

B). Resolution #86 To introduce the SEQRA Findings Statement for consideration and adoption by resolution by the Town Board, as lead agency for the Bayside Mixed-Use Development

## **STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) MARLBOROUGH TOWN BOARD FINDINGS STATEMENT**

Supervisor Lanzetta introduced the following SEQRA Findings Statement for consideration and adoption by resolution by the Town Board, as lead agency for the Bayside Mixed-Use Development, and adoption of the resolution was seconded by Councilman Baker.

Pursuant to Article 8 of the New York State Environmental Conservation Law – State Environmental Quality Review Act (SEQRA), and its implementing regulations at 6 NYCRR Part 617, the Town of Marlborough Town Board, as Lead Agency, makes the following findings:

**Name of Action:** Bayside Mixed-Use Development

**Description of Action:** The applicant for the Bayside Mixed-Use Development project, encompasses ±25.3 acres of land (Tax Lot 109.1-4-29) located within the Town's Residential (R-1) zoning district. The mixed-use development consists of 104 Apartment Units (84, 2-bedroom and 20, 3-bedroom units for a total of 228 bedrooms) and a 12,600 square foot commercial building on the NYS Route 9W roadway frontage. The project also includes the construction of two (2) coordinated access driveways, 28 parking spaces and parking area striping for the Marlboro Middle School on the school property adjacent to the Bayside site.

**Location:** The proposed development is located on the west side of NYS Route 9W just north of the Marlboro Middle School and on Purdy Avenue in the Town of Marlborough, Ulster County, New York.

**Lead Agency:** Town of Marlborough Town Board  
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**SEQRA Classification:** Type I

**Date Final EIS Filed:** July 19, 2017

**Date Findings Adopted:** TBD

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## **I. INTRODUCTION**

### **A. Description of Proposed Action**

Bayside Construction, LLC ('Applicant') for the project proposes a Mixed-Use Development project encompasses  $\pm 25.3$  acres of land along U.S. Route 9W in the Town of Marlborough, Ulster County, N.Y. The project site is identified as tax lot 109.1-4-29. The previous use and current use of the site is residential. The project is presently located within the Town's Residential (R-1) zoning district.

The Proposed Action evaluated within the DEIS included the re-zone of the property from the current Residential (R-1) zoning district to a combination of Residential (R,  $\pm 22.7$  acres) and Commercial (C-1,  $\pm 2.5$  acres) districts for a proposed mixed-use development. Based on recent modifications to the Town's zoning code the need for a re-zone is no longer required and the residential component of the project as proposed is an as-of-right use in the R-1 district. The commercial aspect of the project will also no longer need a re-zoning and has been proposed under the Town's Business Corridor Overlay District.

The DEIS development for the Bayside site included three (3) types of residential housing, totaling 101 units, all having three (3) bedrooms. The majority of the proposed units, seventy-three (73), were multiple-dwelling, townhouse style units and eighteen (18) duplex or two-family units on fee-simple lots. Lastly, ten (10) apartment units were proposed on the second floor of the proposed commercial building. The commercial building was proposed along the N.Y.S. Route 9W frontage and had first floor retail space of twelve thousand, six-hundred (12,600) square feet. The plan included dedication of some right-of-way land to the Town for a portion of the site access roadway which provides the main access to the development from N.Y.S. Route 9W. A coordinated access with the Marlboro Middle School parcel to the south was also proposed. The plans also called for a clubhouse for the residents; pedestrian circulation improvements such as sidewalks; crosswalks; tree lined internal roadways, stormwater management areas and a potential land donation to the Marlboro School District or the Town for future use.

At the time of the DEIS the proposed non-age restricted multiple dwelling development and mixed use buildings for the project site were not permitted within the R-1 District. Only an age restricted, multiple dwelling development was permitted. Therefore, the applicant proposed to rezone the project site as described above. The R District permitted multiple dwellings (without an age restriction) as a special use. The DEIS also sought the rezone of  $\pm 2.5$  acres of the project site along Route 9W to the C-1 (Commercial) district. This rezoning was proposed to facilitate the development of a mixed use building made up of first-floor commercial space and second-floor apartment units.

The DEIS project met all the required zoning bulk regulations for the proposed zone changes and uses with the exception of the provided side yard setbacks between the units. The proposed property lines are such that they would have run through the common (shared) wall which separates the individual units. Due to this, the provided setback is zero (0) feet. Therefore, the project sponsor was requesting an amendment of the side yard standard to zero feet and allowance of a zero lot line setback. In each of the proposed cases, the side yard was proposed to be diminished in order to create individual, fee-simple lots for each of the units.

Upon acceptance of the DEIS and receiving of comments from the public hearing back on December 12, 2011, the applicant has undertaken design modifications to address concerns raised on the project. The design modifications were not compelled by the Town. The Town of Marlborough has also amended sections of the Town Code separately and apart from this project. The Town did not make these legislative changes specifically for this project.

The Town of Marlborough amended sections of the Town Code for site development permitted within the R-1 zoning District. Based on these amendments the current development plan is permitted as-of-right. An explanation of these Code amendments is as follows:

1. The R-1 zoning district now permits non-age restricted, multiple dwelling uses as a Special Use in the district.
2. The project will continue to propose a commercial development area on 2.41 acres along the Route 9W frontage. The Town of Marlborough has created the BC (Business Corridor) Overlay District, which is a floating zone that may be established for parcels along the Route 9W corridor and are currently in the R-1 district. Proposing to utilize this overlay district option as opposed to a rezone to the C-1 district will facilitate the proposed commercial development along the Route 9W frontage of the site.
3. Zero lot lines though now permitted in the code, are no longer required for the project since it has been converted to apartment units.
4. Design standards for Multiple Dwellings were modified as follows:
  - a. Front, side and rear yard setbacks were increased to a minimum of 75 feet;
  - b. The minimum distance between structures on a project site was increased to 1 1/2 times the height of the highest structure; and
  - c. The maximum allowed units per structure was increased to no more than 24 units in a single structure.

These Town initiated Code changes now promote a development such as the Bayside Mixed-Use project. The Bayside Mixed-Use project, as currently

proposed, is consistent with the type of development which has been designated for this area by the municipality

By updating the project to incorporate the Town changes above and undertaking The proposed Bayside Mixed-Use Development is proposed with the following components:

- No rezone is required for the residential and commercial development of the project site;
- The rezoning of the Amodeo parcel is no longer a component of the proposed action;
- 104 Apartment Units: 84, 2-bedroom and 20, 3-bedroom units (refer to Appendix C of the FEIS for revised Architectural Plans);
- 266 on-site parking spaces (2 spaces per unit, an additional 16 spaces for the clubhouse and 42 spaces for the Commercial Building);
- Subdivision of a 1.22 acre parcel in the southwestern corner of the site which will remain under current ownership and is not proposed for development at this time. Future development, when proposed, will require independent SEQRA review.
- A proposal to build two (2) coordinated driveways and parking for the Middle School on the school property is a component of the project. Associated easements across the applicants parcels will be required for these driveways. Compliance with this mitigation measure shall be a condition imposed by this Findings Statement.
- Recent investigations conducted by the Town for flows to the Marlboro Wastewater Treatment Facility have indicated that there is sufficient capacity in the treatment plant to accept the flows from the Bayside Development (residential and commercial components). As such, the applicant and Town have entered into an Agreement for the project to reserve capacity at the treatment plant. Compliance with the sewer contract shall be a condition imposed by this Findings Statement.

Lastly, the project will be constructed in five (5) phases and construction will commence once all final permits have been received from the necessary agencies. Each phase has been proposed to include a maximum of 24 units and associated infrastructure to support the same. Depending on market demand and completion of the required infrastructure, the phasing and/or timing of construction may vary.

## **B. SEQRA Review and Procedural History**

The New York State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617) requires that all actions including zoning amendments, site plan approvals and special permits assess the environmental impacts that would result from a given project.

As a first step in the SEQRA process, an Environmental Assessment Form (EAF) was prepared and submitted to the Town on May 27, 2010. The EAF provided a basic data on the project and its potential impacts. The EAF was circulated to inform various involved agencies (i.e., Town of Marlborough, Ulster County Health Department, New York State Department of Transportation, and the NYSDEC) for purposes of determining lead agency.

The Lead Agency is generally, but not always, the local governing body or the local planning board. In this case, the Lead Agency is the Town of Marlborough, Town Board. Upon review of the EAF, a determination of significance was prepared by the Lead Agency; a Positive Declaration was issued by the Lead Agency for this project based on its beliefs that the action could result in potentially significant adverse impacts. Therefore, the SEQRA process continues to Scoping the DEIS, followed by the preparation of a Draft Environmental Impact Statement.

The DEIS, as required by the Lead Agency for this project, provided the description of the Proposed Action, including the need for and benefits of a project, environmental impact analyses related to the action, an analysis of reasonable alternatives to the Proposed Action, and the identification of potential measures to mitigate potentially significant adverse impacts.

The Final Environmental Impact Statement (FEIS) was prepared by the Applicant and submitted for review by the Lead Agency and its consideration for completeness and acceptance for public circulation. The document has been accepted by the Lead Agency and distributed to all agencies and interested parties, and posted on the internet before it can be adopted by the Lead Agency in its SEQRA Findings Statement. Adoption of the Findings Statement will conclude the SEQRA environmental review process for the project. This adoption is required prior to granting any agency permits or approvals.

These Findings represent the Town Board's deliberations and conclusions to the environmental review process and based on the thorough review of the documents provided by the applicant and input from the public, involved agencies and interested parties. In this regard, the Town Board has considered the relevant environmental impacts, and weighed and balanced the relevant environmental impacts with social, economic and other considerations as required by SEQRA.

The following is the timeline of the SEQRA process for the Bayside Mixed-Use Development project to date, and the anticipated next steps for this project:

- Town Board declared intent to be Lead Agency for project/circulated EAF: **September 2, 2010**
- Town Board declared itself Lead Agency for project and issued a Positive Declaration: **October 25, 2010**
- Public Scoping session held: **November 18, 2010**

- Close of comment period on Scope: **December 2, 2010**
- Final DEIS Scoping document adopted by Lead Agency: **February 14, 2011**
- Applicant submits Draft of DEIS to Lead Agency (and staff/consultants) for completeness review: **May 13, 2011**
- Lead Agency provides written comments on adequacy of DEIS as submitted (as to scope adequacy and content): **July 1, 2011**
- DEIS Accepted as Complete by the Lead Agency: **November 14, 2011**
- DEIS distributed to all involved and interested agencies: **November 22, 2011**
- Public Hearing held on DEIS: **December 12, 2011**
- Sewer Agreement established with the Town of Marlborough: **June 13, 2016**
- Town Board declared an SEIS is not required for the project: **September 12, 2016**
- Applicant submits Draft Final Environmental Impact Statement (DFEIS): January 24, 2017
- Lead Agency provides written comments on adequacy of DFEIS as submitted: **February 6 and March 1, 2017**
- FEIS Accepted by Lead Agency: **June 26, 2017**
- FEIS distributed to all involved and interested agencies, FEIS posted on internet: **July 19, 2017**
- Lead Agency prepares, then adopts, SEQR Findings Statement: **TBD**

### **C. General Site Characteristics**

The project site is located within the Town of Marlborough, Ulster County, New York. It is generally bounded by Purdy Avenue (a Town Road) along its Northern boundary, Route 9W on the East, the Marlboro Middle School property to the South and residential properties on the Western side of the site. The site has frontage to Route 9W and Purdy Avenue. Current access to the site is via Birdsall Avenue through the school property.

