes the construction of two youth athletic fields on 25± acres of property zoned Agricultural A-40, in which athletic fields are a permitted use.

2. SEQRA AND MUNICIPAL REVIEW PROCEDURE ON PDD APPLICATION

The Applicant applied to the Town of Brunswick for a Planned Development District ("PDD") pursuant to Article III, Section 10 of the Zoning Ordinance. As originally filed, the PDD application sought approval for a 1,116 unit residential development, consisting of 77 multi-family apartment buildings, located on 215± acres. In connection with the PDD application, the 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 6 NYCRR §617.6(b)(3). Toward that end, the Town Board prepared a Notice of Intent to Establish Lead Agency pursuant to SEQRA, and served the Notice on the following SEQRA involved agencies:

- Town of Brunswick Planning Board
- Rensselaer County Health Department
- Rensselaer County Sewer District
- Rensselaer County Highway Department
- New York State Department of Transportation

- New York State Department of Environmental Conservation
- New York Office of Parks, Recreation and Historic Preservation
- 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 October 18, 2004.

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 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 November 11, 2004, the Town Board established itself as Lead Agency pursuant to SEQRA on the review of the Hudson Hills Apartments PDD action.

Also by Resolution dated November 11, 2004, 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 Hudson Hills Apartments 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 the action, the Town Board determined to conduct public scoping for this action pursuant to 6 NYCRR §617.8. According to 6 NYCRR §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, the Town Superintendent of Utilities and Inspection, 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 Office of Parks, Recreation and Historic Preservation
- New York State Department of Transportation
- United States Army Corps of Engineers
- Brittonkill Central School District (Brunswick)
- Lansingburgh Central School District
- Center Brunswick Fire District
- Eagle Mills Fire Department
- Speigletown Fire Company
- Brunswick No. 1 Fire Company
- Mountain View Fire Company

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 January 13, 2005, by Resolution, the Town Board adopted the Final SEQRA Scope for the 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 March 25, 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. The Town Board determined that this preliminary DEIS was incomplete.

Thereafter, the Applicant revised the preliminary DEIS, and submitted the revised preliminary DEIS to the Town Board. The Town Board reviewed the revised preliminary DEIS and concluded that it adequately addressed the issues identified in the final written Scope. Accordingly, by resolution dated June 9, 2005, the Town Board accepted the Hudson Hills Apartments DEIS as complete and adequate for public review and inspection pursuant to 6 NYCRR §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 August 3, 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 Transportation
- New York State Department of Health
- 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)
- Lansingburgh Central School District
- Environmental Notice Bulletin

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

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 Transportation
- New York State Department of Health
- U.S. Army Corps of Engineers
- City of Troy
- 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)
- Lansingburgh Central School District

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 Hudson Hills Apartments PDD application and DEIS on August 3, 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 August 3, 2005 public hearing to keep the public hearing open, and to continue the public hearing at a later date.

Prior to the continuation of the public hearing, the Applicant revised its application to reduce the number of proposed apartment units from 1,116 to 668. The Applicant presented the revised plan to the Town Board on December 8, 2005. The Town Board determined that, taking into account such revised proposal, no supplemental DEIS was warranted or required and that the revision was not substantial. It thereafter determined to continue the public hearing on the PDD application on January 17, 2006.

The Town Board prepared a Notice of Public Hearing for the continuation of the public hearing on the Hudson Hills Apartments PDD application and DEIS to be held on January 17, 2006. Such Notice of Public Hearing, which referenced the reduction from 1,116 units to 668 units, was again published in the Record, posted on the Town website, and posted on the notice board at Town Hall. Additionally, notice of the public hearing scheduled for January 17, 2006 was sent to all owners of real property within 500 feet of the project site.

On January 17, 2006, the Town Board continued the public hearing on the Hudson Hills Apartments 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.

The Town Board closed the public hearing after receiving the additional public comment at the January 17, 2006 public hearing, but established a written comment period to continue through and including February 14, 2006, for the receipt of additional written comments on the Hudson Hills Apartments PDD application and DEIS.

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

Written comments were received by the Town Board through and including February 14, 2006. These comment letters were reviewed and considered by the Town Board.

After the public hearing transcripts and written comments were forwarded to the Applicant for review and response, the Applicant submitted a Final Environmental Impact Statement (“FEIS”) to the Town Board in June, 2006. After technical and legal review and consultation, the Town Board determined that the FEIS submitted in June, 2006, was incomplete. Thereafter, the Applicant submitted additional information in its FEIS.

The Town Board and its legal and technical consultants reviewed the additional information submitted by the Applicant, and after review, the Town Board determined by resolution dated February 8, 2007 that the FEIS was complete. 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 Hudson Hills Apartments FEIS available both in hard copy and electronic format. A hard copy of the Hudson Hills Apartments 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 February 15, 2007. In addition, an electronic format of the Hudson Hills Apartments FEIS was made available on the Town of Brunswick website, at www.townofbrunswick.org, on February 15, 2007. 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 Hudson Hills Apartments FEIS. 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 Hudson Hills Apartments FEIS were received and considered by the Town Board. In addition, the Town Board received the written review and recommendation by the Rensselaer County Department of Economic Development and Planning concerning the Hudson Hills Apartments PDD application. The Notification of Zoning Review Action received from Rensselaer County raised no objection to the proposal, and concludes that the Hudson Hills

Apartments PDD action does not have a major impact on County plans and that local consideration shall prevail.

The Town Board reviewed the comments received on the FEIS, and determined that the project, although previously reduced from 1,116 units to 668 units, should be further downsized and should provide a public benefit. The Applicant responded by further reducing the project, this time from 668 units to 250 units. In addition, the Applicant proposed the construction of two Babe Ruth baseball fields, with service features, which, once constructed, would be dedicated to the Town of Brunswick for the benefit of the Town's residents. To reflect the Applicant's most recent proposal and to address potential impacts associated therewith, the Applicant submitted to the Town Board a document entitled *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District*, dated June 12, 2007. The *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District* provided additional information to the Town Board regarding the environmental impacts associated with the 250-unit, two field proposal. The most recent proposal in large part resembles what was Phase I of the previous plan, but it eliminates Phases II and III, and adds the two baseball fields.

The Town Board sent a complete copy of the Applicant's *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District* to each member of the Brunswick Planning Board, each member of the Brunswick Zoning Board of Appeals, the Superintendent of Utilities and Inspection, the Highway Superintendent, the Water Department, the Town Assessor, the Town Historian, and to the following involved and interested agencies:

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

The Town Board requested any additional comments on the Smaller Plan be forwarded to the Town Board for review and consideration.

The Town Board examined the 250-unit, two field proposal, with a particular emphasis on assessing whether the revision from 668 units to 250 units with two fields would require supplemental

environmental impact review. The Town Board determined that the environmental impacts associated with 250 units would be comparable to the impacts associated with Phase I of the 668-unit proposal, which had already been thoroughly analyzed in the DEIS and FEIS. Accordingly, the present state of the information in the DEIS and FEIS adequately addressed the potential environmental impacts associated with the 250-unit proposal.

Additionally, the Town Board examined the potential environmental impacts associated with construction of the two baseball fields. The Town Board took into account that the proposed addition of the two athletic fields is in the location where seven apartment buildings had previously been proposed (and which had been analyzed in the DEIS and FEIS), and the existing environmental record included site-specific technical information on New York State and Federal wetlands, soils, topography, surface water and groundwater, vegetation, wildlife habitat, watershed, and cultural resources, including historical and archeological resources. The Applicant submitted additional information concerning grading for athletic field construction and also potential traffic associated with the operation of athletic fields, including the reduction of potential impacts from the current proposal as opposed to its 668-unit proposal. This information was reviewed by the Town Board. Following such review, the Town Board determined that the environmental record on the application was adequate, and the preparation of a supplemental environmental impact statement was not warranted.

Overall, the Town Board analyzed whether the revised project, including the 250-unit apartment PDD and the two athletic fields on 25± acres, would potentially have significant adverse impacts on relevant areas of environmental concern, including on geology, water resources, terrestrial and aquatic ecology, traffic, air quality, land use and zoning, community resources, water and sewer, emergency services, waste management, public schools, municipal revenues, recreational facilities, cultural resources, noise and lighting, and community character. The Town Board concluded that the most recent proposal did not present any potential significant adverse impacts that had not already been analyzed in the DEIS and FEIS. Accordingly, pursuant to 6 NYCRR § 617.9(a)(7), the Town Board was not authorized to require the preparation of a supplemental environmental impact statement. Nevertheless, the Town Board determined to hold an additional public hearing on the 250-unit, two field proposal, in order to receive additional comments from the public. The additional public hearing was scheduled for July 12, 2007.

On June 18, 2007, notice of the July 12, 2007 public hearing was sent to all owners of property located within 500 feet of the project site, to each member of the Planning Board, each member of the Zoning Board of Appeals, the Superintendent of Utilities and Inspection, the Highway Superintendent, the Water Department, the Town Assessor, the Town Historian, as well as to the following involved and interested agencies:

- Rensselaer County Health Department
- Rensselaer County Sewer District
- Rensselaer County Highway Department
- Rensselaer County Department of Economic Development and Planning
- New York State Department of Transportation
- New York State Department of Environmental Conservation
- New York State Department of Health

- New York State Office of Parks, Recreation and Historic Preservation
- United States Army Corps of Engineers
- Mountainview Fire Company
- Brunswick No. 1 Fire Company, Sycaway Fire District
- Center Brunswick Fire Company
- Eagle Mills Fire District
- Speigletown Fire Company
- Brittonkill Central School District
- Lansingburgh Central School District
- Averill Park Central School District

In addition, the notice was posted on the notice board at the Brunswick Town Hall, as well as on the Town's website. The notice was also published in the Record, the official newspaper for the Town of Brunswick. The Town Board received public comments at the July 12, 2007 public hearing, which was held as scheduled and noticed.

The Rensselaer County Department of Economic Development and Planning submitted no additional comments as a result of the modification of the proposal to the current 250-unit, two field proposal.

On July 16, 2007, the Brunswick Zoning Board of Appeals adopted its recommendation on the Hudson Hills Apartments PDD application. The Zoning Board of Appeals concluded that the extension of municipal water service to areas of the Town currently not served, at private expense, furthers a goal of the Town's Comprehensive Plan. In addition, the Zoning Board of Appeals concluded that, since the project is proposed in an area adjacent to the existing Apartments at Brunswick, the Comprehensive Plan's goal of locating multi-family housing in areas where multi-family housing already exists is likewise advanced. The Zoning Board of Appeals also recognized the short supply of recreational fields, in the face of increasing demand, and determined that the Applicant's proposal to construct and dedicate two athletic fields was a significant public benefit. With respect to visual impacts, the Zoning Board of Appeals determined that such impacts would be minimal. The Zoning Board of Appeals recommended that the Town Board ensure maintenance of green, open space by way of a conservation easement and ensure that, if approved, the apartments are constructed and maintained as "luxury" apartments, as proposed by the Applicant.

On July 19, 2007, the Brunswick Planning Board adopted its recommendation on the Hudson Hills Apartments PDD application. The Planning Board found that the density ratio of 3 units per acre was acceptable; that the Town Board should consider coordination with emergency service providers on use of the emergency-only access road from Lord Avenue; that the Town Board should take steps to ensure that residents of the project will not use the emergency-only access point as a means of entry and exit; that the Applicant's acquisition of rights to construct utilities near Betts Road was an improvement; that detailed engineering inspections should occur to ensure compliance with the Stormwater Pollution Prevention Plan; that the Town Board should require the Applicant to extend the proposed water line to the boundary line of the 25± acre parcel on which the two youth baseball fields are proposed for possible future extension to North Lake Avenue; that the Town Board should require that the Applicant contribute its proportionate share of moneys to upgrade the Town Sewer Pump Station, consistent with other PDD applications in the Town; that the parking plan for the

project should be adequate to accommodate the needs of residents, as well as guests; that sidewalks and walking trails should be encouraged, including in the green space; that the proposed green, open space should be preserved by means of a conservation easement granted in favor of the Town; that the Applicant should be required to acquire the 39± acre parcel located between Betts Road and the 25± acre parcel on which the baseball fields are proposed; that the 39± acre parcel not be developable for non-owner occupied multi-family structures; that the proposed two baseball fields are a positive addition that provides a public benefit; that the reduction in the size of the project to 250 units has the positive effect of reducing the amount of school bus traffic on the project site (as compared to the 668-unit proposal); that the Town Board should closely examine the real property tax and school tax implications of the project versus use of the same property for single family homes; that the project may result in a change in land and traffic use on Betts Road; and that the 39± parcel, which should be acquired by the Applicant, should continue to be used in agriculture. The full recommendation was forwarded to the Town Board.

