

617.21
STATE ENVIRONMENTAL QUALITY REVIEW
NEGATIVE DECLARATION
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Project Application: 11/6/23 Date: October, 2024

SEQRA Type 1 Action: 1/8/24 EAF: Part 3

This Notice and Negative Declaration is issued pursuant to Part 617 of the implanting regulations pertaining to Article 8 [State Environmental Quality Review Act] of the New York State Environmental Conservation Law.

The Town of Marlborough Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

NAME OF ACTION: In the Matter of the Application of: 220 North Road, LLC and Robert Pollock for an expansion of the Buttermilk Falls Hotel and Resort for a 65 room hotel, 35 individual cabins, 60 seat restaurant, 300 seat banquet hall, valet/on site parking and other facilities. County of Ulster, Town of Marlborough. [S/B/L Numbers 103.1-2-12.200, 103.1-2-13, 103.1-2-11.200, 103.1-2-10, 103.1-2-11.100, 103.1-2-12.1, 103.1-2-75, 103.1-2-71 and 103.1-2-72].

SEQRA STATUS: Type I Action

CONDITIONED NEGATIVE DECLARATION: No

DESCRIPTION OF THE ACTION:

In accordance with SEQRA [6 NYCRR Part 617 et seq.] the Town of Marlborough Planning Board, as Lead Agency of the above referenced Project and coordinating with the Involved and Interested Agencies and the Lead Agency's Consultants and in consideration of all the public comments and written submittals, has identified the relevant areas of environmental concern, examined the same and has rendered this Negative Declaration; finding no significant environmental impacts resulting from the aforesaid Type I Action.

Following a July 10, 2023 Pre-Application Meeting, on November 6, 2023 the Lead Agency received an Application from the 220 North Street, LLC and Robert Pollock [hereinafter

collectively referred to as the "Applicant"] requesting Site Development Plan, Special Use Permit and Lot Line Revision Reviews of an expansion of the Buttermilk Falls Hotel and Resort situate within the Town of Marlborough upon 62 +/- combined acres of land located along North Road and Mahoney Street.

The current Applicants also own and/or operate the existing Buttermilk Falls Hotel and Resort which is situate adjacent to the Project site and which originally received all Final Approvals in 2005. Additional related Approvals have been granted in 2010, 2013, 2014 and 2022 for the original Buttermilk Falls Hotel and Resort site.

The Application and attendant plans call for a 60 seat restaurant, 65 room hotel and a 300 seat banquet hall, 35 cabins, parking and other facilities to be constructed upon 62 +/- acres, together with a supplemental parking lot for valet golf cart shuttle parking, all of which is to be built upon 50.7 acres of land located on the east side of North Road; including 6 acres situate upon the west side of North Road and an adjacent 5.3 acres on the east side of North Road. Two existing residential homes, with access to Van Orden Road and two additional residential homes located on North Road, will be utilized for workforce housing.

The subdivision referenced above consists of a lot line revision in order to add 0.3 acres to the lands comprising the Project and adjacent to Mahoney Street. Said lands are being added in order to meet the hotel setback requirements.

The lands comprising the Project site are zoned R-1 and HD under the Town of Marlborough Zoning Law, wherein the above stated proposed uses are permitted pursuant to Site Development Plan, Special Use Permit and Lot Line Revision Reviews.

Coordinated review for the Type I Action has included circulation of Application documents and certain supplemental documentation to involved and interested agencies for further administrative procedures. A listing of the involved and interested agencies, together with the applicable statutory authority review of this Project, is as follows:

I.) Involved Agencies: [Discretionary Approvals]

a.) Town of Marlborough Planning Board.

i.) Site Plan Approval.

- ii.) Special Use Permit Approval.
- iii.) Subdivision Approval.
- iv.) Agricultural Data Statement.
- v.) SEQRA Lead Agency Review.

b.) Ulster County Health Department.

- i.) Sanitary Sewage Disposal Systems Approval.
- ii.) Temporary Housing Approval.
- iii.) Food Preparation Approval.

c.) New York State Department of Environmental Conservation.

- i.) Stormwater Management Permit [SPDES General Permit GP-0-20-002].
- ii.) Sewage Disposal System Permit [GP-0-15-001].
- iii.) Endangered/Threatened Species Review.

d.) Town of Marlborough Highway Department.

- i.) Curb Cut Permit.

e.) Town of Marlborough Town Board.

- i.) Offer of Cession Agreement.

f.) Ulster County Industrial Development Agency.

- i.) Payment in Lieu of Taxes Agreement.

II.) Interested Agencies: [Ministerial Permits and/or Non-Permit Reviews]

a.) Town of Marlborough Building Inspector.

- i.) Building Permit.
- ii.) Certificates of Occupancy.

b.) New York State Department of State, Division of Coastal Resources.

c.) Town of Marlborough Environmental Conservation Commission.

- i.) Referral.
- d.) New York State Office of Parks, Recreation and Historic Preservation.
 - i.) Referral and Letter Determination.
- e.) Ulster County Planning Board.
 - i.) Agricultural Data Statement Referral.
 - ii.) New York State General Municipal Law Section 239-m Referral.
- f.) United States Army Corps of Engineers.
- g.) Town of Marlborough Fire Department.
 - i.) Referral.
- h.) Town of Marlborough Police Department.
 - i.) Referral.
- i.) Town of Marlborough Public Works Department.
 - i.) Referral.
- j.) Hudson Valley Greenway.
- k.) Scenic Hudson.
- l.) United Stated Department of the Interior Fish and Wildlife Service.
- m.) Ulster County Department of Public Works.
- n.) Marlborough Consolidated School District.
- o.) Ulster County Legislature.
- p.) 220 North Road Realty LLC.
- q.) Robert Pollock.
- r.) 99 South Elliot Place LLC.
- s.) Chernobyl Power & Light LLC.

- t.) 20 Van Ordon LLC.
- u.) Town of Marlborough Waterfront Advisory Committee.
- v.) Town of Lloyd Town Board.
- w.) Ambulnz Emergency Services.
- x.) Other agencies/persons which the Lead Agency may identify during pendency of Project review.

III.) Applicable Law:

- i.) SEQRA [6 NYCRR Part 617 et seq.]
- ii.) New York State Town Law Sections 64, 208, 274-a, 274-b, 276, 277 and 283-a .
- iii.) Town of Marlborough Zoning Law.
- iv.) Town of Marlborough Subdivision Regulations.
- v.) New York State Public Health Law, Article 11.
- vi.) New York State Environmental Conservation Law, Article 11.
- vii.) New York State Environmental Conservation Law, Article 17.
- viii.) 30 CFR Part 330 et seq.
- ix.) New York State Historic Preservation Law, Section 14.09.
- x.) New York State Sanitary Code, Appendix 75-A Regulations.
- xi.) Article 7-a, United States Endangered Species Act.
- xii.) Section 874, General Municipal Law of New York State.
- xiii.) Town of Marlborough Code.
- xiv.) New York State General Municipal Law, Section 239-m.
- xv.) New York State Town Law, Section 280-a.
- xvi.) Other statutory authority as may be determined by the Planning Board.

Consultants for the Project is as follows:

- a.) Legal: Riseley and Moriello, PLLC
Michael A. Moriello, Esq.
111 Green Street
Post Office Box 4465

Kingston, New York 12402
(845) 338-6603

b.) Engineering: Medenbach and Eggers, PC
Barry Medenbach, PE
4305 US Highway 209
Stone Ridge, New York 12484

c.) Endangered/
Threatened
Species: Ecological Solutions, Inc.
Mike Nowicki
1248 Southford Road
Southbury, Connecticut 06488

d.) Cultural/
Historic
Resources: Joseph E. Diamond, PhD
290 Old Route 209
Hurley, New York 12443
(845) 338-0091

e.) Architectural:
Freyer Collaborative Architects, PLLC
Warren Freyer, AIA
37 East 18th Street
New York, New York 10003

e.) Traffic:
Stephan A. Maffia, PE
103 South Vacation Drive
Wappingers Falls, New York 12590

The Lead Agency has been represented by the following consultants at all times during the review of the Buttermilk Falls Hotel and Resort Expansion:

I) Van DeWater & Van DeWater, LLP: Legal
Gerald Comatos, Esq.
85 Civic Center Plaza, Suite 101
Poughkeepsie, New York 12601

II) MHE Engineering: Engineering
Patrick Hines
33 Airport Center Drive, Suite 202
New Windsor, New York 12553

III) Creighton Manning Engineers, LLP: Traffic
17 Computer Drive West
Albany, New York 12205

A.) The Project Plans, Architecturals and Visual Simulations have been prepared by Medenbach and Eggers, PC and consist of the following:

- 1.) Index Sheet.
- 2.) Site Plan.
- 3.) Existing Conditions and Lot Line Revision.
- 4.) Grading and Utility Plan - Hotel.
- 5.) Grading and Utility Plan - Parking.
- 6.) Driveway Profile #1.
- 7.) Driveway Profile #2.
- 8.) Wastewater Plan Outfall #4 - Hotel.
- 9.) Wastewater Plan Outfall #3 - Event.
- 10.) Wastewater Plan Outfall #6 - Cottages.
- 11.) Site Details.
- 12.) Water Details.
- 13.) Wastewater Details.
- 14.) Wastewater Details.
- 15.) Details.
- 16.) Soil Erosion and Sediment Control Plan.
- 17.) Soil Erosion and Sediment Control Details.
- 18.) Entrance Driveway Plan.
- 19.) Firetruck Access Plan.
- 20.) Archaeological Avoidance Plan.
- 21.) Lighting Plan - Lights.
- 22.) Lighting Plan - Photometrics.
- 23.) Bioretention Ponds/Landscaping Plan.
- 24.) Landscaping Plan and Cut Sheets.
- 25.) Planting Plan.

B.) The architecturals have been prepared by Freyer Collaborative Architects, PLLC and consist of the following:

- 26.) Architectural Cover Sheet.
- 27.) Spring and Summer Visuals.
- 28.) Elevations.
- 29.) Event Space West Entrance View.
- 30.) East Elevation - Hotel.
- 31.) Even Space Elevation.
- 32.) Hotel West Elevations.
- 33.) Hotel West Elevations.
- 34.) Hotel West Elevations.
- 35.) Hotel West Elevations.
- 36.) Buttermilk Falls Ground Level.
- 37.) Buttermilk Falls Garden Level.
- 38.) Buttermilk Falls Second Level.
- 39.) Event Space Plan.

- 40.) Event Space Section.
- 41.) Unit Typical Plan.
- 42.) Hotel Section.
- 43.) Tree House Renderings - Cabins.
- 44.) Tree House Proposed Plans.
- 45.) Gate House/Entrance.
- 46.) Hudson River Spring View.
- 47.) Hudson River Summer View.
- 48.) Hudson River Autumn View.
- 49.) Hudson River Winter View.
- 50.) Hotel Bird View.
- 51.) Existing Even Space.
- 52.) Existing Hotel.

REASONS SUPPORTING THE DETERMINATION:

Methodology: In making this determination of non-significance the Lead Agency and its advisors first examined Part 1 of the Full Environmental Assessment Form [EAF], associated application documentation, addendums and related maps and plans. [A copy of the Long EAF, Part 1 is annexed hereto and made a part hereof as Exhibit "A".]

Following a pre-application meeting on July 10, 2023, the Lead Agency commenced its formal application review of the November 6, 2023 Application on December 4, 2024 and thereafter circulated a Notice of Intent to Serve as Lead Agency to all Involved and Interested Agencies classifying the Project as Type 1 under SEQRA and including the Application, EAF Part 1, Supplemental SEQRA Addendum and related exhibits therein, thereby initiating coordinated review. [6 NYCRR Parts 317.4(b)(3)(i) and 617.6(b)(2)(i)].

The Action was determined by the Lead Agency to be classified as Type I under SEQRA pursuant to 6 NYCRR Part 617.4(b)(9), as it is planned to include the physical alteration of 10 acres for non-residential use and the use is non-agricultural and situate within an agricultural district and exceeding 25% of the 10 acre threshold noted previously.