The Bayside site is mostly wooded, with minimal development at the center of the site. Several structures exist in the central area, including a single-family residence and several out-buildings. The parcel has minimal existing impervious surfaces (i.e. paved asphalt, concrete areas, etc.). The site has low points at Route 9W (elevation 182±) and the western boundary along the existing stream (elevation 220±). These areas climb to the higher ground of the property where the structures exist (elevation 260±).

The on-site stream is a Tributary to Lattintown Creek, meanders through the western portion of the parcel flowing north to south. There are 7.4 acre of regulated wetland on the project site under the jurisdiction of the United States Corps of Engineers (Corps). This wetland is situated in the western portion of the site and is associated with the tributary. The site also contains a 0.40 acre isolated wetland area. This isolated wetland does not meet the definition of a “water of the United States” and therefore is not regulated by the Corps.

#### **D. Detailed Development Description**

The proposed development is planned to occur in the central area of the site for the residential component and along Route 9W for the commercial component. Approximately 13.7 acres of the site's 25.3 acres would be improved. The majority of this area to be cleared is made up of woodlands (canopy and understory growth). Of the 13.7 acres, approximately 6.23 acres would be impervious (i.e. building roofs, roadways, parking areas, sidewalks, etc.) and 7.47 acres would be revegetated and/or landscaped areas. Therefore, over 50% of the disturbed area would be revegetated upon completion of the project. In addition, a total of approximately 11.6 acres of existing woodlands and wetlands would remain undeveloped.

##### Site Access

Direct access into the site is from Route 9W at the eastern boundary of the property. The roadway into the site is a proposed forth-leg on an existing signalized, three-leg intersection with Route 9W and Young Avenue. Our roadway is south of the proposed commercial building located on 9W. The access will follow in an east/west direction into the site. The first portion of this roadway, ±700 feet, is proposed as a Town Road and will be offered for dedication.

The design proposes three (3) driveways off of the main roadway. An ingress and egress driveway is proposed on the northern side to access the parking area which services the commercial use building along 9W. The second and third driveways are coordinated driveways which shall provide employees, visitors and school buses of the Marlboro Middle School access into the school property and to the proposed traffic signal at 9W.

Just beyond the school egress driveway and outside the proposed Town roadway, the site roadway will extend into the residential development. Here a series of proposed private, residential roadways begin and will loop the site providing access to all five (5) of the residential buildings. Based on prior discussions with the Town Highway Department, it is proposed that no through traffic will be permitted from the development onto Purdy Avenue or vice versa. There is a proposed emergency access connection to Purdy Avenue from the center of the site and an access driveway to the western stormwater management area for maintenance purposes. Both of these will be secured with a gate.

##### Residential Units

There are five (5) buildings located in the center of the site which house 104 residential apartment units. This is made up of eighty-four (84), two-bedroom units and twenty (20) three-bedroom units. The two-bedroom units are approximately 1,000 square feet (sq. ft.) in size and the three-bedroom units are approximately 1,200 sq. ft. in size. Each building will have first floor and second

floor units, these will both be accessed via entrances nm the fronts of the building. No entries or rear access points to the units have been proposed. No units have garage.

#### Commercial Building

The development also proposes a commercial component to the project. This building is proposed for along Route 9W and totals 12,600 sq. ft. in size (total of two floors). Entries into the building and signage will be on both the eastern and western sides of the building.

#### Clubhouse and Recreational Facilities

The Clubhouse is located in the center of the residential development. It is proposed as a 1-story structure encompassing 1,200 sq. ft. of communal space to be used for any number of residents' activities. There is a large room that can be used for parties/gatherings; Kitchen facilities; restrooms; and storage. It was designed to blend with the various residential units of the site and is the endcap on the western side of Building #5.

#### Parking

Parking for the proposed project will be provided in surface parking areas for the residents and visitors located in the front of the building or parking areas on the periphery of the development. Total parking for the residential units is propose at 224 spaces (two (2) spaces per unit and an additional 16 spaces for the clubhouse). Parking for the commercial building will be in surface lots on the north and west sides of the building and total 42 spaces.

In addition to the project specific parking facilities, the applicant proposes the construction of 28 parking spaces and restriping a portion of the existing parking area on the school property. This will provide some additional parking on the school property which is needed.

#### Landscape Improvements

Areas disturbed by the Proposed Action that will not be occupied by buildings and pavement will be revegetated and landscaped. Approximately 11.6 acres of the project site will remain undeveloped. A large portion of this undeveloped area consists of existing wetlands to remain and will be maintained as buffer areas from the adjacent residential development to the west.

Buffer/screen plantings are proposed along the periphery of the project site especially along the shared property lines adjacent to tax lots 109.1-4-20, 30, 31 and 32, and along portions of Purdy Avenue. The variety of plant material (deciduous shade trees, evergreen trees, mid-sized ornamental trees and shrubs) proposed to be used in these locations will add color and interest to the site and provide visual buffering of the adjacent land uses. These buffer plantings will be supplemental to the existing, mature vegetation that is being preserved as buffers around the project site. Additional clusters and varieties of plant material are

proposed throughout the site, as well as street tree plantings to soften the appearance of proposed site elements including roadway corridors and parking areas. These plantings aim to break up sections of pavement and viewsheds and to create a canopy effect to help reduce heat island build-up within asphalt areas.

The mixing of evergreen and deciduous species and native to the Northeast Region and ornamental species will create a palette of mixed colors, textures and varied plant material heights. Native species tend to require less maintenance, lower amounts of water consumption once established and have a greater survival rate than non-native plant species. Each species will be appropriately selected for the site's hardiness zone and for site specific microclimates.

This same mixture of plantings will be continued with trees, shrubs and perennials along the building faces of the residential buildings, commercial building and clubhouse for visual and aesthetic purposes. Overall landscaping around the development will help to visually reduce the building elevations. Invasive plant species will be avoided.

#### Pedestrian Facilities

Sidewalks and walkways throughout the development is the primary recreational amenity proposed on the site. These provide connections for the residents to the commercial development on Route 9W and the on-site development. Connections to the adjacent Marlboro Middle School and Marlboro Elementary School provide residents with access to public, off-site recreational facilities such as soccer fields, baseball/softball fields and a running track during the appropriate hours as determined by the School District, however typically outside of school hours. Bicycle access to the site will be the same as vehicular access, on the public roads. Bicycle racks will also be provided for the project.

#### Stormwater Management Areas

The development proposes to have an impervious area of 6.23 acres. Since the development proposes to disturb greater than 1 acre of soil. This necessitates permitting through the Town of Marlborough to address the requirements of the Town Code and their requirements as a designated MS4 community. The SWPPP developed for the project includes a drainage and hydrology analysis for the development and addresses potential impacts due to the increased amount of stormwater runoff (water quantity volumes and water quality volumes) from the additional impervious surfaces of the new development which are required to be collected and treated.

A proposed stormwater collection, conveyance and treatment system is proposed for the development. This consists of a series of catch basins and swales or pipes, then to a Forebay and Bioretention Management area which collect and treat stormwater run-off, before discharging into the existing drainage system in NYS Route 9W or to the fringe of the on-site wetlands. These systems have been designed specifically for the conditions of this site.

## E. Required Approvals

| Agency                                                               | Approval/Review Type                                                                                                                                                                                                                     |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Local Agencies</b>                                                |                                                                                                                                                                                                                                          |
| Town of Marlborough Planning Board                                   | <ul style="list-style-type: none"> <li>• Site Plan</li> <li>• Subdivision</li> <li>• Special Use Permit</li> </ul>                                                                                                                       |
| Town of Marlborough Town Board <sup>1</sup>                          | <ul style="list-style-type: none"> <li>• Application for Business Corridor Overlay District</li> <li>• Sewer Capacity Reservation Agreement</li> <li>• MS4 Acceptance</li> <li>• Town Road right-of-way Dedication acceptance</li> </ul> |
| Town of Marlborough Building Department                              | <ul style="list-style-type: none"> <li>• Demolition Permit</li> <li>• Residential &amp; Commercial Building Permits</li> <li>• 5 acre disturbance waiver for Phase I</li> </ul>                                                          |
| Town of Marlborough Highway Department                               | <ul style="list-style-type: none"> <li>• Road Opening Permit</li> </ul>                                                                                                                                                                  |
| Town of Marlborough Water Department                                 | <ul style="list-style-type: none"> <li>• Water Main Connections and System</li> </ul>                                                                                                                                                    |
| Town of Marlborough Sewer Department                                 | <ul style="list-style-type: none"> <li>• Sanitary Sewer Connections and System</li> </ul>                                                                                                                                                |
| <b>County Agencies</b>                                               |                                                                                                                                                                                                                                          |
| Ulster County Health Department (UCHD)                               | <ul style="list-style-type: none"> <li>• Sanitary sewer collection system and connection</li> <li>• Water supply, connection and distribution system</li> </ul>                                                                          |
| <b>New York State (NYS) Agencies</b>                                 |                                                                                                                                                                                                                                          |
| NYS Department of Transportation (NYSDOT)                            | <ul style="list-style-type: none"> <li>• Highway Work Permit</li> </ul>                                                                                                                                                                  |
| NYS Department of Environmental Conservation (NYSDEC)                | <ul style="list-style-type: none"> <li>• SPDES general permit for stormwater discharges from construction activity (GP-0-15-002)</li> </ul>                                                                                              |
| NYS Office of Parks, Recreation and Historic Preservation (NYSOPRHP) | <ul style="list-style-type: none"> <li>• State Historic Preservation Office ("SHPO") review of potential historic and archaeological resources</li> </ul>                                                                                |
| <b>Federal Agencies</b>                                              |                                                                                                                                                                                                                                          |
| U.S. Army Corps of Engineers (ACOE)                                  | <ul style="list-style-type: none"> <li>• Jurisdictional Determination</li> </ul>                                                                                                                                                         |

<sup>1</sup> SEQRA Lead Agency

In addition, the project was referred to the Ulster County Planning Board for review as required under Section 239 of the New York State General Municipal Law. The UCPB stated no required modifications. The UCPB received copies of the DEIS and FEIS as an interested agency.