The Town Board has carefully considered the comments received after the acceptance of the FEIS and before and after the Applicant's submission of the 250-unit, two field proposal. The *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District* presents sufficient information regarding the impacts associated with the change from the 668-unit proposal to the 250-unit, two field proposal.

3.0 LAND USE AND ZONING

3.1 Existing Land Use of the Project Site

The 77± acre PDD site was historically in agricultural production as cornfields. The property has been actively farmed and farming activities have occurred continuously for decades. Based on visual observations, a portion of the property appears to have been used previously as an apple orchard. Improvements on the property included several old farm trails and existing single-family dwellings and associated infrastructure.

Land use within one-quarter mile radius of the project site consists predominantly of residential, agricultural and commercial development. Approximately 8± single family residential homes are located along Betts Road and Wilrose Lane. The 39± acre parcel adjacent to the PDD site is in agricultural use. The Woods apartment community is located adjacent to the PDD site along the southwest property boundary. Commercial development exists along NYS Route 7.

The 25± acre parcel on which the Applicant proposes to construct the two athletic fields has also been historically in agricultural use. A portion of this 25± acre parcel is also existing mature forest.

3.2 Existing Zoning

The PDD site is currently zoned as "Agricultural" (A-40). Permitted principal uses within this district include, among other things, private dwellings, public recreation buildings and grounds, and most types of farms.

The Application seeks creation of a Planned Development District pursuant to Article III, § 10 of the Zoning Ordinance. If the PDD application is approved, and the PDD created, the property within the PDD can be used for any lawful purpose authorized by the Town Board. Here, the Applicant seeks Town Board approval to construct 250 luxury apartments in 21 apartment buildings. Because recreational grounds are a permitted use in the A-40 zoning district, however, the Applicant has not included the baseball fields within the proposed PDD.

Article III, § 10 of the Zoning Ordinance requires the Town Board to refer a PDD application to the Town of Brunswick Zoning Board of Appeals for review and recommendation. Additionally, the Town Board must hold a public hearing on the PDD application. As a courtesy, and since the Planning Board must ultimately review the site plan or subdivision plat for a proposed project if the PDD is approved, the Town Board also typically refers the PDD application to the Town of Brunswick Planning Board for review and recommendation.

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.

The total housing units in the Town of Brunswick is 4,808, of which approximately 96% are occupied. This 96% housing occupation rate exceeds the national average by approximately 5%. While nationwide renter-occupied housing units amount to about 34% of the total occupied housing stock, the renter-occupied housing units in the Town of Brunswick constitute just 20% of the total Town of Brunswick occupied housing stock.

More than 75% of the renter-occupied housing units in the Town of Brunswick consist of 2 or fewer residents, and of all occupied housing units (including the 80% owner-occupied housing units), approximately 82% have two or fewer vehicles. Furthermore, nearly 50% of Town of Brunswick renter-occupied housing units are occupied by individuals either between the ages of 25 and 34, or over the age of 55. Approximately 95% of renter-occupied housing units in the Town of Brunswick were constructed more than 15 years ago, and more than 97% have a gross rent of less than \$1,000 per month. In short, despite the rising population of young professionals and residents over the age of 55 who choose to rent rather than own, the supply of modern, luxury apartments in the Town of Brunswick is lacking.

5.0 FINDINGS CONCERNING RELEVANT ENVIRONMENTAL IMPACTS

The Town Board makes the following findings on relevant environmental impacts concerning the Hudson Hills Apartments PDD application:

5.1 GEOLOGY

5.1.1 Subsurface

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

The bedrock underlying the project site consists of shale (NYS Museum 1970). Based on information published in the Soil Survey of Rensselaer County, New York, the depth to bedrock varies across the site, but is typically greater than 5-feet below grade (USDA SCS 1988).

MITIGATION:

The Town Board finds that the project will not have a significant adverse impact upon the subsurface, particularly since the Applicant has committed to not use blasting to remove underlying bedrock.

5.1.2 Soils

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

Information regarding site soils was obtained from Soil Survey of Rensselaer County, New York. Properties of the major soil units at the project site are summarized in the following table.

Soil characteristics

Soil Series	Composition	Slopes (%)	Drainage	Erosion Hazard
Bernardston (BeB, BeC, BeD)	gravelly silt loam	3 to 25, rolling	well drained to excessively drained	slight
Scriba (SrB)	silt loam	3 to 8	somewhat poorly drained	slight
Bernardston – Nassau (BnC)	shaly silt loam	rolling	well drained to excessively drained	slight
Nassau – Manlius (NaC)	shaly silt loam	rolling	well drained to excessively drained	slight
Pittstown (PtC)	gravelly silt loam	8 to 15	moderately well drained	slight
Hoosic (HoD)	gravelly sandy loam	hilly	well drained to excessively drained	slight
Carlisle (CaA)	muck	0 to 1	very poorly drained	slight
Limerick (LmA)	silt loam	0 to 3	poorly drained	slight
Source: USDA SCS 1988				

Under existing conditions, the soil profile is periodically disrupted by agricultural activities including disking and cultivation of fields in the spring and harvesting of crops in the fall.

MITIGATION:

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

Information published in the Soil Survey of Rensselaer County, New York (1988) indicates that the erosion potential of soils located on the project site is “slight.” The Town Board finds that the rolling topography and presence of steep slopes on portions of the property increase the potential for erosion to occur during construction activities, such as grading, resulting in the need for the implementation and maintenance of erosion and sedimentation controls (E&SCs).

The Town Board notes that the Applicant will prepare an E&SC plan as part of a Stormwater Pollution Prevention Plan (“SWPPP”) in accordance with the NYSDEC’s *Standards and Specifications for Erosion and Sediment Control*. The E&SC will incorporate the following mitigation measures:

1. Implementation of control measures and Best Management Practices (BMPs) to abate and control potential pollutants and sediment transport in storm water discharges from the construction site.
2. Stabilized construction entrances to minimize the amount of sediment being deposited on public roads by construction vehicles leaving the site.
3. Installation of temporary sediment basins, as necessary, to minimize erosion and sedimentation caused by storm water runoff.
4. Silt fencing along toes of embankments, on downstream portions of the site perimeter, and around soil stockpiles. Slopes greater than 15% will have two layers of silt fencing installed.
5. Storm water detention basins sized in accordance with the New York State Stormwater Management Design Manual.
6. Minimization of the amount of bare soil exposed at one time.
7. On-site use of excess soils from “cut areas” as practicable.
8. Locating fill and spoil areas to avoid excessive siltation.
9. Stabilization of stockpiles and disturbed portions of the site where construction activity temporarily ceases for at least 21-days by covering with plastic or by seeding and mulching.
10. Stabilization with topsoil and permanent seeding no later than 14 days after the last construction activity of disturbed portions of the site where construction activities permanently cease, and proper grading and scarification of subsoil..
11. Removal of temporary erosion control devices when the site is stabilized.

To maintain the effectiveness of these E&SC measures, the contractor will be required to:

- Inspect the facilities at least every 7 days, and within 24 hours of a storm event of 0.5-inch or greater that occurs within a 24-hour period;
- Clean and/or repair or replace silt fences, drainage swales or other storm water management facilities as necessary;
- Clean and/or sweep affected roadways as necessary; and
- Remove debris and litter.

The Town Board further finds that the Applicant has committed to ensuring that the project will be undertaken in such a way as will minimize pollution transport. First, the Applicant has agreed that proper precautions will be taken to ensure that materials will not be spilled onto public thoroughfares, and that if any materials are dropped onto public thoroughfares, such materials will be promptly removed. Second, dust control measures, including water application or mulching, will be implemented to prevent dust migration off-site. The dust control measures may not include the use of chemical additives. Third, solid waste will be disposed of properly in accordance with all applicable regulations, and dumpsters and containers will be covered and emptied regularly. Fourth, clean portable toilets will be kept on site at all times during construction, and their contents will be disposed of properly. Fifth, any building materials on the site must be properly stored and/or contained. Finally, petroleum containers must have appropriate secondary containment, and a Spill Prevention Control and Countermeasure plan will be prepared if the on-site petroleum storage exceeds a total of 1,320 gallons.

In addition to controlling the stormwater conveyance of materials, the project must also control sources of non-stormwater discharges associated with construction activity by properly identifying, using, and monitoring on-site areas for construction vehicle transit and equipment staging where runoff can be controlled, by using proper quantities and proper equipment for application of dust-control water to avoid runoff, and by cleaning construction vehicles and equipment only at stabilized construction areas and without using chemicals or detergents.

The project must properly manage materials stored on-site to minimize the risk of spills and other exposure of substances to stormwater and non-stormwater runoff. The material management practices must include the following:

- Storing materials with a potential for spillage in their appropriate containers, with secondary containment, in a neat and orderly manner;
- Storing products in their original containers with the original manufacturer's label;
- Avoiding mixing of materials, unless recommended by the material manufacturer;
- Use and disposal of materials in compliance with manufacturer recommendations;
- Prior to disposal of contents or containers, complete use of materials and/or proper resealing of packages;
- Regular inspections of the use and disposal of materials;
- Monitoring of on-site vehicles for leaks, and regular preventative maintenance of such vehicles;

- Proper storage of petroleum products in closed containers that are clearly labeled, and proper disposal of used oils;
- Minimizing the quantities of materials brought on-site to that which is required.

During development of the project site, the contractor must report spills of petroleum or hazardous material, regardless of size. Appropriate state and local government agencies must be promptly notified. Any spills must be cleaned up immediately. The spill area must be kept well-ventilated and personnel must wear appropriate protective clothing to prevent injury. A spill report must be completed and filed in the SWPPP.

To assist in the mitigation of any impacts resulting from potential spills, the manufacturers' recommended methods for spill cleanup must be clearly posted, and site personnel must be educated on the cleanup procedures and on the location of spill cleanup information and spill cleanup supplies. Equipment and materials necessary for spill cleanup, including without limitation shovels, rags, gloves, goggles, spill control materials, sand, sawdust, and trash containers, all of which must be kept specifically for spill cleanup purposes, must be kept in an easily accessible location on the site.

5.1.3 Topography

The Applicant provided a site layout that defined the topographic contours in the DEIS, setting forth the topography of the 77± acre PDD site, as well as the total project site. The topography of the project area is predominantly rolling, with slopes ranging from 0 to 25 percent.

MITIGATION:

The Applicant has committed to utilizing the existing topography to the extent practicable, with cuts, fills, and gradings limited to that which is necessary to facilitate construction of building units, access driveways, and the two baseball fields. Further, the Applicant's preliminary grading plans substantially balance the amount of cuts and fills required, reducing the amount of off-site truck traffic and mineral transport. Accordingly, the Town Board finds that the project will not have a significant adverse impact on topography.

The Town Board finds that, during construction, the topography of the project site may contribute to the stormwater conveyance of materials to down-gradient areas. However, as discussed above, the Applicant is required to prepare and effectively implement an erosion and sediment control plan and stormwater pollution prevention plan in accordance with accepted state standards and regulations. In addition, the Applicant has committed to ensuring that steep slopes, wetlands, undisturbed areas, and areas outside of construction areas will not be used to stockpile fill material. Further, surface water runoff due to topography has been analyzed, and is further discussed below in Section 5.2.2.

Accordingly, the Town Board finds that the potential adverse impact on down-gradient areas as a result of the topography of the project site is sufficiently mitigated.

5.2 WATER RESOURCES

5.2.1 Groundwater

Information on groundwater resources was obtained from the Soil Survey of Rensselaer County and the United States Environmental Protection Agency. According to the Soil Survey of Rensselaer County, the depth of the seasonal high water table varies across the site. The table below summarizes the seasonal high water table data:

<i>Soil Unit</i>	<i>Depth to Seasonal High Water Table (in feet)</i>
BeB, BeC, BeD	1.5 to 2.0
SrB	0.5 to 1.5
BnC	>6.0
NaC	>6.0
PtC	1.5 to 3.0
HoD	>6.0
CaA	0
LmA	0.5 to 1.5

Source: USDA SCS 1988

According to the United States Environmental Protection Agency (USEPA), no sole source aquifer exists in the vicinity of the project site. Existing residential uses on Betts Road and Wilrose Lane have individual groundwater supply wells.

MITIGATION:

The Town Board finds that the proposed project will not have any significant impacts on groundwater, whether in terms of quality or quantity. The Town Board further finds that the project will not have any significant impacts on off-site wells. No major excavations are proposed during construction. During the construction phase, the contractor will be responsible for controlling and managing inflows such that discharges do not increase erosion and sedimentation or contravene State water quality standards on- or off-site.

