

THE FAIRGROUNDS

Site Plan / Subdivision / Special Use Application

FINAL ENVIRONMENTAL IMPACT STATEMENT

NYS Route 94 (New Milford Road)
TOWN OF WARWICK, ORANGE COUNTY, NEW YORK
Tax Map Number:
Section 51, Block 1, Lot 40

Project Sponsor: FAIRGROUNDS, LLC.
c/o Goddard Development Partners, LLC.
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Lead Agency: WARWICK PLANNING BOARD
Town Hall
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Contact: Benjamin Astorino, Chairman
(845) 986-1127

Environmental Planner: TIM MILLER ASSOCIATES, INC.
10 North Street, Cold Spring, NY 10516
Contact: Frederick Wells, Sr. Planner
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Project Engineer: LEHMAN & GETZ, PC
17 River Street, Warwick, NY 10990
Contact: David A. Getz, PE
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Lead Agency Acceptance Date: September 20, 2006

September 12, 2006

Previously submitted May 15, 2006, April 28, 2005

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THE FAIRGROUNDS
Final Environmental Impact Statement

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1.0 SUMMARY

This document is a Final Environmental Impact Statement ("FEIS") prepared in accordance with the New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations, 6 NYCRR Part 617. The FEIS consists of this volume and the Draft Environmental Impact Statement ("DEIS"), which is hereby incorporated by reference into this FEIS.

The SEQRA documents have been prepared in support of the application of Fairgrounds, LLC, (the "Applicant") to develop commercial/retail uses on approximately 17.4 acres of a 47.5-acre site on NYS Route 94 (New Milford Road) east of Sanfordville Road in the Town of Warwick, Orange County, New York. The property is zoned for this purpose. The proposed development comprises approximately 56,430 square feet (SF) for a supermarket, approximately 22,720 SF for an automobile dealership, and approximately 3,600 SF for a bank or other service-oriented commercial/retail use (referred to herein as the "pad building"). The project will utilize on-site water supply and sewage disposal systems. Figure 1-1 at the end of this section depicts the proposed project layout. The lead agency for this action is the Town of Warwick Planning Board.

The Applicant is requesting preliminary site plan, subdivision, and special use permit approval based on the findings of the lead agency that result from the SEQRA process. Subsequent to preliminary approval, a fully detailed set of site development drawings will be provided to the permitting agencies for review. For final approval, all conditions of the preliminary approval must be satisfied. Other approvals that are necessary for the development of this plan are identified in the DEIS Project Description.

The applicant prepared the DEIS for this action based on a written DEIS Scope accepted by the lead agency on September 1, 1999. The lead agency reviewed the DEIS for adequacy with respect to its scope and content for the purpose of public review, accepted the document on January 19, 2005, and issued a Notice of Completion and Notice of Public Hearing on that same date. The lead agency held a public hearing on the DEIS, on February 16, 2005. The lead agency received written comments during the public comment period, which extended for an additional twelve (12) days following the close of the public hearing. A transcript of the public hearing is included in FEIS Appendix B. Complete copies of all written comments received by the lead agency are included in FEIS Appendix C.

Public and agency comments received by the lead agency on the DEIS, together with responses to all substantive comments relevant to the DEIS, are provided in this FEIS in comment/response format and grouped by subject matter. In some cases, an author's comment may be summarized or paraphrased to clarify its context, and some responses for comments that have been previously addressed in this document refer to the prior response. In Appendices B and C, a reference to the location of the response that addresses each substantive and relevant comment is provided in the right hand margin of the page.

The preliminary site plan drawings that accompany the DEIS have changed and revised plans are included as part of this document. The current proposed plan encompasses total impervious area of 7.75 acres and total disturbed area of 16.4 acres.

This FEIS document includes additional information in the form of an Aquifer Impact Assessment (Appendix D) and a Stormwater Pollution Prevention Plan in Appendix E. Water

quantity and water quality calculations for the revised site plan are provided in FEIS Appendices F and G.

This FEIS and its attachments have been prepared with the assistance of the project consultants listed behind the cover page.

The Project Site Habitat

This FEIS addresses concerns raised in the US Fish & Wildlife Service letter addressed to Mr. Benjamin Astorino, Chairman, Town of Warwick Planning Board, dated July 7, 2005, about the protection of bog turtles in the context of its bog turtle *Recovery Plan* and about overall biodiversity.

Immediately upon receipt of that US Fish & Wildlife Service (USFWS) letter, the project sponsor retained the services of Dr. Michael Klemens, author of the *Recovery Plan*¹, to help it meet the objectives of the Plan. Site plan changes were made at the suggestion of Dr. Klemens. Project activities were assessed in relation to maintaining local wetland hydrology, runoff water quality and habitat quality consistent with those pre-development conditions that are supportive of currently occupied bog turtle habitat within the greater Wawayanda Creek watershed. That assessment included an on-site visit by Robyn Niver of USFWS on October 18, 2005, and that agency's preliminary review of the proposed mitigation measures. After extensive further consultations with scientists, engineers, and regulators, the project plans were revised to include a comprehensive array of enhancements for the protection of wildlife, wildlife habitats, and water quality affecting those habitats.

The applicant believes these changes offer sufficient basis upon which the Town Planning Board and all other approving agencies can determine that the project will avoid or minimize any possible impacts to the bog turtle meta-population within the Wawayanda River drainage system.

The following summary provides an overview of the current condition of the site and the studies that have been conducted to date with respect to bog turtles as well as a description of the measures that have been incorporated into the site plan design to mitigate the project's effect on potential and actual habitat off-site.

Bog Turtle Surveys

1. Bog turtle surveys were conducted on the project site over a six year period (including three April-May-June trapping surveys during 3 years) by ERS Consultants Inc. (under direction of biologist David Griggs) and documented in a *Bog Turtle Assessment* dated March 2005 (FEIS Appendix H).

2. The multiple surveys concluded that no bog turtles are present on site. The on-site wetlands do contain marginal bog turtle habitat, however, these wetlands are dominated by invasive plant species. This conclusion, reached by David Griggs, was informally confirmed by Dr. Michael Klemens, and Karen Schneller-Macdonald of Hickory Creek Consulting for GreenPlan, Inc. (on behalf of the Town of Warwick) during separate visits to the site. The small ACOE wetlands on

¹ Bog Turtle (*Clemmys muhlenbergii*) Northern Population Recovery Plan. Michael Klemens, Ph.D. for US Fish and Wildlife Service, Region 5, Hadley, Massachusetts. 103 pp. 2001.

the eastern side of the project have been confirmed by the same experts as low value wetland habitats and are not vernal pools.

3. The closest known bog turtle colony is off-site in a different location, over 1,000 feet northwest of any proposed site disturbance.

Project Enhancements

4. Project modifications and design commitments have been made which treat the adjacent wetlands as "occupied" by bog turtles, as recommended by Dr. Klemens and confirmed by USFWS in its July 7, 2005, letter to the Town Planning Board. They are:

i. Modify the project to provide a 100' no disturbance buffer around the entire perimeter of the area to be developed. This means there will be no development within 100' from the ACOE wetland boundary to the west and the NYSDEC wetland boundary to the east. Temporary disturbance within the absolute 100' buffer is limited to the southwest corner of the site (ACOE wetland) for removal of the existing paved driveway and restoration with buffer wetland vegetation and installation of a subsurface drain pipe from a stormwater basin. There will be no permanent disturbance within this buffer.

ii. Reduce parking area pavement. Proposed pavement surface in Lot 1 is reduced some 15% from 195,000 square feet, as shown on the previous site plan, to 166,300 square feet. Proposed impervious pavement in Lot 1 is further reduced by an additional 1.35 acres (approximately 58,600 square feet) and replaced with a pervious gravel surface in the vehicle storage area. Proposed impervious pavement in Lot 2 is further reduced by an additional 4,374 square feet and replaced with a lawn surface as "banked" parking on the west side of the parking area.

iii. Create a wildlife underpass for amphibians, including blue-spotted salamanders and box turtles, between the wooded upland knoll and the western wetland through an underpass between the dealership's vehicle storage areas at the rear of the property. An open steel grate design is proposed to provide light spillage into the underpass thereby facilitating wildlife movement.

iv. Restore an area within 100' of the wetland in the southwest corner of the site that is currently impervious pavement and land in agricultural use. This area will be restored as a vegetated buffer and planted with appropriate herbaceous and woody vegetation, thus removing a significant, unregulated agricultural use at the project's closest approach to the most sensitive potential wetland habitat on the site. Additional plantings of native plant species are proposed along the length of the wetland buffer on the western side of the project to improve water quality, reduce soil erosion and provide wildlife habitat.

v. Double-sided high curbs are proposed around the perimeter of pavement areas to exclude any small animals from entering the paved portions of the site and to funnel them through the wildlife underpass.

vi. Stormwater management practices have been redesigned for the revised plan to improve stormwater treatment. The proposed system will provide greater reductions in peak flow than would have been achieved under the original site plan, and will match the existing surface runoff volume for the 1-year storm. The current plan includes the following designs, all of which will be located outside the wetland buffer:

- Dry vegetated swales, an organic filter system, and a bioretention basin will serve as filtration devices proposed to treat the stormwater collected on the site. These devices will have underdrain pipes with valved outlets that will be closed under normal conditions, causing all of the treated and filtered water to percolate into the soil. The valves can be opened for maintenance or to sample the discharge.²
- An infiltration swale is added to receive treated discharge from the pocket pond in the southeast corner of the site, with a design based on soil percolation rates measured in the field.
- A bioretention system using filter soil media to filter runoff will serve an area at the project entrance.
- The size of the organic filter system, including provisions for pretreatment and a dry detention basin designed with filter media, located in the northwest corner behind the car storage area has been increased. The system will be able to store and treat all anticipated runoff from a 1-year storm (and all more frequent rainfalls) from that part of the site without discharging.
- Dry swales will be located from peripheral pavement areas along the western side and northeast corner of the project to treat stormwater before release to the wetland buffers.
- The stormwater analysis was revised to more accurately account for the existing conditions of row crops on the west side of the site.
- Snow stockpile areas have been identified on the plan in areas where meltwater will be received by the treatment measures.

vii. The sewage treatment plant has been relocated so it will discharge (after receiving tertiary treatment) through a vegetated swale to a point outside of the eastern wetland buffer, which is removed from known off-site bog turtle habitat. Discharge is approximately 5,000 gallons per day (gpd) -- 3.5 gallons per minute on average, comparable to moderate flow from a garden hose.

5. Stormwater management practices in this project are based on NYSDEC standard methods of design for compliance with Clean Water Act Phase II regulations for water quality and quantity.³ The proposed stormwater management systems are designed to treat the entire 1-year storm, accounting for over 90% of average annual runoff volume from the site. The proposed measures will promote the removal of pollutants to the maximum extent practicable prior to discharge at least 100' from the wetlands, thereby allowing further filtration and infiltration through the natural wetland buffers. These added functions of the natural system, however, are not factors in the design calculations for the project. Treated stormwater at the

² Discharge water from the filtration devices will be treated water, thus complying with the Town's aquifer regulations and the NYSDEC Design Manual for accepted filtration methods, which are different than the NYSDEC's designs for infiltration methods which are not allowed in the Town aquifer protection area.

³ All proposed treatment practices are selected from the New York State Stormwater Management Design Manual, 2001, which specifies measures that meet State water quality objectives.

design discharge points will meet or exceed the most stringent standards of the NYSDEC Design Manual and Federal Clean Water standards.

6. Measures to ameliorate any increase in temperature of collected stormwater include the use of detention devices and vegetated swales that store and release water over extended periods of time, and release of treated runoff at least 100' from any wetland. In no instance is there discharge from a developed area without treatment.

7. Discharge from the proposed sewer treatment plant will conform with NYSDEC intermittent stream effluent limits (ISELs), which are based on the assumption that the receiving stream possesses the least favorable physical characteristics with regard to self-purification potential, that no dilution is available, and thus the stream standards should be met in the effluent itself. ISELs represent the highest degree of treatment required by NYSDEC⁴ and will be specified in the discharge permit issued by NYSDEC for this facility to protect surface water quality and therefore the downstream ecological conditions. The further treatment afforded by the vegetated swale as well as the added function of natural filtration and infiltration within the wetland buffer, however, are not factors in the design calculations for the treatment plant.

8. Well testing and stormwater runoff calculations for this site demonstrate that the project will not cause drawdown of the surface water levels in the wetlands.

i. Well pump testing at a rate of 30 gpm (approximately 4 times the need of the project) for 24 hours reached well water level equilibrium after 7.5 hours. Monitoring of 4 wetland points was conducted over a 4 day period, commencing 2 days prior to the pump test. Water level cycles recorded in the wetlands showed no correlation with the pumping of the well (although they did reflect local rain events and effects of evapotranspiration).⁵ Further comparison of the actual water levels in the 2 wells and 4 wetland points shows the bedrock aquifer water level differs in elevation from the surface water level by as much as 14 feet.⁶ If a direct connection existed, the water levels at all points would be similar, however, the difference indicates that there is limited, if any, connection between the bedrock aquifer and the surface water. The "cone of depression" around the well clearly does not effect surface waters.

ii. Stormwater calculations demonstrate that in the 2-year storm event and all smaller, more frequent rainfalls (accounting for over 90% of average annual runoff volume from the site), infiltration of runoff in the post-development condition will meet or exceed pre-development site conditions.

iii. Car washing at the dealership will be contained within the building with a self-contained water recycling system and no discharge to the environment.

9. As discussed above, the applicant retained Dr. Michael Klemens to provide technical assistance in reviewing and revising the project, including site visits, review of the project plans and design recommendations. Dr. Klemens was asked to ensure that the project meets the goals of the bog turtle *Recovery Plan*. In his letter to David Getz, PE, the project engineer,

⁴ NYSDEC Division of Water Technical and Operational Guidance Series (TOGS 1.3.1.B.), June 1989.

⁵ Well Test Report, DEIS Appendix G.

⁶ Memo from S. Smiriglio, Hydrogeologist, to F. Wells/TMA dated November 11, 2005.

dated September 29, 2005, Dr. Klemens outlines the various strategies employed for improving the site plans (refer to letter in FEIS Appendix A). Further design details for implementation of these measures, as mentioned in the letter, will be developed for inclusion in the final project plans to be submitted to the Town for approval.

In the opinion of Dr. Klemens, with the various mitigation and avoidance modifications made to the plan it is consistent with the goals of the *Recovery Plan* and overall biodiversity protection.