## II. IMPACTS, MITIGATION MEASURES AND FINDINGS

The DEIS and FEIS included detailed environmental studies and evaluations of the following resource issues and are further summarized here with the Town's conclusive Findings.

### A. Soil and Topography

The development of the site requires the temporary disturbance of approximately 13.7 acres of the site for the construction of the residential structures, commercial building, roads, parking facilities, utility installation and stormwater management areas.

#### Site Soils

The soils description for the existing *Bath-Nassau-Rock outcrop complex, hilly soils (BOD)*, it is mentioned that this soil has limitations for development due to the potential rock outcrops, slowly permeable *Bath* soils and slopes. This soil composition is located throughout most of the proposed development. These same soils are also located in the areas of the surrounding residential homes including Purdy Avenue, which also have individual septic systems and the Marlboro Middle School building and site improvements. The proposed construction of the Bayside development would undertake construction means and methods similar to those implemented for the existing Purdy homes and Marlboro Middle School. The site soils also have fine grained (silt and clay) components and, therefore, are susceptible to erosion. Without the proper erosion and sediment control measures in place during construction and after completion, the potential for siltation of the stormwater run-off systems would be likely.

Exposed and shallow rock that is encountered on-site in the eastern portion of the site will require short-term impacts for rock removal to facilitate construction. Rock excavation methods could involve ripping, jack hammering with a device mounted on a boom of an excavator pre-splitting and as necessary blasting. Should blasting of the rock be required, the necessary permits and regulations of the local municipality, state and Federal agencies will be followed.

Excavated soils and rock will be sought to be used on site as general fill and roadway base and subbase courses. Rock excavation methods for proposed earthwork will be performed in a cost effective manner, and with the least impact to the surrounding public.

A plan for phasing and sequencing the site construction has been prepared and included with the Stormwater Pollution Prevention Plan (SWPPP). The project has been separated into five (5) phases to manage the proposed site disturbance. Each phase on the project will stand alone regarding the erosion controls, best management practices and soil stabilization measures. Phase 1 of the project will require a waiver from the five (5) acre maximum disturbance area. This will

allow for a shorter overall construction period for the project and exposed soil areas.

#### Site Topography

Topography has influenced the proposed site planning and drainage concepts. The development is proposed mostly on the developable, flatter (0-15% slopes) portions of the site, while disturbance to the steeper slopes (15-25% and >25% slopes) of the site are minor and remain undisturbed or stabilized. The proposed development will generally maintain the east to west sloping pattern of the site. Similarly, the drainage patterns in the proposed condition would remain similar though treatment of runoff is proposed.

Impacts to the site soils and topography will be managed and reduced by the site specific soil erosion and sediment control plan. The SWPPP developed for the project details all the soil erosion and sediment control practices to manage the earthwork impacts as required by the NYSDEC and the NYS Standards and Specifications for Erosion and Sediment Control. This plan establishes both temporary and permanent erosion control measures for the project site.

The grading of the site seeks to maintain the slopes and drainage patterns toward the stormwater mitigation areas. The site grading is designed to promote positive surface drainage (over both vegetated and impervious surfaces) away from the building foundations, pedestrian and vehicular entrances. Ultimately, the site runoff will be captured and conveyed to a series of collection points. Runoff will be collected with catch basins, drain inlets and piping located throughout the site.

Findings: The Town Board finds that, while the proposed development will modify the soils and topography. This is inherent for such a construction project and these impacts will be temporary and minimized by the implementation of project specific SWPPP. The project is also proposed to be constructed in five (5) phases to better manage the active construction areas. Compliance and monitoring of the implementation of the SWPPP is required by NYSDEC and will be conducted by the applicant as well as an appointed Town Official.

### **B. Water Resources**

#### Stream & Wetlands

An on-site stream, a tributary to Lattintown Creek, meanders through the western portion of the Bayside parcel flowing north to south. According to the NYSDEC Environmental Resource Mapper, this stream (ID# H-103-2) is class 'C'. Environmental Conservation Law Part 701, Classifications-Surface Waters and Groundwaters defines a class 'C' stream in §701.8 Class C fresh surface waters: The best usage of Class C waters is fishing. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes. The on-site stream (ID# H-103-2) is a class 'C' stream and is therefore not protected.

There is a 7.4 acre, regulated wetland on the project site under the jurisdiction of the United States Corps of Engineers (Corps). This wetland is situated in the western portion of the site and is associated with the Tributary to Lattintown Creek described above. The boundary of this wetland has been confirmed by the Corps in a Jurisdictional Determination dated April 28, 2017. The site also contains a 0.40 acre isolated wetland area. This isolated wetland does not meet the definition of a “water of the United States” and therefore is not regulated by the Corps. and is eligible to disturb as part of the development.

The proposed development proposes no disturbance to the bed or banks of the on-site stream and has avoided all of the on-site regulated wetlands.

Wetlands on the project site include examples from two (2) systems: riverine and palustrine. The palustrine systems include palustrine scrub-shrub wetlands and a palustrine scrub-shrub and forested wetland complex and also exhibit examples of riverine systems within their boundaries. While these wetland types can be associated with vernal pools, no vernal pools were observed on the subject property.

The palustrine scrub-shrub and forested wetland complex consisted of shrub swamp and floodplain forest adjacent to a discrete stream channel associated with a tributary of Lattintown Creek. These wetland types did not exhibit vernal pools.

Palustrine scrub-shrub wetlands also occur in the isolated, basin-like depression in the center of the property. This basin exhibits groundwater seepage and spring-like habitats from which water flows down-slope to an old spring house associated with the previous agricultural activities. The depression is unconfined, exhibits a regular outflow to the spring house, and as a result, does not accumulate ponded water and therefore does not function as a vernal pool.

#### Stormwater

There are no existing water quantity or quality controls present to treat stormwater runoff from the existing site improvements. The Town of Marlborough is a regulated Municipal Separate Storm Sewer System (MS4) operator.

The mixed use development proposes to have an impervious area of 6.23 acres. Since the development proposes to disturb greater than 1 acre of soil. This necessitates permitting through the Town of Marlborough to address the requirements of the Town Code Chapter 135, entitled ‘Stormwater Management’ and their requirements as a designated MS4, mentioned above. The SWPPP for the project includes a drainage and hydrology analysis for the development to meet or exceed the requirements of the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-0-15-002.

Potential impacts due to the increased amount of stormwater runoff (water quantity volumes and water quality volumes) from the additional impervious surfaces of the new development are required to be collected and treated.

A proposed stormwater collection, conveyance and treatment system is proposed for the development. This consists of a series of catch basins and swales or pipes, then to a Forebay and Bioretention Management area which collect and treat stormwater run-off, before discharging into the existing drainage system in NYS Route 9W or to the fringe of the on-site wetlands. These systems have been designed specifically for the conditions of this site.

Stormwater improvements proposed for the site are designed to provide the required water quality benefits, runoff reduction, channel protection, overbank flood protection and extreme flood protection per the SPDES permit. Peak flows have been reduced for all the required design storms in the proposed condition. Runoff Reduction shall be achieved through the conservation of natural areas, disconnection of impervious surfaces (rooftops). The development has been designed to minimize impervious surfaces. The United States Department of Agriculture Natural Resources Conservation Service's publication Urban Hydrology for Small Watersheds, Technical Release 55 quantifies the average percent of impervious cover for a townhouse type development as 65% while the Bayside Development proposes 25%.

The construction contractor will be responsible for complying with all specifications and conditions of the SWPPP and is responsible for maintenance during construction. In addition, a Certified Professional in Erosion and Sediment Control/Certified Professional in Stormwater Quality will oversee implementation of the SWPPP. Erosion and sediment control measures specified on the Erosion and Sediment Control Plan have been developed for temporary controls during construction and permanent controls to be in place and functioning upon final stabilization. The Home Owners Association is responsible for operation and maintenance upon completion.

#### Flood Zones

The Federal Emergency Management Agency (FEMA) provides Flood Insurance Rate Maps (FIRM) flood mapping for the Town. The most recent mapping is dated 9/29/2009. These maps do not list any areas on or adjacent to the site as Special Flood Areas therefore there will be no impacts to an f on-site floodplain as a result of the proposed development.

Findings: The Town Board finds that, no disturbance to the on-site stream and regulated wetlands have been proposed thereby avoiding potential impacts to these water resources.

The existing on-site drainage patterns and flows have also been maintained very close to existing conditions to the greatest extent possible. Sediment and erosion

control measures will be utilized to protect existing wetlands from runoff effects of developed areas during construction and after completion of the project. The SWPPP further demonstrates that the proposed stormwater management practices will promote the removal of pollutants to the maximum extent practicable prior to discharging to an existing conveyance system or adjacent wetland. The chosen practices have based on the NYSDEC standard methods of design for compliance with the Clean Water Act regulations for water quantity and quality. Thereby, minimizing potential impacts to water resources.

## **C. Flora and Fauna**

### Flora

The native vegetation and related wildlife habitats existing on the subject property are an expression of the combination of physical factors such as topography and exposure, soil development and depth to bedrock, and soil moisture including depth to water table. Another important factor is land use history including the maturity of vegetation following abandonment of agricultural activities. Because the site was formerly farmed many years ago, the site is characterized by a combination of natural and cultural vegetation and wildlife habitats. Ecological communities including vegetation types were classified upon observations made during a site visit on February 24, 2011 and June 28, 2011. Plant communities (vegetation types) were grouped into wetland and upland (i.e. terrestrial) categories.

### Wetlands

The 7.4 acres of jurisdictional wetlands on-site included examples from two (2) systems: riverine and palustrine. The Riverine System includes wetlands and deepwater habitats consisting of flowing waters within a discrete channel but with persistent emergent vegetation sparse or lacking. The tributary of Lattintown Creek on-site, supports riverine habitats within the perennial channel. Sparse emergent vegetation, consisting of vascular plants such as Winter Cress (*Barbarea vulgaris*), is scattered along the channel shaded by a canopy of the floodplain forest and scrub-shrub wetland. An isolated, basin-like scrub-shrub wetland is located in the center of the property. The stream channel and isolated wetland are examples of riverine wetlands.