5.2.2 Surface Water

According to the Flood Insurance Rate Map published by the Federal Emergency Management Agency, no 100-year floodplains are located on the project site. The former Troy Reservoir, located on the north side of North Lake Avenue, and a New York State open water wetland, located on the east side of New York State Route 7, are located down-gradient of the project site.

MITIGATION

The Town Board finds that the proposed project will not have any significant impacts on surface water. Much of the precipitation falling on the project site will percolate into the ground, given the nature of the underlying soil. Impermeable surfaces, including buildings and paved areas, will

increase surface water quantity. This additional surface water flow will be mitigated through the implementation of a Stormwater Pollution Prevention Plan as required by regulations of the New York State Department of Environmental Conservation.

Grading activities during construction will increase the potential for erosion and sedimentation from storm water by exposing bare soils. The potential for this impact to occur will be mitigated by proper implementation and maintenance of E&SC features, and following construction activities, the placement of buildings, other impervious surfaces, grass, and other vegetative landscape features will stabilize exposed soils. The Town Board finds that an increase in impervious surfaces will not cause an increase in the rate of runoff of storm water because such storm water will be detained on site and existing discharge points will be used to convey runoff off-site in compliance with New York State stormwater regulations.

The Applicant is required to control the quantity and quality of storm water from the site during construction and operation phases. The Applicant must comply with an E&SC plan and SWPPP in accordance with NYSDEC's Standards and Specifications for Erosion and Sediment Control and the State Pollutant Discharge Elimination System General Permit No. GP-02-01.

Furthermore, the Applicant will institute structural and non-structural Best Management Practices recommended by NYSDEC and the Soil Conservation Service. Structural BMPs include constructed impoundments designed to remove pollutants from storm water before they reach receiving waters (including ground water). Storm water detention basins must detain storm water for short durations for regulated storm events. Non-structural BMPs including source controls, operational directives, and regulatory requirements, are designed to reduce the availability of pollutants to runoff. E&SC features must be implemented on site to minimize potential construction-related impacts. Storm water management measures must maintain post-development rates of runoff from the site below or equal to pre-development rates for the 2-year, 10-year, 25-year, and 100-year, 24-hour storm events.

BMPs will manage the most significant runoff-related water quality impact known as the "first-flush." Generally, the "first-flush" of a storm event is equal to one-half inch of runoff per acre of land for which the perviousness has been changed.

5.2.3 Down-Gradient Areas

The Town Board notes that the former Troy Reservoir and a New York State open water wetland are located down-gradient of the project site.

The Town Board finds that exposed soils may be conveyed to these off-site, down-gradient areas.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on down-gradient areas.

Existing storm water runoff from the project site to off-site areas was analyzed. The Applicant's storm water management plan uses features that will ensure that rate of run-off from the post-

development project site will not exceed the existing, pre-development rate of runoff from the project site. Further, the Applicant’s storm water management plan uses the same discharge points, thereby minimizing the prospect of post-development changes to the inputs to these down-gradient areas.

5.3 TERRESTRIAL AND AQUATIC ECOLOGY

5.3.1 Wildlife, Vegetation, and Habitat

As shown in the aerial photograph of the original project site included in the DEIS, the site is characterized predominantly by a mix of old (scrub-shrub) and cultivated agricultural fields (corn).

Habitats were identified through a review of aerial photography supported by on-site visual reconnaissance. The table below presents the approximate acreage under the initial 1,116-unit proposal of terrestrial habitat types and the corresponding “elemental rank” value that has been assigned to them by the NYSDEC’s New York Natural Heritage Program. Habitat descriptions were assigned based on information contained in the NYSDEC New York Natural Heritage Program publication “Ecological Communities of New York State” (1990). Ranks are a combination of global and state characterizations of the heritage value of various ecological communities. The global rank reflects the rarity of the habitat on a global scale, while the state rank reflects the rarity within New York State.

Terrestrial habitats.

Habitat type	Acreage	Global rank	State rank
Successional Shrubland	40±	G4	S4
Cultivated Field (Row Crops/Field Crops)	129±	G5	S5
Shallow Emergent Marsh	3.4±	G5	S5
Orchard	10±	G5	S5
Red Maple-Hardwood Swamp	11.6±	G5	S4/S5
Beech-Maple Mesic Forest	21±	G4	S4

Global

- G1 Critically imperiled throughout its range due to extreme rarity (5 or fewer occurrences, or very few remaining individuals, acres or miles of stream) or extremely vulnerable to extinction due to biological factors.
- G2 Imperiled throughout its range due to rarity (6-20 occurrences, or few remaining individuals, acres, or miles of stream) or highly vulnerable to extinction due to biological factors.

- G3 Either very rare throughout its range (21-100 occurrences), with a restricted range (but possibly locally abundant), or vulnerable to extinction due to biological factors.
- G4 Apparently secure throughout its range (but possibly rare in parts of its range).
- G5 Demonstrably secure throughout its range (however it may be rare in certain areas).

State

- S1 Typically 5 or fewer occurrences, very few remaining individuals, acres, or miles of stream, or especially vulnerable to extirpation (extinction) in New York State for other reasons.
- S2 Typically 6 to 20 occurrences, few remaining individuals, acres, or miles of stream, or very vulnerable to extirpation in New York State for other reasons.
- S3 Typically 21 to 100 occurrences, limited acreage, or miles of stream in New York State.
- S4 Apparently secure in New York State.
- S5 Demonstrably secure in New York State.

Source: O'Brien & Gere Engineers, Inc. and NYSDEC New York Natural Heritage Program's "Ecological Communities of New York State" (1990).

Based on this information, the Town Board finds that no critical habitats are located at or near the project site. The habitats observed on-site are either "apparently" or "demonstrably" secure throughout their range including New York State.

The PDD site was historically tilled for row crops such as corn or field crops such as grass species for hay production. Agricultural activities have ceased on the PDD site. Typical animal species include field sparrow (*Spizella pusilla*), song sparrow (*Melospiza melodia*), bobolink (*Dolichonyx oryzivorus*), woodchuck (*Marmota monax*), and various other rodents.

The project site also includes successional shrubland, which exists in areas that were previously cultivated but generally have remained fallow for greater than 5 years. Shrub species found include gray dogwood (*Cornus racemosa*), arrowwood (*Viburnum spp.*), and berry bushes (*Rubus spp.*). Vegetative species include goldenrods (*Solidago spp.*), common cinquefoil (*Potentilla simplex*), asters (*Aster spp.*), Queen Anne's lace (*Daucus carota*), and ragweed (*Ambrosia artemisiifolia*). Typical animal species include field sparrow, song sparrow, deer mouse (*Peromyscus maniculatus*) and various rodents.

Portions of the project site previously existed as orchards for production of apples and pears. The trees dominating the canopy and the understory is rather sparse. Animal species include American robin (*Turdus migratorius*), eastern kingbird (*Tyrannus tyrannus*), and various rodents.

The project site includes emergent marsh, which is found in topographic depressions with standing water generally less than 2-feet deep. These areas are dominated by vegetative species including soft rush (*Juncus effuses*) and sensitive fern (*Onoclea sensibilis*); few if any shrub species are present. Typical animal species include red-winged blackbird (*Agelaius phoeniceus*), common yellowthroat (*Geothlypis trichas*), and various amphibians.

The project site includes red maple-hardwood swamp, which is forested wetland typified by canopy species including red maple (*Acerrubrum*), American elm (*Ulmus Americana*), box-elder maple (*Acer negundo*), silver maple (*Acer saccharinum*), and green ash (*Fraxinus pennsylvanicum*). These areas also have a well developed shrub layer that includes red-osier dogwood (*Cornus stolonifera*), spicebush (*Lindera benzoin*), and arrowwood (*Viburnum recognitum*). Typical animal species include wood duck (*Aix sponsa*), northern waterthrush (*Seiurus noveboracensis*), beaver (*Castor canadensis*), and various amphibians.

Finally, the project site includes beech-maple mesic forest, which is the non-orchard forested upland portions of the project area dominated by canopy species including sugar maple (*Acer saccharum*), shagbark hickory (*Carya ovata*), and silver maple (*Acer saccharinum*). In areas where the shrub layer is established, flowering dogwood (*Cornus florida*) is the dominant species. Typical animal species include American redstart (*Setophaga ruticalla*), red-eyed vireo (*Vireo olivaceus*), and eastern gray squirrel (*Sciurus carolinensis*).

Based on a review of New York Natural Heritage Program files by the NYSDEC-Division of Fish, Wildlife, and Marine Resources (New York Natural Heritage Program), no known occurrences of rare or state-listed animals and plants, significant vicinity of the site were identified (NYSDEC Natural Heritage Program 2005).

In addition, the United States Fish and Wildlife Services (USFWS) indicated that no Federally listed or proposed endangered or threatened species under USFWS jurisdiction are known to exist in the project impact area (USFWS 2005).

Based on information published by the NYSDEC, there are no New York State designated critical environmental areas located at or near 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 area historically used as agricultural 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. While portions of forested woodlands may be disturbed by the project, such 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, which will enhance wildlife habitat opportunities as well as scenic areas.

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

The Town Board has concluded that common species of the cultivated field habitat, such as field sparrow, song sparrow, bobolink, woodchuck, and various rodents, may be displaced as a result of the conversion of such habitat to mowed lawn and trees. However, the mowed lawn and trees will provide a habitat for, among others, the gray squirrel, American robin, mourning dove, and mockingbird.

Existing habitats along the periphery of the project site will be maintained, thereby preserving the “edge habitat” between the on-site and off-site habitats.

5.3.2 Wetlands

No NYSDEC-regulated wetlands exist on the project site, and one NYSDEC Class II wetland (TN-106) exists off-site near the intersection of Betts Road and New York State Route 7.

Ecological Solutions, LLC prepared federal wetland delineation report dated January 24, 2005 in accordance with United States Army Corps of Engineers (USACE) requirements. 15.04 acres of federal wetlands were identified during the field delineation, which was conducted on the presumption that the project would be developed according to the 1,116 unit proposal. The 15.04 acres of wetland delineated include 2.39 acres of deciduous wooded swamp wetland, 6.67 acres of wetland watercourse system, 3.41 acres of emergent wetland, and 2.57 acres of isolated wetland. The proposed buildings on the PDD site have been designed to avoid wetland resources.

Given the proposed improvements to Betts Road, Ecological Solutions, LLC conducted an additional wetland delineation on August 4, 2006. That wetlands delineation identified approximately three acres of wetlands on the southwest side of Betts Road and approximately twenty-seven acres on the northeast side of Betts Road (which is contiguous with NYSDEC wetland TN-106). These two areas of wetlands on either side of Betts Road are connected underneath Betts Road by a plastic conduit. The improvement to Betts Road will impact approximately 0.008 acres of the wetlands located on the southwest side of Betts Road, and approximately 0.002 acres of the wetlands located on the northeast side of Betts Road. The project as a whole, including road, baseball field, and buildings construction, will result in an impact to approximately 0.190 acres of wetlands. The Betts Road improvements will impact the 100-foot buffer of the wetland areas to a slight degree, but all such impacts will be limited to the currently paved portion of Betts Road or the currently maintained Betts Road right of way. Finally, a two-foot ditch on either side of Betts Road may be impacted by the Betts Road improvements.

MITIGATION:

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

Since the project site does not contain any state regulated wetlands, and any project-related improvements to the intersection of Betts Road and NYS Route 7 will occur outside of the nearby, off-site wetland, the Town Board finds no state-regulated wetlands will be significantly impacted by the project. Under the current 250-unit proposal, an access road will cross the wetland identified as wetland/watercourse B&E in the DEIS. The crossing may affect a very small portion of the wetland, but may nevertheless be accomplished under the USACE Nationwide Permit Program. The Nationwide Permit Program will ensure that the work area is limited to that which is the minimum necessary, that pre-construction contours are maintained as much as possible, that the USACE is notified when materials are removed or backfilled within 30 days, and that a 401/water quality certification is obtained if discharges exceed 1/10 acre. In addition, the Town Board will require that in and around wetland areas, the contractor implement and maintain the SWPPP and E&SC measures; maintain sufficient vegetated buffers adjacent to open water bodies to preclude water quality degradation; place suitable erosion control devices in work areas prior to initiation of construction; will not refuel oil, or grease construction equipment in wetland or stream areas; maintain original ground contour surface elevations in wetland areas located outside of construction limits; and limit clearing and grading to only that which is necessary to conduct construction activities.

The project will not involve construction in areas where red-osier or flowering dogwoods have been identified.