As no objections were raised to the establishment of Lead Agency, the Town of Marlborough Planning Board automatically attained such status at the expiration of thirty (30) days from the date the EAF and supplemental materials were circulated [6 NYCRR Part 617.6(b)(3)(i)] and following said period, the Planning Board assumed Lead Agency for the Project.

The Lead Agency thereafter coordinated with its advisors and consultants in order to comprehensively review the potential environmental impacts associated with this action through studies, reports, documentation and data which has been made of record.

The Lead Agency's SEQRA review has included analysis of various studies, reports and memorandums as submitted by the Applicant's Consultants, as well as oral and written testimony made by the public at large. In addition, the Lead Agency's Consulting Engineers have made detailed written reports upon the Project and related submittals during the SEQRA review period.

After consultation with Involved/Interested agencies and further months of administrative review and in consideration of the Applicants submittal of a draft Long EAF, Part 2, on September 16, 2024, the Lead Agency completed Part 2 of the Full EAF and considered the criteria set forth in 6 NYCRR Part 617.7(c), in each case comparing the identified impacts that may be reasonably expected to result from the proposed changes and activities against the indicators of significant adverse impacts on the environment.

The Lead Agency did not find any significant environmental impacts during its review. It is noted that this determination was made following the conclusion of the Public Hearing held upon the Project as detailed below. [A copy of Part 2 of the Long EAF is annexed hereto and made a part hereof as Exhibit "B".]

As to the Public Hearing aforesaid, the Lead Agency scheduled a Public Hearing for the Project and authorized associated notice of the Public Hearing to be published in the newspaper of record.

Additionally, mailed notice of the Public Hearing, was also completed in accordance with the Town of Marlborough Site Development Plan, Special Use Permit and Subdivision Regulations.

On August 5, 2024 the Lead Agency held the duly noticed Public Hearing in consideration of the proposed action pursuant to Sections 274-a, 274-b, 276 and 277 of the New York State Town Law, the Town of Marlborough Zoning Law, the Subdivision Regulations of the Town of Marlborough and SEQRA. At this Public Hearing, verbal and written comments from the general

public, the Project consultants and various professionals were taken and made part of a full stenographic record.

Owing to the dearth of public comments, the public comment period was not held open. The verbal and written comments made at the Public Hearing aforesaid have also been considered by the Lead Agency in the drafting and issuance of this Negative Declaration.

The Lead Agency emphasizes that this determination is limited to environmental review of the Action and does not affect the future Public Hearing that is required to be held upon the Subdivision [Lot Line Revision] and the Special Use Permit which is being requested by the Applicant; at which time the public will have another opportunity to be heard thereon and with respect to the proposed Site Plan.

In making this decision, the Lead Agency has considered the advice of it's Consulting Attorney and Consulting Engineer in light of the context of the Project submittals, the laws governing Public Hearings and the SEQRA Regulations [6 NYCRR Part 617 et. seq.].

It is noted that on May 6, 2024, the Lead Agency further determined to refer the Site Development Plan, Special Use Permit and Lot Line Revision Application Documents to the Ulster County Planning Board pursuant to Section 239-m of the General Municipal Law of New York State, as a "full statement of the proposed action." The June 5, 2024 Ulster County Planning Board Recommendations have been considered by the Lead Agency and address of the same is set forth later within this Negative Declaration.

While the Lead Agency is aware that this action is classified as Type I pursuant to SEQRA procedures and that such classification makes it more likely that an Environmental Impact Statement will be required, under the circumstances of the particular related actions as hereinafter evaluated, the Lead Agency finds that the facts and information available to it support a determination that all probable and relevant adverse environmental effects have been identified and that they will not be significant. Therefore, an Environmental Impact Statement is not necessary for this action.

In this regard, the Lead Agency is mindful that this is an expansion of a long established hotel and resort use. Accordingly, as analyzed herein, discordant development

attributes will not be introduced into the neighborhood or the community at large.

The environmental analysis of the reasonably related long-term, short-term, direct, indirect, sequential and combined impacts of these related and simultaneous environmental factors started with an analysis of the existing conditions of the Project site. The review then analyzed the environmental impacts of the proposed changes and actions while comparing those impacts with the impacts on existing land use to determine if the proposed action may have a significant adverse environmental impact. This Negative Declaration of Environmental Significance sets forth the Lead Agency's Findings pursuant to SEQRA.

No other related or subsequent actions are included in any long-range plans for the proposed site, nor likely to be undertaken, nor dependent on the actions which are now under consideration. [The Stenographic Record of the August 5, 2024 Public Hearing and the entire Administrative Record are incorporated herein by reference, as if fully set forth at length.]

In rendering all of the SEQRA Findings, the Lead Agency's examination of the specific environmental impacts of the Project's proposed actions and changes and their magnitude is as follows:

1. SUBSTANTIAL ADVERSE CHANGES IN EXISTING AIR QUALITY:

Short term air quality impacts occurring during the construction phase of the Project may occur from land clearing, internal road construction, building construction and the building of expanded hotel, banquet center, cabins, restaurant, parking and related appurtenances associated with site work.

Site construction potential impacts will be reduced by employing protective site building practices in order to control the potential fugitive dust and sediment. Among these various practices will be the employment of dust/sediment mitigation measures through the use of hay bales, site watering during periods of dry weather, stabilization seeding, straw mulching, on site grading, limiting site disturbances, drainage, improvements, intermittent working hours and the employment of other best management practices as reviewed by the Lead Agency. [See Stormwater Erosion and Drainage Details, Details and Stormwater Pollution and Prevention Plan.]

In addition, the potential for adverse air quality effects will also be naturally limited by the characteristics of the on site soils. The Soil Survey of Ulster County, New York, as prepared by the Soil and Water Conservation Service, describe the on site soils as generally well drained [52% of the site].

The Lead Agency's review finds that a substantial majority of the Project site which is to be disturbed is made up of well drained and moderately well drained soils, especially in the areas slated for construction. This site condition will further minimize the potential for fugitive dust.

As to long term air quality impacts from the Project, the Lead Agency finds that there is no potential for adverse impacts from vehicle emissions occurring at the site, or as a result of the Project development. Based upon the size of the Project, proposed channelization, valet parking, use of golf carts and the proximity of the Project to the existing roadway network, there will not be large volumes of idling vehicles introducing substantial pollutants into a concentrated locality.

Based upon the foregoing, a substantial adverse change in existing air quality will not occur.

2. SUBSTANTIAL ADVERSE CHANGE IN EXISTING GROUND OR SURFACE WATER QUANTITY OR QUALITY:

The Lead Agency has reviewed the Stormwater Analysis and Stormwater Management Plans, the accompanying Stormwater Pollution and Prevention Plan and attendant address by it's engineering consultant, MHE Engineering, together with the extensive information pertaining to site drainage and stormwater treatment as submitted by the Project engineering consultant. As a result, the Lead Agency finds that there will be no substantial adverse change in existing ground or surface water quantity or quality.

In making its determination, the Lead Agency notes that the Project site existing conditions consist mainly of areas with fairly dense vegetative cover with slopes intermittently exceeding 15% within areas located proximate to the Hudson River. These areas are not generally slated for development.

In accordance with the SEQRA EAF requirements, the Lead Agency has identified the potential for moderate to large impacts on land and water and upon physical changes to the Project site in the EAF Part 2 in the following areas:

- a) Proposed action will require a discharge permit.
- b) Construction of slopes of 15% or greater.
- c) Construction which will continue for more than one year, or in multiple phases.

Based upon the following address, the Lead Agency determines that the areas above have been mitigated by the Applicants to a moderate impact. [See also, Paragraphs 6, 7 and 9.]

The action will require the issuance of a SPDES General Permit for Stormwater Discharges [GP-0-20-001] by the New York State Department of Environmental Conservation [NYSDEC] for commercial construction activities disturbing in excess of 1 (one) acre of land.

The areas of disturbance posed by the Project is 15.3 acres, which is comprised of 3.0 acres of forest land removal for the buildings, structures and appurtenances.

Therefore, when the Project is fully completed, the impervious area created by the related construction will be 2.6 acres (4.2% of the Project site) and the total land disturbance will be 15.3 acres (25% of the site).

The main site of this Project is classified under the SPDES GP-0-20-001 Regulations as a Redevelopment pursuant to Chapter 9 of the New York State Stormwater Design Manual and the Stormwater Documentation which has been submitted by the Applicants analyzes the impacts to groundwater and surface water pursuant to the permitted stormwater management reductions thereunder.

Runoff quantity, both pre and post development, was analyzed and calculated by first identifying the existing site conditions of the respective drainage areas.

In accordance with the stormwater regulations aforesaid and SPDES General Permit requirements, stormwater runoff will be attenuated to at or below pre-development peak rates of flow levels and the removal of pollutants, by way of forebay and retention methodology, will be accomplished prior to discharge into the Hudson River.

Design Point 1 is a discharge from an existing on site pond into the Hudson River Design Point 2 is an existing stream which discharges into the Hudson River. Design Point 3 discharges water that is flowing in a southerly direction and to the Hudson River.

In all instances hydro-CAD calculation were utilized to examine changes of water flow during peak flows in stormwater from the site during the 1, 10 and 100 year storm events. The percentage changes in pre-development discharge rates are summarized as follows:

1 year: -4%
10 year: 0%
100 year: -1%

Based upon the detailed calculations contained within the SWPPP Appendices and the Lead Agency's Consulting Engineer review, the stormwater methodology and associated analysis is acceptable.

The SWPPP further provides for Contact Information/Respectable Parties for 24 hour contact in the event of any stormwater related problems.

An examination of the Existing Soils, Slopes, Vegetation and Drainage Patterns has also been provided and the percentage of impervious area before construction is calculated at 13.2%, with the percentage of impervious area after construction calculated at 18.5%. Accordingly, future impervious cover is calculated at 2.6 acres.

Potential Sources of Pollution for Sediment to Stormwater Runoff are identified within the SWPPP as follows:

- i) Clearing and grubbing.
- ii) Grading and site excavation.
- iii) Vehicle tracking.
- iv) Topsoil stripping and stockpiling.
- v) Landscaping/stabilization operations.

Potential Sources of Pollutants, Other than Sediment, to Stormwater Runoff are identified as follows:

- i) Refueling.
- ii) Equipment maintenance.
- iii) Sanitary facilities.

- iv) Materials storage.
- v) General construction activities.
- vi) Concrete washout areas.

In address of Erosion and Sediment Controls Best Management Practices and the foregoing development activities, the engineering report portion of the SWPPP details the following:

- a.) Minimization of site disturbances.
- b.) Cut and fill balancing.
- c.) Avoidance of sensitive areas (i.e., federal wetlands, archaeological pre-contact site).
- d.) On site flagging.
- e.) Silt fencing.
- f.) Stabilized construction entrances.
- g.) Inlet sediment traps.
- h.) Temporary seeding.
- i.) Rock check dams.
- j.) Construction sequencing.
- k.) Limits of clearing.
- l.) Perimeter controls.
- m.) Disturbance to under 5 acres at any one time.
- n.) Soil stabilization.
- o.) Soil restoration.
- p.) Building construction erosion control.
- q.) Landscaping/final stabilization.
- r.) Final inspection.
- s.) Temporary best management practices removals.

In addition, Good Housekeeping for equipment and material storage, General Construction Waste Management Guidelines, Sanitary Guidelines, On site Fueling/Maintenance Guidelines and Concrete Washouts will be provided for and/or observed by the Applicants construction personnel.

In examination of Post-Development Drainage Improvements and Mitigation, the Lead Agency concurs with the SWPPP and soil/sediment/erosion calculations for consistency with all NYSDEC Regulations, as noted previously within this heading.

In association with additional peak runoff rate reductions, the Lead Agency finds that the calculations and methodology will meet all required channel protection volume, overbank flood protections, extreme storm protection and 24 hour detention of the 1 year design storm.