The Palustrine System includes only wetlands, lacking deepwater habitats. Vegetated palustrine wetlands include moss-lichen, submersed, emergent, scrub-shrub, and forested types. These wetlands lack the influence of channel flows. Examples at the subject property include two (2) Palustrine scrub-shrub or "scrub swamp" wetlands: one dominating the isolated wetland in the center of the property and the other toward the northwestern edge between the tributary and the west-facing slope to the tributary. Characteristic species at both habitats include Speckled Alder (*Alnus rugosa*), Silky Dogwood (*Cornus amomum*), and Spicebush

(*Lindera benzoin*). The floodplain type species also includes various native and introduced shrub and tree species characteristic of wetlands and uplands, suggesting the site may only be intermittently wet. Examples of these additional species include American Hazel (*Corylus americana*), which is native to the site, and the naturalized shrubs Morrow's Honeysuckle (*Lonicera morrowii*), Multiflora Rose (*Rosa Multiflora*), and Silver Berry (*Elaeagnus* sp.). Several common herbaceous hydrophytic plant species are associated with these wetlands including Spotted Touch-me-not (*Impatiens capensis*) and Sensitive Fern (*Onoclea sensibilis*).

Palustrine forested wetland also is present at the subject property in the form of a floodplain forest community associated with Lattintown Creek and dominated by a stand of small-stature trees of Speckled Alder (Fig. 4). Skunk Cabbage (*Symplocarpus foetidus*) grows in permanently saturated soils in the floodplain community adjacent to the stream channel.

### Uplands

Upland or terrestrial communities can be classified into two major categories, natural and cultural, both of which occur on the subject property. Natural terrestrial communities include open uplands and forested uplands. "Open" upland types include naturally occurring shale and siltstone rock outcrops within the forest context. The outcrops are sparsely vegetated due to a combination of shallow soils and shading from the forest canopy, but also provide unique habitats for plants. The fern species Common Polypody (*Polypodium virginianum*), for example, is restricted onsite to these outcrops.

Successional scrubland is another example of an open upland community observed onsite. In this case, however, the community is not naturally occurring but is representative of colonization by native and introduced species following disturbance. Representative shrubs include Staghorn Sumac (*Rhus typhina*), raspberries and blackberries (*Rubus* spp.), Gray Dogwood (*Cornus racemosa*), and Multiflora Rose (*Rosa multiflora*). Small disturbed sites associated with the successional shrub community and dominated by pioneer herbaceous species and are likely examples of the successional old field community type. These successional communities are located along roadsides, in the vicinity of abandoned orchards, and other disturbed sites. Successional scrubland is not included among the mapped communities due to the limited occurrence.

The natural forested upland community is characterized by a diverse tree flora apparently reflecting the site's slope, exposure, soils, hydrology, and land use. This makes the relatively small forested upland areas difficult to classify in a precise manner. Aspects of Oak-hickory community, beech-maple community, and southern successional community can be identified onsite. As with the oak-hickory community, oaks are common at the site

including Red Oak (*Quercus rubra*), Black Oak (*Q. velutina*), and White Oak (*Q. alba*). Associate trees also are similar including hickories (*Carya ovata* and *Carya sp.*), White Ash (*Fraxinus americana*), and Eastern Hop Hornbeam (*Ostrya virginiana*), as are some of the understory species including Gray Dogwood, Northern Blackberry (*Rubus allegheniensis*), and Witch Hazel (*Hamamelis virginiana*).

Regarding the aspects of the other communities, elements of the beech-maple community include, for example, Sugar Maple (*Acer saccharum*) and American Beech (*Fagus grandifolia*), which occur on the west-facing slope to the tributary floodplain communities. Associate species include, for example, Red Maple, White Ash, Hop Hornbeam, and Witch Hazel. Several sites previously used in agriculture in the eastern and northern portions of the property, for example, are now transitional between the more established community types as discussed above and the successional community types.

A number of “cultural” upland community types are located on the subject property, which largely reflects the residential and agricultural history of the land. Remnant apple orchards are located, for example, east of the house and on the north-central area. Mowed lawns are adjacent to the house associated with occasional scattered trees and shrubs including, for example, Magnolia (*Magnolia sp.*), Yew (*Taxus sp.*), and Rhododendron (*sp.*). Mature planted tree species are located in the vicinity of the house and out buildings including the coniferous species American Hemlock (*Tsuga canadensis*), Douglas Fir (*Pseudotsuga menziesii*), Spruce (*Picea sp.*), and White Pine (*Pinus strobus*); and other species including Flowering Dogwood (*Cornus florida*).

#### Rare and Endangered Plant Species

Two (2) species of federally listed endangered, threatened, or candidate species are known for Ulster County in which the subject property is located: Northern Wild Monkshood (*Aconitum noveboracense*) and Small Whorled Pogonia (*Isotria medeoloides*). Both plants are federally listed as threatened. Also of interest, four plant species listed by New York State are known to occur or once occurred in the Town of Marlborough in which the subject property is located: Northern Wild Comfrey (*Cynoglossum virginianum* var. *boreale*), Spotted Pondweed (*Potamogeton pulcher*), Spreading Globeflower (*Trollis laxus*), and Swamp Lousewort (*Pedicularis lanceolata*). As mentioned above, two (2) site visits were conducted to conclude the non-existence of these listed plant species.

**Northern Wild Monkshood** is a federally-listed threatened species and a state-listed S1 or critically imperiled species. Northern Wild Monkshood most often occurs on shaded to partially shaded cliffs, talus slopes

associated with cool air from caves in a carbonate rock landscape, or in particular cool habitats along streams. Collectively these habitats are characterized by cool soil conditions, cold air drainage, or cold groundwater flow. At the Bayside property, there are no carbonate talus slopes, but there are shaded stream habitats associated with bedrock outcrops, which are noted among the habitats for Northern Wild Monkshood. However, there was no evidence to support the occurrence of Northern Wild Monkshood, and none was observed at the time of the site inspection.

**Small Whorled Pogonia** is a federally-listed threatened species and state-listed SH species, i.e., one that is considered to have only a historic occurrence. Small Whorled Pogonia typically grows in acidic soils in dry to mesic second-growth, deciduous or deciduous-coniferous forests, with light to moderate leaf litter, an open herb layer, moderate to light shrub layer, a relatively open canopy, and frequently occurs on flats or slope bases near canopy breaks.

At the subject property, the canopy of the forest is relatively closed in many areas, but the vegetation is dominated by deciduous, mesic, secondary growth and is successional in the more open areas. The shrub layer is relatively dense at some sites, and the common occurrence of deer and associated browsing of vegetation diminishes the importance of the site for Small Whorled Pogonia. The open woodland habitat where it might grow was examined in detail. No evidence for any species of orchid was observed including diagnostic features of Small Whorled Pogonia and none were observed at the time of the site inspection.

**Northern Wild Comfrey** is an herbaceous perennial, is a state-listed endangered species and was last documented for the Town of Marlborough in 1963. Northern Wild Comfrey grows in dry woods and in New York State is listed for the following communities: beech-maple mesic forest, limestone woodland, successional northern hardwoods, and unpaved road/path. It may be found along the borders of woods and thickets, along trails and pathways in woods, and within upland deciduous forests, where it seems to prefer circumneutral or calcareous sites.

The forest of the subject property has some elements of the beech-maple mesic forest, a community type known to support Northern Wild Comfrey. The subject property does not have limestone derived soils, one of the associated substrates. Due to the toxic compounds contained in the genus *Cynoglossum*, species of Comfrey are avoided by deer, and hence browsing by deer should not be an impact on Northern Wild Comfrey. The various upland habitats where this species is likely to occur was observed in detail and no evidence of the Northern Wild Comfrey species was and none was observed at the time of the site inspection.

**Spotted Pondweed** is an aquatic vascular plant which can exhibit submersed and floating leaf types. It is a state-listed threatened species which grows in shallow water and along muddy shores, where it generally exhibits only the floating leaf form.

Although the channel of the unnamed tributary supports shallow water habitat with some muddy substrates, the relatively closed canopy of the forested wetland, and extent and quality of existing habitat, suggest the subject property probably does not provide suitable habitat to support a population of Spotted Pondweed. The stream channel in the western portion of the subject property was examined for submersed aquatic vegetation. No evidence of Spotted Pondweed or species from this community, representative of the Pondweed family or similar families, was observed in the channel bottom or exposed along the bars and lower banks and at the time of the site inspection.

**Spreading Globeflower** is an herbaceous perennial and a state-listed rare species. Spreading Globeflower has relatively large, terminal, green flowers and grows in swamps, wet woods, and wet meadows.

Although the subject property supports stands of scrub-shrub wetland and forested wetland that might otherwise provide appropriate habitat for Spreading Globeflower, the site does not have soils derived from calcareous bedrock, a habitat characteristic that is reported to be important. Other members of the Buttercup family (*Ranunculus* spp.) were observed in the wetlands and in particular along the stream channel, but no evidence for the presence of Spreading Globeflower was observed within any of the wetland habitats and none was observed at the time of the site inspection.

**Swamp Lousewort** is an herbaceous perennial and is a state-listed threatened species. Swamp Lousewort is hemiparasitic on the roots of other plants and grows in a variety of wetland habitats, usually with an open canopy, including fens and other calcareous habitats, freshwater tidal marshes and swamps, and along edges of ponds or scrub-shrub swamp wetlands.

The subject property supports examples of scrub-shrub wetland that could provide habitat for Swamp Lousewort. Member of the genus *Pedicularis* are known to be browsed upon by deer, which eat the flowering ends of stems. However, the onsite wetland habitats were examined in detail and no evidence for this species was found and no other herbaceous members of the Figwort family were observed on the subject property at the time of the site inspection.

### Fauna

Fauna can be described as the total animal life in a particular area or time period. Fauna habitat is an area occupied by fauna species under normal conditions and is an expression of a combination of physical factors, such as soil, geology, moisture and climate, and biological factors such as vegetation and wildlife, which make a particular area suitable for different life stages or behaviors of faunal species. Existing conditions, as they relate to fauna and habitat, were documented for the site through a site inspection and review of background literature and databases.

The site inspection documented the different fauna habitats on the project site and made incidental observations as to fauna species that utilize the site. Aquatic, wetland and terrestrial habitats occur throughout the project site and provide habitat for a variety of fauna. Fauna habitat is best described at the macro-scale in the context of the plant communities identified for the project site.

To ascertain the fauna species and habitats that are documented for or could potentially occur on the project site, a number of literature and database sources were consulted. Of most importance is the U.S. Fish and Wildlife Service (USFWS) which provides lists of federally listed (threatened or endangered) and candidate flora and fauna species documented for each county in New York State and identifies four (4) fauna species for Ulster County. A description of the general habitat requirements and a statement regarding the suitability of the project site for each federally threatened or endangered species is provided below.