Further, the E&SC measures must be maintained until permanent vegetation is established, and any soil profiles and ground contours in wetland areas encroached as a consequence of utility line extension must be restored to pre-existing grades.

5.4 TRANSPORTATION

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 study analyzed the original 1,116-unit, two-site access road (Betts Road, North Lake Avenue) proposal, as well as the modified 668-unit, one-site access road (Betts Road) proposal. Creighton Manning also assessed the reduction of the proposed apartment buildings to 250, with a one-site access road design (Betts Road). Creighton Manning also assessed traffic impacts associated with the athletic fields proposal. These traffic impact analyses are 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:

- Betts Road – Betts Road is a town road providing north-south access from NYS Route 7. Betts Road provides access to residential properties and commercial land uses at its intersection with NYS Route 7. The width of Betts Road varies along its length. In the vicinity of the site, Betts Road is approximately 12-feet wide with an area speed limit of 15 miles per hour (mph). Wilrose Lane extends easterly from the northern terminus of Betts Road to provide access to several single family residences.
- NYS Route 7 – NYS Route 7 (Hoosick Road) is a state road that provides east-west access through Rensselaer County. NYS Route 7 provides access to residential and commercial properties. In the vicinity of the site, NYS Route 7 is approximately 48-foot wide with a speed limit of 45-mph.
- North Lake Avenue (CR 144) – North Lake Avenue is a county road providing east-west access from NYS Route 7 to NYS Route 142. North Lake Avenue provides access primarily to residential land uses and consists of a single lane in each direction. In the vicinity of the site, North Lake Avenue is approximately 25-foot wide with a speed limit of 35-mph. No pedestrian sidewalks or bike pathways existing along North Lake Avenue.

The study area intersections included the following:

- NYS Route 7/Oakwood Avenue/Tenth Street
- NYS Route 7/Fifteenth Street
- NYS Route 7/Burdett Avenue
- NYS Route 7/North Lake Avenue (CR 144)
- NYS Route 7/McChesney Avenue (CR 134)
- NYS Route 7/Brunswick Drive/Wal-Mart Plaza
- NYS Route 7/Betts Road
- NYS Route 7/NYS Route 142
- North Lake Avenue (CR 144)/Miller Lane.

Intersection turning movement counts were conducted at the study area intersections for morning and afternoon peak traffic hours. The raw traffic volumes at the study area intersections were increased based on seasonal adjustment factors provided in the NYSDOT 2003 Traffic Volume Report and consideration of other pending development applications in the study area, including Highland Creek Planned Development and a proposed Walmart Supercenter. Adjusted traffic volumes for the a.m. and p.m. peak hours were illustrated in Appendix G of the DEIS. Creighton Manning offered the following observations from the traffic count data:

- The morning peak hour of adjacent street traffic at the study area intersections generally occurs from 7:15 to 8:15 a.m. The afternoon peak hour generally occurs from 4:15 to 5:15 p.m.
- The seasonally adjusted two-way traffic volume on NYS Route 7 is approximately 985 vehicles during the a.m. peak hour and approximately 1,335 vehicles during the p.m. peak hour.
- Approximately 4% of the traffic volume was comprised of heavy vehicles.

This analysis of existing traffic volumes, including projected and potential growth factors, was used in connection with trip generation and level-of-services analyses.

Accident data was also obtained from the NYSDOT for the latest three-year period available for the roadway segments adjacent to the proposed site access locations. During this period, there were 22 accidents on NYS Route 7 from Brunswick Drive and the Wal-Mart Plaza entrance to the eastern intersection of McChesney Avenue and NYS Route 7. These accidents primarily consisted of rear-end collisions, left-turning vehicles failing to yield the right-of-way, and non-reportable accidents and were generally caused by driver inattention or following too closely. There was also a single non-reportable accident at the NYS Route 7/Betts Road intersection during the same period. The NYSDOT recently completed construction of a two-way left turn lane on NYS Route 7 in the study area. The turn lane provides refuge for vehicles waiting to turn left from NYS Route 7 and increases the overall safety along NYS Route 7 by removing stopped vehicles from the through travel lane.

The Applicant submitted data on trip generation utilizing the Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition, Land Use Code 220-Apartment. When applying this standard factor, the following trip generation data is obtained for AM/PM Peak Hour analysis, applied to the 250-unit proposal:

AM Peak Hour			PM Peak Hour		
In	Out	Total	In	Out	Total
25	101	126	101	54	155

Trip generation analysis was also applied to the proposed athletic fields, again utilizing ITE data and projections for player, coach, and spectator attendance:

AM Peak Hour			PM Peak Hour		
In	Out	Total	In	Out	Total
0	0	0	79	10	89

When combined, the full trip generation analysis is provided for AM/PM Peak Hours, as well as in-season sports use of the athletic fields (projected use as Babe Ruth baseball fields) and off-season timeframes:

Use	AM Peak Hours			PM Peak Hours		
	In	Out	Total	In	Out	Total
250-unit Apartment	25	101	126	101	54	155
2 Babe Ruth baseball fields	0	0	0	79	10	89
In-season Total	25	101	126	180	64	244
Off-season Total	25	101	126	101	54	155

A few nearby residents suggested that the project should be expected to generate at least two vehicles per apartment unit. The objective Census data cited above, which indicates that 82% of all occupied housing units in the Town—including all owner-occupied housing units (or 80% of all the occupied housing in the Town)—have two or fewer vehicles. The Town Board acknowledges that single-family residences may have in excess of two cars per unit, and therefore finds that a lower vehicle/unit ratio may exist for rental units, particularly with respect to one-and-two bedroom rental units as proposed in this action. The Town Board disagrees that the traffic impact study should assume that each apartment unit in the project would generate at least two vehicles. Further, the Town Board accepts the factors set forth in the Land Use Codes of the Institute of Transportation Engineers. Accordingly, the Town Board finds that the traffic impact studies conducted by the Applicant’s consultants are credible and reliable.

The Applicant’s traffic consultant prepared an intersection level-of-service and capacity analysis, utilizing highway capacity software (HCS version 4.1e) which automates the procedures contained in the 2000 Highway Capacity Manual.

The Applicant’s traffic consultant prepared a level-of-service analysis for the 668-unit proposal. That analysis was included in the DEIS and encompassed the traffic impacts associated not only with Phase I (the same size as the current proposal), but also Phases II and III (a total of 418 units more than the current proposal). Such impacts were identified and available for public review and comment. That level-of-service analysis concluded that a traffic signal should be installed at the Route 7/Betts Road intersection with completion of phase III (full build-out). In connection with the 250-unit proposal and proposed athletic fields, the Applicant’s traffic consultant completed a level-of-service analysis to determine whether the traffic signal was still warranted. The traffic impacts associated with the current proposal were included within the scope of the impacts identified in the DEIS. The Applicant concluded that the Route 7/Betts Road intersection will operate adequately with Stop control on the Betts Road approach both during and outside of baseball season. This analysis is presented below.

Table 2 – Unsignalized Level of Service Summary

NY Route 7/Betts Road		AM Peak Hour		PM Peak Hour	
		No-Build	Build	No-Build	Build
During baseball season		A (9.3) C (15.3)	A (9.4) C (23.7)	A (9.0) C (20.2)	B (10.1) D (31.7)
NYS Route 7 EB	L				
Betts Road SB	LR	Outside baseball season			
NYS Route 7 EB	L	A (9.3) C (15.3)	A (9.4) C (23.7)	A (9.0) C (20.2)	A (9.6) C (24.8)
Betts Road SB	LR				

Key: NB, SB, EB, WB = Northbound, Southbound, Eastbound, Westbound intersection approaches.
L, T, R = Left-turn, Through, and/or Right-turn movements.
X (Y.Y) = Level of Service (Delay, seconds per vehicle).

The anticipated 2010 Build traffic volumes were compared to the traffic volume criteria for the Peak Hour Volume traffic signal warrant. The comparison shows that the traffic volumes marginally satisfy the volume thresholds during the AM peak hour and do not satisfy the volume thresholds during the PM peak hour. Based upon the level of service analysis and the Peak Hour Volume signal warrant analysis, installation of a traffic signal is not warranted at the Route 7/Betts Road intersection. It is noted that NYSDOT authorization is required to install a traffic signal on a state road. This typically encompasses a full signal warrants analysis with hourly traffic volumes and satisfaction of the 8-hour traffic volume warrants. The traffic volumes expected on the Betts Road approach do not satisfy the 8-hour traffic volume warrants thresholds. NYSDOT has reviewed this data, and preliminarily determined that a traffic signal is not warranted at this time.

A sight distance evaluation was completed at the proposed site access location on NYS Route 7. The results of the analysis, included in Appendix G of the DEIS and a sketch of which is included in the FEIS, indicate that sight distances at the NYS Route 7/Betts Road intersection exceed American Association of State Highway and Transportation Officials (AASHTO) guidelines for a 55-mph design speed, which is 10 mph higher than the posted speed limit.

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 were presented by either agency.

The Town Board finds that the Stop control sign at the intersection of Betts Road and NYS Route 7 must be located no further than 14.5 feet from the west-bound travel lane of NYS Route 7, to ensure compliant sight distance requirements.

The Town Board finds that the traffic study pertaining to the Betts Road-NYS Route 7 intersection was reviewed by NYSDOT. The Town Board will request that NYSDOT further consider whether the installation of a traffic signal is warranted.

5.5 AIR QUALITY

Existing air quality in the area of the project site was evaluated utilizing data from sampling and monitoring stations in Grafton Lakes, New York and Albany County, New York. In particular, the Grafton Lakes Station monitors for ozone and sulfur dioxide, and the two Albany County Stations monitor for ozone, carbon monoxide, sulfur dioxide, and particulate matter.

The Town Board finds that dust will be generated from earthmoving activities and vehicles traveling on unpaved surfaces during construction.

In addition, to determine whether traffic generated by the project would cause a violation of National or New York State Ambient Air Quality Standards at nearby residences (located near North Lake Avenue), an assessment of the air quality impacts from such traffic was conducted. The assessment concluded that traffic generated by the 1,116-unit proposal would not cause violations of the National or New York State Ambient Air Quality Standards at nearby residential houses. Since then, the proposal has been reduced by 866 units, and the North Lake Avenue access road has been eliminated. Therefore, the Town Board finds that the air quality at nearby residential homes will not be adversely impacted by the project.

MITIGATION:

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

To mitigate the potential impacts associated with dust generation, the Town Board will require watering and other dust control measures, including low on-site speed limits, vehicle wash-downs, washing or sweeping of streets, and covering or temporary seeding of soil storage piles.

To mitigate potential transportation-related air impacts during construction and operation, the Town Board will limit construction activities and the use of vehicles and equipment to specific work hours, and will require proper maintenance of construction vehicles and the use of appropriate emission control devices on construction equipment and vehicles.

Nearby residents expressed concern that the proposed athletic fields, and in particular the vehicles traveling to and from the athletic fields, would generate dust, thereby impacting air quality. The Town Board disagrees that the amount of dust generated by the fields or the vehicles traveling to and from the fields would have a significant adverse impact on air quality. Nonetheless, to further minimize any impact on the air quality in the vicinity of the nearby residents, the athletic fields and the road accessing the fields shall be separated from nearby residences by a vegetative buffer. In

addition, the fields and the road accessing the fields shall be located to minimize any impacts to air quality in the vicinity of the nearby residences. Final location of both the road and the fields, and the size and type of vegetative buffering, shall be determined during site plan review.

5.6 COMMUNITY RESOURCES

5.6.1 Utilities

5.6.1a Water System

The water service in the vicinity of the proposed project includes the Tibbetts Avenue water storage tank (Troy, New York) and the Town of Brunswick water storage tank (Brunswick, New York). The Tibbetts Avenue water storage tank services the City of Troy water system, and the Hoosick Road portion of the Town of Brunswick. The Town of Brunswick 2 million gallon water storage tank services the remainder of the Town of Brunswick water system. The City of Troy water system and Town of Brunswick water system connect at a pressure reducing valve pit east of the McChesney Avenue in the Town of Brunswick.

The City of Troy system has a static pressure of approximately 40 pounds per square inch (psi) at the pressure reducing valve pit, with very low residual pressure. The 12-inch diameter water main in the Town of Brunswick water system at the pressure reducing valve pit near McChesney Avenue has a static pressure of 96 psi and a residual pressure of 40 psi associated with a flow rate of 1,149 gpm. The Town of Brunswick water system distributes water via a large 16-inch water main located along NYS Route 142. The Town higher-pressure water system extends southwest from the 16-inch water main to the pressure reducing valve pit near McChesney Avenue via an existing 8-inch diameter water main. The pressure reducing valve pit, where the two water systems connect, is presently closed between the two systems at this location.