Operational Mitigation Measures

Additional project amendments have been incorporated into the project plans in response to concerns raised by USFWS in its review. In the letter to USFWS from Mr. David Griggs of ERS Consultants, Inc, dated February 23, 2006, the applicant proposes to preserve a 100'-wide undisturbed buffer around Wetlands A and D (east and west sides of the site) in which no development or disturbance will be allowed to occur. Various additional management measures are proposed to be implemented during the long-term operation of the project in the following areas. Mr. Griggs' letter is included in FEIS Appendix A.

- Landscape Plan enhancements in wetland buffers
- Snow removal and storage
- Surface water quality monitoring over a nine year period after construction completion
- Plant monitoring of wetland and buffer vegetation over a ten year period after construction completion
- Bog turtle monitoring in the vicinity of the project site over a ten year period after construction completion. Bog turtle monitoring will be conducted in strict accordance with NYSDEC requirements, including the appropriate personnel and methodology.

The applicant believes the many improvements to the project plan eliminate any potential impacts from the project on any potential on-site or off-site bog turtle habitat. As such, the applicant feels the plan exceeds all Federal, State, and local environmental criteria applicable to protection of potential NY State endangered species habitat.

Verification by US Fish & Wildlife Service

As described in its letter to Mr. David Griggs dated April 18, 2006, USFWS has reviewed the various documents relating to this project including the DEIS, revised project plans, stormwater reports, and *Bog Turtle Assessment*, and has offered its comments pursuant to the Endangered Species Act (ESA) regarding bog turtles and Indiana bats. A full copy of this letter is in FEIS Appendix A. The following is a summary of the USFWS review:

- a. While there is potential for the Indiana bat to occur in the proposed project area, most of the proposed site disturbance will occur within open field habitats where impacts to Indiana bats are unlikely.
- b. There is no potential bog turtle habitat in any of the onsite wetlands where direct impacts could occur from project construction.

- c. Construction activities could result in temporary wetland degradation, however, with implementation of proposed best management practices (e.g., stabilizing topsoil stockpiles and directing runoff into water quality basins to trap sediment during construction), the proposed activities are not anticipated to adversely impact bog turtles.
- d. The following additional protective measures are recommended to avoid direct impacts on turtles:
 - 1) A qualified bog turtle monitor should be present during all construction activities in the two wetland pockets (wetlands B and C) to ensure that there are no bog turtles within the work area;
 - 2) A silt fence should be installed to exclude turtles from the work area; and,
 - 3) Any turtles found in the work area should be moved by a qualified monitor to suitable habitat outside the work area (requires a NYSDEC permit).
- e. USFWS acknowledges the various conservation measures incorporated into the proposed project substantiating the low likelihood of indirect adverse effects on bog turtles resulting from long term use of the site as proposed, changes in wetland hydrology or drainage patterns, or changes in surface water quality.
- f. The proposed project includes monitoring of water quality, wetland vegetation, and bog turtle population information to further evaluate effectiveness of the project's conservation measures during and following construction. A proposed monitoring plan should be submitted to NYSDEC for review and comment. Annual monitoring reports should be provided to USFWS and NYSDEC.
- g. While the applicant is ultimately responsible to avoid adverse effects of the project that would be considered a "take" under Section 9 of the ESA, USFWS states that based on its review of the project's potential impacts, the likelihood of a take appears to be minimal.
- h. USFWS also acknowledges that the information gathered from the monitoring program at this site will assist the Service with better understanding how to avoid impacts to bog turtles at other development sites.

The applicant believes the USFWS letter offers sufficient basis upon which the Town Planning Board and all other approving agencies can determine that the project will avoid or minimize any possible impacts to the bog turtle to the maximum extent practicable.

Regional Biodiversity

The *Southern Wallkill Biodiversity Plan*⁷ promotes an approach to development that seeks to balance the needs of biotic conservation with the economic health and sustainability of local municipalities. In the discussion of biodiversity areas in the *Biodiversity Plan*, a biodiversity hub is considered a potential "source" habitat from which nearby areas are "replenished" and connectivity of the hub to other habitats should be maintained to sustain biological movement and diversity in the region. If carefully planned, biodiversity hubs can support people, wildlife and habitats in harmony. The *Biodiversity Plan* recommends maintaining connectivity with other biodiversity hubs and corridors. The *Biodiversity Plan* further recommends that a proper balance of development with conservation would include new development near existing

⁷Miller, N.A., M.W. Klemens, and J. E. Schmitz. 2005. Southern Wallkill Biodiversity Plan: Balancing Development and the Environment in the Hudson River Estuary Watershed. MCA Tech. Paper No. 8.

developed areas that may have infrastructure and services to support further growth while preserving areas critical for biodiversity.

While the project site exists as mostly undeveloped land, a large portion of the property has been managed for agriculture for many years. Its diversity as wildlife habitat is limited as a direct result of human activities. The various on-site surveys conducted by the applicant's consultants over the past six years and documented in the DEIS have not characterized this site as rich in biological diversity. Nevertheless, the project applicant has committed to a number of operational and physical measures designed to minimize impacts to the existing habitat at the site. Consultations were made with Dr. Michael Klemens, one of the authors of the *Biodiversity Plan*, who visited the site and contributed to the analysis of the existing site habitat and to the modification of site development plans. Most importantly with regard to the *Biodiversity Plan*, the proposed site plan confines the developed area of the project to the south-central portion of the site that abuts the Route 94 development corridor while preserving three-quarters of the property as undisturbed, natural habitat that connects to adjacent wetlands and upland woodland to the west, north and east. The current project plans incorporate stringent water quality management measures designed to preserve the quality of on-site and downstream water resources. The applicant considers this plan an appropriate balance of development with conservation, as envisioned in the *Biodiversity Plan*.



NOTES

1. TAX MAP DESIGNATION: PORTION OF SECTION 51, BLOCK 1, LOT 40
2. AREA OF TRACT: 47.529± ACRES
3. ZONING DISTRICTS: DESIGNED SHOPPING, OFFICE/RESEARCH/INDUSTRIAL PARK
4. OWNER: COUNTRY FAIRGROUNDS, L.L.C.
WARWICK, NEW YORK 10990
5. APPLICANT: FAIRGROUNDS, L.L.C.
c/o GODDARD DEVELOPMENT PARTNERS, L.L.C.
MOUNTAINVILLE, NEW YORK 10953
10. PROPOSED WATER SUPPLY: ON-SITE PRIVATE WELL.
11. PROPOSED SEWAGE DISPOSAL: ON-SITE SEWAGE TREATMENT FACILITIES.

09/12/06

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Figure 1-1: Illustrative Development Plan
The Fairgrounds
 Town of Warwick, Orange County, New York
 Scale: 1" = 200'

2.0 PROJECT DESCRIPTION COMMENTS AND RESPONSES

Comment 2-1 (Letter #1, John P. Minerly, 02/01/05): It is my understanding that the shopping mall project on Route 94, across from Leo Kaytes Ford and involving the relocation to new facilities for Country Chevrolet, is once again a possibility. I would like to take this opportunity to encourage support for this endeavor both as a local shopper and taxpayer. I believe it will give the community both an excellent ratable and a needed additional supermarket alternative.

Response 2-1: Comment noted.

Comment 2-2 (Letter #2, Tectonic, 02/16/05): Clearly label and identify the water, sewer, and stormwater drain lines on the grading and utility plan.

Response 2-2: The final site plans will include labels for all utilities.

Comment 2-3 (Letter #2, Tectonic, 02/16/05): Page 2-10 — Water Supply: What financial assurance will be provided by the applicant to maintain and repair the water system if Fairgrounds, LLC is unable to meet their responsibilities for the water system? Who will be responsible for the maintenance and repair of the water lines and hydrants on the site?

Response 2-3: A recorded unsubordinated reciprocal easement agreement between the two lots in the project will allow for perpetual use and maintenance of the wastewater treatment system and water supply system by all on-site users. Fairgrounds LLC is the legal entity set up specifically to develop and manage this property and it will be obligated by its agreements with the individual users of the three buildings to continuously operate and maintain the wastewater and water supply systems that service this development in accordance with the applicable permits. In the event that Fairgrounds LLC fails to do so, the project users will have the right through the reciprocal easement agreement to take over responsibility for maintenance of the wastewater treatment system and water supply system.

Comment 2-4 (Letter #2, Tectonic, 02/16/05): The retail facility for the pad building has not been identified but could include a restaurant which might also be better served by the wastewater treatment plant (WWTP). Explain why all the project buildings would not be connected to the WWTP.

Response 2-4: The project proposal has been modified such that all buildings on the project site will be served by the proposed wastewater treatment plant.

Comment 2-5 (Letter #2, Tectonic, 02/16/05): What is the lifespan of the proposed WWTP and how would its replacement be financed?

Response 2-5: The WWTP is designed to operate indefinitely with proper maintenance. Such maintenance would include regular monitoring of its operation, repair or adjustments of mechanical systems on an as-needed basis, and replacement of various mechanical parts on an as-needed basis. Plant maintenance is minimal since the facility design minimizes use of mechanical equipment. Small submersible pumps and aeration blowers and motors are installed in duplicate as backup systems and thus operate approximately half of the time. Submersible pumps usually operate at least 5 years. Pumps occasionally need replacement. Blower motors usually need bearing

replacement every 10,000 hours (2.28 years). Motors and rubber drive belts occasionally need replacement. Intake filters on the air blowers need to be replaced at least once per year. Very low maintenance items consist of valves and electrical controls. Based on the experience of the system designer, estimated cost for servicing and maintaining the equipment at this facility would be approximately \$1,500 annually.

The fiberglass tanks are designed to the ASTM standard for underground fuel storage tanks (ASTM D761). Their use for storage of wastewater mixed liquor does not cause corrosion or deterioration. They are installed in the ground and are thus protected from deterioration from the ultraviolet rays of sunlight. The facility piping is CVPC and PVC that is not subject to deterioration or corrosion. These components would last over 50 years without need for service.

Maintenance of the WWTP will be the responsibility of Fairgrounds LLC. A reciprocal agreement between the owners and tenants at this site (on Lots 1 and 2) will address the specific extent of those responsibilities for each user of the facility. The details of this agreement have not been formalized at this time, pending conclusion of the plan approval process for the project.

Comment 2-6 (Letter #2, Tectonic, 02/16/05): What financial assurance will be provided by the applicant to maintain and repair the wastewater treatment system if Fairgrounds, LLC is unable to meet their responsibilities for the wastewater system?

Response 2-6: The wastewater treatment facility will be owned by Fairgrounds, LLC, which will contract for its ongoing maintenance by an appropriately licensed contractor. Fairgrounds LLC is the legal entity set up specifically to develop and manage this property and it will be obligated by its agreements with the individual users of the three buildings to continuously operate and maintain this facility to service this development in accordance with the NYSDEC permit. In the event that Fairgrounds LLC fails to do so, the project users will have the right through the reciprocal easement agreement to take over responsibility for maintenance of the wastewater treatment system and water supply system. Refer to Response 2-3.

In the event that the Town wishes to acquire the WWTP, easement rights will be established for that purpose and the applicant will discuss the particulars of a transfer of ownership to the Town, including delineation of Town responsibility and bonds for maintenance.

Comment 2-7 (Letter #2, Tectonic, 02/16/05): Who will be responsible for the maintenance and repair of the wastewater lines?

Response 2-7: The wastewater system, including underground pipes and operating equipment, will be maintained by Fairgrounds, LLC. Refer to Responses 2-6 and 2-3.

Comment 2-8 (Letter #3, Don Ferruggia, 02/16/05): If Hannaford wants to compete in Warwick, let them do so. That is the American way. But allowing them to open up right across the road from ShopRite would be the worst kind of planning. It's easy to predict what will happen: a price war will drive prices down but we will only be able to enjoy them for a short time. Soon one party will realize they can't afford the battle and will close. We'll be left not only with high prices again, but with an empty shell of a building.

Response 2-8: *The Town of Warwick and its environs houses a growing and comparatively affluent population that, based on the Trade Area analysis in the DEIS, is expected to provide adequate customer base to support additional supermarket space to accommodate Hannaford.*

Comment 2-9 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05):

Country Chevy obviously needs more room. The loss of its presence in the Village will free up parking and the Main Street site has potential for mixed retail, multi shops, etc. Please be aware although our tenancy rate is high the independent business market is extremely fragile.... The effect of this development on the Village is varied. The positive as mentioned, will be the opening up of retail potential in the former Chevy site on Main Street. The negatives include that a new mega grocery store will greatly diminish the possibility of any grocery operation in the Village. This may also include independent, specialty stores such as bakers, fish stores, etc. who will not be able to compete with a chain store that can sell at greatly reduced prices. The level of planned development for this site will create a threshold for like-kind highway commercial development which will surely become a drain on the Village.

Response 2-9: *According to the DEIS analysis, Trade Area food stores -- including in the Village of Warwick -- are not expected to be significantly impacted by competition from the proposed supermarket due to the area's substantial untapped demand for such facilities, growing population base, and relatively high buying power.*

Comment 2-10 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05):

Senior citizens constitute nearly 22% of the Village population. Many are in subsidized housing and are on fixed incomes. A 58,000 square foot store is not senior friendly. An "upscale" food store does not satisfy their needs as well. Nothing is being addressed to satisfy this segment of our community.

Response 2-10: *While the selection of a preferred shopping facility is a matter of personal preference, the proposed supermarket is designed to satisfy all types of potential customers in the region. The Town of Warwick Transit System (986-4174) operates a Dial-a-Bus service that is responsive to the needs of the citizens of the town. The service utilizes an ADA-accessible bus which offers daily on-call, reduced fare transportation to senior or disabled citizens. Presently the local route includes a curbside stop at the ShopRite grocery store located in the vicinity of the proposed project, and it would be consistent with the stated Transportation Policy of the service to include curbside service to the proposed supermarket upon it's opening to the public.*

Comment 2-11 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05):

Finally, I am concerned that the site plan offers very few amenities and lacks a human scale. At this time it is not enough to give the community convenient shopping and cheaper peas. This will never, ever compensate for what pre-existed here. There must be a way of integrating a more park like quality to this environment. I suggest the Board look at the possibility of internal walk and bike paths that may interconnect to neighboring properties that may be developed in the future. This possibly could connect to the Village creating a tangible relationship. The feature of this beautiful land is the wetland. It would be an enlightened developer who could create a meaningful connection to this asset. Otherwise I believe the inclusion of community or human spaces such as playgrounds, outdoor theater space or other recreational amenities would greatly enhance the project and its reason to be there.