**Bog Turtle:** is a semi-aquatic turtle that prefers open-canopy, shallow-water wetlands with soft soils, perennial groundwater discharges and low-growing vegetation. Wetland habitats occupied by bog turtle often occur as a mosaic of micro-habitats that include saturated areas, dry pockets, and periodically flooded areas. Subsurface groundwater flow, groundwater seeps and rivulets are often present. The freshwater wetlands on the project site that exhibit some habitat characteristics suitable for bog turtle appear to be limited to the isolated, basin-like, scrub-shrub wetland in the central portion of the project site. However, the small size, isolated nature and low to moderate solar exposure of this wetland make it highly unlikely that bog turtle inhabits this wetland.

**Indiana Bat:** is a gregarious, migratory bat that hibernates in caves and mines during the winter and migrates to summer habitat. Indiana bats hibernate in clusters within limestone caves and mines from mid-autumn to early spring. During the summer, reproductive females will form maternity colonies under loose bark or within cavities or crevices of living, dying or dead trees commonly referred to as "roost trees". Mating occurs during autumn swarming that takes place at the hibernacula entrance. Pregnant females emerge from hibernation and migrate to their summer maternity colonies. During the summer, males may roost alone or

in small clusters within roost trees or caves. Many radiotracking studies indicate that Indiana bats preferentially forage in wooded areas, including floodplain, riparian, lowland and upland forests. Populations of Indiana bats and other cave dwelling bat species have suffered recent, dramatic declines due an illness commonly referred to as white-nose syndrome, which is caused by a fungal pathogen that negatively affects bats during their critical hibernation period. White-nose syndrome is currently the subject of much bat research.

The project site contains a number of features that contribute to the presence of suitable habitat, particularly roosting and foraging habitat, for Indiana bat and other bat species. A number of trees with exfoliating bark, cavities, or damaged trunks or limbs were observed throughout the project site, primarily in the uplands. Such trees could provide primary or secondary roosting habitat for Indiana bats. Also, some trees on the property were of sufficient size to be suitable for maternity colonies. Artificial structures such as barns could also function as roost sites for Indiana bat and other bat species. The forest canopy, forest openings, and fields, particularly field edges, offer suitable foraging habitat for Indiana bat and other bat species. Suitable habitat for Indiana bat, on-site, is limited to “summer” habitat (e.g. roosting and foraging). No suitable overwintering habitat (e.g. caves or mines) was observed on the project site. Therefore, if Indiana bat was to occur on the project site, it would only be on a seasonal basis during the “summer” months (i.e. April through September).

**Shortnose Sturgeon:** is an anadromous fish, which migrates from saltwater to spawn in freshwater. In New York State, the shortnose sturgeon is only found in the lower portion of the Hudson River from the southern tip of Manhattan (river mile 0) upriver to the Federal dam at Troy.

The project site does not provide habitat for shortnose sturgeon. Shortnose sturgeon is restricted to the Hudson River in New York State and no portions of the Hudson River occur on the project site.

**Bald Eagle:** is a bird of prey which generally seeks habitat consisting of areas of undisturbed forest along the shorelines of large bodies of water. Habitat descriptions can be specifically categorized according to breeding, foraging and wintering requirements. Bald eagles prefer to nest in large trees near open waters used for foraging. Typical nest trees are often taller than surrounding trees, sometimes referred to as super-canopy trees, and exhibit open canopies. These characteristics allow for open flight paths to and from nest trees and also allow for maneuvering within the nest tree.

Open waters within the wetlands on the project site were limited to a narrow stream that is tributary to Lattintown Creek. Due to its narrow width, the tributary to Lattintown Creek does not provide foraging habitat for bald eagle. The surrounding vegetation is relatively dense (e.g. alder thickets) and does not provide adequate flight paths for bald eagle. Several large trees occur within the uplands on the project site but do not possess the characteristics of "super-canopy" trees preferred by bald eagles. No nests or nest remains were observed in any of the large trees on the site. Despite the presence of several large trees within the uplands, the structure of these trees and the absence of a suitable waterbody on or adjacent to the project site make it unlikely these habitat features would be utilized by bald eagle as nest or perch sites. The site is also subject to significant human disturbances associated with a school and athletic fields to the immediate west, residential development to the immediate east, and U.S. Route 9W to the immediate south. Considering the above factors, the project site is not suitable for bald eagle.

The project site does not contain critical habitat components for bald eagle. Most notable, the absence of large surface water features, such as rivers and lakes, significantly diminishes the value of the on-site habitats for bald eagle. The project site does not contain suitable habitat for the critical life stages of bald eagle, specifically for breeding, foraging, and wintering. Habitat value for bald eagle is significantly diminished based on the lack of a large waterbody, the general absence of super-canopy trees, and existing, adjacent human disturbances. Except for the possibility of a transient bald eagle, which could occur at almost any site in proximity to the Hudson River, bald eagle is not expected to utilize the project site and no impact to bald eagle is anticipated.

Findings: Based upon the findings described above, none of the vegetation or flora on the property are considered unusual or unique but are common to this section of New York State. The loss or reduction of forested uplands, mature trees and flora by implementation of the site plan will result in the unavoidable loss of vegetation for the site. All of the species reported as occurring on the site are common to this section of New York State and the New York State Natural Heritage Program has no reported occurrence for threatened or endangered plant species for the site. To compensate for the unavoidable loss of flora at the project site, areas disturbed by the project that will not be occupied by impervious surfaces will be revegetated and landscaped in accordance with a detailed landscape plan specifying vegetative stabilization methods and revegetating measures for these areas. The plan will use appropriate, native plant species and avoid invasive exotic species.

Similar to the flora impacts, unavoidable loss of existing fauna habitat by the development of the project site will result in the permanent loss of fauna habitat, of which cannot be considered unusual or unique but are common to this area of New York State. The potential rare species habitat identified for this area does not support any documented rare species fauna species (i.e. endangered, threatened or special concern). In cases where impacts are unavoidable, the implementation of a landscape plan using native plant species will provide some restoration of fauna functions once the plants mature. Regarding potential rare fauna species identified in database searches, suitable summer habitat for Indiana Bat occurs throughout the subject property. Much of this suitable habitat occurs within the limits of disturbance and will be permanently impacted by the development, particularly due to the clearing of mature trees. Any direct impacts to the species itself will be minimized through the implementation of seasonal restrictions on tree clearing by the USFWS. In these cases where avoidance is not practicable, seasonal tree clearing restrictions would be implemented to ensure that trees are not cleared at a time when Indiana Bats would occupy the site. The USFWS provides general guidelines for tree clearing restrictions. For areas of known summer maternity habitat or potential summer maternity habitat, trees greater than 5 inches diameter at breast height (dbh) will not be cleared between April 1 and September 30.

The Town Board acknowledges the concerns raised regarding the potential impacts to on-site natural habitats for both flora and fauna species and potential threatened or endangered and rare species. This included the potential for six (6) Rare and Endangered Plant Species and four (4) USFWS listed fauna species for Ulster County. On-site field reviews for all these species were conducted and none of the above listed species or habitats were identified or observed on the project site with the exception of suitable summer habitat for Indiana Bat occurs throughout the subject property. Through implementing restrictive tree clearing between April 1 and September 30 the Town finds that the impacts have been appropriately minimized to the greatest extent practicable.

#### **D. Historic and Cultural Resources**

Phase 1A/B cultural resources investigations were conducted within the project's Area of Potential Effect (APE) in accordance with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) guidelines. The cultural resources investigation was completed to address the potential of intact archaeological resources on the project site. This investigation did not identify any subsurface cultural features. This concluded that the project has no impacts to cultural resources.

The New York State Historic Preservation Office (SHPO) also requested that a historic resources assessment be conducted in conjunction with the existing structures that are present on-site. This request included a history of the farm as it relates to the 20<sup>th</sup> century Farmerette movement and its association with Camp Young, a Farmerette dormitory/camp during World War I. In addition, SHPO requested that the existing structures on the property be photo-documented.

The assessment report prepared and submitted to SHPO documented the events that occurred on the property, specifically the Young family's ownership and the use by the cadets and Farmerettes. The Woman's Land Army of America's movement, while an important part of American culture and history, has been well documented and the Young property played a very small role in the movement. The property has not been used as a farm for some time, and consequently the existing buildings have fallen into disrepair.

Camp Young was one of hundreds, if not thousands, of such camps around the country during World War I and many more such camps were established for World War II. According to the Woman's Land Army's 1918 pamphlet, at that time there were 42 units/camps in the State of New York alone. It is unknown how many structures were constructed using the Military Training Commission plans; however, it must be assumed that this was a common structure type for these buildings.

Because of the role the property played in helping the War effort, it qualifies as a site of historic significance; however, although it had a long past history as an agricultural property the dormitory has been modified and has had other uses since its time as Camp Young. As an active agricultural building, the Large Barn has been altered from its original design. The building, as well as all of the other structures on the property, have been neglected and are currently in poor condition. It does not appear that the structures have been in-use or maintained in a very long time.

While the Young family's ownership and use of the property, and the use of the farm as a dormitory for the Farmerettes are significant, this property is one of many farms that have had similar uses throughout the country and is not a unique

resource. The property was purchased in 2005 by for the purpose of creating the proposed development on the property. Currently the property is densely forested and has not been an active agricultural use in over forty years. Although, the property has had a long past history as a fruit farm, its continued use as such is not a viable option at this time. As stated above, the property has not been in active agricultural use for over forty years.

The report clearly documented the history of the site and the structures remaining on the property. In order to further mitigate the loss of these structures, the report, as well as subsequent documentation provided to SHPO states that the owner has agreed, to the extent feasible, the offering for sale or donation of the barns and out buildings, in whole, or in part, to individuals seeking historic structures or materials. This will allow for the potential reuse of these structures, as former agricultural buildings are often reused for a new purpose.

Findings: On August 9, 2017, SHPO submitted its comments under Section 14.09 of the New York State Historic Preservation Act of 1980. It concluded that the demolition of the Camp Young site is an adverse impact to a cultural resource. SHPO concluded that the project and SHPO will develop a Letter of Resolution setting forth appropriate mitigation measures. The Town Board concludes that SHPO is the state agency with expertise in appropriate mitigation of impacts to cultural resources. The Town Board conditions this findings statement on the project's compliance with the resulting SHPO Letter of Resolution and undertaking of the mitigation measures to be defined therein.

#### **E. Transportation and Traffic**

The project site is located on the western side of NYS Route 9W and has frontage along its northern boundary to Purdy Avenue (Town Road). Current access into the site is via a driveway connected to the Marlboro Middle School property located directly south of the project site. Proposed access into the development will from U.S. Route 9W and also include two (2) coordinated driveways with the Marlboro Middle School property.