The project proposes to supply water to the apartments and two baseball fields via a connection to the Town of Brunswick water system. A 12-inch proposed watermain will be extended approximately 1,500 feet along Betts Road, and involve crossing underneath Route 7 and along McChesney Avenue, to connect to the existing Town high pressure watermain. This connection will require the construction of an additional pressure regulating valve pit on Route 7 east of Betts Road. The proposed watermain extension to serve the proposed project will be installed within the right-of-way beyond the widened Betts Road edge of pavement.

5.6.1b Sewer System

With respect to sanitary sewer service, sanitary wastes generated from business and residences along NYS Route 7 are conveyed to the existing Rensselaer County Sewer District wastewater treatment plant located in the City of Troy. The average annual wastewater flow treated at the Rensselaer County Sewer District wastewater treatment plant is approximately 17.7 million gallons per day, with a maximum monthly average of 23.6 million gallons per day and a minimum monthly average of 13.2 million gallons per day. The Rensselaer County Sewer District wastewater treatment plant has the capacity to treat up to 60 million gallons per day.

An existing 12-inch diameter gravity line extends westerly along NYS Route 7 from approximately Brunswick Drive to the City of Troy. An 8-inch diameter sanitary sewer gravity line extends west along the northern right-of-way of NYS Route 7, crossing NYS Route 7 approximately 2,200 feet west of Betts Road. This 8-inch line conveys sanitary wastes to a sanitary pump station located south of the existing Wal-Mart on the McChesney Avenue Extension behind the old Grand Union Supermarket. This pump station also receives sanitary flows from residential development on Brunswick Drive located west of the pump station. Sanitary wastes are pumped via a 6-inch diameter force main to a sanitary manhole to the west of the Brunswick Drive/NYS Route 7 intersection. Sanitary flows are subsequently conveyed via the 12-inch diameter gravity line from this manhole to the Rensselaer County Sewer District wastewater treatment plant.

The existing sanitary pump station has two alternating submersible pumps, each with 180 gpm maximum flow capacity. The existing pumping station pumps approximately 22 gpm on average. Using a peaking factor of four to approximate instantaneous loading, the existing pumping station pumps approximately 88 gpm.

Sewer system improvements for the project will consist of on-site subgrade pump stations, force mains and gravity lines, an 8-inch diameter force sewer main along Betts Road, and a pumping station. The sanitary sewer extension will be designed in accordance with the NYSDEC publication *Design Standards for Wastewater Treatment Facilities*, and the Rensselaer County Department of Public Health and NYSDEC will review (and approve, if acceptable) sewer extension plans. The sewer main along Betts Road will be installed within the Betts Road right of way outside of the new pavement limits.

The proposed on-site pumping station will pump flows to the existing sanitary manhole located at the intersection of Betts Road and NYS Route 7. From there flows will be conveyed within existing piping to the existing pumping station located on the McChesney Avenue Extension.

5.6.1c Other Utilities

With respect to electric and natural gas service, National Grid owns and maintains overhead electric and underground natural gas services along NYS Route 7, as well as a high pressure gas main within the western portion of the project site. National Grid will install underground electric and natural gas service extensions to the residents.

With respect to stormwater management facilities, as discussed above, the on-site storm water management system will control the rate of storm water runoff from the site to pre-development conditions. Proposed road improvements for Betts Road include widening of the existing paved roadway to 28 feet, including two travel lanes and two shoulders. The proposed roadway widening will result in an increase in impervious area, and an increased runoff discharge rate from the roadway area.

The increase in the impervious area will result in an increase runoff discharge rate, as demonstrated by the data below:

Betts Road Stormwater Analysis

<i>Storm Event (yr)</i>	<i>Existing Peak Discharge (cubic feet per second cfs)</i>	<i>Proposed Peak Discharge (cfs)</i>
2	1.1	3.0
10	2.0	5.7
25	2.3	6.2
100	3.2	8.8

With respect to telephone, cable, and internet service, existing telephone, cable, and high-speed internet services (owned by Verizon or Time Warner) will be extended onto the site from current locations.

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. Furthermore, the Applicant will bear the cost of on-site water improvements and any off-site improvements necessary to provide potable water to the project. Further, the Applicant has committed to providing, at its cost and expense, tap-in facilities for the benefit of existing residences along the proposed water line extension service route that desire such service but that do not currently have it.

The Town Board notes that the Applicant must make application for the extension of the water district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. In the event the Town Board does not approve the extension of the water district, the Applicant shall have the right to propose alternative water improvements, subject to compliance with all applicable legal requirements.

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 Applicant, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

The Town Board further finds that the project will not have a significant adverse impact on the public sewer system. Adequate public sewer system capacity is available for this 250-unit, 2 baseball field project. In addition, the Applicant will bear the cost of on-site sewer improvements and any off-site improvements necessary to provide sanitary sewer service to the project. Further, the Applicant has committed to providing, at its sole cost and expense, tap-in facilities for the benefit of existing landowners along the proposed sanitary sewer extension route that do not currently have such sanitary sewer service, but who desire such sanitary sewer service.

The Town Board notes that the Applicant must make application for the extension of the sewer district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. In the event the Town Board does not approve the sewer district

extension, the Applicant shall have the right to propose alternative sewer improvements, subject to compliance with all applicable legal requirements.

The Town Board also notes that all improvements constructed in conjunction with providing sanitary sewer service to the project will be, upon satisfactory completion by the Applicant, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town.

The Town Board further finds that the project will not have a significant adverse impact on electric or natural gas service. The Applicant has contacted National Grid, and National Grid has agreed to install the necessary extensions to provide electric and natural gas service to the apartments.

The Town Board further finds that the project will not have a significant adverse impact on stormwater management facilities. Roadside drainage improvements will mitigate the increased discharge rates. The proposed drainage improvements will be designed in accordance with State Standards, such as the NYSDEC *Stormwater Management Design Manual*, and the NYSDEC Stormwater Technical Standards Publication to mitigate storm water runoff quantity and quality. The improvements to Betts Road will actually improve the quality of the runoff, as the existing drainage system for the Betts Road area (generally consisting of road side swales and culverts) does not include stormwater controls for runoff management.

The Town Board finds that the extension of telephone, cable, and high-speed internet service onto the site from existing locations will not have a significant adverse environmental impact.

5.6.2 Emergency Services

The Rensselaer County Public Safety Department provides resource management for fire and emergency management services. Services are coordinated with the Rensselaer County Sheriff's Department. The County also operates a 911 center, which administers the County Mutual Aid Program.

Emergency services consist of police protection provided by the Rensselaer County Sheriff's Department and New York State Police; fire response provided by the Brunswick Fire Company No. 1 and the Volunteer Fire Company of Center Brunswick, Inc; and ambulance service provided by Mohawk Ambulance. In addition, other local fire departments and ambulance services assist when necessary, as part of the County Mutual Aid Program.

MITIGATION

The Town Board finds that the proposed project will not have a significant adverse impact on emergency services. The local fire departments have confirmed that they can serve the proposed project without an increase in budget.

In addition, local fire department representatives indicated that since Betts Road is proposed to be widened to Town specifications, an emergency-only access road from Lord Avenue would not be necessary. However, the Applicant has committed to retaining the emergency only access road from Lord Avenue as part of its project site plan. Ambulance service can be provided to the proposed

development without any upgrades to equipment. Police service will continue to be provided by the Rensselaer County Sheriff's Department with mutual aid support from the New York State Police.

5.6.3 Waste Management

The Town of Brunswick operates a recycling center located behind the Town Hall (336 Town Office Road). The center accepts recyclable materials (glass bottles and jars, tin food and beverage containers, plastic containers [nos. 1, 2 or 4], newspapers, magazines and corrugated cardboard) for no fee, and trash and garbage for nominal fees. The center is open to all Brunswick residents.

Assuming a waste generation rate of approximately 4 pounds per unit per day, the project will generate approximately 0.5 tons of municipal solid waste per day. The project will maintain a self-contained mini-compact and recycling center on site. Wastes will be transferred from the project to a permitted landfill by a privately contracted waste hauler. Waste streams from the project will be managed with other wastes generated within the Town and County.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on waste management.

5.6.4 Public Schools

Under the Applicant's initial 1,116-unit proposal, both the Brunswick Central School District and the Lansingburgh Central School District would have experienced an increase in the number of students. Since the reduction from 1,116 units to 250 units, the project is now solely located within the Brunswick Central School District.

The Town Board analyzed the issue of total number of projected students from the 250-unit apartment proposal, together with estimated annual costs to educate one student in the Brunswick Central School District.

The Town Board utilized data generated by the Capital District Regional Planning Commission and the Applicant concerning per-unit student generation projection. The Capital District Regional Planning Commission, in its Report on School Enrollment Projections for the Brunswick Central School District (December, 2005), used a factor of 0.17 student/apartment unit. This factor was based upon data from southern Saratoga County and national standards for students generated by existing apartment units (regardless of type and when apartment was built). The Applicant supplied current data concerning the actual number of students generated at Hudson Preserve in Colonie, a comparable apartment project with similar construction and targeting the same resident market. The Hudson Preserve data results in a factor of 0.03 student/apartment unit. While the Applicant offered a worse-case scenario of 0.06 student/apartment unit, which is double the actual data factor in Hudson Preserve, the Town Board finds that a factor of 0.10 student/apartment unit is reasonable, taking into account both the actual, current local data of Hudson Preserve and the southern Saratoga County/national data relied on by the Capital District Regional Planning Commission.

The Town Board applied the 0.10 factor for student generation to the 250-unit proposal, and reached conclusions both as to revenue impacts and physical plant impacts.

First, based on the New York State Report Card Fiscal Accountability Supplement found at FEIS Appendix “H”, the approximate cost to educate a student in the Brunswick Central School District is \$6,700 per year. The Applicant projects a two-year build-out. Accordingly, when applying an annual escalator of 5%, the projected cost to educate a student in the Brunswick Central School District after build-out is \$7,386.

Based on existing multi-family, rental properties in the Town of Brunswick, and factoring in an annual escalator of 5% for the two-year build-out, the 250-unit proposal is estimated to generate \$373,250 in total real property tax revenue (municipal tax revenue is further discussed in Section 5.6.6). Of the projected total real property tax revenue, 65% is allocated to the Brunswick Central School District. This results in projected annual tax revenues to the School District of \$242,612 following build-out.

When applying the factor of 0.10 student/apartment unit to 250 proposed units, a total projected student generation number of 25 is achieved. Further, when applying the projected annual cost to educate each student of \$7,386, a total education expenditure of \$184,650 is achieved. The Town Board finds that the projected school tax revenue of \$242,612 is in excess of the anticipated costs to educate all projected students from the 250-unit proposal, and results in a surplus to the Brunswick Central School District of \$57,962 per year.

Comments received from the public disputed the New York State Report Card figure on Brunswick Central School District’s per-student annual educational expense, rather stating that the per-student annual cost is \$8,850. However, when applying that number to the 25 projected students, a total education expenditure of \$221,250 results, which remains below the projected annual school tax revenue.

Second, the Town Board previously inquired of the Brunswick Central School District as to adequacy of the existing campus facilities. According to the Business Operations Office at the Brunswick Central School District, the existing school buildings located on campus have a capacity of 2215 student according to State Education Guidelines. According to the Report on School Enrollment Projections for the Brunswick Central School District prepared by the Capital District Regional Planning Commission (December, 2005), the total enrollment was 1383 students in 2005-2006. As indicated above, using a reasonable and reliable factor for student projection, a total of 25 students is anticipated from the 250-unit proposal. The Town Board finds that the addition of 25 students to the Brunswick Central School District is well within its rated capacity.

Further, at the time the Capital District Regional Planning Commission authored its School Enrollment Projections Report, three Planned Development District applications were pending before the Town Board: Highland Creek PDD, Carriage Hill Estates PDD, and Hudson Hills PDD. The School Enrollment Projections Report factored into the analysis each of these PDD projects, both on a “target market” scenario and “worse case” scenario. Also, the Hudson Hills PDD project was assessed at 400 apartment units in the Brunswick Central School District, the number under the prior 1,116-unit original proposal. The study assumed approval and full build-out of all three PDD

projects. Under a “target market” scenario (the project’s target market is achieved; i.e. empty-nesters, young professionals), a total of 1502 students was projected to be enrolled in the District by 2010-2011 (K-12). Under a “worse case” scenario (the project’s target market is not achieved, and “family friendly” factors are applied), a total of 1596 students was projected to be enrolled in the District by 2010-2011.¹ The Town Board finds that even under a worse-case, cumulative impact scenario, projected student enrollment is within the rated capacity of the Brunswick Central School District.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on the public school system. The Town Board further finds that the impacts to the public school system resulting from the current proposal are within the scope of impacts identified in the DEIS. First, the enrollment projections study conducted by the Capital District Regional Planning Commission revealed that the Brunswick Central School District has the capacity to accommodate the increase in the number of school-aged children resulting from this project (as well as that from all other proposed residential developments in the Town of Brunswick). Second, the cost to educate 25 children in the Brunswick Central School District in 2009 would be \$184,650. Given that the 250-unit proposal will generate approximately \$242,612 in revenue for the Brunswick Central School District, the Town Board finds that the project will not have a significant adverse impact on the public school system.