This protection and associated mitigation is especially important to the Lead Agency, as stormwater control failures within other areas of the Town of Marlborough have previously occurred.

Therefore, even though the Project will be discharging into the Hudson River, thereby not requiring overbank flood protection and extreme flood protection, the Applicant will employ bio-retention areas infiltration and utilization of the existing on site pond to accomplish this protection in any event.

The hydro-CAD predevelopment and post development total runoff calculation buttress all of the foregoing stormwater analysis. [See SCS TR-20 Method and hydro-CAD calculation using Technical Release 55 Methodology within the SWPPP].

Water Quality Volumes and Runoff Reduction will be additionally mitigated by the employment of 14 bioretention areas, 1 dry swale and the existing pond to treat stormwater and remove a minimum of 80% of all pollutants as required by the NYSDEC.

The bioretention zones will filter stormwater through a layer of soil prior to discharging into the surrounding soil and/or proposed stormwater period. Water quality volume is not required to be treated to 100% for runoff reduction practices, nor is channel protection volume required, owing to existing slopes and soil types for ultimate discharge into the Hudson River, as a greater than 5th order stream. [See also, Post Development Best Management Practices, as detailed for bioretention areas and the existing on site pond within the SWPPP].

Inspections by a qualified inspector are required under the SWPPP and Site Inspection Reports are to be provided for upon forms, together with Corrective Actions within 24 hours of a corrective action triggering event. [See SWPPP Appendices B and C].

With respect to additional consideration of slopes in excess of 15% and associated potential environmental effects, the Lead Agency notes the following from review of the site plan:

- a.) 2.5 acres of site disturbance will be on slopes in excess of 15% grade and below 25% grade.

b.) Small disturbance areas totaling less than 10,000 square feet in all instances will be at isolated slopes which exceed 25% grade in order to accommodate the easterly portion of the hotel and limited areas of the internal roadways. Said slope disturbances cumulatively total 1.02 acres and this is permissible for the Project, in accordance with limitations set forth within the Town of Marlborough Zoning Law.

As such, the site disturbance comports with the Ridgeline and Steep Slope Protection Law, Article IX, Town of Marlborough Zoning Law provisions. Moreover, the Lead Agency has confirmed that the Project is not identified upon the Town of Marlborough Ridgeline Protection Map.

As detailed later within this Negative Declaration, the Applicant has traveled to extensive lengths to avoid construction of the hotel and cabins upon the ridgeline in full view. In order to visually mitigate the build portion effects, the Applicants Architects have provided for construction which will be framed into the existing slope and then accentuated with earth tone colors, aesthetic accentuations and non-reflective glass.

The Lead Agency further finds that when completed, all grades for buildings and structures will be less than 15% and the cuts and fills associated therewith will all be balanced on site.

In addition, to the aesthetic address which is analyzed in this Negative Declaration, the Ulster County Planning Board has taken special notice in commending the Applicant and the Lead Agency upon the hotel construction and its attendant visual mitigation within its July 5, 2024 Recommendations. [See also, Paragraphs 9 and 10 herein].

The avoidance of visual effects is being further buttressed by the use of helical piles in order to also conserve trees on the site and provide for the Applicant's vision of a "Treehouse Experience".

The Lead Agency further notes the relocation of cabins in order to preserve the area on site which was used by indigenous people thousands of years ago, as analyzed within this Negative Declaration.

Based upon the foregoing, this potentially large impact has been voluntarily mitigated to a point whereby the impact cannot be said to pose a significant adverse environmental effect. [See also, Site Plans, Architecturals, Visual Simulations and further detailed examination within Paragraphs 7, 9 and 10 herein].

The Lead Agency further finds that the Project will be built out in three (3) phases which will, likely, continue for longer than one (1) year. The associated build sequencing will result in the cabins being constructed first, the hotel and parking next and the banquet hall being last. The Phasing Plan will provide for the implementation of mitigation measures discussed herein and phasing does not present a significant environmental impact.

In accordance with the foregoing analysis, the Lead Agency finds that there will be no substantial change in existing ground or surface water quantity or quality as a result of construction lasting for an excess of one year, nor for the Project, at large. [See also, Soil Erosion and Sediment Control Plan, Detail Plans and Stormwater Pollution Prevention Plan].

Based upon all of the foregoing, the Lead Agency is satisfied that there will be no significant environmental impacts to the area of concern highlighted within the heading to this paragraph.

3. SUBSTANTIAL ADVERSE CHANGE IN EXISTING TRAFFIC LEVELS:

The Applicants have submitted a detailed Traffic Study dated June 27, 2023, which was supplemented on September 27, 2023 by Steven Maffia, PE. This Traffic Study analyzes the roadways servicing the Project, as well the additional traffic which is expected to be generated over time by the Project.

In addition, the various Traffic Study Documents further provide for mitigation measures to be employed by the Applicants in order to address the increases in traffic channelization, reorientation and safety issues, which will occur as a result of the Project at full occupancy.

The Applicants have also coordinated with MHE Engineering, together with representatives from Creighton Manning Engineering [CME] as Lead Agency traffic consultants, in consideration of the traffic issues associated with the Project and to date. The Town of Marlborough Highway Department has indicated no objections to the Traffic Study or it's findings.

The combined Traffic Impact Study analyzes the Project with respect to existing conditions, future traffic conditions, events, traffic volume comparisons, time of day, trip assignment, build traffic volumes, level of service analysis, site disturbance and growth factors.

Based upon the studies submitted, the peak weekday hours for traffic will be from 4:00 p.m. to 6:00 p.m. Intersection peak hour volumes on Friday and Saturday evenings. Said traffic peak hour counts are consistent with the NYSDOT counts from 2017.

The roadways analyzed were as follows: North Road, Mahoney Road, NYS Route 9W. Existing conditions were observed and then combined with the traffic volume Projections.

The resultant counts show that the entire development, at full build out and complete occupancy, will generate 1674 trips during the weekday's peak period and 840 trips during the weekend [Friday night] of 7:00 p.m. to 8:00 p.m. peak period.

The foregoing counts were also analyzed in terms of where traffic originates and where it destined as part of a probability analysis which is reflected as "Trip Generation."

Utilizing all of the above information, together with computer modeling based upon the Trip Generation Manual 11th Edition, the Applicant's Traffic Consultants determined the Level of Service [LOS] at the peak hours for a 4% growth factor. A 45% North/55% South split onto Route 9W from the surrounding streets was further utilized.

The study locations on Route 9W (Milton Road and Mahoney Road) are stop sign controlled intersections with four approaches. The North Road/Mahoney Road intersection is a "T" shaped configuration, but under full build conditions it will have four approaches.

The resulting LOS figures show that the only time which a LOS F will be experienced will be during the Friday evening full build time at Route 9W and Mahoney Road. In this instance, the delay will be 100.4 seconds, thereby degrading to LOS F for this limited period of time.

However, as Friday evening conditions at Mahoney Road will be experienced at LOS F for one hour or less, the Applicants

Traffic consultant states that this condition may be considered acceptable.

The Lead Agency concurs with the Applicants Traffic Consultant that all of the intersections studied and the Projected Project traffic do not require signalization, left turn lane and/or re-routing mitigation and that the build conditions will be acceptable for the following reasons:

a) LOS for all intersection, excepting the one instance addressed above, will not operate at LOS F upon full occupancy at peak hours of traffic generation.

b) Banquet Hall events will more frequently be held on Saturdays and not during the week at the peak weekday traffic generated hours.

c) Full events of 300 persons are expected to be minimal and even if experienced, will be accommodated by valet parking, timing and event staff by a proven operator, as has been past practice.

d) The one instance of LOS F will only occur for a 100.4 seconds average period. These delays will be intermittent, of short duration and are, to a large extent, to be expected by the public. Accordingly, the Lead Agency finds that toleration of these delays, which may persist for less than two minutes, are not significant.

e) The Lead Agency emphasizes that in making this finding, the same is limited to the limited LOS F exposure within the instant application and in no way does the Lead Agency endorse LOS F as a generally acceptable traffic condition. Owing to the LOS F short duration the mitigation impacts employed and the nature of the existing uses in this particular Application, it is acceptable to the Lead Agency in this particular instance.

f) The Applicant plans to employ on site parking and valet service via golf carts, as the parking is not adjacent to the hotel or cabins. This will further minimize vehicular use and further examination of this issue is set forth below.

The Lead Agency finds that traffic delays will not pose any significant adverse effects as a result of the Project.

The Applicants Traffic Consultants further conducted a parking assessment. As the Project is considered "mixed use" in traffic parlance, not all visitors and staff will be on the site at the same time during the day and evening. In addition, the Traffic Report notes that hotel guests will be staying overnight and as a result, they will not generate nearly as much traffic as day visitors.

In addition, the Traffic Consultant notes that shared parking will be utilized. Accordingly, corresponding uses and time of day factors were further analyzed, in terms of variations in accumulation of vehicles by hour, by day, by season and at individual land uses and with multiple land uses.

In applying the shared parking concept, there will be an estimated reduction in the parking supply of 90 spaces. This is one of the several reasons why the off site parking and valet delivery concept mitigation is being employed. Green space will be preserved, banked parking will be utilized and temporary parking will be accommodated.

Traffic during construction is not anticipated to be significant, as construction vehicles will be housed on site, filling/grading will be balanced to the extent practicable and coordination with the police, if necessary, can be effectuated.

The Lead Agency further references the lengthy Appendix submitted with the Applicants Traffic Consultants Report, wherein all figures are quantified.

On September 27, 2023, the Applicants Traffic Consultant provided responses to certain questions posed by a Planning Board Member. In this regard, the following issues were addressed:

- a) Inter-governmental coordination with the Town of Lloyd was noted in terms of traffic routes to the site from the north.
- b) Decreasing accidents as a result of a Roadway Safety Audit at Rout 9W, near Milton Road intersection shows that there is no significant safety issues with respect to traffic.
- c) Eliminating five accidents for deer strikes, the remaining accidents in the five year period [2012-2016] are not enough to warrant a left turn lane on Route 9W at Milton Road. However, Route 9W is a state road under the jurisdiction of the NYSDOT and the Town

of Marlborough lacks jurisdiction to require a turn lane in an event.

- d) Moreover, Projected left turn southbound peak hour traffic is only 38 vehicles. According to ASSHTO Standards, over 200 vehicles would be necessary to warrant a left turn lane analysis.
- e) The 4% growth factor is double the growth factor used by the Dockside Project [another Town of Marlborough development] and a combination of Project build year and miles in distance for other residential developments which are planned militate to this percentage being reasonable.
- f) Van Orden Road will be gated off. The access points are on North Road and only one access point on Mahoney Road. There will be no new traffic on Van Orden Road and emergency only traffic will be accommodated.
- g) Trip generation, overlapping access, pavement conditions, NYSDOT Count Data and peak hour generation figures have all been adequately addressed.
- h) Banquet hall occupancy, truck data, peak hour differences for the banquet hall, directional movements, potential banked parking, valet service and no parking on Van Orden Road are all adequately summarized by the Traffic Consultant.
- i) The Friday Peak Hour condition at Mahoney Road was reiterated in terms of intermittent delay of less than 2 minutes for a 7:00 p.m.-8:00 p.m. period. Again, the Lead Agency is satisfied that the LOS F in this single instance and for this Project is considered acceptable.
- j) Finally, the Applicants Consultant Engineer also provided a detailed address of the CME Review and the traffic related comments of a Lead Agency Planning Board Member. The Lead Agency is satisfied with the responses offered therein.

Finally, the Lead Agency finds that the Applicants long standing ties to the Marlborough Community and business reputation present a reliable expectancy that additional privately employed traffic management personnel will be utilized, if necessary, in the future.

Accordingly, the Lead Agency finds that special traffic management by the police or other safety personnel are not expected to be employed for the Project.