A Traffic Impact Study was conducted for the project to evaluate the potential traffic impacts associated with the proposed development on the surrounding roadway network. The Traffic Impact Study was included in the DEIS and then supplemented for the FEIS to address various technical and public comments on this topic.

The Existing Traffic Volumes were projected to a Year 2019 Design Year to take into account expected increases in traffic due to normal background traffic growth in the area resulting in the Year 2019 No-Build Traffic Volumes (a growth factor of 1.5% per year was used to account for normal traffic growth in the area, and other potential projects in the area). In addition, traffic associated with the

potential Dockside Development (currently not active), which was proposed to be located along Dock Road and was to consist of approximately 137 townhouse units, was also considered.

In order to identify current traffic conditions in the vicinity of the site, recent turning movement traffic counts were conducted by representatives of Maser Consulting during peak hours. Traffic volume data for this section of U.S. Route 9W obtained from the NYSDOT was also considered, as well as traffic volume data contained in the Marlborough Hamlet Area Transportation Plan. Together this information was utilized to establish the Year 2015 Existing Traffic Volumes for the Weekday Peak AM and Weekday Peak PM hours at the following intersections; as required by the scoping document:

- U.S. Route 9W and King Street
- U.S. Route 9W and Western Avenue
- U.S. Route 9W and Dock Road
- U.S. Route 9W and Birdsall Avenue
- U.S. Route 9W and Marlborough Middle School Exit Driveway
- U.S. Route 9W and Young Avenue
- U.S. Route 9W and Purdy Avenue

Estimates of the amount of traffic to be generated by the Bayside Development were developed based on data published by the Institute of Transportation Engineers (ITE). The study provides the Hourly Trip Generation Rates and Anticipated Site Generated Traffic Volumes for each of the Peak Hours. The trip generation estimates for the residential portion of the development account for each unit, while the retail portion of this site, it can be expected that a major portion of the trips generated will be attracted as pass-by or diverted link trips, and therefore, are not new trips to the roadway system. For the purposes of the traffic analysis, a 35% pass-by credit was taken for the retail portion of the site in the PM Peak Hour. New trip generation for the project totaled 105 in the Peak AM Hour and 177 in the Peak PM Hour.

These volumes were added to the Year 2019 No-Build Traffic Volumes to obtain the Year 2019 Build Traffic Volumes.

One (1) new, signalized access point is proposed to be created for the Bayside Mixed Use Development via adding a forth leg to the existing U.S. Route 9W/Young Avenue intersection.

In order to evaluate current and future operating conditions, capacity analyses were performed at each of the study area intersections. Summarized below is a brief description of the existing geometrics, traffic control, and a summary of the existing and future Levels of Service, and any recommended improvements.

#### U.S. Route 9W and Purdy Avenue

The proposed project will not impact the operation of this intersection and no improvements are necessary.

#### U.S. Route 9W and Young Avenue/Site Access

The project is proposed to be accessed via a new roadway connection to U.S. Route 9W opposite Young Avenue forming a full movement intersection. The project roadway approach will consist of a separate left lane and a shared through/right lane. The Marlboro Middle School, which borders the property to the south will have a driveway connection to the new roadway and most vehicles exiting the school to travel north on U.S. Route 9W will be directed out this driveway and make a left turn at the new traffic signal. Capacity analysis conducted with 2019 Build Traffic Volumes indicates that the intersection will operate at the same overall Level of Service during each peak hour under future conditions. The applicant will work with NYSDOT as part of the Highway Work Permit to ensure that the modifications to the traffic signal operation will control the project.

The new roadway connection to Route 9W opposite Young Avenue will form a full movement intersection. Similar crossing mechanisms used by the NYSDOT will be implemented by the Bayside project for safe pedestrian use. Additional lighting for the new cross-walk and sidewalk will be included as part of the improvements of this project. Light fixtures will also be included in the Bayside Development along its roadways, sidewalks and parking areas. The applicant will be required to work with NYSDOT and to receive its approval to modify the Route 9W-Young Avenue intersection, traffic signal and cross-walk. These terms shall be a condition imposed by this Findings Statement.

#### U.S. Route 9W and Birdsall Avenue

While the additional traffic generated by the project results in the slightly longer delays at this intersection, it should be noted that the traffic signal at U.S. Route 9W and Young Avenue provides greater gaps in the traffic stream and should improve the operation of this intersection in the future.

#### U.S. Route 9W and Dock Road

The traffic volumes generated by the proposed project will result in only minor delay increases at this intersection.

#### U.S. Route 9W and Western Avenue

The Level of Service at this intersection will not be significantly impacted by the proposed project. It is recommended that regardless of the proposed project, improvements discussed in The Marlboro Hamlet Area Transportation Plan be completed to improve the overall operation and safety of U.S. Route 9W and Western Avenue in this area.

#### U.S. Route 9W and King Street

The Marlboro Hamlet Area Transportation Plan also proposed improvements to this intersection which include possible turning lanes, signalization and reconfiguration of the King Street approach and signalization. Regardless of the proposed project, these improvements should be completed to improve the operation of this intersection as well as upgrade the entire Marlboro Hamlet area. The capacity analysis indicates that with signalization, the intersection will operate at an overall Level of Service "A" during the Weekday Peak AM Hour and at an overall Level of Service "A" during the Weekday Peak PM Hour in the future.

#### U.S. Route 9W and Marlboro Middle School Exit Driveway

The capacity analysis indicated in the No-Build condition that the intersection will continue to operate at a similar Level of Service.

Under the Build conditions left turn exit movements from this driveway will be mostly redistributed to use a new driveway connection to the Bayside Mixed Use Development internal roadway which will connect these vehicles to the new signalized intersection at U.S. Route 9W and Young Avenue. The existing Marlboro Middle School Exit Driveway will remain unchanged. The Level of Service at this intersection will not be significantly impacted by the proposed project. As a result of the traffic signal at Young Avenue additional gaps will be provided for vehicles exiting this driveway. Also the ability for vehicles leaving the Middle School to traverse through the project site and make left turns at the Young Avenue traffic signal will improve the operate of this intersection.

As summarized in the Traffic Impact Study, the traffic generated by the Bayside Mixed Use Development project can be accommodated on the roadway system in the vicinity of the site with modifications to the existing traffic signal at U.S. Route 9W/Yong Avenue. Based on the analysis conducted, with the completion of the improvements, similar Levels of Service will be experienced under future No-Build and Future Build Conditions.

As indicated previously, NYSDOT has listed additional improvements for the Marlboro Hamlet area. These improvements will help to alleviate existing congestion at the King Street and Western Avenue intersections as well as provide an improved streetscape and Hamlet area.

The proposed project also includes as part of the design and construction, coordinated access driveways with the school property. This allows vehicular traffic from the Middle School, including school buses, to gain access to and utilize the signalized intersection of U.S. Route 9W and Young Avenue. These proposed access driveways are being constructed by the project sponsor and at no cost to the school district. In addition to the coordinated driveways, the project

sponsor will also be constructing an additional 28 parking spaces and re-stripping a portion of the existing parking areas for the school.

Lastly, a gated emergency access to Purdy Avenue from the project site is proposed. This is not a daily access for the project and will only be utilized in case of emergency.

Findings: The Town Board finds that with the access into the Bayside Mixed Use Development from NYS Route 9W and the coordinated driveways to benefit the adjacent Marlboro Middle School, as identified in the Traffic Impact Study, the traffic impacts from the project have been mitigated to the maximum extent practicable. The project shall comply with the measures in Response to Comment II.B-7 and III.E-16 of the FEIS shall be a condition of this Findings Statement.

#### **F. Noise**

Noise related impacts from the project can be divided into two (2) categories: Construction Noise and Operational Noise. Management of noise from the project is important with most of the sensitive receptors within 1,000 feet of the site, which consist of single-family homes but also include the Marlboro Middle School (directly adjacent to the south of the project) and the Marlboro Elementary School located to the east across Route 9W.

##### Construction Noise

Ambient noise levels will increase in the vicinity of the project site during construction. It is anticipated that existing residents and schools on abutting properties will experience temporary elevated noise levels at occasional periods during construction. The level of impacts from construction noise sources depends on the type and number of construction equipment being operated and the distance from the construction site. The noisiest period of construction will occur as site grading and rock excavation is being undertaken and when construction materials are delivered to the site and installed.

##### Operational Noise

During the permanent use and operational phase of the project, the main new sources of noise include garbage and delivery trucks, HVAC equipment and an increase in automobile traffic on the site and on nearby roads. These levels will be in the similar context of the surrounding uses and activities.

Mitigation of noise related impacts from the project for both construction and operational noises are regulated by the Town of Marlborough are found within Chapter 105, Noise Ordinance. The Town has limiting noise levels for certain categories of noise and prohibit "unreasonable noise." All levels are enforceable through the Police or Code Enforcement Officer of the Town and could incur potential monetary penalties.

In addition to the Town Noise Ordinance which regulates hours of construction and noise level restrictions, the potential impacts from such construction activities to the adjacent school classrooms with exterior walls facing the project site will include construction scheduling review and discussions with the Marlboro School District. This would look to further reduce the potential disruption to classroom activities through coordinated scheduling efforts. The applicant's good faith participation in such discussions is a condition imposed by this Findings Statement.

Findings: The Town Board finds for the above reasons that any noise impacts from construction activities will be temporary and intermittent. Mitigation measures identified will minimize those temporary noise impacts to the maximum extent practicable. The noise generated by the permanent use and operations of the project have been mitigated to the maximum extent practicable and will be in similar context to the surrounding uses and activities on adjacent properties.

#### **G. Air Quality**

The two (2) sources of potential air quality impacts associated with the project are vehicular traffic increases and the combustion of fuel to heat space and water for the residences and the commercial space proposed (stationary sources).

In accordance with the Scoping Document for the project, a detailed microscale CO screening analysis was performed using the procedures outlined in NYSDOT's Environmental Procedures Manual. A determination as to whether or not a CO microscale analysis was established for the project based on the Traffic Impact Study and the evaluation by Level of Service (LOS) Screening method was utilized as a basis for determining the anticipated impacts to air quality. The proposed project did not cause the functional impairment of the studied intersection movements; these LOS are existing conditions and therefore a CO microscale analysis of these intersections was not required.

In addition, New York State, has one of the most stringent vehicle emissions standards in the nation. These standards have been developed to minimize air quality impacts from motor vehicles. This along with Federal legislation on fuel efficiency requirements for motor vehicles will regulate the potential impacts from traffic emissions. During construction air quality impacts may be associated with on-site open soils and spreading of dust. The SWPPP prepared for the project notes this potential impact and requires it to be addressed as part of the erosion control management.