Particularly noteworthy is the comparison of the instant proposal versus the alternative land use of single-family, owner occupied homes. Given the current zoning of the parcels, a single-family, owner occupied home could be constructed on every acre, except, of course, where roads would be constructed, where wetlands exist, and where topography is such that construction is not practicable. Assuming that roads, wetlands, and topography would prevent single-family home construction on one-third of the 102 acres (77 acres for PDD, 25 acres for the athletic fields), the property would support 67 single family homes.

More than 45% of single family homes have 3 or more occupants in the Town of Brunswick. The Town Board finds that 67 single family homes would generate approximately 30 students, which is more than four times the Applicant’s estimate of students generated under the current proposal, more than twice the Applicant’s worse-case scenario estimate, and 20% more than the Town Board’s worse-case scenario estimate. Therefore, the alternative—construction of single-family homes—would yield a greater number of projected students to the public school system than does the instant proposal.

5.6.5 Recreational Facilities

The 250-unit proposal includes on-site recreation facilities, including a clubhouse, a swimming pool, and two youth baseball fields. The clubhouse and swimming pool will provide recreation facilities for the project’s residents. The two youth baseball fields will be dedicated to the Town for the benefit of the residents of the Town of Brunswick.

¹ Without any PDD construction, Capital District Regional Planning Commission projects a decline in student enrollment to 1357 students by 2010-2011, based on historical building patterns in the District.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on recreational facilities. The project's design includes facilities—namely, the pool and clubhouse—that will minimize the demand of the project's residents on the Town's recreational facilities. In addition, the Applicant has modified its project in such a way—namely, by adding two youth baseball fields—as to increase the Town's stock of recreational facilities, available not only for use by the residents of the project, but for the residents of the Town of Brunswick in general.

5.6.6 Municipal Revenues

The Applicant estimates that the 250-unit proposal will generate approximately \$373,250 per year in total tax revenue. Of that total estimate, approximately 65% (or \$242,612) will be allocable to the Brunswick Central School District. The Town of Brunswick and Rensselaer County will split the remaining 35% (or approximately \$130,637, of which the Town of Brunswick would likely receive approximately \$52,000).

The Applicant's tax revenue projections were determined by analyzing the taxes paid annually by other apartment communities within the Town, and then calculating the tax paid per unit (i.e., the total taxes paid were divided by the total number of units). Because property taxes are based on the value of the land and improvements thereon, the Applicant increased the tax paid per unit derived from other, existing apartment communities by 30% to account for the age of those other apartment communities, as well as for the instant project's design.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on municipal revenues, even at the Applicant's estimates. However, the Town Board notes that final tax assessment will be established by the Town Assessor, and may result in real property taxes in excess of the Applicant's estimates. Nonetheless, even at the Applicant's estimates, the project will add several hundred thousand dollars to town and county tax revenues. In addition, while the project has been down-sized considerably from the initial 1,116-unit proposal, the 250-unit proposal will contribute to sales tax revenues as well.

5.7 CULTURAL RESOURCES

5.7.1 Aesthetics/Viewshed

The rolling topography of the project site and the surrounding area limits the site's visibility from surrounding vantage points. The Applicant presented a visual assessment of the project, which included photo-simulations from the intersection of NYS Route 7 and Betts Road, the intersection of Betts Road, Wilrose Lane, and the proposed access road, the Town beach, and the point on North Lake Avenue where a second access road had been proposed, but which has since been eliminated. The visual assessment was conducted in accordance with *Assessing and Mitigating Visual Impacts, DEP-00-2*, a NYSDEC-published guide for assessing visual impacts. These photo-simulations

confirm that the project is, in large part, hidden entirely from view by the project site's and surrounding area's rolling topography.

The project site will have lighting at building entrances, walkways, parking areas, interior roads, and the access road. The lighting will be designed to eliminate the potential from off-site spillover, including appropriate use of shields, a forty-five degree maximum cutoff, and lower watt, non-glare fixtures.

MITIGATION

The Town Board finds that the 250-unit, 2 baseball field proposal will not have a significant adverse impact on visual resources. As discussed above, and as proven by the photo-simulations provided by the Applicant, the project will be visible only in limited locations, and even in those locations, only to a very limited extent.

The Town Board particularly notes that the current zoning of the project site permits construction of single family residential homes on approximately 1 acre of land (A-40). Such homes may have been built closer to North Lake Avenue, to Betts Road, and to NYS Route 7 than the currently proposed apartment buildings. If such homes were built, the potential visual impact may be greater than that which would result from the currently proposed project. The Applicant has reduced the scale of the project from 1,116 units to 250 units, and in doing so, has centrally located the proposed apartment buildings within the project site, thereby allowing the rolling topography of the project site to naturally hide the buildings from identified vantage points.

The project site's topography also hides the proposed youth baseball fields from view. The visual assessment, including photo-simulation, showed no visual impact when two-story apartment buildings were planned for the area of the athletic fields. The fields and service features do not include lights. In short, the Applicant has proposed to satisfy the Town's need for recreational facilities, without causing such recreational facilities to create an adverse visual impact from identified vantage points.

5.7.2 Historic and Archaeological Resources

The project site does not host any structures listed on the New York State or National Register of Historic Places. The Town Board adopts the report of the Town Historian, which indicates that the historical use of the project site was residential/agricultural, and that the project site contains no known burial grounds or designated landmarks. In addition, the New York State Office of Parks, Recreation and Historic Preservation indicated by letter dated July 12, 2005, that it had "no building or archeological concerns" with the project.

MITIGATION

The Town Board finds that the project will have no significant adverse impact on historic or archaeological resources.

5.7.3 Noise

Currently, noise associated with the project site is limited to year-round traffic along NYS Route 7 and seasonal on-site agricultural activities. The proposed project has the potential of generating noise during the construction phase, as well as during the operation phase.

During the construction phase, construction activities will generate noise during daytime work hours. The noise will be generated by construction equipment, such as backhoes, excavators, chain saws, compressors, generators, graders, trucks, and even small hand tools. The project will likely not require the use of jackhammers, rock drills, pile drivers, or rock blasting. Such construction-related noise may be audible to a limited degree along Betts Road and Wilrose Lane.

During the operation phase, noise will be generated by traffic associated with the project, use of air conditioners/heaters on the project site, and use of the youth baseball fields. The Applicant provided an analysis of the increase in the noise generated by traffic under the 1,116-unit proposal. That analysis, which assumed larger volumes of traffic associated with the project, revealed that the sound level increase as a result of traffic would be, at its very maximum, 1.1 decibels. The NYSDEC's *Assessing and Mitigating Noise Impacts, DEP-00-1* indicates that sound level increases between 0 decibels and 3 decibels will likely not have an appreciable effect on relevant receptors.

The Town Board requested expanded technical analysis of the noise impact of the air conditioner/heater units associated with the project, which at the time proposed 668 units. The Applicant responded by indicating that independently controlled, high efficiency forced air gas furnaces and a split system cooling system would be used. Each system partly consists of an outdoor unit, installed at ground level outside of the unit it serves. The specifications of the systems indicate that, at three feet away from the system, the system generates approximately 70 decibels. Under the analysis then conducted, the apartment buildings housed a maximum of sixteen units each, thereby resulting in sixteen systems per building. One hundred feet away from any given building, the noise generated from the sixteen systems per building was estimated to not exceed 52 decibels, which approximates the sound associated with a quiet suburban area or an operating dishwasher in an adjoining room. The project has since been downsized further, and no building will house more than twelve units. Therefore, the noise impact associated with the systems from any given building will be less than 52 decibels one hundred feet from the building.

While noise may be generated by the youth baseball fields, such noise will be limited to seasons during which the fields may be used, such as late spring and summer. Nearby residents have expressed concern that the public address system at the athletic fields will generate noise.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on the sound levels in the area of the project site. During construction, the Applicant has committed to use of appropriate mufflers on machinery and to limiting construction activity to normal workday hours. Given the considerable downsizing of the project, the construction period is expected to be relatively short.

During operation of the project, the noise generated by traffic, outdoor air conditioning units, and use of the youth baseball fields will be insignificant. The considerable distances from residences to the proposed apartment buildings and youth baseball fields will naturally mitigate any noise generated, as will the considerable vegetation surrounding the project site.

As discussed above with respect to air quality impacts, the fields and the road accessing the fields must be separated from nearby residences by way of a vegetative buffer. This vegetative buffer will further minimize any sound that might be audible at nearby residences. Finally, the Town Board has determined that 50 decibels, which approximates the sound level in an average residence, is an acceptable level at the property line of the athletic fields parcel. Therefore, the Town Board will require that the public address system be so that, at the rear property lines of residences located along Wilrose Lane, the maximum sound level generated by the public address system will not exceed 50 decibels.

5.7.4 Community Character

The Town of Brunswick includes a vibrant residential community, with many residents commuting to nearby towns or cities to earn their livelihood. The project, consisting of luxury apartments with amenities, is located near an existing apartment complex. The Applicant has committed to preserving surrounding vegetative buffers, and to preserving the rolling topography to the extent practicable. The Applicant has also committed to using materials designed to maintain the integrity and appearance of the buildings.

MITIGATION

The Town Board finds that the project will not have a significant adverse impact on community character. The project will satisfy a demand for housing in the Town of Brunswick. In addition, the project will satisfy a demand for youth recreational facilities by construction of the two youth baseball fields.

The property values of surrounding residences will likely not be adversely impacted by the project. First, the surrounding residences are already located near an existing apartment complex. Second, the low-density, large-setbacks design of the project minimizes the visibility of the proposed project, as does the Applicant's commitment to preserve surrounding vegetative buffers. Finally, the project will consist of luxury apartments, with considerable amenities, rather than lower quality apartments with few or no amenities. The Town Board has determined that the study included in the DEIS, which analyzed the impact of apartment communities on nearby residential home values, is credible, and the factors identified therein as minimizing adverse impacts on nearby property values exist in the case of this project. The Town Board therefore finds that the project will not result in a significant adverse impact on surrounding property values.

6.0 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The Town Board has determined that the project will result in the irreversible and irretrievable commitment of resources. In particular, the project will require the use of rock and soil during construction phases, the use of water from the municipal water system, the emission from HVAC

systems and motor vehicles, the commitment of approximately 102± acres of old and cultivated field habitat, the commitment of highway capacity, the rezoning of 77± acres from Agricultural to Planned Development District, and the increased use of energy, water, wastewater treatment capacity, municipal recreational facilities, and public schools. However, as discussed in detail above, these commitments of resources have been mitigated sufficiently to prevent any resulting significant adverse impacts.

7.0 GROWTH-INDUCING ASPECTS

The Town Board concludes that the population of the Town is increasing, that the project would satisfy the resultant increase in demand for housing, and that the project may lead to economic growth in the Town.

In general, population is increasing in the Capital District, even without the proposed project, as a result of the continuing effort by local and state government officials and business leaders to attract high-tech businesses to the Capital District. The proposed project will satisfy the growing demand for housing associated with such population increases. As a result of the downsizing of the project from 1,116 units to 250 units, the project is more likely to satisfy demand for housing in the area that results from the natural increase in population. The 1,116-unit proposal had the potential of creating its own demand for housing, rather than simply satisfying the naturally existing demand for housing. The Town Board finds that the current 250-unit proposal satisfies housing demand, and likely does not create it to any appreciable extent.

Further, since the project has been downsized such that a water line from North Lake Avenue will no longer be necessary, the project as downsized has eliminated the effect that looping the North Lake Avenue water line with the Betts Road water line would have on future development potential.

Finally, since the project is located along NYS Route 7, which has seen increased development in the past twenty years, any future development in the area is more likely to be caused by the same factors that caused past development, rather than by the project itself. In fact, the Town's Comprehensive Plan designates the very area in which the project is proposed as the area of the Town where growth should occur.