The Lead Agency further finds that the draft Offer of Cession Agreement [roadway widths] and the draft Private Roadway and Maintenance Agreement for access to a shared portion of the Project Site, as submitted by the Applicants Attorney, will be made of record within the Offices of the Ulster County Clerk, following further refinement during the pendency of site plan review.

The Lead Agency further finds that the planned fifteen (15') foot wide internal access roadways have been reviewed by it's consulting engineers, the Fire Department and the Town of Marlborough Highway Superintendent and said width has been found to be acceptable for the Project.

With respect to the issue, the Lead Agency notes that pursuant to Section 280-a of the Town Law of New York State, internal roadway width of fifteen (15') feet is deemed "presumptively safe".

While signage is typically not a major SEQRA issue, the Lead Agency is satisfied that the location of traffic related signs, as added to the site plans for internal channelization and ingress/egress, will be further detailed during the pendency of site plan review and in light of the plans and narratives for the Project. [See Site Plan].

Based upon all of the above the Project will not result in a substantial adverse change in existing traffic levels, or adversely alter the present patterns of movements of people or goods and the potential traffic impacts posed by the Project are not significant.

4. SUBSTANTIAL ADVERSE CHANGE IN NOISE LEVELS:

The proposed construction of the hotel, banquet center, restaurant, cabins, drainage facilities, parking areas, stormwater management infrastructure and related appurtenances will be limited in duration and will not generate noise levels which will be substantially objectionable to the public at large.

The associated noise impacts of construction equipment, machinery and construction workers will take place during daylight hours and will be limited in duration. The Lead Agency finds that these customary construction noises are encountered on a regular basis when development Projects are undertaken in the Town of Marlborough.

The Lead Agency further finds that the Applicants submittals show that the planned Project improvements are not Projected to occur simultaneously. Instead, construction will occur over time and will not result in concentrated multiple noise impacts be limited to sequential build areas of a type which could be said to have potential for significant noise impacts.

The Lead Agency finds that all on site rock removal work will be accomplished with a rock hammer and that no blasting will occur.

The Applicants Consulting Engineer has offered that the only area of the site which should require the use of a rock hammer is on a portion of the new hotel. Based upon the limited rock removal on site, the tree buffering noise attenuation effect, accommodation of working hours and the efficiency of the machinery, the limited rock removal, via rock hammering, will be temporary, customary and of limited duration. As such, rock removal is not expected to result in substantial adverse noise effects during the pendency of construction at the Project site.

With respect to the potential for noise which may pose a change in noise levels as a result of outdoor activities associated with the planned events, the Lead Agency finds that the same will not be substantial or adverse for the following reasons:

a) Banquet hall activities are expressly permitted under the Town of Marlborough Zoning Law within the R-1 and HD Districts.

b) The Project is located within an already developed hotel-resort area at Buttermilk Falls.

c) The event parking and golf cart shuttle service will be situate generally away from residential uses.

d) No complaints pertaining to the potential for excessive noise by neighboring property owners were received by the Lead Agency during the pendency of the Public Hearing.

e) The banquet hall use is a permitted use and it will be accommodating indoor related noise which is customary for gatherings.

f) The banquet hall, nearby hotel/cabin buildings, existing topography and vegetation will act to some degree in dissipating sound waves.

g) The Town of Marlborough and it's agencies posses the authority to respond to potential noise complaints, if necessary.

Long term noise impacts will not be substantial as the construction of buildings, internal roadways, parking areas and related facilities, together with noise resulting from vehicular traffic and Project occupancy will be intermittent and will be customary for areas which are in the vicinity of the proposed Project. In this regard, the Lead Agency emphasizes that the proposed Project is located proximate to the existing hotel/resort, wherein concentrated commercial development has been established for many years. [See Site Development Plan].

Moreover, the Applicant will be governed by any applicable Town of Marlborough Code provisions which limit construction activities during the week and on weekends. The Lead Agency further finds that the Applicant has in the past observed all days and times for the performance of construction as set forth under the Code and in the event the hours which are permitted for construction activities change in the future.

Based upon the mitigation measures and all of the above, the Lead Agency finds that there will not be a substantial adverse change in noise levels brought about by the Project.

5. SUBSTANTIAL INCREASE IN SOLID WASTE PRODUCTION:

The proposed Project will not substantially increase the amount of solid waste production which is regulated pursuant to Article 27 of the Environmental Conservation Law of New York State. [6 NYCRR Part 360, et seq.]

Solid waste generated from the Project will amount to a maximum of 8 tons per month assuming the full build out and occupancy, based upon stated averages as contained in the Ulster County Solid Waste Report. [See also, Long EAF Part 1]. Accordingly, solid waste will be transported to the Ulster County Resource Recovery Agency Facility in Kingston, New York and/or managed by private contractors and carted to another lawfully operating facility.

The Lead Agency further finds that the above figures have not been adjusted downward by the Applicants to reflect any potential savings in solid waste production which may be achieved as a result of recycling.

Based upon the foregoing, the Project poses no substantial increase in solid waste production.

6. SUBSTANTIAL INCREASE IN POTENTIAL FOR EROSION, FLOODING, LEACHING OR DRAINAGE PROBLEMS:

At the outset, the Lead Agency notes that this paragraph and especially the recitals which relate to mitigation measures employed for physical changes to the Project site, are to read in conjunction with Paragraph 2 herein.

Drainage, leaching and erosion control measures are subject to and are consistent with the NYSDEC, "New York State Guidelines for Erosion and Sediment Control", the New York State and Ulster County Municipal Services Sanitary Codes and SPDES General Permit [GP-0-20-001] Requirements.

As discussed earlier herein, the Project will employ Best Management Practices, as set forth in the NYSDEC Guidelines and as extensively addressed in the Stormwater Analysis and Management Plan, Supplemental Reports, Erosion Control Plan, Stormwater Pollution and Prevention Plan, TR-20 and TR-55 Hydrograph Modeling, existing conditions analysis and all leaching and erosion control measures addressed herein.

In addition, the Applicant has detailed plans for the employment of bioretention and associated landscaping features in order to further control stormwater management as set forth previously herein.

The proposed Project is located upgradient from the Hudson River, which is a Statewide Area of Significance. Drainage will be in accordance with the analysis provided within Paragraph 2 herein. As all stormwater will be treated and peak rates of flow will be attempted to pre-development levels, there will be no adverse drainage effects visited upon the Hudson River.

Owing to slope limitations and build conditions associated therewith, wildlife and associated habitat areas will not be disturbed nearby to the Hudson River. Accordingly, as the area of disturbance for the Project is 15.3% of the 62 acre site, the Lead Agency finds that no significant wildlife displacement will

occur at or near to the Hudson River. [See also, Paragraph 7 herein].

No portion of the Project build site will be located within a designated Floodway or Flood Area as delineated by the Flood and Emergency Management Program [FEMA]. A review of the Flood Insurance Rate Map of the Town of Marlborough, as promulgated by the National Flood Insurance Program, identifies a non-buildable portion of the premises within the flood bounds at the Hudson River. This area will not be disturbed and no building or other infrastructure is planned for this area.

The Lead Agency further concurs with the Applicants Consulting Ecologist that there are no Federal Wetlands situate on the site which will be adversely affected as a result of the Project. In this regard, the only concentrated wetland area of the site is proximate to the Hudson River and its adjacent high water marks. These areas are classified as Federal Wetlands pursuant to 33 CFR Part 330 et seq. and they will not be disturbed. [See Site Development Plan Map].

It is further noted that, the Lead Agency has included the United States Army Corps of Engineers as an Interested Agency and takes notice of the fact that said agency has not opined upon the Project in an advisory capacity.

The Lead Agency finds that the above cited regulatory criteria will have no application to the proposed Project improvements since all areas of proposed development will be situate well outside of these areas of special concern and statewide significance.

The Lead Agency further finds that there is no documentation submitted of record which would indicate the presence of karst topography or that contaminants, or other deleterious agents, will flow through subterranean passages, conduits or inter-connections proximate to the Hudson River.

With respect to the potential for erosion and most specifically, the area of the Project site being utilized for additional parking at North Road, the Lead Agency finds that the pre-existing parking/warehouse use of the premises and attendant stormwater management detailed within Paragraphs 2 and 6 herein, render this area of environmental concern non-significant.

The Project plans further show that the North Road parking area is slated for parking at the closest point to North Road,

thereby eliminating cut and fill, while avoiding new access points to North Road. This area will also be cleaned up and retrofitted for parking and valet service.

As to the area of the Project site which will accommodate the planned buildings, the Lead Agency finds that the portion which is located nearest to the steepest areas of the site will be reinforced by architecture and engineering retaining areas, slope stabilization to 2:1 and drainage mitigation measures detailed previously herein. [See Site Development Plan Maps, Details and Architectural Renderings and the SWPPP].

The Lead Agency and it's Consulting Engineer have reviewed all engineering and drainage submittals, together with the stormwater and erosion control mitigation measures as proposed and compared the same with the relevant regulatory criteria discussed herein. Based upon the Record made, the Lead Agency finds that the Applicants plans and associated methodologies demonstrate that the action will have no substantial increase in the potential for erosion, flooding, leaching or drainage problems. [See also, Paragraphs 2, 3, 7, 9 and 10]

7. THE REMOVAL OR DESTRUCTION OF LARGE QUANTITIES OF VEGETATION OR FAUNA; SUBSTANTIAL INTERFERENCE WITH THE MOVEMENT OF ANY RESIDENT OR MIGRATORY FISH OR WILDLIFE SPECIES; IMPACTS ON A SIGNIFICANT HABITAT OF ANIMAL OR PLANT, OR THE HABITAT OF SUCH A SPECIES; OR OTHER SIGNIFICANT ADVERSE IMPACTS TO NATURAL RESOURCES:

The vegetation and wildlife of the site are typical of both undeveloped and underdeveloped sites situate in the Town of Marlborough. Vegetation is dominated by upland hardwoods and a sparse amount of open meadow/brushland comprise the areas of the Project site.

Inquiry and cross reference with NYSDEC and the United States Fish and Wildlife Service [USFWS] records by the Applicants consulting Ecologist, Ecological Solutions, LLC, Mike Nowicki, noted the potential presence of certain endangered/threatened species at the Project site.

The Applicants engaged Ecological Solutions, LLC to address the above referenced issues and a resultant Report was produced in response thereto as follows:

- a) July 31, 2023 Endangered and Threatened Species Habitat Suitability Assessment Report.

The habitat areas and species studies by the Applicants Ecological Consultant are as follows:

- i) Shortnose Sturgeon [Endangered Species].
- ii) Atlantic Sturgeon [Endangered Species].

It is noted that the bald eagle has been de-listed nationally from endangered/threatened species status. Although the Hudson River is a known travel way for bald eagles, no nests are situate at or within 660 feet of the Project site, as regulated by the NYSDEC and bald eagle effects will not be adverse.

The Applicants Ecological Consultant further visited the Project site in search of the habitat types and individual species set forth above. The Lead Agency further notes that the Report references that the property was also reviewed for other endangered, threatened and/or rare species of flora and fauna which have not been referenced by the NYDSEC and the USFWS.

The resultant Report details that none of the individual species, or other threatened/endangered species were found at the site. Nor were any of the habitat areas referenced above found at the site; as the same were noted to exist below the area of proposed development and within the Hudson River Corridor.

The Applicants Ecological Consultant therein identified this area to be situate far below the areas of disturbance and an analysis of the proximity of the areas of the site to be developed demonstrates that disturbances to the identified Significant Coastal Habitat for Shortnose Sturgeon or Atlantic Sturgeon will not occur. [See also, mitigation measures for stormwater runoff within Paragraphs 2 and 6 herein].

The Report also make reference to the fact that the Project calls for expansion of the existing Buttermilk Falls Hotel and Resort premises, an area which has been historically disturbed by previous commercial development and deleterious effects upon endangered/threatened species or habitats have not been cited in the past.