Response 2-11: *The purpose of the proposed project stated in the DEIS is to provide a first class supermarket to the Warwick Route 94 corridor and to accommodate a long-standing automobile dealership in the community in a modern facility. This project will provide these needed facilities to the community by utilizing the existing zoning for the site in furtherance of the comprehensive plan of the Town of Warwick. This site, situated along a State highway in an area which is becoming an important retail corridor for the Town, is well suited for the supermarket and automobile dealership uses.*

As indicated in the DEIS, the proposed project will preserve the existing vegetative cover and habitat on 73 percent of the site. This area will include the wetlands on the east and west sides of the property, the wooded knoll to the rear of the site, and much of the treed meadow along the site frontage. While no pedestrian connection to these features is proposed in this project, these natural features will remain in the visual environment in perpetuity. While the applicant is not aware of any conservation entity that is interested in acquiring easement rights to protect the undisturbed wooded knoll, wetlands and buffers in perpetuity, it is the applicant's opinion that with the proposed development, protection to the wetlands and buffers are afforded by State and federal wetlands regulations, as well as the site plan requirements of the Town. No further development or disturbance would be expected in the wetlands areas on either side of the site or the wooded knoll to the rear.

It is possible that, should pedestrian walkways and bicycle paths on neighboring properties be built, such connections could be made to the buildings in this project. It is noted that the subject property does not currently provide any community recreation resource for the public.

Comment 2-12 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05): I do not know the fee structure in the town but I hope a project of this magnitude will generate serious contributions to the Town Parkland monies.

Response 2-12: *There is no such contribution required for this project.*

Comment 2-13 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant states the wastewater treatment plant will only service Lot 1, but not Lot 2. There are no details on the Site Plan identifying the location of subsurface wastewater treatment system for the auto dealership.

Response 2-13: *The project proposal has been modified such that all buildings on the project site will be served by the proposed wastewater treatment plant.*

Comment 2-14 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The design of the proposed project has the potential to impact the character of the area. We disagree with the applicant's assessment on page 1-16 that separating the buildings will minimize the scale of the project. Spreading the buildings out on the site increases the scale, coverage and magnitude of the project.

Response 2-14: *While the design of any project has the potential to impact the character of the area surrounding it, the selection of building architecture in this project is intended to complement the area. The proposed building architecture and the building*

siting is intended to appeal to the openness of the project site while mirroring some of the character of the local area.

Comment 2-15 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Section 2.4.2, subheading of Access describes the site access from Route 94. In this description, the text states "Turn lanes are being considered, pending further design review by the project engineers". This is inconsistent with the Mitigation Measures described in the Executive Summary, page 1-17.

Response 2-15: *Based on the traffic analysis conducted for this project, the Fairgrounds project will require an eastbound left turn lane into the site, a westbound right turn lane into the site and installation of a traffic signal to provide optimal operating conditions for vehicular traffic. These improvements are proposed as part of the project. Exiting traffic will be handled in two lanes: one for right turns and one for left turns. As this access will occur on a State highway, NYSDOT must approve these plans prior to implementation.*

Comment 2-16 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In our opinion, the applicant has not justified the proposed 136 off-street parking spaces for the auto dealership as described on page 2-7. The number of spaces proposed is nearly double the number required by zoning (72). Further, this number exceeds the Urban Land Institute (ULI) standards for shopping centers where ULI recommends 4 spaces per 1,000 square feet of gross floor area (gfa). If you were to base the parking on ULI standards, the dealership would require 91 spaces. Finally, the applicant claims that the number of spaces proposed is based upon experienced need at the present Country Chevy location. There are no facts to support this claim presented in the DEIS and no discussion of the possibility of customers utilizing shared parking spaces provided for the grocery store. If the applicant can justify the proposed number of spaces, the Planning Board should consider requiring the number of spaces, that exceed the Zoning requirements, be banked until demand for those spaces has been demonstrated. Alternatively, we suggest modifying the plan to facilitate shared parking areas.

Response 2-16: *The ULI parking standard presented in the DEIS at the request of the Town's consultant is a standard developed for shopping centers rather than a stand-alone supermarket, bank or dealership. The number of spaces proposed for the dealership is based on the applicant's experienced need at the present Country Chevy location. The applicant has calculated the parking need at the project site from the following numbers: 50 employee vehicles plus 35 to 40 vehicles waiting for service plus 25 to 30 customer vehicles plus 20 to 25 vehicles on display equals 130 to 145 parking spaces proposed for the new facility. The proposed parking for the dealership is 136 spaces.*

Comment 2-17 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In the discussion of parking for Lot 2 (page 2-9), which includes the grocery store and the pad building, the applicant again does not justify parking in excess of the zoning requirements. In fact, the applicant provides evidence supporting the requirements in the Zoning Law. The applicant notes average parking space use for a supermarket and bank from an Institute of Transportation Engineers survey of a representative sampling of parking facilities. The weekday and Saturday averages for the supermarket are below the Zoning requirement. In the case of the bank, the weekday average (0.63 spaces per 1,000 square feet of gfa) is well below the zoning requirement (3.6 spaces per 1,000 square feet of gfa) and the Saturday average (4.23

spaces per 1,000 feet of gfa) is more. However, we believe customers will find adequate parking within the requirements of the Zoning Law.

Response 2-17: *As cited in the DEIS, ITE provides data on parking demand at a supermarket and a walk-in bank based on actual surveys of such facilities. The latest edition of ITE's Parking Generation (2004) indicates a Saturday average peak period parking demand for a supermarket was found to be 4.75 vehicles per 1,000 sf GFA. At that rate, a 56,430 sf store will have 268 cars in its parking lot. A supermarket typically experiences its greatest customer traffic on a Saturday. Design capacity of a parking lot (its functional capacity) is figured to be approximately 5% greater than the peak demand for the parking spaces -- that is, when 95 out of 100 spaces are filled and a customer must search the lot for a parking space. The 5% vacancy represents unused handicapped spaces, spaces unavailable due to crooked parking or oversized vehicles, and normal fluctuations in daily and seasonal demand. Thus, with an average peak demand of 268 vehicles and using 95% as the design capacity, the parking lot with 282 spaces is "full". Failure to provide adequate parking for customers entering the lot will result in vehicles traveling around searching for a space, who then may park illegally in an aisle or firelane or on the grass or leave the site if a space is not readily available. The proposed parking lot, with 284 spaces provided for the supermarket, will have 2 cars above design capacity. Hannaford designs its stores with enough parking spaces to accommodate the heaviest shopping demand in order to properly service its customers and avoid illegal or unsafe parking practices and has found that the amount proposed overall -- around 5 spaces per 1,000 sf -- can be expected to accommodate its needs at the Warwick site.*

In response to the Board's concern for excess parking, the applicant has revised the site plan to show 27 parking spaces on the western side of the Lot 2 parking area as "banked" parking spaces that will be initially developed as lawn with provision that should additional parking be needed on the site this area would be adaptable to paved parking.

For the bank use, these numbers are as follows: ITE weekday average peak parking demand = 3.49 vehicles per 1,000 sf GFA. At that rate, a 3,600 sf store will have 12 to 13 cars in its parking lot. The proposed parking for the pad site is 14 spaces to accommodate design capacity.

Comment 2-18 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): We question why the applicant did not choose to use the same ULI [parking] standard for the supermarket and bank as they suggested in the discussion for the auto dealership. We fail to see why the applicant makes no mention of the ULI shopping center standard of 4 spaces per 1,000 square feet of gfa and its application for these uses, especially since it matches the Town's Zoning requirements for a supermarket.

Response 2-18: *The ULI parking standard presented in the DEIS at the request of the Town's consultant is a standard developed for shopping centers rather than a stand-alone supermarket, bank or dealership. Refer to Responses 2-16 and 2-17.*

Comment 2-19 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant offers no explanation about why the wastewater treatment plant will only be connected with the supermarket and not the auto dealership or the pad building. The applicant needs to disclose

what event will cause the dealership or the pad building the ability to secure connection to the treatment plant.

Response 2-19: *The project proposal has been modified such that all buildings on the project site will be served by the proposed wastewater treatment plant.*

Comment 2-20 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The Town Board is considering changes to the Zoning that would permit traditional neighborhood development in this area of the Town. The Board should discuss whether the proposed wastewater treatment plant can be designed so that expansion is possible to accommodate other potential users. If this project is approved, this wastewater treatment plant is the only one in this rapidly expanding area.

Response 2-20: *While the wastewater treatment plant is being designed by the applicant to service only this development proposal, the plant design is a modular type of design that could accommodate expansion for additional users to some extent, provided effluent quality is not compromised and the expanded facility could be permitted by NYSDEC. However, it is the applicant's desire that this application be reviewed for approval based on the present site plan design and without regard to a speculative future plant expansion, the extent of which is not known at this time.*

Section 137-25 of the Town of Warwick Code requires that all central sewer and water systems be offered for dedication to the Town. While the Town has not indicated an interest in acquiring the proposed systems in this project as it is a private commercial project, the sewer and water systems have been designed so that they will be offered by the applicant if the so Town indicates. Specific provisions of that dedication would be agreed upon between the Town and the applicant at that time.

Comment 2-21 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant is proposing pole lighting at 25 feet high with spacing ranging from 100 to 140 feet. § 164-43.4(5) states the maximum height for a freestanding luminaire shall be 16 feet above finished grade. The height can be increased to 25 feet as the applicant is proposing; however, we recommend the height of pole lighting for parking lot areas not to exceed 15 to 20 feet. § 164-43.4(6) states spacing between fixtures should be approximately four times the height. The applicant has indicated spacing up to 140 feet.

Response 2-21: *Height of pole-mounted lights (luminaires) and pole spacing are interrelated in that higher poles allow greater spacing and fewer lights, thereby making the plan more energy efficient. There is a tradeoff that taller poles may cause glare off site. The applicant proposes a luminaire height of 25 feet, the maximum allowed in the zoning regulations when it is demonstrated that glare to off-site locations will not occur (§164-43.4E.(5)). The lighting design (luminaire height, pole spacing, and lighting type -- fully shielded box mounted fixtures) will allow sufficient illumination at night to provide pedestrian and vehicle safety throughout the developed portion of the project site while minimizing light spillage and shielding any glare from any off-site viewer location. As shown in DEIS Figure 3.10-8, the pole light fixtures (shown in grey in the Figure) will be mounted below the peak roof lines of the buildings (at approximate elevations 604 to 612). The closest proposed parking lot light pole to Route 94 (other than lights at the project entrance) will be located some 200 feet from the roadway. The proposed*

Lighting Plan demonstrates that no light trespass from the project will exceed 0.01 footcandles at the property line, except at the site access.

Comment 2-22 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The discussion of signage on page 2-13 does little to inform the reader about any proposed signage. Figure 2-6 only provides a sense of the location of the entrance sign. Signage has direct impacts on community character and details about type, size, lighting, and materials are critical issues for consideration.

Response 2-22: Details about the type, size, lighting, and materials of the main entrance sign are being developed by the applicant for submission and review as part of final site plan approval. The sign will be designed in a manner consistent with the neighborhood and uses permitted by zoning in the neighborhood.

Comment 2-23 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant is requesting a waiver from constructing a marginal access road on the site. Reasons cited include less site disturbance such as removal of buffering trees, wetland filling and excavation of the entire site frontage. However, the waiver can only be granted if future connection to adjoining parcels is attainable. The applicant claims the connection is possible, but does not provide plans for how and where a marginal access road could happen on the site. The road should be depicted on the plan with appropriate notation regarding dedication to the Town.

Response 2-23: The Planning Board looked at the feasibility of a future marginal access road at this site on its April 6, 2005, site walk and discussed whether a connection from the project interior road in front of the dealership building toward land to the west could address the long-term possibilities of the Route 94 corridor. A road connection to either the west or the east of the project site would require wetland permits due to the presence of State and Federal wetlands and their sensitivity as wildlife habitat. At the present time there are no proposals for development of adjoining properties with marginal access roads to connect to. The project site plan shows the alignment for a marginal access road to the west as discussed.

Comment 2-24 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Placement of high curbs to deter passage of turtles is mentioned in this section; will this measure in fact be used? If so, a detailed description of these curbs is required.

Response 2-24: This measure or any alternative measure suggested by NYSDEC for protection of turtles in response to the Bog Turtle Study submitted to NYSDEC will be implemented by the applicant. Details for such measures proposed for use at this site will be added to the project plans and submitted to the Planning Board for review.

Comment 2-25 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): "...no parking areas are proposed to be constructed with alternative pavement surfacing..." These alternatives are included in the scoping document and must be addressed in the DEIS.

Response 2-25: Based on the projected needs of the site users, the areas of pavement devoted to circulation, parking, and loading has been minimized in the opinion of the applicant. Alternative surfacing (such as gravel, grass pavers, or dirt) would provide semi-pervious surfaces that could benefit groundwater recharge. Additionally, grass pavers would provide aesthetic benefits by appearing like grass from a distance while

providing a stable surface for vehicles. However, use of alternative surfacing for areas of car, truck or pedestrian circulation are not considered to be appropriate from a maintenance or safety perspective. The project site is designed in a compact manner such that these areas will be constantly used. There are no paved surfaces in the project that are strictly intended for incidental emergency access or for temporary overflow parking. Further, such surfaces are not conducive to winter snow removal that will be required in all of the proposed pavement areas. Use of alternative surfacing for parking at the supermarket is not possible where customers would be pushing carts. Alternative surfacing for parking at the dealership would be a deterrent to the business of selling new cars, in the applicant's opinion. Use of alternative surfacing for parking vehicles in the rear storage yard would leave the new vehicle inventory subject to damage from stones and dirt. Alternative surfacing is also inappropriate for loading areas where large vehicles frequently must maneuver and stand. The project has been designed such that areas where circulation, parking and loading is necessary are paved with asphalt suited to the anticipated use, and other open areas of the site are either landscaped or have been left undisturbed and vegetated. Therefore, no parking areas are proposed to be constructed with alternative pavement surfacing.

Comment 2-26 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The site plans show paved areas and a portion of the supermarket building within the 200 foot boundary around the proposed wells. To ensure adequate protection of this source, we recommend reducing the parking and altering the location of the building to beyond the 200 foot boundary.