The development will consist of 104 apartments units and 12,600 square feet of commercial space, all having small furnaces and hot water heaters and recognized as stationary sources of potential air pollution at the site

The project proposes to utilize natural gas as fuel for the individual furnaces, boilers or combined furnace/boiler systems to provide heat and hot water. Natural gas is one of the major combustion fuels used throughout the country. It is mainly used to generate industrial and utility electric power, produce industrial process steam and heat, and heat residential and commercial space. The emissions produced from natural gas-fired furnaces is primarily carbon dioxide (CO<sub>2</sub>), with the remaining emissions consisting of nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), volatile organic compounds (VOCs), trace amounts of sulfur dioxide (SO<sub>2</sub>), and particulate matter (PM). According to the U.S. Environmental Protection Agency (USEPA), natural gas is the cleanest of the fossil fuels. Residential furnaces for example have an emission factor rating of “B” for Nitrogen oxides and Carbon monoxide where “A” is excellent and “E” is poor.

The residential and commercial systems are required to comply with the current USEPA emission standards for these types of heating units and the applicable standards of the Energy Conservation Construction Code of New York State (ECCCNYS-2010) as it pertains to these mechanical systems will be required for new construction.. Therefore, no significant impacts to air quality are anticipated from the stationary heating sources associated with this project. Based on the proposed fuel usage and emission controlled systems, potential air quality impacts are mitigated. Should the use of electric appliances be utilized, no on-site stationary sources of air pollution will be associated with the project.

Findings: The Town Board finds for the above reasons that any impacts to air quality from construction activities will be temporary and intermittent. Mitigation measures identified will minimize those temporary air quality impacts to the maximum extent practicable. No air quality impacts are anticipated as a result of the vehicular traffic generated from the project, nor the stationary sources which will be installed in the buildings. No project level air quality mitigation is necessary for the project.

## **H. Land Use and Zoning**

The project is presently located within the Town’s R-1 (Residential) zoning district. The Town has also created the BC (Business Corridor) Overlay District, which is a floating zone that may be established for parcels along the Route 9W corridor and are currently within the R-1 district. The Bayside Mixed Use Development project is proposing a series of five (5) building residential, non-age restricted, multiple dwelling building on the site which is a Special Use in the R-1 zone. The project also proposes a 12,600 square foot commercial building on a ±2.41 acre lot along Route 9W within a proposed Business Corridor Overlay District. In addition to the subdivision for the commercial component of the project, a right-of-way associated with the access roadway into the project from Route 9W will be offered for dedication to the Town and a small ±1.22 acres parcel on the southwestern corner of the project site will be subdivided and

retained by the owner for future development. This Findings Statement shall cover any future application to establish the Business Corridor Overlay District for the commercial use. This Findings Statement shall not cover the impacts of future, and currently unknown, development of the 1.22 acre parcel.

The proposed project as design and presented on the FEIS Site Plan set meets the requirements for the zoning district and design standards for multiple dwelling uses. The final approval, bulk requirements and establishment of the Business Corridor Overlay District is subject to the Town of Marlborough Town Board.

The non-age restricted, multiple dwelling use permitted within the R-1 zone was a recent, Town initiated Code change which now promotes a development such as the Bayside Mixed-Use project as in-kind with what the Town is seeking for this area of the municipality.

This type of residential development more in this area of the Town is also keeping with the desires of the Town of Marlborough 2002 Comprehensive Plan Update which states, "residential growth should occur primarily in and around the hamlets of Marlboro and Milton in areas serviced by water and sewer. Smaller lot sizes may be warranted to encourage such growth". It is also reiterated in the recommendations of the 2009 Marlboro Hamlet Study, which recommended the subject site be included in an expanded Hamlet center and provide small lot single-family homes and multi-family housing.

Findings: The Town Board finds that the project site is properly zoned for the residential component of the proposed mixed uses, and located within in an area the Town is encouraging such growth. Future application for the Business Corridor Overlay shall be reviewed by the Town Board, and the Town Board shall apply the relevant criteria. This Findings Statement represents an impact analysis of both the residential and commercial components. Therefore, the project conforms to the land use plans established by the Town of Marlborough for this specific location.

## **I. Economic and Demographic**

### Taxes

Tax revenues to the various taxing jurisdictions in which the project falls will take the form of increased property taxes. The additional permanent jobs created by the project and added to the local economy will also increase the income tax revenues of the State and Federal Governments. The proposed development is expected to generate an estimated \$769,990 in tax revenues annually. Service costs are projected to be \$712,298, which results in an estimated surplus of \$57,692 annually.

Future sales tax will also be generated by the commercial building for New York State and Ulster County.

As described below, no significant adverse impacts are anticipated as a result of the project to the community service providers. Potential incremental costs associated with additional service for the project are expected to be offset by the taxes generated by the project. No further mitigation measures are required.

#### Community Contributions

The applicant has agreed to the following voluntary contributions to the Town:

1. \$20,000.00 shall be given to the Town of Marlborough to be used for future general municipal planning purposes. This is a voluntary contribution by the project. It was not imposed by the Town. Compliance shall be a condition of this Findings Statement.
2. Although not required, and provided that the Marlboro School District wishes to accept the offer, the applicant proposes the development of two (2), driveway connections from the existing Middle School parking lot to the proposed project access roadway to Route 9W. The applicant also proposes the construction of 28 parking spaces and restriping a portion of the existing parking area on the school property. The construction of these coordinated driveway connections and parking will be completed by the applicant. This will allow traffic from the school to access the modified, traffic signal controlled, Route 9W intersection with Young's Avenue and be a safer form of access to Route 9W. This will also provide some additional parking on the school property which is also needed. This mitigation measure was not imposed by the Town. Instead, it arose out of conversations of the Project and the School District. Should the School District accept the offer of mitigation, compliance is a condition of this Findings Statement.

#### Demographics

The proposed project will add 104 new housing units to the Town, which would increase the 2016 housing stock total from 2,781 to 2,885 or 3.7%. Additionally, the proposed project is expected to generate 270 new residents. This would only increase the population from 8,808 (2010 Census) to 9,078 residents or by 3.0%. Finally, the proposed project is estimated to generate 26 new jobs within the Town based on the proposed commercial component of the project. All of these increases are marginal; therefore no additional mitigation measures are required.

Findings: The Town Board finds that the project is not expected to result in adverse socioeconomic or population impacts. Therefore, no mitigation measures are proposed related to taxes and fiscal conditions, except for those identified above as conditions of this Findings Statement.

### **J. Community Facilities and Services**

#### Education

The project is expected to generate 20 school-aged children (SAC). This would increase the enrollment at Marlboro School District by 0.99%. Based on the information provided through District representatives, and detailed in the DEIS, space to accommodate additional school students and provide bus service is available for the project estimated SAC. Therefore, no mitigation measures are required.

#### Police Protection

Based on the estimated population generated from the project (270 residents) and the discussion with Town officials as presented in the DEIS, the additional residents will not necessitate the hiring of additional police officers by the Town. Therefore, no further mitigation measures are required.

#### Fire Protection

The portion of proposed Road 'A' offered for dedication would be constructed according to design standards in the Town of Marlborough Code and all roads within the proposed development designed to facilitate the safe and efficient movement of emergency vehicles. In addition, all buildings will be designed in accordance with the New York State Fire Code and fire hydrants will be located along the internal road system. The required minimum building-to-building setback established by the Town was also created to provide for added protection against fire spread and a collapse zone. With the estimated additional population from the development, it could potentially bring more volunteers for the fire department. No further mitigation measures are required.

#### Ambulance

The portion of proposed Road 'A' offered for dedication would be constructed according to design standards in the Town of Marlborough Code and all roads within the proposed development designed to facilitate the safe and efficient movement of emergency vehicles. The Town has a contract with MobileLife to provide ambulance services. The construction of the project will not necessitate a change of contract with MobileLife. No further mitigation measures are proposed.

#### Solid Waste

Existing solid waste collection and disposal facilities have adequate capacity to accommodate the solid waste generated by the proposed project. As solid waste in the Town is transported to various locations outside of the municipality, depending on the private contractor, potential capacity issues cannot be determined. However the proposed action will promote and provide recycling facilities throughout the site for its residents. Additional mitigation measures are not required.

#### Parks

The proposed project will add an estimated 270 residents and will be providing ±11.6 acres of preserved woodland and wetland areas, greenspace (lawn and

landscaped areas) and an on-site clubhouse for residents. Under the Urban Land Institute standard, 270 persons would require between 1.7 and 2.8 acres of park/open space. The open space provided on-site will more than cover the needs of the project's 270 residents based on the Urban Land Institute standard. In addition, a clubhouse is provided on-site for use of the residents of the proposed development.

The residential use component of the project will require a per unit Recreation Fee be contributed to the Town. Further discussions will be held with the Town Board to determine the applicable recreation fees consistent with relevant fee schedules.

As limited impacts to recreational and open space resources are anticipated as a result of the proposed development and the fact that the project would provide on-site recreational amenity space for its residents and the project will be contributing a required monetary fee for future allocation to Recreation in the Town, No further mitigation measures are proposed.

Findings: For the above reasons the Town Board finds that the project will not cause any significant impacts to the community services provided by the Town.

## **K. Utilities**

### Water Supply

The project site is not currently served by a public water supply; the existing residential building has an individual well. An historic deed dating back to the previous owner for the project site references an existing spring located on site with water supply rights granted to an adjacent land owner and its heirs. This existing spring predates public water improvements and has not been maintained or utilized for years. The site is however, fully within the Town Water District. There are existing water mains located on the adjacent roads to the project. A single, twelve (12) inch cast iron water main pipe is located in Route 9W along the eastern frontage of the project site and a single, six (6) inch ductile iron water main is located in Purdy Avenue along the northern frontage of the project site.

The Town has indicated that with proposed on-site improvements, adequate capacity exists to provide water supply to the project as proposed. Conservation measures, such as low flow plumbing fixtures, would be utilized to reduce demand for water supply and energy usage.

The adjacent land owner and its heirs and the project site are and will be served by a public water supply. This obviates any need for private rights to utilize a historic water source on the Project Site. This private water source has not been utilized to the Project Sponsor's knowledge since the construction of the public water supply in this area of the town. To allow any future use of a private water source in areas served by a public water supply is contrary to the requirements of

the New York State Public Health Code, Part 5, Subpart 5-1, Section 5-1.31(b), which requires a supplier of public water to not only prevent cross-connections, but also prevent a user from establishing a separate source of water supply.