With respect to other animals, plants and the potential for suitable habitat, there will be a loss of a portion of on site habitat for animals. However, wildlife displacement will occur

to nearby sites and owing to the areas of undeveloped lands situate within, adjacent to and nearby the site, it is determined that habitat loss and wildlife displacement will not be significant. This Finding is further based upon the fact that the surrounding area is comprised to a large extent by the lands which lead to the Hudson River and this area is limited for future development based upon topographic, slope and set back limitations.

In addition, areas of the site are to be devoted to landscaping, which will restore a small portion of the on site habitat which is lost by the development. Vegetative habitats located off site will not be disturbed and will not be adversely affected by the proposed development.

Although not raised by the NYSDEC Review Criteria for endangered and threatened species, the Project site is located far away from known Indiana Bat, Small Footed Bat and Northern Long Eared Bat hibernaculums. Therefore, the Report does not recommend mitigation measures associated therewith (i.e., limitation of all tree cutting to November 1 through March 31 of any given year).

In reviewing the Record and the Field Studies and Reports of Ecological Solutions, LLC as well as the various information from the NYSDEC and in the absence of any countervailing information concerning endangered and/or threatened species associated with the site, the Lead Agency concurs with the Reports and concludes that none of the foregoing plants, animals or habitats will be adversely affected by the proposed development of the site.

Based upon all of the foregoing, there will be no substantial adverse impacts in the areas set forth at this paragraphs heading. [See also Paragraphs 2, 6 and 10]

8. THE IMPAIRMENT OF THE ENVIRONMENTAL CHARACTERISTICS OF A CRITICAL ENVIRONMENTAL AREA (CEA) AS DESIGNATED PURSUANT TO SUBDIVISION 617.14(g) OF 6 NYCRR PART 617:

No CEA is designated or situate in the vicinity of the site and none will be impaired.

9. THE CREATION OF A MATERIAL CONFLICT WITH A COMMUNITIES PLANS OR GOALS AS OFFICIALLY APPROVED AND ADOPTED:

Commercial development which comports with the Town of Marlborough Zoning and Subdivision Laws is expressly permitted within the R-1 Zoning District and the HD within which the Buttermilk Falls expansion Project premises is situate.

Pursuant to the address which follows, as well as the analysis provided within Paragraphs 2, 3, 4, 6, 10, and 13, the Lead Agency finds that the Project is consistent with the existing community character and surrounding neighborhood, the Town of Marlborough Comprehensive Plan and the Town of Marlborough Local Waterfront Revitalization Program for the following reasons:

A review of the Town of Marlborough Zoning Law statutory criteria shows that this Project comports with all development density requirements within the R-1 and HD Districts and the review criteria set forth thereunder. Accordingly, there are no variances or legislative acts which are necessary to be made in order for this Project to comply with existing Zoning and Subdivision Regulations in the Town of Marlborough.

In this regard, it is noted that Section 155-27(2)(b)(4) of the Zoning Law does not provide for reduction of parking. However, the waiver provisions of Zoning Law Section 155-32(k) do provide for the opportunity of the Planning Board to waive parking requirements.

Accordingly, the reduction from 495 parking spots to 405 parking spots is justified based upon availability of lands for the banked parking, off site valet service, preservation of green space and shared parking analysis as set forth in this Negative Declaration. Therefore, the Lead Agency is satisfied that a waiver of parking requirements is appropriate in this circumstance.

The Lead Agency further finds that the Record made herein demonstrates that the Project is consistent with the Town of Marlborough Local Waterfront Revitalization Program [LWRP]/Comprehensive Plan elements and the Lead Agency observes that the Applicant has provided for a detailed address of the LWRP and its relation to the Project.

In making this Finding, the Lead Agency is mindful that SEQRA does not change the jurisdiction between agencies.

Therefore, any review by the New York State Department of State [NYSDOS] will be made within the context of this

coordinated SEQRA review and with respect to post approval New York State requirements, if any. The Lead Agency has analyzed the LWRP and the Planned Waterfront Review Criteria for Project consistency therewith, as part of this document.

In doing so, the Lead Agency has further reviewed this action to determine whether it will pose a material conflict with the Town of Marlborough Comprehensive Plan and finds that no such material conflict will occur. In making this Finding, the Lead Agency specifically reaches the following conclusions:

a) Zoning: The Project uses are all permitted within the R-1 and HD Zoning Districts, subject to site plan and special use permit discretionary reviews.

b) Historic Consistency: The Applicant's Consulting Architect has developed a building concept which respects the architecture style of the already existing Buttermilk Falls Hotel and Resort and its proximity to the Hudson River.

In this regard, the buildings make use of structural orientation and design inclusions which are consistent with the historic nature of the site, the Hudson River and the surrounding buildings proximate to the site.

The Lead Agency is satisfied that the historic character and the existing Buttermilk Falls Hotel and Resort aesthetic will be accentuated by the development of the site in accordance with the architectural documentation submitted.

c) Environmentally Sound Development: The development plan will be environmentally sound as detailed within this Negative Declaration. As such, the buildings and cabins have all been planned to provide for an unobtrusive effect upon the surrounding environment to the extent practicable and with mitigation measures which have been voluntarily offered by the Applicant. (i.e., Archeological Avoidance Plan, helical piles for installation and a Restrictive Covenant).

d) Diversity: The proposed Project will provide support for existing business within the Town of Marlborough as hotel guests, conference attendees and wedding/party participants will likely shop in the Town and Hamlet of Milton and visit other town establishments (restaurants, movie theatre, real estate offices and like entities).

The Lead Agency is mindful that it cannot lawfully base its decision to adopt and issue this Negative Declaration upon economic considerations. Accordingly, employment, town services and retail opportunities have not been addressed herein nor has Comprehensive Plan Goal, which sets forth the call for, "Diversifying the Economic Base" been analyzed in support of this Negative Declaration.

e) River Access: The Project will develop the area which overlooks the Hudson River. However, access to the river will not be forwarded.

This issue is more comprehensively addressed within Paragraph 10 herein. However, the Lead Agency finds that river access and/or a pedestrian easement is not an essential element of the comprehensive plan.

f) Tourism: Again, economic analysis is not appropriate in weighing the benefits of the Project against the potential harm to the environment under SEQRA. However, as a threshold observation, the promotion of tourism to the Town of Marlborough upon Project completion, is self evident.

g) Development Standards: Addressing the Planned Waterfront District Review Criteria under the Town of Marlborough Zoning Law, the Lead Agency further makes the following findings:

The Project meets with all Development Standards as set forth within the Zoning Law for special use permit and site plan review criteria. [See Site Plan Maps and Architecturals, as well as the supplemental address later within this Negative Declaration].

As to the Review Criteria under the LWRP, as set forth within Zoning Law, the site development and appropriateness of uses, the Lead Agency finds as follows:

Criteria (1): The design and relationship of development as viewed from the water.

The foregoing paragraph address of Criteria #3 is applicable to this Criteria and the Lead Agency reiterates the same.

Further, the record reflects that the Applicant has designed a Project which will be seen from the water. However,

the Lead Agency notes that the areas of the Hudson River which are located down gradient of the proposed Project are privately owned and not generally traveled by the public. Therefore, the effect of the Project upon water based viewing will not be adverse. [See also, visual analysis examined herein].

The Applicant has submitted a July 24, 2024 LWRP Consistency Analysis which details the following elements:

- a) Statutory Authority.
- b) SEQRA Review.
- c) LWRP Assessment.
- d) LWRP Policies Analysis; to wit:
 - i) Policy #1: Community Character.
 - ii) Policy #1: Preparation of Open Space.
 - iii) Policy #1: Infrastructure.
 - iv) Policy #1: Beneficial Use of Waterfront Location.
 - v) Policy #1: Minimizing Adverse Effects of Development.
 - vi) Policy #2: Preservation of Historic Resources of the Waterfront Area.
 - vii) Policy #3: Enhance Visual Quality and Protect Scenic Resources Throughout the Waterfront Area.
 - viii) Policy #4: Minimize Loss of Life, Structures and Natural Resources from Flooding and Erosion.
 - ix) Policy #5: Protect and Prepare Water Quality and Supply in the Waterfront Area.
 - x) Policy #6: Protect and Restore the Quality and Function of the Waterfront Area.
 - xi) Policy #7: Protect and Preserve Air Quality in the Waterfront Area.
 - xii) Policy #8: Minimize Environmental Degradation from Solid Waste and Hazardous Materials.
 - xiii) Policy #9: Provide for Public Areas and Residential Use of Waterfront Waters, Public Lands and Public Resources of the Waterfront Area.
 - xiv) Policy #10: Protect Water Dependent Uses and Promote Siting of New Water Dependent Uses in Suitable Locations.
 - xv) Policy #11: Promote Sustainable Use of Living Aquatic Resources in the Waterfront Area.
 - xvi) Policy #12: Protect Agricultural Lands in the Waterfront Area.
 - xvii) Policy #13: Promote Appropriate Use and Development of Energy and Mineral Resources.

The Lead Agency is satisfied that the comprehensive address of the LWRP Policies enumerated above and provided for by the Applicant is adequate for protection and enhancement of the waterfront area. A revisit of the analysis provided for within the Applicants submittal is not necessary, as this document has been made of Record, the Lead Agency concurs with its address and the same is hereby incorporated herein, as if set forth at length.

The Lead Agency further notes that the Applicant has provided for a submittal of the NYSDOS Coastal Assessment Form as well as the Town of Marlborough LWRP Waterfront Assessment Form. Lead Agency review of this additional documentation has taken place and the Lead Agency is satisfied with the quantitative information contained therein.

Subsequent review of the policies and provisions of the LWRP by Town of Marlborough Waterfront Advisory Committee is slated to take place. The Waterfront Advisory Committee was identified an interested agency under SEQRA by the Lead Agency and circulation of Application documents, as well as the LWRP Consistency Analysis, has been made as part of the coordinated review of this Action.

In addition, the New York State Department of State, Division of Coastal Resources, has also enjoyed the same participation as an interested agency during the pendency of Project review.

The Lead Agency finds that both of these agencies may choose to further comment upon the Project at some time in the future during the continuing Lot Line Revision, Site Development Plan and Special Use Permit Reviews for the Project. However, from an environmental analysis perspective, the Lead Agency is satisfied that the applicable LWRP policies have been met by the Applicant to the maximum extent practicable and that no adverse effects to the LWRP or its Policies will result from this Action.

In making this finding, the Lead Agency further observes that the LWRP and the Waterfront Advisory Committee serve in an advisory capacity only, since a Local Law has not been adopted by the Town of Marlborough Town Board which would operate to grant to the Waterfront Advisory Board binding discretionary administrative authority under the LWRP.

Accordingly, the Lead Agency finds that the Project results in no adverse effects upon the LWRP or its Policies as the same are related to the plans, mitigation measures and associated environmental analysis of the Project as set forth of Record.

Based upon all of the foregoing, the Lead Agency finds that the action will not create a material conflict with the Town of Marlborough's plans or goals as officially approved and adopted.

10. THE IMPAIRMENT OF THE CHARACTER OR QUALITY OF IMPORTANT HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL OR AESTHETIC RESOURCES OR OF EXISTING COMMUNITY OR NEIGHBORHOOD CHARACTER:

The Lead Agency has studied areas of potential archaeological, architectural and historic significance [NYSDEC Circles and Squares] situate on or in the vicinity of the Project site in light of the documentation submitted by the Applicant, the New York State Office of Parks, Recreation and Historic Preservation [NYSOPRHP] and other interested agencies/persons.

Owing to the Project being located within an archaeologically sensitive area, the Applicants engaged the services of Joseph Diamond, PhD in order to complete a comprehensive Archaeological/Historic Study of the Project site.

On September 27, 2023 the New York State Office of Parks, Recreation and Historic Preservation [NYSOPRHP] issued comments based upon inquiry from the Applicants Consulting engineer upon review of the Site Plans the NYSOPRHP advised that it has no architecture or above ground concerns. However, the archaeological sensitivity of the area was noted by the NYSOPRHP within its correspondence.