Response 2-26: *The area within a 100-foot radius around the wells will be maintained as vegetated surface and the area within a 200-foot radius around the wells will be in full ownership of the property owner, exceeding applicable Health Department regulations. The regulations permit pavement and buildings within the 200-foot radius.*

Comment 2-27 (Letter #20, Tula Tsalis, 03/16/05): As you know, we continue to lose local farms to development, while global agribusiness continues to control more and more of the food supply. This situation is detrimental in ways too numerous to mention here. Local farmers in Warwick, and in the region generally, would more happily remain farmers if they had secure enhanced local markets for their products, including value-added products with ingredients that they grow themselves, or are grown at nearby farms. I think you will agree that we should support local farmers by making it easier for them to sell their products locally. Everyone would benefit, including consumers who will be able to purchase more nutritious food while also supporting local farmers and farms. Buying the products of local / regional farmers will also benefit the community the most as money exchanges will be more greatly re-circulated in the local economy, instead of leaving for distant corporate headquarters. The environment will also be better protected as less petroleum will be used over all. I respectfully request that you, the Planning Board, consider taking the important steps of finding ways to encourage the new food market on Route 94 to purchase a reasonable percentage of its food from local and regional farmers on a regular basis. The new market will also benefit from that is people want more healthful local foods and to support local farms, farmers and the community.

Response 2-27: *It is the standard policy of Hannaford to feature locally grown product in the Produce departments. Hannafords has a corporate "Locally Grown Produce" program that works with each store to purchase and display local products where regionally available. Categories of local items offered for sale at Hannafords have been diverse and have gone beyond produce to include meats, seafood, eggs, as well as*

dairy, deli, and maple products. The breadth of each store's display has depended on many factors including the existence of local farmers/producers, their ability to meet quality standards, and the volume of local product available. The corporate program contacts the Department of Agriculture and appropriate growers' associations in each state and uses these resources to assist its stores in locating potential local vendors. For produce, each store builds and manages their "Locally Grown Produce" program individually, assuming responsibility for initiating contact with farmers and negotiating purchases and delivery schedules. Ongoing corporate support is provided to each Hannaford store to effectively include locally produced products in the store's sales. Customers appreciate that Hannaford is obtaining the freshest product available, while at the same time supporting the local farmers.

Comment 2-28 (Letter #8, Penny Steyer, 02/21/05): Nowhere is the DEC's concern about bog turtles truly addressed in the DEIS, and the suggestions concerning traffic, including a stop sign at the entrance to the project site may only make traffic along the Route 94 worse — not better. An additional outside independent opinion should be sought.

***Response 2-28:** NYSDEC and the US Fish & Wildlife Service have received the DEIS and supplementary information from the applicant regarding bog turtle studies conducted at the project site. USFWS has provided its comments on that information, as summarized in FEIS Section 1.0 and included in FEIS Appendix F. The applicant's traffic study, as all of the DEIS, has been reviewed by the Town Planning Board's engineering and planning consultants.*

Comment 2-29 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The Planning Board should carefully weigh the alternative proposed, taking into consideration the Town Board's review of the area for potential as a mixed use area. The Planning Board should discuss this possibility with the applicant to work towards a solution that respects the rural character of the Town and complements future development of the area in perhaps a more traditional neighborhood concept.

***Response 2-29:** The applicant's proposal is for commercial uses on this property in conformance with the zoning requirements rather than a mixed use plan that might include a traditional neighborhood concept.*

Comment 2-30 (Ben Arena, Public Hearing 02/16/05): Is there enough room for trucks to go in and out of the site and unload cars at the dealership without having to stop in Route 95 to unload?

***Response 2-30:** The project plan is designed to accommodate truck traffic for the supermarket and dealership to safely enter the site, circulate and unload.*

3.0 GEOLOGY, SOILS AND TOPOGRAPHY COMMENTS AND RESPONSES

Comment 3-1 (Letter #2, Tectonic, 02/16/05): Page 3.1-3 — Soil Tests: This section indicates that no groundwater was encountered in the test pits. However, a review of the test pit logs in Appendix K indicates that groundwater was encountered in test pits 7, 8, and 9. Due to the proximity of the wetlands, a shallow groundwater table would not be unexpected in some areas of the property. Revise the estimate of depth to groundwater and comment on potential impacts that construction may have on surface water quality if a shallow groundwater table is encountered with respect to the SWPPP. Also comment on whether the soils found in the test pits confirm the soil survey findings.

Response 3-1: *Groundwater was encountered in three of the ten test pits on the site (pits 7, 8 and 9). The actual field conditions recorded from the test pits generally confirm the soils descriptions found in the SCS soil survey, noting that the SCS tables indicate the estimated depths to seasonal high water levels typically encountered in Spring while the test pit logs record actual groundwater levels encountered at the time of investigation (in July). The table below shows the corresponding depths.*

Soil Characteristics The Fairgrounds		
Map unit	Depth to high water table (SCS)	Depth to ground water (test pits)
Hoosic (HoB)	>6.0'	>10.0' (Pit #1,2,3,4,10)
Pittsford (PtB & PtC)	>6.0'	8.5' and greater (Pit #5,6,7)
Riverhead (RhB)	>6.0'	>10.0' (Pit #1,2,3,4)
Scio (ScB)	1.5-2.0'	3.0' (Pit #8)
Middlebury (My)	0.5-2.0'	(no test pit)
Raynham (Ra)	0.5-2.0'	8.5' (Pit #9)
Canandaigua (Ca)	0-0.5'	(no test pit)
Source: Soil Survey of Orange County, USDA SCS		

Groundwater may be encountered in excavations during construction, although no excavation is proposed in the vicinity of test pits 7, 8 or 9. If dewatering of excavations is necessary, this water would need to be pumped to a temporary settling basin so that any sediment will settle out thereby protecting surface water quality in the surrounding environment.

Comment 3-2 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The statement “Deconcentrate and distribute stormwater runoff through natural vegetation or structural means before discharge to streams or wetlands” needs further explanation. What is meant by “deconcentrate” and “structural means”, and what type of vegetation would be used for this purpose?

Response 3-2: *The statement “Deconcentrate and distribute stormwater runoff through natural vegetation or structural means before discharge to streams or wetlands” is one of the stated objectives of the Erosion Control Plan. This refers to standard methods of distributing point sources of discharge so that concentrated flows are slowed and dispersed by vegetation (such as through a grassed swale and over a filter strip) or by structural measures (such as a riprap energy dissipator). All soil erosion and sediment control practices to be used in this project will conform to the New York Guidelines for Urban Erosion and Sediment Control, which includes standards and specifications for vegetative measures (e.g., a grassed waterway) and structural measures (e.g., a lined waterway). The Erosion Control Plan will specify the types and locations of the most appropriate measures for this project.*

4.0 WATER RESOURCES COMMENTS AND RESPONSES

Comment 4-1 (Letter #2, Tectonic, 02/16/05): The project lies entirely in the Town's Aquifer Overlay District. Per §164-47.2(D) of the Town Code, applicant to prepare and submit an Aquifer Impact Assessment as part of the site plan approval. Applicant to explain how the proposed project is in compliance with the Town's regulations.

Response 4-1: An Aquifer Impact Assessment has been prepared for this project and is included in FEIS Appendix D. As outlined in the report, the proposed project includes various measures as part of its stormwater and wastewater management systems that are designed to protect surface water resources and the aquifer. The assessment includes the findings of the well pump tests that demonstrate the wells will have no adverse affect on the aquifer. The report also outlines how the project will comply with the specific areas of concern listed in the regulations.

Comment 4-2 (Letter #2, Tectonic, 02/16/05): The Wastewater Treatment Plant (WWTP) is discussed as definitely serving the supermarket building but the DEIS indicates that the auto dealership and pad building might be serviced by conventional subsurface on-site wastewater system (i.e. a septic field). The wastewater from the auto dealership will contain elevated levels of petroleum due to the nature of automobile servicing operations. If the auto service discharge is to be to a septic field at the dealership, the applicant should discuss how the project would meet the Federal Safe Drinking Water Act — Underground Injection Control program regulations.

Response 4-2: The project proposal has been modified such that all buildings on the project site will be served by the proposed wastewater treatment plant.

Comment 4-3 (Letter #2, Tectonic, 02/16/05): Set the datum used in the hydrogeologic report to a fixed site elevation. The water levels for the pumping phase and recovery phase of the pump test for the pumping well and nearby monitoring well should be referenced to an on-site benchmark and the existing ground surface elevation at the well head.

Response 4-3: While the applicant is not aware of the relevancy of this information to the pump test report, surveyed data of the monitoring wells is provided in FEIS Figure 4-1 and memo of SSEC, the groundwater hydrologist, dated November 11, 2005, included in FEIS Appendix A.

Comment 4-4 (Letter #2, Tectonic, 02/16/05): In the hydrogeologic report, include the pre-pump test groundwater levels in the wells. This information is important to understanding the existing groundwater condition.

Response 4-4: Elevations of groundwater in the wells is provided in the memo of SSEC, the groundwater hydrologist, dated November 11, 2005, included in FEIS Appendix A.

Comment 4-5 (Letter #2, Tectonic, 02/16/05): Include a copy of the pump test measurements and original field notes in a tabular form as part of the pump test report.

Response 4-5: The well testing report in the DEIS contains all measurements and data relevant to the pump test.

Comment 4-6 (Letter #2, Tectonic, 02/16/05): One of the primary purposes of the pump test was to evaluate the impact of rainfall at the site not monitored during the pump test period. Provide a discussion in this section explaining the test rationale.

Response 4-6: *As stated in the accepted DEIS scope, the purpose and goals of the pump test were to: 1) Assess potential impacts to on-site and adjoining wetlands (particularly related to Bog turtle habitat) due to well water drawdown, including changes to the water table; 2) Obtain baseline groundwater quality data by sampling the proposed production wells and analyzing for Part 5 Drinking Water Parameters; and, 3) Analyze potential impacts of well water drawdown to the subject aquifer and to downstream surface waters.*

To achieve item 1, two wells were drilled at the site and four monitoring points were established at the edge of the wetland areas of the site. Electronic data loggers were installed in well #2 and all of the wetland points for "real time" data collection. The pump tests were then conducted in a manner that resulted in well water drawdown to a level of stabilization, then continued at a sustained yield to demonstrate continued stabilization of the water table, and then were ceased while water level monitoring continued until the static groundwater level was again established. Water level data was collected from each monitoring point and placed in graphs in the well testing report (DEIS Appendix G) for comparison and discussion.

Lab results of groundwater samples taken at the wells and a discussion of the potential impacts of drawdown to the aquifer and downstream waters (items 2 and 3 above) are included in DEIS Appendix G.

Additionally, data monitoring was conducted in well #2 and all of the wetland points for the period 48 hours prior to the commencement of the pump test to establish the baseline water level conditions. During this period and the subsequent pump test period, several instances of rainfall were recorded and their affect shown on the water level graphs in the report and explained in the text.

Comment 4-7 (Letter #2, Tectonic, 02/16/05): Why was the Town not asked to review the pump test procedures prior to performance of the pump test when the purpose of the pump test was not only to meet OCDOH requirements, but to meet requirements of the DEIS and the aquifer overlay district?

Response 4-7: *As the permitting authority for the proposed water usage at the site, OCDOH was consulted regarding the pump test procedures. As noted in Response 4-6, the requirements of the DEIS scope are addressed in the well test report. Further discussion of aquifer impacts of this project is provided in FEIS Appendix D, an aquifer impact assessment written to meet the requirements of the aquifer overlay district.*

Comment 4-8 (Letter #2, Tectonic, 02/16/05): Provide a commentary regarding the acceptability of only a 24-hour pump test to determine if the wetlands were impacted by pumping the wells.

Response 4-8: *Results of the 24-hour pumping test of the bedrock well established on the project site indicate that the groundwater level in well #2 stabilized within 460 minutes (about 7.6 hours) of the start of the test (DEIS Appendix G). While a*

corresponding drop in water levels in the wetlands during this time or anytime during the 24-hour test might indicate an impact to the wetlands, surface water levels recorded simultaneously at four wetland points indicated that none of those points were affected by the pumping of the well at any time during the pump test.

Comment 4-9 (Letter #2, Tectonic, 02/16/05): Address what the potential impacts would be from vehicle maintenance operations including storage of new vehicle fluids and storage and disposal of waste vehicle fluids.

Response 4-9: *No significant environmental impacts of the vehicle maintenance operations are anticipated at the new dealership due to the provisions anticipated for this facility. Without proper containment and storage facilities or proper operating procedures, spills of automotive fluids especially outdoors could impact the environment. As a new facility, the dealership proposed for this site will include modern measures for containment of fluids and waste materials, proper storage and handling procedures for automotive equipment, and implementation of standard operating procedures appropriate for an auto service operation.*

New vehicle fluids will be received in DOT-approved shipping containers, typically of 55 gallons or less, and stored indoors in a designated area of the vehicle service area. Automobile service will be conducted inside the building. Waste fluid removed from serviced vehicles will be pumped to an indoor, aboveground storage tank made for this purpose. This tank will be emptied on a twice monthly basis by a licensed waste hauler. A fluid level alarm will be installed on the tank to ensure it is not overfilled and to indicate the need to pump out the tank on a more frequent basis. The tank will be installed within an impermeable spill containment barrier. Any gasoline which may be removed from vehicle gas tanks is typically held in a portable tank approved for this purpose, then filtered and returned to the same vehicle after service is completed.

Comment 4-10 (Letter #2, Tectonic, 02/16/05): Address the mitigation measures to be taken in the design of the dealership to minimize such potential impacts to the aquifer and Aquifer Overlay District.

Response 4-10: *The service area of the dealership building will include state-of-the-art equipment to store materials and collect wash water, spills, and waste fluids. Automobile service will only be conducted inside the building. Automotive fluids will be stored aboveground in closed tanks or other containers manufactured and certified for that purpose. Waste fluids will be collected in closed tanks located aboveground and inside the dealership building. These systems are designed as "zero discharge" containment systems to prevent discharge to the ground surface, groundwater, storm drainage system, or wastewater collection system. There will be no connection of these systems to external pipes or drains. Materials that fall on the floor of the service area are vacuumed, swept, soaked up in absorbent material, or otherwise collected. Spills are routinely cleaned up manually with the use of spill containment and absorbing materials made for this purpose. Autos found to be leaking outside of the building will be promptly moved inside and spills promptly cleaned up. Should emergency services or the NYSDEC Spill Response notification system be contacted for assistance, the Town would also be notified.*

Standard operating procedures will be in place for all shop personnel that are intended to provide for contingencies such as spills or leaks either inside or outside of the facility. These procedures will include a daily assignment for a service technician to visually inspect outside vehicle storage areas for leaked automotive fluids and to report the findings to the Service Manager for assignment of appropriate cleanup activities. Spill cleanup materials will be maintained at various locations in the facility for fast response when needed. Collected wastes and recyclable materials are stored in closed containers and disposed of by transport off the site by a licensed hauler. All wastes must be stored and handled in accordance with State and Federal requirements.