#### Sanitary Sewer

A portion of the southeastern corner of the project site ( $\pm 1.71$  acres) is located within the Marlborough Sewer Improvement Area (MSIA). Existing sanitary sewer lines are currently within Route 9W to the east of the project site. Existing mapping and discussion with the Town Wastewater Superintendent, Mr. Anthony J. Falco, indicate that an existing 8" sanitary pipe and several sanitary manholes are available for connection within Route 9W. These existing sanitary lines eventually enter the Marlboro Wastewater Treatment Facility located on Dock Road and approximately 1,900 feet to the southeast of the project site.

Estimated flows from the site for the residential and commercial components of the project are 26,340 gallons per day (GPD). A 10% reduction has been applied to the residential flows for the portion of the project site that is within the MSIA: This yields an adjusted flow of 23,832 GPD.

The applicant has entered into an agreement with the Town to reserve for and provide municipal sewer service to the project to the maximum extent of 23,832 GPD (development outside of the MSIA).

Findings: The Town Board finds that the project will have no adverse impacts related to water service and sanitary sewer treatment flows associated with the proposed project based on the mitigation measures described above. Compliance with the sewer contract by the Developer shall be a condition of this Findings Statement. It should also be a condition of any future Planning Board approvals. The Developer has agreed.

### **L. Visual Resources**

The development has been designed to meet or exceed the Town's zoning bulk requirements for the R-1 and proposed Business Corridor Overlay districts. These standards have regulated permissible uses, building setbacks, parking requirements, lot coverage, density and building heights as deemed acceptable by the Town.

The architectural style utilized for the site is of a typical northeastern style, incorporating wood-framed construction with pitched gable roofs and varied roof lines. Exterior materials will also be of a typical vernacular, combining cultured stone accents with horizontal clapboard siding and shake siding in highlight areas. Building proportions with varied roof lines and façade treatments and fenestration are proposed to mimic some of the existing residential character of the neighborhood. Building façade colors will also vary from building to building for added uniqueness and not a monolithic mass of a single color on the site. Gable

dormers have also been used to help create a sense of scale on the buildings, as well as the use of varying sizes of gables. Windows will be provided with grilles to recall historical accuracy. The proposed building height is also within the allowable maximum associated with the R-1 district.

The site landscape material shall utilize a mixture of evergreen, deciduous tree and shrub species and perennials native to the Northeast Region and some ornamental species. These will be utilized throughout the site to soften building facades, buffer views into the site and screening of views of adjacent sites such as residential dwellings on the northern side of Purdy Avenue and the Marlboro Middle School to the south. Existing, mature vegetation along the periphery of the development are also being saved for added buffering from the adjacent properties.

Site lighting will be designed per the intent of the requirements of the Town code requirements as well as the recommended illumination levels by the Illuminating Engineering Society of North America (IESNA). Meeting these requirements ensures an even level of site illumination for safety and nighttime site use and also diminish harsh contrasts in lighting levels and reflective light. Site lighting shall utilize “cut-off” and/or shielded style fixtures to concentrate and direct the light downward, while also concealing the light source. Flood style fixtures and up-lighting will be avoided. Exterior lighting shall aim to enhance the building design and the adjoining landscape. Lighting fixtures shall be of a design and scale compatible with the building and site amenities. Also in an effort to reduce energy consumption and unnecessary lighting, fixtures shall be LED and fitted with photocell controllers.

The site plan also incorporates sidewalks throughout the site and to other existing walkways linking the project to adjacent uses and the Hamlet. This includes sidewalks along the Route 9W frontage, from the Route 9W/Young Avenue intersection into the project site and associated with the coordinated driveways with the Marlboro Middle School.

Findings: The Town Board finds that the visual impacts of the project have been mitigated to the greatest extent practical. Mitigation measures include: 1.) maintaining existing vegetation and added landscaping for buffers, 2.) varying exterior treatments on the building façade and variable roof lines and front elevations, 3.) pedestrian improvements for positive connectivity to the existing community and character links, and 4.) project lighting will be controlled to prevent light trespass to adjacent properties.

### **III. ALTERNATIVES**

Three (3) alternatives to the proposed action were studied in the Environmental Impact Statement (EIS):

- No Action
- As-of-Right Single-Family Residential Subdivision
- As-of-Right Adult Multiple Dwellings

#### No Action

The No Action alternative scenario is the project site remaining in its existing condition, with no site improvements. The site impacts related to physical development would not exist, and the benefits of the Proposed Action would not be realized. In this case, with no development, the site would remain with the existing residential home and out buildings. The site would not be developed to contain any new commercial use along Route 9W, residential units, a coordinated access with the adjacent Marlboro Middle School, roadways, expansion of water and sewer services, or other site improvements. No tree removal, vegetation clearing, or grading would take place in the No Action alternative. Also, generation of new traffic, community population or school-age children would occur from the project.

Additionally, none of the described positive fiscal impacts would occur. New tax revenues generated by the commercial and residential uses for the Town, the school district or other community services would not exist. This alternative is not consistent with the objectives of the Town's Comprehensive Plan. However, the potential for development would remain the same as permitted in the R-1 Zoning District.

The No Action alternative maintains an underutilized property in a Hamlet setting. The Town would not benefit from the recognized tax revenues (additional residential and commercial), the sale of municipal water and sewer treatment fees generated from the proposed action.

This alternative does not meet the objectives and capabilities of the applicant and the Town Board for this area of the Town.

#### As-of-right Single-Family Residential Subdivision

This potential alternative was developed with an As-of-right, Single-Family residential subdivision in accordance with the existing R-1 zoning requirements. This plan proposes a development of sixteen (16) single-family lots with a minimum allowable lot area of one (1) acre. The development utilized two (2) different residential building types; a four-bedroom residence and a five-bedroom residence, each occupying eight (8) lots respectively. As per the zoning code, each residence will not exceed the maximum allowable thirty-five (35) feet or 2-1/2 stories building height. Each residence shall also provide a minimum of three (3) parking spaces; two (2) in a garage and one (1) driveway parking space. The Town code requires a minimum of 1.5 parking spaces per dwelling for residential uses.

This plan proposes a Town roadway with a dead-end cul-de-sac (±450 feet in length) which has access from Purdy Avenue. Six (6) lots will utilize this proposed roadway as access to the dwellings. The remaining lots will utilize access from Purdy Avenue,

N.Y.S. Route 9W or the existing easement on the Middle School driveway. Each single-family dwelling will be serviced by Town water and sanitary sewer.

A reduced treatment area for roadway stormwater runoff would be recognized. Stormwater runoff for each single-family dwelling would be treated on each lot by a combination of drywells, rain gardens and dry swales.

The potential impacts of this alternative are equated to the reduced unit count (population, stormwater mitigation, water usage, sewer generation, traffic generation, tax revenues, etc.) and are nominally less than the proposed action. This concept proposes sixteen (16) total dwelling units. Potential impacts and benefits from the commercial use is eliminated as there is no commercial development proposed for this alternative.

Views of the site development proposed for this alternate from surrounding areas and the Route 9W corridor would be reduced from the proposed action due to the need to disturb less of the existing vegetation for site improvements.

This As-of-sight Single-family Subdivision would not propose a coordinated access with the Middle School or a connection to the improved Route 9W and Young Avenue intersection. This proposed development would add traffic to Purdy Avenue with its proposed access to the subdivision via Purdy Avenue. The Town would not benefit from the same amount of recognized tax revenues, the sale of municipal water and sewer treatment fees generated from the proposed action. This development would also have additional school-aged children from the proposed action and is not in keeping with the type of development discussed in the Town's Master Plan.

#### As-of-right Adult Multiple-Dwellings

This potential alternative reviewed an As-of-right, Adult Multiple Dwelling use in accordance with the existing R-1 zoning requirements. This plan proposes a development of one-hundred nine (109) units, each with the maximum allowable two (2) bedrooms per unit and situated in twenty-three (23) buildings. This is an increase of five (5) units from the proposed action. This development, similar to the proposed action would have a clubhouse for the residents of the complex to utilize. Each residence shall provide a minimum of two (2) parking spaces; one (1) in a garage and one (1) driveway parking space. The Town code requires a minimum of 1.5 parking spaces per dwelling for residential uses.

Similar to the proposed action, the main access to this alternative development is a coordinated entrance from Route 9W with the intersection of Route 9W and Young Avenue. Two (2) additional, secondary accesses into the development would be provided from Purdy Avenue. The interior traffic circulation and pattern is similar but more extensive to the proposed action. It would not provide the coordinated access with the Middle School property.

This alternative proposed a series of sanitary sewer and water main improvements which would be constructed to service the development, again similar to the proposed action but

much more extensive than the proposed action. Each dwelling unit, thereby, being serviced by Town water and sanitary sewer. An estimated 23,980 GPD is required for this alternative, 2,360 GPD less than the proposed action.

The impervious area for the Adult Multiple Dwelling Alternative is increased from the proposed action. Therefore, the required treatment areas for stormwater runoff would be larger in size and require additional clearing to the proposed action. Similar to As-of-right Single-Family Residential Subdivision alternative, potential impacts and benefits relating to commercial uses would be removed as there is no commercial development proposed for this alternative.

This as-of-right development, however, is not salable in the current market. The price for active adult units rarely relates to sales price and sales rate. The studies conducted for the EIS concluded overabundance of this product in the area equates to the slow sales.

#### **IV. IMPLEMENTATION**

The applicant is required to now submit an application to the Town of Marlborough Planning Board that will comply with and incorporate these Findings. To the extent feasible and applicable, references to the Findings with proper notes on the plans. No project inconsistent with these Findings will be approved by the Town.

## V. CERTIFICATION OF FINDINGS

Having considered the draft and final Environmental Impact Statement and having considered the preceding written facts and conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse 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; and
3. Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR Part 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.
4. This Findings Statement is conditioned upon the project's undertaking of all mitigation measures identified within the Environmental Impact Statement.

Whereupon the following vote was taken:

|                      |     |
|----------------------|-----|
| Supervisor Lanzetta  | Yes |
| Councilman Molinelli | Yes |
| Councilman Corcoran  | Yes |
| Councilman Baker     | Yes |
| Councilman Koenig    | Yes |

DATED: Milton, New York  
August 14, 2017

  
COLLEEN CORCORAN, TOWN CLERK

Lead Agency  
Town of Marlborough Town Board

  
Signature of Responsible Official

ALPhonso P. LANZETTA  
Name of Responsible Official

SUPERVISOR  
Title of Responsible Official

08/15/2017  
Date

Town of Marlborough Town Board  
21 Milton Turnpike  
Suite 200  
Milton, NY 12547