The Applicants Consultant has prepared a Full Phase 1 a/b Cultural Resource Study, a Full Phase 2/3 Cultural Resource Study and an Avoidance Plan, all of which have been submitted to the Lead Agency and the NYSOPRHP in accordance with Section 14:09 of the Historic Preservation Law of New York State and SEQRA.

Based upon the studies aforesaid, as completed by Joseph Diamond, PhD and as analyzed herein by the Lead Agency, the Lead Agency finds that the following potentially large impacts have been mitigated to an extent which changes the same to small to moderate impacts as discussed below:

a) Proposed action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of Historic Places.

b) Any impact to an archaeological site or fossil bed located within the Project site.

c) Proposed action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.

The Lead Agency analysis of the foregoing Studies and attendant mitigation measures is as follows:

The Phase 1A Archaeological Survey included study of the Project plans in light of a compilation of literature applicable to the study area and address of the following therein:

- i) Literature Survey.
- ii) Introduction [Description of the Project].
- iii) Environmental/Physical Setting.
- iv) Prehistoric Archaeological Sites.
- v) Historic Archaeological Sites.
- vi) Prehistoric Sites.
- vii) Historic Sites.
- viii) Sensitivity Assessment.

The Phase 1B Archaeological Reconnaissance involved the following areas of study:

- i) Research Design.
- ii) Field Methods and Procedures.
- iii) Results of Field Investigation for the following:
 - a) Storage Buildings near Mahoney Road and North Road Access.
 - b) Driveway from Van Orden Road to White House.
 - c) Van Orden Road to Shed.
 - d) Llama Den and Yard.
 - e) Sand Grave Quarry.
 - f) Chicken Coop Access Road.
 - g) Around Proposed Hotel.

A total of 79 shovel tests were excavated within the Project area.

Owing to the presence of pre-contact sites within one mile of the Project, it was determined by Joseph Diamond, PhD that

further study of the site was warranted and the NYSOPRHP concurred in this assessment.

Accordingly, Joseph Diamond, PhD identified the Buttermilk Falls Pre-Contact Site Locus #1 upon a remnant portion of a terrace which was previously mined. This site contributed multiple tool functions debitage and a Brewerton Side-Notched Projectile Point [circa 3000 BC].

A second Buttermilk Falls Pre-Contact Site Locus #2 was identified. However, NYSOPRHP correspondence with the Stockbridge Munsee Tribes determined that Locus #2 did not meet eligibility requirements for National Register of Historic Places.

Pre-Contact Site Locus #1 did meet National Register Criteria. Therefore, short term mitigation protective measures, as well as an Avoidance Plan with Restrictive Deed Covenant, were developed by the Applicant the NYSOPRHP.

Joseph Diamond, PhD thereafter contacted the Project Attorney in order provide the NYSOPRHP with draft Restrictive Deed Covenant which will protect the Locus #1 area in perpetuity. The Lead Agency has been provided with a copy of this draft document.

The Avoidance Plan resulted in the relocation of all cabins to outside of the Locus #1 area, to another portion of the site located further from the Hudson River bluff and a 50 foot wide buffer area is provided for.

The Restrictive Covenant will be recorded within the Offices of the Ulster County Clerk and the affirmative covenant will limit Locus #1 activities to walking along pedestrian trails to feed and enjoy llamas, alpacas, donkeys and other animals. In addition, animal shelters, sheds and solar array improvements, including fencing, will be permitted, as the same will result in only limited ground disturbances for the purposes of installation, repairs, maintenance and improvements.

The results of the above site work have been summarized by Joseph Diamond, PhD and certain artifacts and photographs were also reviewed by the Lead Agency.

The Applicants have further submitted the December 17, 2009 Phase 2/3 Archaeological Evaluation/Clearing Report to the Lead

Agency and the NYSOPRHP, which details the following as noted within it's Cultural Resource investigation Management Summary:

- a) NYSOPRHP Project Review.
- b) Phase Information
- c) Architectural Survey.
- d) Historic Survey.
- e) Archaeological Evaluation.

A detailed address of the Phase 2/3 Study results is set forth below by the Lead Agency.

The Phase 2/3 Study provides an analysis of the following areas:

- a) Environmental/Physical Setting.
- b) Brief history.
- c) Research Design.
- d) Field Methodology Procedures and Interviews
- e) Results of Field Investigation.
- f) Conclusions and Recommendations.

The Lead Agency finds that the foregoing studies and presentation, as forwarded by Joseph Diamond, PhD, together with cabin relocations and recording of the Restrictive Deed Covenant, mitigate all three (3) potential large impacts to small to moderate impacts.

Further, the investigation and study of pre-historic archaeological sites, historic sites, sensitivity assessments, the Locus #1 Area, Avoidance Plan Relocation and Restrictive Deed Covenant, and the resultant analysis demonstrate that there will be no significant adverse impacts upon any of these areas of environmental concern.

The NYSOPRHP related concurrence ("No Adverse Effects" Letter) remains to be garnered by the Applicant. However, as SEQRA does not change the jurisdiction between agencies, the Lead Agency is satisfied with the Avoidance Plan, Restrictive Deed Covenant and related mitigation measures for the purposes of this Negative Declaration.

As to the historical character and condition of surrounding buildings which are proximate to the Project site, the Lead Agency finds that the same have been properly identified catalogued, investigated and made part of the documentation

submitted by Joseph Diamond, PhD and which is being considered by the NYSOPRHP.

Based upon all of the foregoing, the Lead Agency finds that the studies, reports and responses to the NYSOPRHP mitigate the foregoing potential environmental impacts from potentially moderate to large to small under SEQRA. Accordingly, the Lead Agency finds that the Project possess no adverse effects upon the character or the quality of important historical, archeological, architectural or cultural resources. [See also, Paragraphs 2, 4, 6, 9, 10 and 12].

With regard to aesthetic resources and the effect of the proposed Project upon existing community or neighborhood character, the Lead Agency finds that the Project results in no adverse impacts as follows:

a) The existing character of the surrounding neighborhood is commercial with interspersed homes situate on individual lots and the existing Buttermilk Falls Hotel and Resort is located adjacent to the Project area. In addition, the Project is proximate to existing traffic calming devices, major roadways and is bordered in the east by the Hudson River.

The proposed Buttermilk Falls Expansion Project will remain consistent with the existing land use pattern as demonstrated of Record and for the following reasons:

b) Design of the proposed buildings comprising the hotel, restaurant, banquet center and cabins. [See architectural submissions].

c) Green-build materials utilized for all buildings.

d) Existing commercial development along North Road in the form of the existing Buttermilk Falls Hotel and Resort.

e) The employment of Best Management Practices for site disturbances.

f) Development of a Project which has the potential to advance the continuing improvement of the Marlborough/Milton corridor.

g) LWRP Consistency, as detailed within this Negative Declaration.

h) Preservation of natural woods screening to the maximum extent practicable for the hotel, cabins, banquet hall, restaurant and parking.

i) Landscaping as employed pursuant to the Landscaping Plan.

j) The Town of Marlborough Zoning Law has not been amended, overlayed or otherwise affected by lawfully enacted zoning or land use changes which would operate to prohibit the development as planned for the Project.

k) The inclusion of the permitted hotel, banquet hall, cabins and restaurant use of the premises within the R-1 Zoning District and the inclusion of parking which services said uses as a permitted use within the HD Zoning District, are tantamount to a legislative finding that the permitted uses are in harmony with the general zoning plan and will not adversely affect the local community or the character of the neighborhood. [See New York State Court of Appeals case law submitted by the Project Attorney].

l) Visual compatibility of the Project with the existing buildings and the surrounding neighborhood within the vicinity of the Project site. [See architectural documents].

m) The consistency of the location of buildings set back from Buttermilk Falls buildings and appurtenances which pre-exist the Project; especially the current iteration of the Buttermilk Falls Hotel and Resort.

n) Historical design characteristics as detailed by the Project architect.

With respect to visual impacts posed by the Project, the Applicant has completed Visual Simulations, via their Consulting Architects. The simulations examine the proposed expansion of structures during all four seasons and including from a Hudson River vantage point.

All of the architectural depictions above were performed consistently with the areas which were suggested to the Applicants by the Ulster County Planning Board at a December 18, 2023 Gateway Meeting. The Lead Agency is satisfied that the foregoing viewpoints are acceptable to provide for an accurate depiction of the facility from prominent viewing areas proximate

to the Project site and along the Hudson River upon full build out.

As to methodology employed in preparation of the visuals, a three dimensional view of the building and the site, which utilized the existing topography, building elevations and floor plans as baseline indicators was utilized. Photographs were taken from viewpoints and renderings of the site were developed therefrom.

With respect to the Project's proposed buildings and related appurtenances, the Lead Agency has received Plans, Elevations, documentation and testimony from the Applicant's Consulting Architect, which demonstrates that the buildings are consistent with the historical nature and architectural expression of the surrounding neighborhood for the following reasons:

- a) The expressed desire by members of the Lead Agency that the buildings remain true to the historic context of the site to the maximum extent practicable.
- b) The proposed buildings have been developed based upon historical references as to building architecture, existing Buttermilk Falls Hotel and Resort improvements and the resultant form.
- c) Archival documentation was utilized by the Applicant's Architectural Consultants in order to develop the buildings and structures plans.
- d) The proposed buildings will utilize materials which are historically compatible with the existing character of the neighborhood.
- e) Building massing has been broken up to evoke a sense of nature and spa space.
- f) The massing of the Project buildings and structures is varied in order to further evoke the historical multiple additions to the Buttermilk Falls site over the years.
- g) The use of helical piles for construction of the cabins so that tree removal is reduced.

For the reasons stated at length herein, the Lead Agency finds that the hotel, restaurant, banquet hall, cabins and the

North Road parking area will not be variance with the character or quality of important aesthetic resources or of existing community or neighborhood character from a visual perspective.

Addressing lighting, the Applicant has submitted a full Lighting Plan as developed by it's Consulting Engineers Medenbach & Eggers, P.C.

Planned outdoor lighting levels are consistent with those commonly observed in commercial parking lots as well as at active building exteriors. Outdoor lighting for the Project is designed so as not to exceed an average of one and one half (1.5) footcandles. This level is equal to the Illuminating Engineering Society of North America [IESNA] recommended level for active building exteriors. Parking lot lighting will also follow IESNA recommended levels as to design average.

All lighting will be glare shielded as necessary to avoid light trespass in neighboring properties and adjoining roadways. A uniformity ratio [average to minimum] will be maintained over parking and access drives to avoid a pattern of bright light and shadow that can possibly disrupt vision.

Luminar mounting heights will be below building height to avoiding additional visual impacts and all lighting will have built in reflectors and refractors. Based upon the foregoing, there will be no adverse effects as a result of lighting. [See Details, Photometric Plan and Cut Sheets].

All of the planned buildings will all be less than thirty-five (35') feet in height, as permitted within the R-1 Zoning District. Based upon the surrounding architecture in the vicinity of the Project site, the existing topographic conditions and the mitigation measures employed relating to lighting, building siting, setbacks from the Hudson River, distance from other properties and the results of the Visual Analysis, the Lead Agency finds that the height and locations of the buildings will not result in an adverse aesthetic impact.

In address of the June 5, 2024 Ulster County Planning Board [UCPB] Recommendations, the Lead Agency renders the following findings:

a) Lighting: Lighting level calculations have been provided for in accordance with Illuminating Engineering standards outdoor site recommended illuminance levels.

In addition, all luminaries are LED fully shielded and downward directed to be "Dark Sky" compliant.

The Lead Agency notes that the UCPB "recommends" bollard lighting along internal pathways. However, the exact nature of internal lighting will be more refined during site plan review. Therefore, the Lead Agency does not need to formally override the UCPB as to internal lighting, but reserves it's right, as the Lead Agency, to make a final determination as to internal lighting style during further site plan review sessions.