These measures and standard operating practices are utilized to keep the service facility a clean and safe working environment, as well as to protect resources in the natural environment such as the aquifer.

Comment 4-11 (Letter #2, Tectonic, 02/16/05): Address how wastewater from car washing operations would be treated so that the aquifer and surface water are not impacted.

Response 4-11: All car washing will be performed inside the dealership building. Similar to a commercial car wash operation, the equipment used will recycle much of the wash water by removing soaps and wastes by filtration or other means. Wastes collected by the system will be stored within the building until they are transported offsite by a licensed hauler. The auto dealer will regularly rinse his inventory of new vehicles outdoors with clear water, without soap or chemicals. Runoff from this operation will consist of water and dust particles which will enter the site storm drainage system for treatment. These measures will ensure no adverse impact to the aquifer or surface waters.

Comment 4-12 (Letter #2, Tectonic, 02/16/05): Page 3.4-5 — Proposed Stormwater Runoff Quality: Please comment on potential petroleum contamination to the stormwater quality from leaking vehicles.

Response 4-12: Because of the aforementioned equipment and procedures that will be utilized to manage automotive waste fluids at the dealership operation, potential contamination of stormwater is minimized. Vehicle storage outside of the building may pose a risk of potential contamination of stormwater. Several operating procedures reduce this risk. It is normal practice that leaking vehicles are brought promptly inside the building, where fluids will be collected and contained. Any spills that occur outdoors will be cleaned up with an absorbent material made for this purpose which is properly disposed of. With regular monitoring of the outside vehicle storage areas, fluid spills would be promptly treated and potential contamination would be avoided.

Comment 4-13 (Letter #2, Tectonic, 02/16/05): Sewage from the site may meet standards if all the site sewage was treated at the WWTP. Please address possible impacts from conventional subsurface septic fields if the entire site is not connected to the WWTP.

Response 4-13: Septic fields have been removed from consideration at this site. All sewage from the site will be treated at the WWTP.

Comment 4-14 (Letter #2, Tectonic, 02/16/05): What measures are to be taken to prevent or minimize impacts to downstream water resources if the WWTP fails due to mechanical problems, including piping and tank failures, as well as pump failures and/or power failures?

***Response 4-14:** Redundant critical mechanical equipment in the WWTP, such as pumps, will be provided as duplex installations, with each on-duty unit being backed up by an equivalent standby unit. Operation of paired installations will be rotated on a scheduled basis to maintain the serviceability of all such equipment. Power failures are typically handled with a dedicated, automatic standby power source. Regular monitoring of the plant condition and operation, as required by New York State as part of the facility permit, and regular maintenance by an experienced treatment plant operator, will minimize the risk of tank or piping failures. With duplex tank systems, on-line tanks can be bypassed to off-line tanks for maintenance to provide redundancy for continued treatment without effect to receiving waters.*

Comment 4-15 (Letter #2, Tectonic, 02/16/05): The DEIS states that vehicle servicing will occur in the interior of the building therefore there will be no impacts to the stormwater. Please address impacts from vehicles leaking fluids while temporarily stored in the parking area waiting for servicing.

***Response 4-15:** Refer to Response 4-12.*

Comment 4-16 (Letter #2, Tectonic, 02/16/05): The DEIS states that no floor drains will be connected to the stormwater drainage system. What would floor drains be connected to and what would the floor drains be used for?

***Response 4-16:** Floor drains in the dealership building will connect to an internal collection system without connection to the site stormwater system. The drains would be used to collect rainwater and snowmelt from the cars and would connect to the washwater recycling system described in Response 4-11. In the supermarket, floor drains with grease traps in food preparation areas will connect to the site sewer system.*

Comment 4-17 (Letter #2, Tectonic, 02/16/05): Please address what measures the dealership would utilize to collect, store and dispose of waste fluids from vehicles and what measures would be implemented to control and cleanup an uncontrolled release.

***Response 4-17:** As discussed in Responses 4-9 and 4-10, the auto dealer must comply with various industry standards as well as State and EPA regulations for employee training, equipment maintenance, storage facilities, and spill control procedures. Waste fluids will be collected and temporarily stored in closed containers for transport off-site and disposal (or recycling) by a licensed waste hauler.*

Comment 4-18 (Letter #2, Tectonic, 02/16/05): In the Wastewater Treatment Section in the Project Description, the DEIS states "Throughout the site, no wastewater from industrial uses or car washing will be discharged to the wastewater collection system." Cars at the dealership, particularly used vehicles, require cleaning to increase their retail value. If the car wash water, containing surfactants, salts, particulates, and petroleum, does not get treated at the WWTP then it must be discharged to the stormwater system. Please address whether the stormwater facilities are designed to handle this type of contaminant loading or what alternative methods of car washing are planned.

Response 4-18: *As discussed in Response 4-11, car washing will be conducted inside the dealership building and will occur in a contained system that will collect, treat and recycle waste water. Solids and other byproducts from car washing will be contained for periodic removal by a waste hauler. No wash water will discharge to the WWTP or the site stormwater system.*

Comment 4-19 (Letter #2, Tectonic, 02/16/05): Page 3.4-10 — Mitigation of Water Quality Impacts: Address whether the proposed wastewater and stormwater systems are capable of providing adequate protection from petroleum releases.

Response 4-19: *There will be no opportunity for petroleum to be released to the wastewater treatment plant since there will be no floor or yard drains connected to that system that would be exposed to vehicular operations. As the stormwater treatment systems are not designed to treat a petroleum release, regular monitoring of pavement areas where vehicles are parked is an essential standard operating procedure. A daily assignment for a service technician will be to visually inspect outside vehicle storage areas for leaked automotive fluids and to report any findings to the Service Manager for assignment of appropriate cleanup activities. As described in Responses 4-9 and 4-10, the dealership will have various measures in place to remediate any leak or spill at the site and thereby avoid any adverse impact to the wastewater and stormwater treatment systems and downgradient areas by a petroleum release.*

Comment 4-20 (Letter #6, David E. Church, Commissioner, Orange County Department of Planning , 02/16/05): The applicants have taken steps to minimize impacts upon the wetlands and the scenic qualities of the area.

Response 4-20: *Comment noted.*

Comment 4-21 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05): Section 3.4.3 on page 3.4-10 discusses maintenance of stormwater controls but contains no reference to the distribution of the responsibility between the owners of the two lots and easements that may be necessary to ensure rights and responsiveness to Town code enforcement in the event of a failure by the responsible party to maintain.

Response 4-21: *As the drainage divide between the proposed lots falls nearly on the proposed lot line between the lots, maintenance of stormwater facilities on Lot 1 (west of the lot line) will be the responsibility of Country Fairgrounds, LLC, and maintenance of stormwater facilities on Lot 2 (east of the lot line) will be the responsibility of Fairgrounds, LLC.*

Comment 4-22 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): [The DEIS must include] description and assessment of surface water bodies including stream proposed to receive treated wastewater effluent.

Response 4-22: *Section 3.3.1 describes Wetland D, which is the drainage for an unnamed tributary (Waters Index No. 139-13-61-9-13) to Wawayanda Creek. This tributary is a perennial stream, having continuous flow throughout the year. The NYSDEC classification for this stream is Class D. The stream assessment is provided in the NYS Rules and Regulations (§701.9), which classifies streams for their best usage and water quality standards. The best usage assigned to Class D streams is fishing.*

These streams are considered suitable for fish survival, but not fish propagation. Class D streams are also suitable for primary and secondary contact recreation, but the Regulations allow other factors to limit the use of these streams for such recreation purposes.

The proposed WWTP has been relocated to the east side of the site and tertiary treatment discharge will not enter the unnamed stream in Wetland D. The WWTP discharge will meet NYSDEC effluent standards for intermittent streams as it leaves the plant and will receive further filtration and thermal attenuation as it is treated in a dry swale filtration device before being discharged at an upland point in the buffer of Wetland A.

Comment 4-23 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Impacts, (short term, long term and cumulative) incurred by stormwater runoff from adjacent properties, impervious surfaces, lawns, etc., onsite must be adequately evaluated in the DEIS. This includes separate evaluation for each of the common constituents of stormwater as listed on page 2-3 of the "NYS Stormwater Design Manual". These pollutants include, but are not limited to total phosphorus, total nitrogen, chloride, and oil and grease. This evaluation will include an examination of the effectiveness of the Stormwater Pollution Prevention Plan in removing these pollutants (including total phosphorus and total nitrogen) before they flow into any of the wetlands onsite. The proximity of the proposed commercial uses on this property – especially an auto dealership- to high quality wetlands requires a rigorous evaluation of the fate of specific stormwater constituents.

Response 4-23: *Chapter 5 of the NYSDEC's Stormwater Management Design Manual includes a list of accepted management practices for water quality treatment based on their proven ability to mitigate potential affects on the various constituents of stormwater when used according to the specifications in the Manual. Practices taken from the Manual that are appropriate to this project have been adopted into the draft Stormwater Pollution Prevention Plan (SWPPP) prepared for this project. The draft SWPPP is presented as FEIS Appendix E. These practices are selected based on the following criteria:*

- *Can capture and treat the full water quality volume*
- *Are capable of 80% total suspended solids removal and 40% total phosphorus removal*
- *Have acceptable longevity in the field*
- *Have a pretreatment mechanism.*

The proposed stormwater treatment practices for the Fairgrounds project have been selected from the approved list of treatment measures and specified for installation in accordance with the Design Manual's recommendations. Additionally, several of the standard measures have been upgraded from the requirements in the Design Manual. The additional measures highlighted below will enhance the pollutant removal capacity of the proposed systems:

Organic Filter W1: *The pretreatment basin has been oversized, and will have an impermeable liner to prevent the infiltration of pollutants to the underlying soils.*

Pocket Pond E2: The sediment forebay has been oversized, and will also be lined.

Bioretention Basin W3: The bioretention system has been added that will use a filter soil media to filter runoff.

Dry, Vegetated Swales E1 and W2: The pretreatment sumps will be concrete structures to prevent infiltration and to facilitate the removal of accumulated sediments.

Sweeping of parking lot: The revised SWPPP states that all parking areas and driveways on the site will be swept or vacuumed on a weekly or more frequent basis (as seasonally practicable). While the NYSDEC Design Manual does not identify sweeping as a mitigation measure, this practice can effectively reduce the quantities of roadway pollutants entering the storm system, thereby protecting downstream water quality.

The SWPPP specifies minimum requirements for maintenance of the permanent site facilities, including inspections, cleaning of sediment, trash and debris, and replacement of filter material. As an additional measure to monitor the effectiveness of the proposed filters, the organic filter, vegetated swales and bioretention basin will have underdrain pipes with normally-closed, valved outlets to facilitate sampling of the filtered discharge.

To demonstrate the potential pollutant loading of the project, and the reduction in loading that would result from refinements made to the site plan since the DEIS, the applicant has evaluated common constituents of stormwater based on the Simple Method approach as outlined in Appendix A of the 2001 Design Manual. The evaluated pollutants are: total suspended solids, total phosphorus, soluble phosphorus, total nitrogen, total Kjeldhal nitrogen, nitrite & nitrate, copper, lead, zinc, biochemical oxygen demand, chemical oxygen demand, organic carbon, hydrocarbons, oil & grease, chloride, and bacteria. This evaluation, which is presented in FEIS Appendix G, examines the effectiveness of the Stormwater Pollution Prevention Plan in removing these pollutants before they flow into any of the wetlands onsite.

Comment 4-24 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Page 3.2-12, is the stormwater management plan referred to in the text the same as the required Stormwater Pollution Prevention Plan (SWPPP)? The features of this plan must be described in terms of specific stormwater pollutants, their potential impacts, and specific descriptions of how they will be effectively treated by implementation of the plan.

Response 4-24: The terms stormwater management plan and stormwater pollution prevention plan are used interchangeably in the DEIS. Refer to Response 4-23 for further discussion of water quality impacts and treatment addressed by the project draft Stormwater Pollution Prevention Plan (FEIS Appendix E). The SWPPP reflects NYSDEC's requirements for stormwater management and erosion and sediment control, as established in Article 17, Titles 7, 8 and Article 70 of the Environmental Conservation Law. To ensure compliance, this plan was prepared in accordance with the SPDES General Permit for Storm Water Discharges From Construction Activities That Are Classified as "Associated With Construction Activity", published by the NYSDEC.

Comment 4-25 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Page 3.2-13 Mitigation measures. Statements regarding stormwater management should refer specifically to elements of the Stormwater Pollution Prevention Plan (SWPPP). The statement that

'stormwater facilities have been engineered to prevent impacts to onsite wetlands' is not sufficient to support the conclusion that all stormwater pollution impacts will effectively be mitigated. Specific elements of the SWPPP should be described in narrative form as they apply to wetlands and the stream onsite.

Response 4-25: *The fundamental purpose of a SWPPP is to identify the sensitive water resources at the project site (namely, the wetlands and stream on the west side and the wetlands on the east side), elements of the project plan that may effect those resources (construction and operation), methods to minimize or avoid impacts during construction (erosion/sedimentation controls, sequence of activities, waste controls, maintenance and inspection procedures, spill control measures), and the parties responsible for properly implementing the Plan. The SWPPP also identifies methods to minimize or avoid impacts during operation through the monitoring and maintenance of the constructed stormwater management facilities for which the property owners will be responsible. These measures, in combination with the treatment facilities engineered for this site, account for all of the direct stormwater impacts to wetlands and surface waters that can reasonably be anticipated and mitigated from this site development project.*

The following elements of the SWPPP will significantly contribute to the mitigation of impacts to receiving wetlands and watercourses:

- *Temporary sediment and erosion control measures are to be utilized throughout the site during the construction phase. Prior to the start of earth-moving activities, the contractor shall protect on-site wetlands and watercourses with a continuous barrier of silt fencing, berms, swales, or other approved measures.*
- *Adherence to the approved construction sequence.*
- *Construction of the permanent stormwater management basins. The basins will provide hydrologic and water quality benefits.*
- *Maintenance of the permanent measures, including removal of sediments and debris, making repairs, and sweeping of specified paved areas.*
- *Implementation of the landscaping plan to establish permanent soil stabilization and runoff filtering.*

Stormwater facilities at the Fairgrounds project, which include measures that have been upgraded from the requirements in the Design Manual, have been engineered to avoid or minimize impacts to surface waters to the maximum extent practicable.