8.0 EFFECTS ON USE AND CONSERVATION OF ENERGY

National Grid has indicated that existing overhead electrical transmission lines and underground natural gas mains would be sufficient to support the 1,116-unit proposal. Since the project has since been downsized to 250 units, the Town Board finds that existing electrical transmission lines and underground natural gas mains will be sufficient to supply the project. Given the proximity of such electrical lines and gas mains, the Town Board finds that alternative energy sources, such as fuel oil and propane, are not necessary.

Construction activities will use gas, diesel, and electricity. However, the Town Board finds that such use will not significantly impact existing reserves. Further, National Grid has indicated that the project's energy consumption rates during operation will be within National Grid's existing infrastructure's capacities. While the project's occupants, employees, and contractors will use

gasoline and/or diesel in traveling to and from the project site, the Town Board finds that the project will not have a significant adverse impact on such energy consumption.

The Town Board further finds that the use of modern, high efficiency equipment and lighting, along with the project's compliance with regulatory standards for high efficiency construction and lighting, will promote energy conservation.

9.0 ALTERNATIVES

The proposed project initially consisted of 1,116 units in 77 buildings on approximately 215 acres, with an Adirondack fire tower, cherry orchard, clubhouse, pool, and three access points (one at Betts Road, one at North Lake Avenue, and an emergency-only access road). As then proposed, the project was scheduled to be developed in four phases.

The Town Board has considered the adverse impacts associated with several alternatives. First, the Town Board analyzed whether construction of less than all four phases would result in less, similar, or more adverse impacts (whether quantitatively or qualitatively) than full build-out. In general, less than full build-out under the 1,116-unit proposal would result in a similar impact to air quality and land use and zoning, and in less impact to geology, water resources, terrestrial and aquatic ecology, transportation, community services, and cultural resources.

The Town Board analyzed several "magnitude" alternatives, looking at 1,116 units, 850 units, 750 units, 668 units, and 250 units. As in the case of the "fewer phases" alternatives discussed above, the Town Board determined that "fewer units" alternatives would likely result in a similar impact to air quality and land use and zoning, and in less impact to geology, water resources, terrestrial and aquatic ecology, transportation, community services, and cultural resources.

In addition to alternatives with respect to number and layout of units, the Town Board assessed whether the impacts would be noticeably different if the project site was used for purposes permitted under the current zoning designation. Under the current zoning designation, the project site could be used for private dwellings, churches and other places of worship or religious instruction, public schools, private schools offering general instruction, public recreation buildings and grounds, governmental buildings and uses, libraries, police stations, fire stations, public utility buildings, universities and colleges, hospitals, and orphanages. The Town Board determined that the primary alternative use would be single-family detached residential construction on 1-acre lots. However, the Town Board finds that such land use may result in greater loss of open space and existing vegetation. While single-family residential development provides an alternative land use under the A-40 zoning classification, the Town Board does not find that the current PDD proposal raises significant adverse impacts. Also, the Town Board notes that the PDD planning tool is part of the Brunswick Zoning Code, and is therefore consistent with that Code.

Finally, the Town Board considered the "no action" alternative, consisting of the Town Board not rezoning the site to Planned Development District, and the Applicant not developing the project site for residential development. While the "no action" alternative would result in no project-related impacts, the "no action" alternative would also result in none of the benefits associated with the project.

The Town Board analyzed the “no action” alternative’s expected impacts. Spring and fall disking operations, associated with preparation of the site for its traditional use—agricultural crop production, may result in unmonitored and uncontrolled erosion and sedimentation, dust generation, and water quality impacts associated with fertilizer, pesticide, and herbicide use. In addition, while the project may result in minimal noise impacts during the construction period, the “no action” alternative would likely result in periodic noise from the operation of farm equipment.

10.0 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; Caroline Trzcinski, Zoning Board of Appeals Member (and Chairperson at time of Comprehensive Plan adoption); and Town Board Members, including Sam Salvi, Patrick Poletto, and Carl Clemente.

In general, the Town Comprehensive Plan sets forth several goals and objectives that the Town should pursue. At the same time, the Plan also acknowledges 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 provides 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 recognize that modern planning and zoning entails a balancing of property rights of citizens and the protection of the residents’ health, safety and welfare.

The several goals and objectives referred to generally above are more specifically identified here:

First, the Plan promotes the use of various planning techniques, including Planned Development Districts. Through the use of such planning techniques, the Plan envisions, among other things, the maintenance of buffered areas between existing and new areas for development.

Second, the Plan supports multi-family housing where existing infrastructure can support it, and specifically focuses on the NYS Route 7 corridor as an appropriate area for development. Furthermore, the Plan recognizes that the Town should embrace senior housing, given the growing population of those aged 55 years and older.

Third, the Plan seeks to maintain existing landforms and vegetative buffers between existing and proposed development. In particular, the Comprehensive Plan highlights the need to preserve scenic vistas and rural land qualities. In this regard, the Plan identifies the use of the SEQRA process to analyze these issues.

Fourth, the Plan encourages the use of conservation easements to protect and conserve valuable natural and cultural resources within the Town. In particular, the Comprehensive Plan identifies the rich history and important place of agriculture and open space in the Town of Brunswick. In this regard, the Comprehensive Plan supports the maintenance of agricultural land use, but also acknowledges 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 identifies that a principal 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 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 is identified as a method for preserving the rural character of the Town.

Fifth, the Plan promotes the use of existing recreational facilities, as well as the creation of new recreational facilities, using both traditional funding sources as well as alternative funding sources. In particular, the Plan identifies the growing need for recreation facilities in the Town, and encourages utilization of its Land Use and Subdivision Regulations to enhance recreation availability. In this regard, the Plan urges the Town to research sources for funding of recreation land acquisition, buildings, and associated appurtenances.

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 seeks approval for a Planned Development District for 77± acres of the project site. Rezoning the 77± acres to Planned Development District allows the Town Board to, e.g., preserve vegetative buffers between the project and surrounding properties, and to take a more active governing role in the project site’s development
2. The project is located near NYS Route 7, an area specifically identified as one appropriate for development. Further, the project incorporates the use of public water and public sewer, using existing water and sewer infrastructure. The project is also marketed, in part, to “empty nesters,” who generally are those aged 55 and older. At the same time, the project will provide housing for up and coming young professionals.
3. The project design blends attributes of the Town’s scenic rural beauty with balanced residential growth for the overall benefit of the community. In particular, the Town Board has ensured that the project is of a scale that is appropriate for the Town of Brunswick (i.e., 250 units, not 1,116 units), that the project includes public benefit areas appropriate for the Town of Brunswick (i.e., two youth baseball fields), and that the project will not have an adverse impact on the scenic rural vistas in the Town of Brunswick (i.e., minimizing the visibility of the buildings from relevant vantage points).

4. The project design has considered and incorporated the physical properties of the site to the extent practicable, including wetlands and slopes, and preserves those areas of open space.
5. As mentioned briefly in number 3, above, the project design includes construction of two youth baseball fields, which will be dedicated to the Town of Brunswick for the benefit of Town residents. This public benefit will contribute to satisfying the Town's growing need for such recreational facilities.
6. A portion of the project site will be covered by a conservation easement, which will ensure the preservation of open space following completion of construction activities. The portion of the project site covered by the conservation easement must be substantially that amount of "green space" identified on Site Plan Concept Map dated May 14, 2007 within the PDD site (i.e., the 77± acre parcel).

11.0 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.

6 NYCRR § 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." 6 NYCRR § 617.9(b)(5)(iii). Cumulative impact assessment is applicable where the action is deemed to be 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. v. Planning Board of the Town of Brookhaven*, 80 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 are 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 utilities, vegetation, wildlife, wetlands, traffic, aesthetics, impervious surface area increases, community character, public water supply, public sewer, schools, and open space resources within the Town.

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.

12.0 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 establishment of a conservation easement in favor of the Town of Brunswick is a significant mitigating factor. Further, such conservation

easement 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 the entire project site was subject to residential development under current zoning, without the requirement for significant set aside for open green space to provide for conservation and scenic purposes. The project proposes to limit density to approximately 2.4 units per acre (including the 25± acre portion on which the baseball fields would be located). The area subject to a conservation easement would preserve the remaining open space on the project site. 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. Likewise, the Town's need for youth recreational facilities are satisfied without monetary expense or the practical difficulties associated with construction of the baseball fields. The Town Board finds that requiring the conservation easement and youth baseball fields strikes the appropriate balance between achieving municipal goals and preserving property rights.

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 finds the potential for improvement in conditions in wetlands and streams around 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 project would improve the quantity and quality of stormwater runoff through a stormwater pollution prevention plan and erosion and sedimentation controls plan.

13.0 ENUMERATED CONDITIONS ON PDD

The Town Board establishes the following conditions on the Hudson Hills Apartments project, and such conditions shall be binding upon the PDD:

1. The Hudson Hills project shall be subject to full review by the Town of Brunswick Planning Board pursuant to the site plan regulations of the Town Code of the Town of Brunswick and this SEQRA Findings Statement.
2. All buildings and roads in the Hudson Hills PDD shall be generally located as laid out in *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District*, Exhibit A, dated June 12, 2007.
3. The project shall consist of no more than 250 apartment units, in no more than 21 buildings (excluding the clubhouse) on the 77± acre parcel. No apartment building shall contain more than twelve (12) total units. No apartment building shall be greater than two (2) stories in height, it being understood that the Applicant has proposed some units with walkout basements (which shall not be counted as a story). No apartment unit shall be designed to contain more than two (2) bedrooms.

4. The clubhouse and pool shall be generally located where indicated in *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District*, Exhibit A, dated June 12, 2007.
5. The clubhouse and pool shall be used solely by residents and guests of the Hudson Hills apartment complex.
6. Two youth baseball fields shall be constructed on the 25± acre parcel, and shall be generally located as laid out in *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District*, Exhibit A, dated June 12, 2007, subject to final location by the Planning Board as part of the site plan approval process.
7. Final location and specifications of fire hydrants in the Hudson Hills apartment complex shall be coordinated with the Center Brunswick Fire Department and Brunswick No. 1 Fire Department, and also with the Planning Board and Town Engineer.
8. The water line extension and sewer line extension shall be installed within the Betts Road right-of-way. The water lines supplying water to the apartments and baseball fields shall be a 12-inch water main extended along Betts Road, underneath Route 7, and along McChesney Avenue, to connect to the existing water main. The pressure reducing valve pit shall be relocated from McChesney Avenue to a location west of Betts Road.
9. The Applicant must make application for the creation or extension of a water district, including full map, plan and engineering report in compliance with municipal and State requirements and standards. The application for creation or extension of a water district will be subject to full municipal review by the Town Board. If the Town Board fails to approve such district extension, the Applicant shall have the right to propose alternative water system improvements.
10. All improvements constructed in conjunction with providing a system of water supply and distribution shall be dedicated to the Town of Brunswick for operation and maintenance. All such improvements shall be constructed without cost to the Town.
11. The Applicant will bear the cost of any on-site water improvements and any off-site improvements necessary to provide potable water to the project.
12. The Applicant shall provide, at its cost and expense, tap-in facilities for the benefit of existing residences along the proposed water line extension service route that desire such service but that do not currently have it.
13. The Applicant must 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. All required financial security must be filed with the Town prior to commencement of construction activities.

14. The sewer system improvements for the project shall include on-site subgrade pump stations, force mains and gravity lines, an 8-inch diameter force sewer main along Betts Road, and a pumping station. The sanitary sewer extension shall be designed in accordance with the New York State Department of Environmental Conservation *Design Standards for Waste Water Treatment Facilities*. Any sewer extension plans shall be provided to the Rensselaer County Department of Public Health and the New York State Department of Environmental Conservation for review. All sewer system improvements shall be subject to engineering comments.
15. The Applicant must make application for the creation or extension of a sewer district, including full map, plan and engineering report in compliance with municipal and State requirements and standards. The application for creation or extension of a sewer district will be subject to full municipal review by the Town Board. If the Town Board fails to approve the sewer district extension, the Applicant shall have the right to propose alternative sewer system improvements.
16. All improvements constructed in conjunction with providing sanitary sewer service to the project site will be dedicated to the Town of Brunswick for operation and maintenance. The improvements shall be constructed without cost to the Town.
17. The Applicant will bear the cost of any on-site sewer improvements and any off-site improvements necessary to provide sewer facilities to the project.
18. 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. All required financial security must be filed with the Town prior to commencement of construction activities.
19. A Bonding Security Agreement for all potable water, sewer improvements, and road improvements, in form and content acceptable to the Town Board and Town Attorney, must be executed by the Applicant prior to commencement of construction. The Bonding Security Agreement shall address the performance bond requirements imposed by conditions 13 and 18, above, and 25 below.
20. Access to the Hudson Hills apartment complex shall be over Betts Road. An emergency-only access point off of Lord Avenue shall be constructed, as indicated in *Information Regarding the Smaller Plan of the Hudson Hills Planned Development District*, Exhibit A, dated June 12, 2007. Final placement of the emergency-only access road shall be determined by the Planning Board in consultation with local emergency providers. Subject to the input of local emergency providers, such emergency-only access point shall be secured by a locking gate or other device which would prevent non-emergency use, all of which will be determined during site plan review.
21. The project shall not include an access road off of North Lake Avenue.