As to UCPB landscaping Required Modifications, the Lead Agency notes that the SWPPP provided for marking limits of disturbance in the field until built out of the cabins. Accordingly, the Lead Agency concurs with the UCPB and this will occur at the Project site.

With further respect to additional North Road parking, the Lead Agency has considered the application plans, the current condition of the planned off site parking and the valet service associated therewith.

In consideration of the foregoing and related mitigation measures, the Lead Agency finds no substantial adverse impacts upon North Road as a result of the Project based upon the following listing of related issues addressed within this Negative Declaration:

- a) Valet parking will assist with traffic at the Project site.
- b) Portions of Buttermilk Falls Resort and Hotel will remain open and not utilized for parking.
- c) The North Road parking area is privately owned by the Applicant within areas comprising the parking area and surrounding environs.
- d) Provisions made for balancing cut and fill by licensed engineers will be assisted.
- e) Lack of empirical data and/or studies which would provide countervailing authority to that which has been submitted of Record by the Applicant.

f) The lack of reasonable public parking alternatives for the Project which are within the aegis of control of the Applicant.

In addition, for the reasons addressed at length, within this Negative Declaration, the Lead Agency finds that the location of the hotel, restaurant, banquet hall, cabins and parking areas will not result in any substantially adverse aesthetic, historical or architectural impacts to the neighborhood at large and community character. [See also, Paragraph 9].

In address of site plan and special use permit standards and criteria set forth within the Town of Marlborough Zoning Law, the Lead Agency finds that pursuant to all of the foregoing analysis, the following criteria have been demonstrated by the Project.

I) Site Plan:

- i) Consistency within contiguous lands and adjacent neighborhoods.
- ii) Minimization of material adverse effects upon the desirability of adjacent neighborhoods.
- iii) Consistency with the Comprehensive Plan for the Town of Marlborough.
- iv) Awareness of and sensitivity to the views, terrain, soils, plant life and other unique qualities of the Project site to the extent practicable.
- v) Transitions between buildings of different architectural styles and uses.
- vi) New individual buildings relate, where practical and feasible, to the lot placement, scale, height and other elements.
- vii) Screening to the maximum extent practicable.
- viii) Possibility of future solar access at the Restrictive Covenant Area.
- ix) Access has given due consideration to traffic flow, safety, cross-access, vehicular, reparations, pedestrian movements and emergency vehicles.
- x) On site circulation provides for vehicles, pedestrians and bicycle safety.
- xi) Landscaped areas have been provided for.
- xii) Handicapped areas will function in accordance with the Building Code of New York State and other laws.

- xiii) Drainage provides for proper surface water discharges.
- xiv) Existing watercourses have been protected from erosion and sedimentation.
- xv) Proper water supply and sewer disposal.
- xvi) Fire protection is adequate.
- xvii) Lighting minimizes glare avoids creating traffic hazards and conforms to neighborhood lighting patterns.
- xviii) Sign will comply with the Zoning Law.
- xix) Noise has been mitigated to the extent practicable so that sound will not interfere with the use of adjacent property.
- xx) Landscaping will be provided for with the use of native plants and rock materials with preservation of wetland areas to provide for boundaries and transitions which preserve open space.

II) Special Use Permit:

- i) Traffic access is providing for safety.
- ii) Parking areas are adequate for safety.
- iii) Parking and service areas are regionally screened.
- iv) Character and appearance of buildings is consistent with the surrounding neighborhood.
- v) Historic and natural features have been protected.
- vi) Level of service is commensurate with the needs of the proposed uses.
- vii) Fire, police and emergency access is adequate.
- viii) Traffic will not be hazardous, inconvenient or incongruous with the R-1 District.
- ix) Best Management Practices will be used to protect streams, steep slopes, wetlands, floodplains and other areas.

In rendering the consistency findings for site plan and special use permit review, the Lead Agency emphasizes that the foregoing areas of consistency will be further refined following the conclusion of SEQRA and as part of continuing administrative review.

The Lead Agency will continue to forward it's review in light of the site plan and special use permit criteria/standards during all further review procedures under the Town of Marlborough Zoning Law and in conjunction with other permitting agencies, as well as the public going forward.

Accordingly, the listings provided for above are offered herein with respect to SEQRA compliance and the Lead Agency reserves its rights to supplement the Record, including the imposition of reasonable conditions on any Final Approvals which may be granted at a later date.

Based upon all of the foregoing, the Lead Agency finds that the Project will not impair the character or quality of important historical, archeological or aesthetic resources, or the existing community and neighborhood character.

11. A MAJOR CHANGE IN THE USE OF EITHER THE QUANTITY OR TYPE OF ENERGY:

The Project will utilize electricity during the construction phase for infrastructure, parking and building improvements. Following construction, the Project will require customary and normal energy sources in quantities and types which will not result in major energy changes, To Wit; electricity, natural gas, propane and oil. [See the New York State Building Code and the New York State Fire Code and the New York State Evergreen Conservation Code; [Sections 373 of the Executive Law of the State of New York and 9 NYCRR Part 7800 et seq. respectively.]

The Lead Agency has also considered whether the Project would be a "LEED" certified development. While the Applicants have stated that they may elect to proceed with certain portions of construction in this manner, there will be no requirement placed upon the Applicants to comport with pre-designated green-build standards. The Lead Agency finds that this position is the prerogative of the Applicant in the instant case.

However, the Lead Agency does reference the following stated green initiatives which are reflected in the Record to date for the Project:

a) Use of lands which are proximate to a previously developed site which aids in limiting sprawl and utilizes existing municipal infrastructure.

b) The Project supports alternative transportation through the following: use of valet parking, on site bicycle storage, future potential for banked parking and limiting new parking to the minimum required by zoning regulations.

c) Reduction on heat island effect from the site through the use of shading trees in parking areas and light colored walking areas.

d) Water use reduction through the use of low flush and automatic controls on plumbing fixtures.

e) Indoor air quality shall be maintained through well designed mechanical systems with air exchanges, use of low VOC materials in finishes and wood products.

f) Natural daylight and views are to be provided to most normally occupied spaces to aid in the reduction of the use of electrical lighting.

g) Compliance with New York State Energy Star requirements.

h) Compliance with the recently amended New York State Building and Fire Prevention Code.

The Record reflects that the Project is capable of utilizing electricity from conventional and ordinary power sources, as the vast majority of Applicants customarily utilize for Projects within the Town of Marlborough.

There will not be a major change in either the quantity or type of energy as a result of the Project.

12. THE CREATION OF A HAZARD TO HUMAN HEALTH.

The Lead Agency finds that the proposed Project will not create a hazard to human health as no generation or disposal of toxic or hazardous substances or noxious fumes will be occurring as a result of the Project. No adverse changes in this area are proposed which would deviate from those which are lawfully a part of permitted development and occupancy.

With regard to development activities and occupancy which will be conducted at the site, petroleum products storage and use will be governed by applicable provisions of the New York State Navigation Law [Section 175], the New York State Environmental Conservation Law [Section 17-1743] and the New York State Transportation Law [Section 14-f], as well as the Clean Water Act [33 CFR Sections 1200 et seq].

Chemical products storage will be governed by the Resource Conservation and Recovery Act (RCRA) [40 CFR Section 261-270] and the Occupational Safety and Health Administration (OSHA) [29 CFR Sections 1910.1000-1910.1500] and New York State Regulatory Authority at 6 NYCRR Parts 370 et seq., The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) [7 USC Sections 136-136y] and 6 NYCRR Part 325 et seq.].

With respect to Erosion and Sediment Control, Best Management Practices will be followed, as detailed previously herein and as accentuated as follows:

- a) Clearing and grubbing, including soil stockpiling.
- b) Stabilization of disturbed areas with grass and mulch.
- c) Cleanup and sediment removal.
- d) Fiber roll logs utilization and-or silt fencing installation.
- e) Temporary drainage swales shall be constructed.
- f) Employment of stone check dams will be utilized.
- g) Utilization of erosion control blankets.
- h) Regular inspection of erosion control facilities.
- i) Removal of waste materials in covered containers or dumpsters.
- j) Sweeping of the streets surrounding the Project so that sediment, as caused by vehicular tracking, can be removed.
- k) The employment of good housekeeping practices for the use, storage and disposal of construction related materials.

In order to provide for additional fire and emergency personnel access in coordination with the Fire Department, the Applicant has further provided for the following:

- a) Installation of two fire hydrants.
- b) Expansion of the curbing and the round-about in the center of the Project site.

c) A sprinkler system will be installed for fire protection from the municipal water system.

Based upon the site development plans, the response to the Fire Department comments, the interested agencies participation in coordinated review and the address had herein, the Lead Agency finds that further coordination with the Fire Department and/or other emergency personnel is not required and that the Project does not pose any hazard to human health.

13. A SUBSTANTIAL CHANGE IN THE USE, OR INTENSITY OF USE, OF LAND INCLUDING AGRICULTURAL, OPEN SPACE OR RECREATIONAL RESOURCES, OR IN ITS CAPACITY TO SUPPORT EXISTING USES:

The proposed Project will not adversely affect any agricultural resources, agricultural district or open space recreational resources.

The Project site itself is an active agricultural area and is not designated with any agricultural district classification. Nor is the Project site situate within 500 feet of any other non-related Farming Operation as regulated pursuant to Section 283-a of the New York State Town Law.

The Project site will continue to employ the use of llamas, alpacas, donkeys and other animals for enjoyment by guests.

Further, the Project site is privately owned and is not legislatively classified, utilized or offered for any open space or public recreational resources.

The Lead Agency additionally finds that Town of Marlborough municipal services [water and sewer] will adequately service the proposed Project and that the plans, documentations and analysis provided to the Lead Agency demonstrates that the Project's water and sewer usage will pose no substantial impact to the lands capacity to support the Project or other existing uses.

Based upon the foregoing address, the Lead Agency finds that water and sewer capacity, supply and methodology for use are sufficient, from both municipal and private supply standpoints, to serve the Buttermilk Falls Hotel and Resort Expansion Project at full build out and occupancy. [See also, detailed examination of these areas of environmental concern within Paragraph 6 herein]. [See also, the Water Design Report and the Wastewater Design Report prepared by Barry Medenbach, PE].

The Lead Agency further finds that there will be no substantial change in the use of the land, or the lands capacity to support existing uses thereon, from the currently proposed uses which are properly zoned, lawfully permitted and presently undergoing continuing Site Development Plan, Special Use Permit and Lot Line Revision reviews as required at law. [See also, Paragraphs 2, 3, 6, 7, 9 and 10]

Based upon all of the foregoing, the Lead Agency finds that the development of the site will not adversely affect the areas of environmental concern as set forth at the heading of this paragraph. [See also, Paragraphs 9 and 10]

14. ENCOURAGING OR ATTRACTING A LARGE NUMBER OF PEOPLE TO A PLACE OR PLACES FOR MORE THAN A FEW DAYS, COMPARED TO THE NUMBER OF PEOPLE WHO WOULD COME TO SUCH PLACE ABSENT THE ACTION:

The Lead Agency finds that the building and ultimate occupancy of the hotel, conference center and catering hall, together with all parking, lighting, stormwater and other infrastructure improvements, will not attract large numbers of people to the site.

This Project is planned to be a single (1) phase development and it is conceivable that construction will continue for more than one (1) year.

However, in further mitigating this potential moderate to large impact to a small impact, the Applicants have presented the information and documentation referenced herein to show that the construction activities will be intermittent and of reasonable duration over limited portions of the 62 acre site, with construction personnel inspectors, visitors and invitees being of a number which is normal and customary for the planned infrastructure improvements and associated development thereon. [See Paragraphs 1, 2, 3, 4, 5, 6, 7, 9 and 10]

Upon completion, the Project site will not be adversely impacting a major collector street and the site will not be utilized for a mass gathering such as contemplated by the above paragraph heading.

Based upon the foregoing, modest numbers of persons will be assimilated over the Project site and surrounding area over time

and large numbers of people will not be attracted to the site or area for more than a few days as a result of the action.