Comment 4-26 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The area of recharge for the wetlands on this site is not described in the DEIS, along with impacts to that recharge area and percent impervious surfaces within that area.

Response 4-26: *DEIS section 3.4.1 includes a conservative recharge calculation for the aquifer underlying the project site, which in large part is recharged through the wetlands. This estimate assumes the only source of recharge water is rainfall that falls on the site itself. The Stormwater Drainage Report for this project (FEIS Appendix F) also calculates runoff to the wetlands within the site itself. As described in the DEIS, all runoff of rainfall on the site flows to the wetlands and recharges the wetlands since the wetlands occupy the lowest elevations of the property. In actuality, the area of recharge for the wetlands is much larger than the site itself. The proposed development will result*

in 7.85 acres (16.5 percent of the site) covered by impervious surfaces. This would leave 39.65 acres of non-impervious landscape on the site to provide recharge to the wetlands.

Comment 4-27 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Other items listed in the scoping document but not adequately addressed in the DEIS include: all of item D.1.b., c, and f. Refer to the scoping document for this information. All of these issues must be addressed in the DEIS.

Response 4-27: Item D.1.b.: *There are two existing drainage points from the property, each of which are small stream tributaries to the Wawayanda Creek. One tributary (Waters Index No. 139-13-61-9-13, Class D) drains to the north, from approximately the NW corner of the site. The other tributary (Waters Index No. 139-13-61-9-15, Class B) drains to the northeast, at a point proximate to the centerline of the eastern boundary of the site.*

Drainage basins within the development area, along with projected drainage points based on site topography, are presented in DEIS Appendix C, Figure C.

Item D.1.c.: *FEIS Appendix F, Table S-1 provides estimates of peak stormwater runoff discharges following 2-, 10- and 100-year storms. These results, and the modeling data used to develop them, are presented for existing conditions as well as for developed conditions, both with and without the proposed mitigation plans in effect. The selection and sizing of the proposed mitigation structures (an organic filter, pocket ponds, and dry swales) are in conformance with Section 6 guidelines of the NYSDEC Stormwater Management Design Manual.*

A preliminary Stormwater Pollution Prevention Plan has been prepared for this project and is included in FEIS Appendix E.

The DEIS (Section 3.4.1) estimates aquifer recharge based on rainfall data extrapolated over the entire 47.5 acres of the subject property. All of this acreage provides recharge in part to the site wetlands under existing conditions. Recharge to the wetland portions of the property would be by direct precipitation into them, or by runoff or subsurface percolation from adjacent upland areas, either on or off the property. Only a minimal decrease in onsite wetland acreage (from 14.4 acres before to 14.3 acres after) will result from the project development, thus not significantly affecting direct recharge to the wetlands. Additionally, while the project proposes to create 7.85 acres (approximately 16.5% of the parcel acreage) of impervious surfaces on upland portions of the property, this development will not substantially change the existing east/west drainage pattern to the wetlands. Precipitation falling on the east and west upland portions of the property will continue to drain to the respective wetlands as in the pre-development condition. Stormwater runoff from the developed areas will be released from detention facilities at rates such that peak flows will not increase or decrease significantly from either the east or west side of the site (FEIS Appendix F).

Item D.1.f.: *Appendix G of the DEIS provides the laboratory results of baseline groundwater quality data from sampling of wells established on the property, as analyzed for Part 5 Drinking Water Parameters.*

Comment 4-28 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Page 3.4-7. What are the specific 'provisions for spill containment' for the car dealership?

Response 4-28: Refer to Response 4-10.

Comment 4-29 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Where are the discharge points for the wastewater treatment facility? Will there be any chemical (e.g. chlorine) storage at this facility?

Response 4-29: *The single proposed discharge point of the WWTP is located adjacent to the State wetland in the northeast corner of the site. Treated effluent will discharge to a dry swale intended to further treat the water in a soil filter prior to surface discharge in the buffer of Wetland A.*

Storage of chemicals utilized in the WWTP will be limited to indoor storage of solid forms, in industrial packaging. This will include tablet sodium hypochlorite for disinfection purposes and tablet sodium bisulfite for dechlorination. For usage, these chemicals will be mixed with water, in quantities of 100 gallons or less, and stored in compatible plastic batching tanks for metered dosing into the waste stream. In addition, very small quantities of laboratory reagents typically used to monitor WWTP processes will be stored. These will principally be in single use unit packaging, i.e. typically in sealed packages of 1 gram or less.

Comment 4-30 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Appendix G mentions water quality test results that will be presented under separate cover. Where is this information?

Response 4-30: *Water quality test results are provided in DEIS Appendix G immediately following the well testing report.*

Comment 4-31 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In the discussion of Solid Waste, the applicant explains used oils and lubricants, antifreeze and other solvents will be stored on-site. The applicant needs to provide additional details about the quantity to be stored, the specifics of the containers and how spills are handled.

Response 4-31: *All storage tanks will be aboveground tanks manufactured for this purpose, with secondary containment and leak monitoring provisions, and located inside of the building. Oils, lubricants and other automotive fluids are delivered and stored in manufacturers' containers in an area of the building that is designed for this purpose. Parts cleaning solvent is stored in a self-contained "parts washer" that reuses a small quantity of solvent and is regularly serviced by a vendor. The size and types of specific containers will be determined in the detailed design of the dealership building. Containers or storage rooms used to store these materials must have secondary containment that will prevent release of any spilled material outside of the area of storage and handling. Waste materials are regularly removed from the site by a licensed hauler.*

Used oil and other petroleum products are not considered hazardous waste under NYS law, although they are stored and handled similar to hazardous materials in order to ensure their proper management. The dealership service facility will be appropriately

registered with the State of New York and will operate in accordance with State and Federal regulations governing materials handling and storage.

The service facility is equipped with several spill materials cabinets that include containment and absorbent materials to be used for cleanup in case of a spill. All service staff are trained in the proper management of automotive fluids, the use of spill materials and spill response techniques, and are responsible for regular policing of the work area inside the building and vehicle parking areas outside the building for prompt response should a spill occur.

Prior to the issuance of a building permit, all environmental protection measures described in this FEIS for the car dealership and supermarket (including oil/water separators, containment structures, wash water filtering systems) shall be shown on the site plans and building plans. The plans shall include relevant construction details and be sealed by a New York State licensed Professional Engineer. The certificate of occupancy shall not be issued until all environmental systems are certified by the design engineer to be installed as designed and are functional.

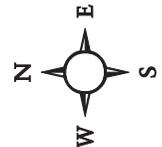
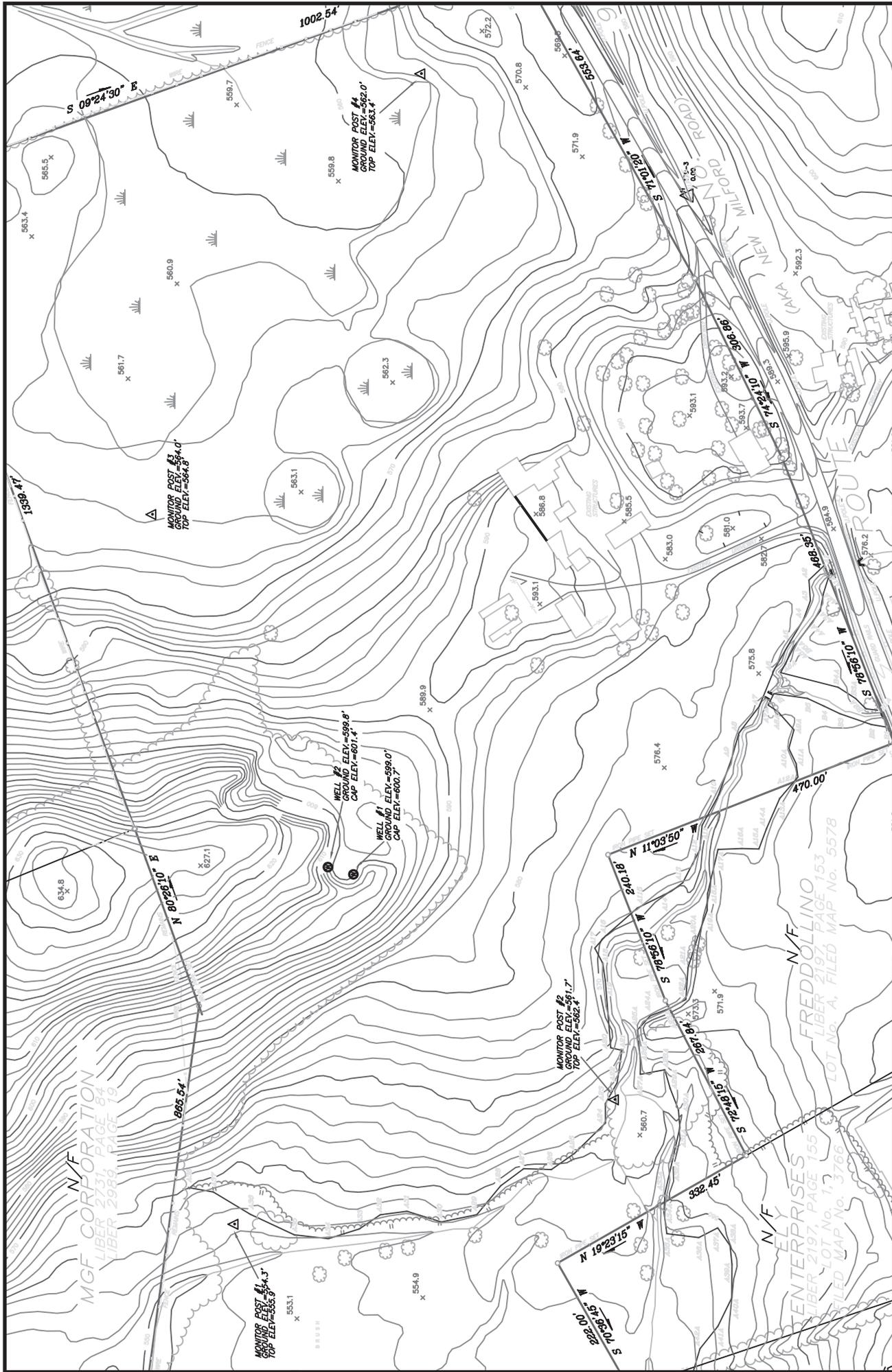


Figure 4-1: Well Elevations
The Fairgrounds
Town of Warwick, Orange County, NY
 Source: Survey by John McGloin LS, 10/25/05
 Scale: 1" = 200'

5.0 CULTURAL RESOURCES COMMENTS AND RESPONSES

Comment 5-1 (Letter #3, Don Ferruggia, 02/16/05): I mourn the loss of the most beautiful farm in Warwick. For over 20 years I have come down that hill and turned right at ShopRite. As soon as I caught a glimpse of that picturesque historic farm, always neat and trim, I knew I was home. Now I won't know where I am. With this loss, Warwick is a little less "Warwick" and a little more "Nondescript Shopping." **(Letter #5, Sue Ann Gardner, 02/16/05):** From the Warwick Village limit to the corner at ShopRite is a stretch of 1.5 miles. On this 1.5 miles there are only 8 rural structures and complexes surviving. By their very scarcity, every single one of them assumes an important role in preserving the rural feel of this stretch of what was the King's Highway in colonial days. Much of this corridor is zoned commercial. ... The Board is striving to have new structures evoke our agricultural past, but it is the few currently standing farm buildings that will become anchors for this gateway that tell everyone arriving, "Warwick is a community that can find ways to allow growth without discarding its heritage." This structure, in particular, plays a key role of keeping this corridor from looking like every other commercial strip in the northeast. It is large in scale, appears structurally solid and well kept, is near to the road, and is on a knoll that gives it a dominance on the landscape. It is one of the few older structures in this area that has the kind of mass to be able to hold its own among commercial structures that will surround it. To approve its removal without exploring every extraordinary and creative means at our disposal is to act in direct opposition to the stated goals of the community in its planning documents. Isn't there any way to find an adaptive reuse of the building that will still accommodate something the project needs? That kind of forward thinking community heritage based planning is what can earn our businesses and planners the position of leadership in the region for which we are increasingly noted, and the support of our citizens and their customers. I urge the Planning Board and the applicant take this small step back even at this late hour, and challenge them to put this one element of the plan back on the table and find a way to save this historic homestead. **(Letter #7, Florence P. Tate, Town Historian, 02/21/05):** The property recently called the Fairgrounds Project has always been a welcome sight to anyone traveling that main route through the Town of Warwick. Leveling the land and demolishing the structures, as proposed by the project, would result in a very weak spot in the framework surrounding the Village of Warwick. Preserving the property as it is offers a unique welcome to both the Town and the Village of Warwick. Talking about the historic rural background of the Town of Warwick and then allowing such important evidence of it to be wiped out are inconsistent.

***Response 5-1:** While the project site has been farmed for a long time and retains some of its past history with the farmhouse structure, remains of several barns, and limited crop land, the property owner has experienced decreased income from its present use and increased development pressure over the years. This property was purchased by the current owner for the purpose of development in accordance with the zoning regulations and property tax reductions that are available for its continued agricultural use have not been exercised by the owner for some time. As the site of the farmhouse provides the best location of site access for safe ingress and egress from the proposed project, and the farmhouse cannot be moved and renovated for economic reuse within the project, the current project plan calls for its removal.*

The property owner has made inquiries into what could be done with the farmhouse (the only safe structure standing on the property) and there appear to be two opportunities for preserving the structure. Mr. Tunis Sweetman, who owns the adjoining dairy farm, has been contacted and, if moving the structure is found to be feasible, has agreed to

physically move the farmhouse onto his property for preservation. If moving the entire structure is found not to be feasible, particular features of the farmhouse, such as specific doors and woodwork identified by the Town Historical Society in its recent inspection of the house, will be removed and relocated to a museum setting selected by the Historical Society.

Comment 5-2 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05): The overall project will benefit the needs and convenience of our growing community but ... we will lose prime agricultural land ... open space, the rural landscape ... the wooded knoll, the gentle roll of farmland into wetland, the vistas articulated by stone walls, stands of trees and flocks of birds ... and a wildlife corridor.