22. The width of Betts Road shall be expanded to a total width of 28 feet, consisting of two twelve-foot travel lanes and two two-foot wing gutters, as generally depicted on the map showing Existing Conditions – Measured R.O.W. Betts Road, dated May 17, 2007, Drawing No. 07-007 included as Appendix 4 to the *Information Regarding The Smaller Plan of the Hudson Hills Planned Development District*, dated June 12, 2007.
23. All costs associated with upgrade of Betts Road shall be the responsibility of the Applicant, at no cost to the Town of Brunswick. Necessary work permits from the Brunswick Highway Department and New York State Department of Transportation shall be obtained by the Applicant prior to commencement of applicable road improvement activities.
24. The emergency-only access road shall be constructed and completed prior to the issuance of any certificate of occupancy for any building in the Hudson Hills apartment complex. The emergency-only access road shall not be used for access to the project site by construction vehicles during construction of the Hudson Hills apartment complex or the two athletic fields.
25. The Applicant shall provide to the Town of Brunswick a performance bond or other acceptable financial security for the improvements to Betts Road and the emergency-only access road. The form, content and amount of such performance bond or other financial security is subject to approval by the Town Board, Town Attorney, Town Highway Department, and Town Consulting Engineer. All required financial security must be filed with the Town prior to commencement of construction activities.
26. The owner of the Hudson Hills apartment complex shall be responsible for the maintenance of roadways and parking areas within the project; such maintenance shall include, without limitation, paving, repairing, and snowplowing. The owner of the Hudson Hill apartment complex shall ensure that all roadways are open, passable, and accessible to Betts Road. The owner of the Hudson Hills apartment complex shall ensure that all roadways are open, passable, and accessible to and by emergency vehicles at all times. In addition, the owner of the Hudson Hills apartment complex shall ensure that the emergency-only access road from Lord Avenue shall be paved, repaired, and snowplowed to ensure that all emergency vehicles can enter and exit safely.
27. To maximize sight distance at the Betts Road approach to NYS Route 7, the stop sign at the Betts Road approach to NYS Route 7 shall be relocated to a point not further than 14.5 feet away from the outermost boundary of the west-bound travel lane on NYS Route 7.
28. Location of the road accessing the athletic fields shall be generally located as set forth in the Site Plan Concept dated May 14, 2007 submitted by the Applicant. Such road shall be secured by a locking gate to prevent unauthorized entry to the athletic fields. The location of the locking gate shall also be determined during site plan review.
29. The developer shall maintain existing vegetation, and provide additional vegetation on an as-needed basis, in order to maintain a vegetative buffer between the athletic fields and the road accessing the athletic fields, on the one hand, and the neighboring residences located on Wilrose

Lane on the other. Location, size and type of vegetative buffer shall be determined during site plan review.

30. Stormwater management measures shall be designed to ensure that post-development rates of runoff from the site do not exceed pre-development rates for the 2-year, 10-year, 25-year, and 100-year, 24-hour storm events. The stormwater management plan shall use the pre-development discharge points.
31. The developer must comply with all New York State Department of Environmental Conservation Stormwater Regulations. In addition to any mandatory Notice of Intent to commence construction activities submitted to the New York State Department of Environmental Conservation prior to any grading or other construction activities on the construction site, a complete erosion and sediment control plan and stormwater pollution prevention plan must be prepared. A copy of such written erosion and sediment control plan and stormwater pollution prevention plan shall be provided to the Town of Brunswick.
32. To ensure effective implementation of the erosion and sediment control measures, the Applicant shall be required to inspect the facilities at least every 7 days, and within 24 hours of a storm event of 0.5 inch or greater that occurs within a 24-hour period.
33. To ensure effective implementation of the erosion and sediment control measures, the silt fences, drainage swales, or other stormwater management facilities shall be cleaned and/or repaired as necessary.
34. All stormwater management facilities associated with the Hudson Hills apartment complex shall be constructed in compliance with the approved stormwater pollution prevention plan, and shall be owned and maintained by the owner of the Hudson Hills Apartment complex. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such stormwater management facilities. The Town of Brunswick shall, however, be granted an easement for access to such stormwater management facilities. The Town of Brunswick shall have no responsibility or liability with respect to such stormwater management facilities. Applicant shall be required to execute a stormwater management facilities maintenance agreement with the Town of Brunswick.
35. Surrounding vegetative buffers, as well as the rolling topography, shall be preserved to the maximum extent practicable.
36. The Applicant shall execute a post-construction conservation easement solely in favor of, and intended to benefit, the Town of Brunswick in a form acceptable to the Town Board and Town Attorney covering substantially the areas identified as “green space” on the Site Plan Concept, dated May 14, 2007. Such conservation easement will be recorded, at the expense of the Applicant, in the Office of the Rensselaer County Clerk.
37. The developer shall be responsible for construction of the athletic fields, including construction and/or installation of all access roads, water and sewer infrastructure, accessory structures, and parking areas to service the athletic fields. The Applicant shall extend the water infrastructure on

such 25± acre parcel to the northeasterly portion thereof, and install a “T”-valve at its terminus. Final location and material specifications are subject to approval by the Town Water Department and Town Consulting Engineer.

38. In the event a public address system is installed by the Applicant at the athletic fields, such public address system shall be designed and installed so that during operation thereof no more than 50 decibels shall be produced at the rear property lines of the residences along Wilrose Lane. The athletic field accessory structures must include, at a minimum, dug-outs, backstop, bleachers, concession stand, bathrooms, fencing around the fields, scoreboard, public address system, and adequate parking area.
39. Upon completion of the athletic fields, title to such athletic fields and all related amenities, plus the 25± acre parcel on which such fields are constructed shall be transferred to the Town of Brunswick. The Applicant shall comply with all requirements of the Town of Brunswick for acceptance of title to real property, fixtures, and/or personal property. The completion of the athletic fields and offer of dedication thereof (inclusive of the 25± acre parcel) to the Town of Brunswick shall be completed prior to issuance of any Certificate of Occupancy for any apartment unit in the Hudson Hills project.
40. No blasting shall be conducted during construction. All rock shall be removed by mechanical means.
41. Proper precautions shall be taken to ensure that materials will not be spilled on the public thoroughfares (e.g., from vehicles exiting the project site during construction). Any materials dropped onto public thoroughfares shall be removed promptly.
42. Proper dust control measures, including water application and/or mulching, low on-site speed limits, vehicle washdowns, and covering or temporary seeding of soil storage piles, shall be implemented in order to effectively prevent dust migration off-site. The dust control measures shall not include the use of any chemical additives.
43. Steep slopes, wetlands, undisturbed areas, and areas outside of construction areas shall not be used to stockpile fill material.
44. During construction, the developer shall be responsible for controlling and managing inflows such that discharges do not increase erosion and sedimentation or contravene state water quality standards on- or off-site.
45. In and around wetland areas, the stormwater pollution prevention plan and erosion and sediment control measures shall be implemented and maintained, vegetated buffers adjacent to open water bodies shall be maintained to preclude water quality degradation, suitable erosion control devices shall be placed in work areas prior to initiation of construction, construction equipment and vehicles shall not be refueled or greased in wetland or stream areas, original ground contour surface elevations in wetland areas outside of construction limits shall be maintained, and clearing and grading shall be limited to only that which is necessary to conduct construction activities.

46. All necessary permits and/or approvals from the United States Army Corps of Engineers with respect to impacts of federal wetlands resulting from the Hudson Hills apartment complex, including improvements to any and all roads, shall be obtained. No work shall commence in the federal wetlands prior to obtaining such permit and/or approvals. Copies 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. All terms and conditions of such permit and/or approval shall be complied with, including all preconstruction notification requirements to the United States Army Corps of Engineers.
47. All state regulations concerning wetlands, including the 100 foot buffer area, shall be complied with. In addition to compliance with all preconstruction notification requirements to the United States Army Corps of Engineers, preconstruction notification shall be provided to the New York State Department of Environmental Conservation prior to any grading or other construction activities in such wetlands or in wetlands setback areas.
48. No construction shall occur in areas where red osier or flowering dogwoods have been identified.
49. All construction vehicles shall be properly maintained and appropriate emission control devices shall be used on all construction equipment and vehicles.
50. During construction, appropriate mufflers on machinery shall be utilized.
51. Materials used in construction shall be materials designed to maintain the integrity and appearance of the buildings. Such materials shall be of equal or superior quality as the following:
 - Foundations: poured concrete footings and walls with steel reinforcing bars, and poured concrete slabs on grade;
 - Structural framing: #2 kiln dried spf wood members, pre-engineered floor and roof trusses, oriented strand board wall sheathing, subfloor, and roof decking;
 - Windows: high efficiency, multi-paned, colonial style, double hung windows;
 - Exterior walls: 2 inch by 6 inch spf wall studs with osb sheathing, R-19 insulation, house wrap and .042 heavy gauge vinyl siding;
 - Roof: pre-engineered trusses, osb decking, 15# felt paper, and 30-year fiberglass architectural shingles;
 - Apartment flooring: carpet with carpet pad, ceramic tile, and vinyl pergot or equivalent wood flooring;
 - Walls and ceiling: gypsum wall board with painted finish;

Bathrooms: ceramic tile floors, ceramic water closet, fiberglass tub and shower unit, cultured marble sink, wood vanity, a medicine chest, and accessories;

Kitchens: oak cabinets, laminate tops, stainless steel sinks, a dishwasher, a range, a refrigerator, and a microwave hood;

Heating and cooling system: independently controlled, high efficiency forced air gas furnaces with air conditioning cooling coils;

Plumbing: hot and cold water systems with copper plumbing supply and PVC waste plumbing;

Electricity systems: individually metered complete code level systems.

52. The project shall have lighting at building entrances, walkways, parking areas, interior roads, and the access road extension from Betts Road. Such lighting will be designed to eliminate the potential for off-site spillover, by use of appropriate shields, a forty-five degree maximum cutoff, and lower watt, non-glare fixtures. Final lighting plan for the facility shall be subject to review under site plan review.
53. The installation of air conditioning units shall comply with all applicable standards, including the New York State Building Code.
54. Consistent with the other planned development district projects in the Town, the Applicant will be required to contribute the sum of \$58,000 to the Town for use in immediate upgrades to the BSD6 pump station. This amount shall be paid to the Town following creation or extension of a sewer district and prior to commencement of construction activities for the sewer improvements.
55. The Applicant shall pay to the Town the sum of \$96,000 to be used toward the cost of design and construction of a new wastewater pump station for BSD6 and sewer force main. Such amount shall be placed in an escrow account dedicated to the design and construction of a new wastewater pump station for BSD6. This amount shall be paid to the Town following creation or extension of a sewer district and prior to commencement of construction activities for the sewer improvements.
56. An engineering review escrow account in an amount to be determined by the Town Board upon review with its consulting engineer shall be established with the Town of Brunswick. 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 Hudson Hills apartment complex 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 developer, 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 Hudson Hills apartment complex. At no time shall such account be in an amount less than \$20,000.00. In the event the developer 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, ceasing all construction activities at the site. The developer 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.

57. The Applicant shall pay all consulting review fees incurred by the Town Board in connection with the review of the Hudson Hills Planned Development District 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.
58. The Applicant shall acquire the 39± acre parcel, which is located between Betts Road and the area of the proposed athletic fields. No non-owner occupied multi-family structures may be constructed on the 39± acre parcel. Such restriction shall be imposed by way of enforceable deed restriction for the 39± acre parcel. Such deed restriction must be reviewed and approved by the Town Attorney. The access road to the athletic fields shall be constructed on such 39± acre parcel. The Applicant shall convey an easement or other real property interest to the Town of Brunswick over and across such access road at the time it transfers title and ownership of the 25± acre parcel and athletic field improvement thereon to the Town. The Applicant shall pay all costs in connection with recording such easement in the Office of the Rensselaer County Clerk.
59. 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.
60. The Applicant shall provide to the Town of Brunswick GIS data, including but not limited to project boundary area, roads, utilities, control points and drainage elements.

14.0 CERTIFICATION

The Town Board hereby certifies that the requirements of 6 NYCRR Part 617 have been met, and that, consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.