15. THE CREATION OF A MATERIAL DEMAND FOR OTHER ACTIONS THAT WOULD RESULT IN ONE OF THE ABOVE CONSEQUENCES:

The construction of the proposed hotel, restaurant, cabins, banquet hall and related infrastructure on the Project site will not create any material demand for other actions which would result in one of the previously discussed consequences.

The site characteristics, planning and engineering methodology, density of the Project and mitigation measures detailed herein, render the site capable of accommodating the Project without adverse environmental effect.

In this regard, the Lead Agency finds that the proposed action will create employment. However, the employment will not displace other workers. Therefore, this potential moderate to large impact has been mitigated and reduced to a small impact. [See also, Paragraphs 1, 4, 5, 9 and 14]

The Lead Agency further finds that, the proposed action will not create additional demand for community services (schools, police and fire) and any exercise of the Town of Marlborough resources in these areas will be de minimis, as adequate numbers of police, fire and emergency personnel and modern response vehicles and apparatus presently exist to accommodate the Project in the Town of Marlborough, surrounding towns and with assistance of the state and local police.

Further, modern internal roadway construction servicing the Project site, together with grade, driveway, turnaround radius and emergency measures, which do not require the purchase or employment of additional emergency apparatus or personnel, will result from the Project. [See Paragraphs 3 and 9]

The Lead Agency further finds that town-wide cumulative impact analysis is not required, based upon this Negative Declaration's entire environmental analysis and for the following additional related reasons:

- i) The proposed Project does not have significant common impacts with other proximate Projects in the Town of Marlborough.

ii) The proposed Project is not included in a common plan or policy of other Projects in the Town of Marlborough.

iii) Other related Projects in the Town of Marlborough have not been specifically identified and consequently cannot be related to the proposed Project. [See Paragraphs 1 thru 14, the Public Hearing Transcript and the entire Administrative Record]

Based upon all of the foregoing, this action will not create any material demand for other actions which would result in one of the previously discussed consequences.

16. CHANGES IN TWO OR MORE ELEMENTS OF THE ENVIRONMENT, NO ONE OF WHICH HAS A SIGNIFICANT IMPACT ON THE ENVIRONMENT, BUT WHEN CONSIDERED TOGETHER RESULT IN A SUBSTANTIAL ADVERSE IMPACT ON THE ENVIRONMENT:

Based upon the information contained in this Negative Declaration of Environmental Significance and the record before the Lead Agency there will be no changes in two or more elements of the environment which, when considered together, would result in a substantial adverse impact on the environment. Therefore, cumulative impact analysis is not applicable to this action. [See Paragraphs 1 thru 17 herein]

17. TWO OR MORE RELATED ACTIONS UNDERTAKEN, FUNDED OR APPROVED BY AN AGENCY, NONE OF WHICH HAS OR WOULD HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT, BUT WHEN CONSIDERED CUMULATIVELY WOULD MEET ONE OR MORE OF THE CRITERIA OF PART 617.7(c):

None of the probable impacts on the environment that are associated with, or which result from incremental or increased impacts of this action, when such impacts are added to other related past, present or reasonably foreseeable future actions, will be significant.

The Lead Agency has reviewed and analyzed the proposed Buttermilk Falls Hotel and Resort Expansion Project, development plans, the Environmental Assessment Form and all related addenda, all submittals by the public, citizens groups, consultants, involved agencies, interested agencies, as well as the entire Administrative Record, in light of the physical changes to the environment that will take place simultaneously or sequentially and has determined that their combined and/or synergistic effects will not be significant.

In regard to any subsequent actions that may possibly arise as the result of the proposed Project, the Lead Agency has addressed all identified and relevant long-term impacts, short-term impacts and effects of the proposed activities and actions, as well as any related actions, and the Applicants have no identifiable long-range or overall plans for any subsequent development, changes in use or other activities relating to the proposed Project.

As to any potential future development of the site, or subsequent actions involving the site beyond those analyzed herein, there is currently no information available at this time as to whether any such actions will in fact occur.

The Lead Agency notes that there has been some limited public controversy both for and against the proposed Project. However, the Lead Agency finds that this type of public controversy is ordinary and customary in the Town of Marlborough and this determination has not been influenced one way or the other as a result thereof.

Approval of the action contemplated by the current Project now before the Lead Agency does not commit the Lead Agency to any particular course of action with respect to future development of the site beyond what is analyzed herein. Any future physical expansion of the Buttermilk Falls Hotel and Resort and associated development beyond that which is approved will require independent and separate environmental review pursuant to SEQRA; unless the same shall be lawfully determined to be designated as a Type II Action or an Exempt Action in accordance with 6 NYCRR Part 617 et seq.

Due to the continuing environmental and other administrative review requirements of any subsequent development activities in the area of the Project site and in the Town of Marlborough on a case by case exercise of discretion by reviewing agencies and officials, it is not necessary nor reasonable to require at this time a hypothetical "worst case" analysis of all speculative environmental effects or potential environmentally threatening uses which possibly could be anticipated at some time in the future.

The Lead Agency is satisfied that any possible environmental effects of any future development within the Town of Marlborough, or any lawful change in use of the Project site, can be adequately addressed through subsequent discretionary administrative and environmental review.

In making its determination, the Lead Agency has not balanced any potential benefits of the proposed action against potential harm.

18. PROJECT REVIEWS/MEETINGS:

The Buttermilk Falls Hotel and Resort Expansion Project has spanned an administrative review period of fifteen (15) months [7/10/23 through 10/____/24]. During this time, the Lead Agency has comprehensively analyzed the SEQRA criteria set forth within 6 NYCRR Part 617.7 in light of the following submittals of record:

- a.) All Project submittals and Lead Agency meeting dates by the Applicant and the Applicants Consulting Professionals, as detailed within this Negative Declaration.
- b.) MHE Reviews dated:
 - i) November 15, 2023.
 - ii) May 3, 2024.
 - iii) August 2, 2024.
- c.) Lead Agency Meeting Dates
 - i) July 10, 2023 Pre-Application.
 - ii) November 20, 2023.
 - iii) December 18, 2023.
 - iv) February 6, 2024.
 - v) May 6, 2024.
 - vi) July 15, 2024.
 - vii) August 5, 2024.
 - viii) September 9, 2024.
 - ix) October ___, 2024.
- d.) Reports Submitted
 - i) SWPPP, dated June 28, 2024.
 - ii) Design Report Water Usage, June 10, 2024.
 - iii) Design Report Wastewater, March 14, 2024.
 - iv) Design Report Access Culvert, June 10, 2024.
 - v) Endangered/Threatened Species Report, July 31, 2023.
 - vi) Traffic Impact Study/Supplement, June 27, 2023, September 27, 2023 and February 23, 2024.
 - vii) Phase 1 a/b Archeological Study, January, 2024.
 - viii) Phase 2 and Avoidance Plan Study, April, 2024.
 - ix) Private Right-of-Way and Maintenance Agreement, July 31, 2024.
 - x) Offer of Cession Agreement, July 31, 2024.

- xi) Restrictive Covenant Agreement, July 31, 2024.
- e.) Agency Response Letters
 - i) NYSOPRHP, March 15, 2024.
 - ii) NYSDEC, June 20, 2024.
- f.) Gateway Meeting/Ulster County Planning Board, December 18, 2023.

The Lead Agency is satisfied that the environmental review of the Buttermilk Falls Hotel and Resort Expansion has been comprehensive and complete in its address of the criteria set forth within the SEQRA Regulations [6 NYCRR Part 617.7].

19. CONCLUSION:

Based on the information currently available to the Lead Agency and the above analysis and upon evaluation of all the relevant and probable environmental impacts related to the activities and actions herein proposed, the Town of Marlborough Planning Board, as Lead Agency, hereby determines that there will be no significant adverse environmental impacts associated with this Project and no Environmental Impact Statement [EIS] will be required for the action.

Therefore, this Determination of Non-Significance and Negative Declaration under SEQRA is hereby approved, adopted, and issued by the Lead Agency. [See also, Lead Agency Resolution annexed hereto and made a part hereof as Exhibit "C"].

CONTACT PERSON FOR
FURTHER INFORMATION

Mr. Chris Brand
Chairman, Town of
Marlborough Planning Board
Town Hall
21 Milton Turnpike
Milton, New York 12547

FILINGS:

Pursuant to 6 NYCRR Part 617.12(b) a copy of this Negative Declaration is being filed with:

1. Town of Marlborough Planning Board.
Town Hall
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
2. Ulster County Health Department.
239 Golden Hill Lane
Kingston, New York 12401
3. New York State Department of Environmental Conservation.
21 South Putt Corners Road
New Paltz, New York 12561
4. Town of Marlborough Highway Department.
1650 Route 9W
Milton, New York 12547
5. Town of Marlborough Town Board.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
6. Ulster County Industrial Development Agency.
PO Box 4265
Kingston, New York 12402
7. Town of Marlborough Building Inspector.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
8. New York State Department of State, Division of Coastal Resources.
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231
9. Town of Marlborough Environmental Conservation Commission.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547

10. New York State Office of Parks, Recreation, and Historic Preservation.
625 Broadway
Albany, New York 12207
11. Ulster County Planning Board.
Post Office Box 1800
Kingston, New York 12477
12. United States Department of Army Corps of Engineers New York District.
Western Permits Section
Mr. Brian Orzel
26 Federal Plaza
New York, New York 10278
13. Town of Marlborough Fire Department.
14 Grand Street
PO Box 223
Marlboro, New York 12542
14. Town of Marlborough Police Department.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
15. Town of Marlborough Public Works Department.
1650 Route 9W
PO Box 305
Milton, New York 12547
16. Hudson River Valley Greenway.
625 Broadway, 4th Floor
Albany, New York 12233
17. Scenic Hudson, Inc.
85 Civic Center Plaza, Suite 300
Poughkeepsie, New York 12601
18. United States Department of Interior Fish and Wildlife Service.
3817 Luker Road
Cortland, New York 13045

19. Ulster County Department of Public Works.
315 Shamrock Lane
Kingston, New York 12477
20. Marlborough Consolidated School District.
21 Milton Turnpike, Suite 100
Milton, New York 12547
21. Ulster County Legislature.
244 Fair Street
Kingston, New York 12401
22. Town of Marlborough Zoning Board of Appeals.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
23. 220 North Road Realty LLC.
220 North Road
Milton, New York 12547
24. Robert Pollock.
220 North Road
Milton, New York 12547
25. 99 South Elliot Place LLC.
220 North Road
Milton, New York 12547
26. Chernobyl Power & Light LLC.
220 North Road
Milton, New York 12547
27. 20 Van Orden LLC.
220 North Road
Milton, New York 12547
28. Town of Marlborough Waterfront Advisory Board.
21 Milton Turnpike, Suite 200
PO Box 305
Milton, New York 12547
29. Town of Marlborough School Board.
21 Milton Turnpike, Suite 100
PO Box 305
Milton, New York 12547

30. Town of Lloyd Town Board
Town Hall, Thomas Shay Square
12 Church Street
Highland, New York 12528

31. Abulnz Emergency Services
39 West 38th Street, 6th Floor
New York, New York 10001

Pursuant to 6 NYCRR Part 617.12(c)(1) notice of this Type 1 Action Negative Declaration and Determination of Environmental Non-Significance is being published in the Environmental Notice Bulletin [ENB].

Dated: October ___, 2024

CHRIS BRAND, Chairman
Town of Marlborough Planning Board

CERTIFICATION

The undersigned hereby certifies that the annexed SEQRA Resolution and Negative Declaration with Notice of Determination of Non-Significance, Being in the Matter of The Application for the Buttermilk Falls Hotel and Resort Expansion Project and dated the _____ day of _____, 2024 has been duly filed this day in the Office of the Town of Marlborough Town Clerk located at the Town of Marlborough Town Hall, 21 Milton Turnpike, Milton, New York 12547.

DATED: _____

COLLEEN CORCORAN, Town of
Marlborough Town Clerk