***Response 5-2:** The agricultural use of the project property has declined significantly over the years. Only approximately 8 acres of the total 47 acres is currently in use as crop land. This small portion is rented on a short-term basis and the ability of this land to sustain a significant farming operation is passed. The proposed project, however, will preserve over 16 acres of meadow and some 18 acres of woods and wetlands that will continue to provide a buffer of natural wildlife habitat around the perimeter of the property.*

Comment 5-3 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05): The project is large in scale and much of the landscape will be changed — flattened. We will be losing some real agricultural structures and homestead. The County Chevy building emulates agrarian architecture. Hannafords does not and, although not all together unpleasing, it remains a very big box in a field.

***Response 5-3:** Over 14 acres of the property are designated wetlands that will remain unchanged. The wooded hill in the center rear portion of the property is also proposed to remain in its current natural condition. It is only the front center portion of the property near Route 94 that will be graded to accommodate the proposed construction. Commercial uses such as a dealership and a supermarket require a certain amount of retail floor area and adequate parking for customers. The proposed plan attempts to reduce the scale of the supermarket by situating it far back from the road, buffered by trees in landscaped islands and locating the pad building at the front of the site between the supermarket and the road, and providing a deep setback to the developed area from Route 94. The Route 94 streetscape will include a deep, vegetated buffer of existing trees and new landscaping and architectural designs that utilize features characteristic of the region.*

Comment 5-4 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05): Because so much of the terrain will be changed very little of the natural vegetation will remain. I am grateful that an ancestral beech tree is being saved but the planting plan for this project remains lack luster if not “shopping center generic.” The handling of the front parking lots are merely adequate, the “meadow” along the roadway is a weak echo of the rural context. The large 400 car holding lot behind County Chevy lacks any vestige of integrated green space — it will be a sea of shiny Chevys and remains visually exposed to viewers arriving from South Route 94.

***Response 5-4:** A number of the existing large trees at the front of the property are proposed to be preserved, including the large Beech. The automotive dealership*

building has been designed to be reminiscent of a farm building and the vehicle inventory lot has been located behind it, at least 500 feet from the road. New landscaping and green space is intended to buffer the development from Route 94 views.

Comment 5-5 (Letter #4, Michael J. Newhard, Mayor, Village of Warwick, 02/16/05): Why not do the same with prime farm land [as is done with wetlands -- create new to mitigate the loss] -- if a developer cannot create new farmland, then monetarily support the preservation of farmland through donations to the PDR fund.

Response 5-5: The applicant is not obligated to contribute to a PDR fund.

Comment 5-6 (Letter #5, Sue Ann Gardner, 02/16/05): The question here is not really how old [the farmhouse] is, or what parts of it are old and what parts of it are not. It was the farmstead of one of our leading citizens, Fred Cary Raynor, whose memoirs are preserved, as well as containing parts of the colonial-era Blain homestead. By the applicant's own assessment in the [Environmental Assessment Form], Section 19 page 11, the project will have a large impact on existing structures of historic importance to the community, and which impact can be mitigated by project change. **(Letter #8, Penny Steyer, 02/21/05):** The loss of the Miller farmhouse, the third oldest house in Warwick and home of another Revolutionary War hero, is a local cultural feature that contributes to the historic landscape of the Town, is not appropriate. Every effort should be made to retain, restore and adapt this vernacular building for use in the complex. **(Letter #9, Bill Raynor, 02/22/05):** On Sunday 02/13/05, I went with the Historical Society Committee to take a look at our old homestead on the Miller Farm that used to belong to my grandfather Fred C. Raynor. It has been many decades since I've been inside the house, but I can say that this house is still in good shape, and has certainly been well taken care of over the years. ... The house is one of the oldest in this area and represents a strong sense of history of Warwick (from the Blain family on down). **(Letter #17, Judith Rae Davis, E-mail Correspondence, 02/28/05):** [T]he third oldest house in the Town of Warwick (est. 1723) will be lost in this development. Interestingly, mention of the fate of this historic house has [not been addressed]. **(Letter #18, Mark and Alena Sweet Insetta, E-mail Correspondence, 02/28/05):** In this day and age people travel to Mars and the Moon and will travel farther, but can not save the third oldest house in this area....

Response 5-6: The applicant has taken all measures possible to preserve the integrity of the house and site. The applicant has considered ways to preserve the house and historical feel of the property. Unfortunately, the current location of the house conflicts with the best means of site access. Sight distances at NYS Route 94 combined with the location of wetlands on either side of the site dictate the project entrance be located at the current house site. Refer to Response 5-1 regarding the applicant's plans for preservation of the farmhouse.

Comment 5-7 (Letter #11, Marlene Falot Stabin, 02/23/05): As far as the historic house on the property, find a way to move it. ... Those that want to save this farmhouse should find a solution, but it should not prevent the progress of building on this property.

Response 5-7: The applicant has contacted the owner of the adjoining farm who has agreed to move the house to a nearby location. The applicant will pursue an alternate option of preserving significant architectural elements of the house if the entire building cannot be preserved by relocation. Refer to Response 5-1 for further description.

Comment 5-8 (Letter #16, Robert Sachnin, E-mail Correspondence, 02/28/05): What is the name and exact spelling of the [building] that was to be destroyed and the name of the person that had lived there?

Response 5-8: The house is referred to as the Blaine-Raynor House. It was initially inhabited by Major Thomas Blain and later by Fred Cary Raynor.

Comment 5-9 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The Planning Board should consider whether the proposed architecture fits in with the surrounding landscape. The site is surrounded by agricultural uses, further there are existing structures on the site, which should be considered for their style and potential reuse.

Response 5-9: The proposed development will use architectural styles that imitate the rural, agricultural styles that are characteristic of the area. The conceptual design for the proposed car dealership provides a look similar to a barn in color and bulk. Concept plans for the proposed supermarket call for a varied front elevation treatment with horizontal colors, a bank of windows with pitched overhang, and an architectural front entrance that is reminiscent of the end view of a barn structure (albeit glassed). These elements are depicted in DEIS Figure 2-5. Design of the pad building has not been completed, but the applicant anticipates its design to reflect the bulk and roof line of the existing farmhouse on the property.

Comment 5-10 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The Town Historian has indicated the Blain-Raynor homestead is “one of the most important historical structures in the Valley” and clearly one of local importance.

Response 5-10: Refer to Response 5-1 regarding the applicant’s plans to preserve the farmhouse.

Comment 5-11 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant has not provided the response from the New York State Office of Parks, Recreation and Historic Preservation regarding their potential issues related to the Blain-Raynor house. The applicant should provide additional information regarding the preservation of the site and how it can be effectively incorporated into the Site Plan.

Response 5-11: The NYS Office of Parks, Recreation and Historical Preservation (OPRHP) has completed its initial review of the Cultural Resource study that was submitted by the applicant’s archeologist. The review comments from OPRHP are included in FEIS Appendix A.. OPRHP has requested additional field testing in specific areas of the site, which the applicant’s archaeologist is proceeding to investigate. The applicant will be obligated to respond to any further issues raised by OPRHP concerning the farm house or site prior to any other State approvals or construction on the site.

The certified archaeologist completed a historic structure study in 1999 (included in DEIS Appendix D) that concluded that the overall architectural integrity of the farm house has not been maintained to meet the criteria for listing on the State or National Registers of Historic Places, nor does it meet other eligibility criteria involving architectural integrity and historical significance. OPRHP has also evaluated the farm house and associated structures and determined that the structures do not qualify as a National Register-eligible farmstead. The Phase I and Phase II cultural resource

investigations of the site determined that the proposed project will have no effect on cultural resources and no further investigation is recommended.

See Response 5-1 concerning the preservation of the site.

Comment 5-12 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): We disagree with applicant's assessment of visual impact on the local roads from this project. The applicant states (pg. 3.10-7) "no significant change to visual character will be evident from local roads or other publicly accessible land as a result of this project." The photo simulations represent the altering of a natural, rural landscape into one dominated by massive buildings and extensive parking.

Response 5-12: *The photo simulations represent a rural landscape containing natural and manmade features altered by modern development with buildings and parking that continues to be framed by natural landscape features. Landscaping and buffering in this project are subject to review and approval by the Planning Board.*

Comment 5-13 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Given the proximity to the Warwick Drive-In and residential uses, the Planning Board should ensure the proposed lighting fixtures are fully shielded.

Response 5-13: *Full cut off light fixtures are proposed.*

6.0 TERRESTRIAL AND WETLAND ECOLOGY COMMENTS AND RESPONSES**Comment 6-1 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):**

Given the size of the site, diversity of natural communities, and predominance of old field vegetation, the identification of only about 50 herbaceous plant species on the site appears quite sparse. It is likely that a thorough review of the site would reveal a substantially greater number of herbaceous species, including protected and possibly rare species.

Response 6-1: SEQRA does not require an exhaustive inventory of resources but only requires a reasonable review in relation to the expected significance of impacts. As stated in the DEIS, the dominant vegetative cover on the site is agriculture, hay fields and crop land. The site consists of four generalized plant communities, all of which have been disturbed by current and past agriculture. These areas are constantly mowed and plowed and typically lack vegetative diversity. The field and some wetland areas have been used for hay production and row crops such as corn and soybean. Such regular and intense disturbance is likely to directly eliminate many native species as well as facilitate spread and establishment of invasive species such as purple loosestrife, canary reed grass and common reed. These species typically evoke further declines in species richness. Such invasive species have established in areas adjacent to the agricultural activities, including all on-site wetlands. Within the patch of forested uplands, low richness of herbaceous plant species results from the fragmentation effects (examples are island effects and edge effects) with a net negative effect on species richness and abundance. Considering the extent of past agricultural activities, the establishment and dominance of invasive and/or exotic species that was found in the on-site wetlands, and the state of the forested uplands, the site is characterized by its low species richness of vascular plants. During several site visits by the applicant's ecological consultants, no threatened, endangered or rare plants were observed on the subject site.

Comment 6-2 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

Despite the extent of herb-dominated wetlands on the site, not a single species of sedge is listed in the DEIS (the DEIS merely states that sedges are present). It is likely that several species of sedges occur in site wetlands and uplands, some of which could be rare. For example, false hop sedge (*Carex lupuliformis*; NYSDEC listed rare) and cattail sedge (*Carex typhina*; NYSDEC listed threatened) are known to occur in wetlands of Orange County and could be present in site wetlands. There is no evidence in the DEIS that sedges and other general plant groups; e.g., asters and goldenrods were properly identified.

*Response 6-2: On-site wetlands lack diversity due to historic disturbances associated with agricultural use. Invasive species dominate these wetland systems. Wetlands B, C, some portions of D and most of A are typically mowed over during the dry season. No sedges were observed within Wetlands B and C, where impacts are proposed. Several sedges were observed in the larger wetlands (Wetlands A and D), although neither *Carex lupuliformis* nor *Carex typhina* were the species observed. No impacts to Wetlands A and D are proposed. As stated in the DEIS, no threatened, endangered or rare plant species were observed at the site.*

Comment 6-3 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

Due to the lack of information regarding the presence of bog turtles and the project's impacts on bog turtle habitat, a supplemental DEIS should be required to allow for additional public

review of pertinent information. ... In its letter dated August 5, 1999, the NYSDEC requested that the findings of bog turtle assessment be kept confidential; little detailed information regarding results of the study were included in the DEIS. Consequently, it is not possible for MDRA to determine if the surveys for bog turtles were done pursuant to the requirements of the 2001 Bog Turtle Northern Population Recovery Plan. The confidentiality of the search is not meant to withhold the methodology used or the results if the search resulted in negative findings.

Response 6-3: *As stated in the DEIS, the methodology utilized for the Bog turtle study was proposed to both the United States Fish and Wildlife Service (USFWS) and the New York State Department of Environmental Conservation (NYSDEC) and approved prior to commencing the investigations. The study methods exceed guidelines presented in the USFWS's Bog Turtle Northern Population Recovery Plan. NYSDEC has authorized the applicant's bog turtle assessment report to be made public and it is included in FEIS Appendix H. The DEIS also states the conclusions of the study: that no bog turtles were observed on site and that no suitable habitat exists on the site. These conclusions are reiterated in a letter from USFWS to David Griggs, the bog turtle specialist for this project, dated April 18, 2006, and included in FEIS Appendix A.*

Comment 6-4 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

According to the ERS consultant, the information regarding the Bog Turtle searches has been submitted to the DEC. However, the information has not been submitted to the Town, as Lead Agency. Without knowing the status of the NYSDEC submission, the Town is unable to make an informed decision of whether or not to accept the DEIS as complete. It has been established that the project site is located within a watershed known to support bog turtles and that the USFWS and NYSDEC require that a Phase 1 search be conducted in such areas. Therefore, in the absence of any conclusive evidence, the Town should assume that the bog turtle is present and plan accordingly regarding the potential impacts and mitigation measures involving the bog turtle and bog turtle habitat on the site.

Response 6-4: *The Bog Turtle Assessment report was submitted to NYSDEC, USFWS and to the Planning Board's consultants for review for consistency with established protocols and for concurrence of its findings. A response from NYSDEC has been requested for the Town's record. NYSDEC has authorized the applicant's bog turtle assessment report to be made public and it is included in FEIS Appendix H.*

Phase 1 surveys were conducted for wetlands on-site. Phase 1 surveys revealed that little or no potential habitat exists on-site based on the criteria set by the Bog Turtle Northern Population Recovery Plan (hydrology, plant community and mucky soils). Phase 1 surveys did reveal potential habitat off-site. Following the determination of potential habitat off-site (tussock sedge, mucky soils and shallow, flowing water), phase 2 surveys were initiated mid-April 2000 within and upstream of this potential habitat. Again, as stated in the DEIS, no bog turtles were observed on site and no suitable habitat was found to exist on-site. These conclusions are reiterated in a letter from USFWS to David Griggs, dated April 18, 2006, and included in FEIS Appendix A. Additional Bog turtle monitoring over an extended period of time after construction of the project is proposed as part of the project plan. The monitoring information relative to bog turtles will be provided to USFWS and NYSDEC for use by those agencies.

Comment 6-5 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

The DEIS does not include a description of the bog turtle search protocol explicitly required by NYSDEC and Fish and Wildlife Service; nor is there any indication in the DEIS that the required protocol was followed during bog turtle searches by the applicant's consultant after 2001. The search protocol referred to, which is described in the 2001 Bog Turtle Northern Population Recovery Plan, should have at least been cited in the DEIS (It was not). The bog turtle analysis in the DEIS fails to evaluate the significance of the entire watershed in which bog turtles have been found and the relationship of that watershed to the sensitivity of the site as suitable for potential bog turtle habitat.

Response 6-5: The Bog turtle studies, approved by the USFWS and NYSDEC prior to implementation by ERS Consultants, Inc., investigated wetlands on site even though they lacked any potential habitat. The sole reason these studies were performed was due to the fact that Bog turtle habitat was known to be present in the same watershed off-site. Phase 2 survey methods followed in 2000, 2002 and 2004 were approved by the NYSDEC and exceeded the specifications of the Bog Turtle Northern Population Recovery Plan. These studies proved that no Bog turtles were present on-site and no potential habitat exists on-site.

Comment 6-6 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

According to the 2001 Bog Turtle Northern Population Recovery Plan, "one to three people should survey each wetland together. At least one of these must be a recognized qualified bog turtle surveyor and the others should have at least some previous experience conducting bog turtle surveys." In addition the recovery plan states that "searching for bog turtles and recognizing their habitat is a skill that can take many months or years of field work to develop. Many individuals that have been recognized as qualified to conduct bog turtle surveys obtained their experience through graduate degree research or employment by a state wildlife agency." In addition to the qualifications a scientific collector's permit may also be required. The DEIS fails to establish that the wetland consultant has the specialized experience required to conduct bog turtle searches thoroughly and effectively.

Response 6-6: In accordance with the Recovery Plan guidelines, ERS Consultants, Inc., conducted the Bog turtle studies using two biologists, both with extensive herpetological experience and recognized as qualified biologists by the NYSDEC. Qualifications of the biologists are included in the report submitted to NYSDEC and USFWS.

Comment 6-7 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

Section 3.2-9 of the DEIS states that for the 2000 bog turtle survey: "Field studies were designed by ERS Consultants to focus on the potential suitable habitat as identified during the field reconnaissance and were approved by the NYSDEC and US Fish and Wildlife Service." However, there is no indication in the DEIS that the required approvals for additional bog turtle surveys were obtained from these agencies during the 2002 and 2004 searches; nor that the mandatory 2001 search protocol was utilized.

Response 6-7: Phase 2 Bog turtle survey methods approved by the NYSDEC exceeded specifications of the Bog Turtle Northern Population Recovery Plan in 2000 and in subsequent survey periods. Based upon the initial study in 2000 concluding that no Bog turtles were to be found and a lack of potential habitat on-site, and following the Recovery Plan guidelines, no further studies would have been necessary. However,

additional studies were implemented in 2002 and 2004 as a result of project delays to verify the initial findings. The field effort of both subsequent studies exceeded guidelines set forth in the Recovery Plan.

Comment 6-8 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

Irrespective of whether or not the applicant obtained DEC approval for bog turtle searches in 2002 and 2004, the ACOE will confer with the US Fish and Wildlife Service's assessment of the applicant's search protocol and negative findings. The US Fish & Wildlife Service's evaluation of the bog turtle report and its determination of significance will determine if the project's proposed impacts to federal jurisdictional wetlands will be authorized to proceed under the applicant proposed use of a Nationwide Permit (NWP), require an Individual Permit, or be denied.

***Response 6-8:** The applicant is aware of the permits required to proceed with the project and will apply for each local, state and federal permit, as necessary.*

Comment 6-9 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

There is no discussion in the DEIS of the need to conduct additional bog turtle surveys. According to Appendix B of the Bog Turtle Northern Population Recovery Plan: "additional surveys, however, may be necessary to determine whether or not bog turtles are using a particular wetland, especially if the Phase 2 survey [the search for bog turtles] results are negative but the quality and quantity of habitat are good and in a watershed of known occurrence."

***Response 6-9:** Additional studies were implemented in 2002 and 2004 even though the initial field survey in 2000 indicated that no further study was necessary. The initial study determined that no Bog turtles were present on the site and the quality and quantity of habitat was unsuitable for the species. However, the applicant decided, knowing that the species could be present off-site but within the same watershed, that additional studies should be conducted to further verify the initial findings. In fact, that is the only way such verification could be made. Again, the need for these studies exceeded the guidelines set forth in the Recovery Plan. Continued on-site monitoring is proposed as part of the project plan during and following construction, as outlined in a letter from USFWS to David Griggs, dated April 18, 2006, and included in FEIS Appendix A.*

Comment 6-10 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

There is no analysis of the potential for bog turtles to use the site on an interim basis; nor is there a description of distinctive bog turtle habitat requirements with respect to indicative flora, hydrologic requirements, substrate conditions and food requirements. The DEIS also fails to provide an assessment of the suitability of site wetlands to support bog turtles. Further, the DEIS has not established if site wetlands afford marginal, moderate or optimal habitat. Suitable or optimal bog turtle habitat can be quite small (minimum size about 2,500 square feet; less than the 0.1 acre of wetlands proposed for filling by the applicant), provided such areas are connected to other wetlands. Consequently, optimal habitats can be readily overlooked or the suitability of the wetlands can be "underevaluated" by focusing on the larger wetland condition and ignoring the interconnected optimal and suboptimal bog turtle habitats that encompass the watershed in which the site and bog turtles coexist.

***Response 6-10:** The Bog Turtle Assessment report prepared for NYSDEC and USFWS includes a thorough description of the distinctive habitat requirements with respect to*

flora, hydrologic requirements, substrate conditions and food requirements. That report is included in FEIS Appendix H. The extensive field studies covered all wetlands on the site and the adjacent wetland systems were also assessed. Phase 1 surveys identified the degraded state of the wetlands on-site and their unsuitability as Bog turtle habitat due to historic disturbances associated with agricultural use. Hydrology has been altered and invasive plant species dominate all wetland systems. Additionally, hydric soils containing peaty or mucky soils that are typically suitable for Bog turtle habitat were not present at the site. The study determined it is unlikely that Bog turtles would use these habitats, even on an interim basis. The on-site wetlands are not suitable for bog turtles. This conclusion is reiterated in a letter from USFWS to David Griggs, dated April 18, 2006, and included in FEIS Appendix A.

Comment 6-11 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

There is no analysis in the DEIS of project impacts that could adversely alter bog turtle habitat or the surrounding watershed, including the potential for nutrient enrichment, hydrologic alteration, loss of habitat, impacts of pesticides and fertilizers on wetland water quality and the facilitation of an increase in the spread in nonnative invasive species.

Response 6-11: Potential impacts to wetlands (including potential Bog turtle habitat off site) are discussed in the Wetlands section of the DEIS. Direct project impacts to wetland habitat will be limited to filling of 0.1 acre in pocket Wetlands B and C, which have been characterized as low value habitats and are unconnected to the larger wetland areas. Potential impacts to wetlands associated with stormwater runoff volumes (hydrologic alteration) from the current project proposal are analyzed and presented in the project engineer's Drainage Report (FEIS Appendix F). Potential impacts to wetlands associated with stormwater runoff quality (nutrient enrichment) are analyzed and presented in the project engineer's Stormwater Pollutant Calculations (FEIS Appendix G). Loss of wetland habitat will be limited to 0.1 acre in pocket Wetlands B and C, which have been characterized as low value habitats. No regular use of pesticides or fertilizers is anticipated in this project. The normal inputs/outputs of nutrient, pesticide and fertilizer constituents are accounted for in the pollutant calculations. Incidental use (such as for fertilizer for the establishment of new landscape plantings) can be expected to be judicious and appropriate for the intended purpose with no significant affect on natural resources of the watershed. With the extensive stormwater management systems designed to regulate runoff from the developed portions of the project, and the proposed treatment of wastewater before discharge to the watershed, the project is not anticipated to denigrate the species mix that already exists in these wetlands, particularly where the wetlands are dominated by invasive plant species.

Comment 6-12 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

The Wildlife List (Table 3.2-2) in the DEIS makes no distinction between wildlife actually observed on site and that which has the potential to occur on the site.

Response 6-12: SEQRA does not require an exhaustive inventory of resources but only requires a reasonable review in relation to the expected significance of impacts. The DEIS analyses concentrated on the wetland areas where there was particular attention paid to species of concern. Almost all of the site area proposed for development, however, contains either agricultural land that experiences regular tilling and

management for crops or is developed as a farmstead residence. Species diversity is very limited in these areas, as described in the DEIS.

The DEIS wildlife list includes species observed during the various site visits by the applicant's ecological consultants as well as species that could potentially occur on the site. The DEIS text identifies species actually observed on the site.

Comment 6-13 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

There is no analysis of project impacts on the following species:

Upland sandpiper (*Bartramia longicauda*)
Grasshopper sparrow (*Ammodramus savannarum*)
Wood turtle (*Clemmys insculpta*)
Eastern box turtle (*Terrapene carolina*)
Spotted turtle (*Clemmys guttata*)
Horned lark (*Eremophila alpestris*)
Cooper's hawk (*Accipiter cooperii*)
Jefferson salamander (*Ambystoma jeffersonianum*)

Response 6-13: None of the species listed in this comment were observed on-site (with the exception of spotted turtle that was observed on and off site) either visually, or audibly in the case of bird species, during the several site visits by naturalists over the course of several years in more than one season. Wood turtle habitat exists further west in the wetland area. As described in the DEIS and elsewhere in this FEIS, indirect impacts to aquatic species in nearby areas that would result from proposed discharges to surface waters from the stormwater or wastewater systems will be avoided through compliance of the project with the applicable requirements and permit conditions of NYSDEC and requirements of USFWS, and, therefore, the project would not be expected to have any direct impact on any of these species.

Upland sandpiper are adaptable to developed areas, including some forms of ungrazed agricultural lands, but require relatively large open areas, particularly in relation to nesting requirements. Nesting and feeding occurs preferentially in grassy vegetation that is less than 24 inches in height. Nesting has been reported from areas of pasture and low tilled cropland as well as from grassy areas alongside highways and at airports. During migration, the species have been noted to sometimes utilize smaller open areas, including golf courses and residential lawns. The draft USFWS Upland Sandpipers Habitat Model (March, 2001) states that nesting birds are rarely found in areas with less than 50 acres of contiguous open grassland and only infrequently found in areas of less than 125 acres of grassland. While appropriate vegetative structure presently occurs on the Fairgrounds property, the parcel even in its present open, agricultural state is not extensive enough to be usefully exploitable by this species for breeding purposes, although it is, and would remain after the planned development, useful as a migratory stopover. This species was not reported to be found in the Warwick Block during the observations made for the 1980-1985 and 2000-2005 NYS Breeding Bird Atlas surveys.

Grasshopper sparrow utilize natural as well as cultivated grasslands with interspersed patches of bare ground and shrubs for both feeding and nesting. The draft USFWS Upland Sandpipers Habitat Model (March, 2001) states that nesting birds are rarely

found in areas with less than 25 acres of contiguous open grassland and that the optimum breeding habitat area may be as large as 250 acres of grassland. Grasshopper sparrow densities were also reported by the USFWS report to be reduced in areas that are less than approximately 250 feet from wooded edges of fields or less than approximately 650 feet from construction developments. The report ranks areas with less than 20 acres of suitable habitat as having "no value" for the species. While appropriate vegetative structure presently occurs on the Fairgrounds property, the parcel even in its present open, agricultural state is not extensive enough to be usefully exploitable by this species for breeding purposes, although it is, and would remain after the planned development, useful as a migratory stopover. This species was not reported for the Warwick Block during the observations made for the 1980-1985 and 2000-2005 NYS Breeding Bird Atlas surveys.

Horned lark utilize natural as well as cultivated grasslands with low cover and interspersed patches of bare ground as habitat in all seasons, including during breeding. The minimum habitat requirement for this species has been reported to be greater than 1 hectare (approximately 2.5 acres). They have been reported to nest in areas of short vegetation, including developed areas of airports, agricultural fields, golf courses, landfills and grazed native grasslands. Appropriate habitat presently exists and would persist on the Fairgrounds property after development. This species was not reported for the Warwick Block during the observations made for the 1980-1985 and 2000-2005 NYS Breeding Bird Atlas surveys.

Cooper's hawk is a NYS protected species of special concern that was reported in possible nesting habitat within the Warwick Block (BBA Block 5456B) on one occasion during the observations made for the 1980-1985 and 2000-2005 NYS Breeding Bird Atlas surveys. They nest in wooded areas and appropriate nesting habitat presently exists within the Town of Warwick, although not on the Fairgrounds property. Appropriate habitat presently exists and would persist on the Fairgrounds property after development for Cooper's hawks to hunt the small field and forest birds and mammals that constitute their prey.

The project site contains suitable habitat for box turtle (*Terrapene carolina*) and spotted turtle (*Clemmys guttata*), while wood turtle (*Clemmys insculpta*) habitat exists further west in the wetland area. The box turtle is typically found in terrestrial upland conditions, but is often encountered near the edges of wetlands and the remaining and adjacent forest at the Fairways may provide habitat for box turtle. The spotted turtle is typically found near open water with suitable herbaceous cover, but occasionally utilizes adjacent upland areas. Spotted turtle were observed both on and nearby the site during preparation of the SEQRA documentation.

The project site does not contain suitable habitat for Jefferson salamander (*Ambystoma jeffersonianum*), a species of special concern within NYS. Jefferson salamanders require a forested vernal pool habitat for breeding, and no forested vernal pool habitat exists in the immediate vicinity of the Fairgrounds site.

Comment 6-14 (Letter #17, Judith Rae Davis, E-mail Correspondence, 02/28/05): A second loss will be wetlands that the development will encroach upon. I have not heard which portion of wetlands is being pinpointed and would like to know specifically which wetlands on the property it would eliminate. There is an ephemeral wetland that...is home to some pretty incredible

wildlife. On a summers eve one can just pull over on 94 and hear all the life in the wetlands. I understand there was an environmental impact study and an attempt to see if there were bog turtles with no avail. I would like to know how many times and how many years this research was undertaken and if there were any concerns toward the wildlife in these ephemeral wetlands. I am aware there will be a service entrance and I fear it will encroach on this very area.... I am concerned that the removal of [the] knoll and surrounding trees will disrupt the environment of an old copper beech tree to the right of the house. I believe the beech tree is among the chosen trees to remain, but I am afraid if most of its environment is destroyed it will perish.

Response 6-14: *As indicated in the DEIS and on the site plan, wetlands labeled "B" and "C" will be partially impacted by the project. The current project design preserves most of the area of these small wetland pockets, which were proposed to be filled in the prior project plans that were presented to the Planning Board. These wetlands are small, isolated from the nearby larger wetlands, and are dominated by invasive plant species. During the three years of on-site studies (2000, 2002 and 2004), neither of these areas was found to maintain water into the growing season and no breeding amphibians or egg masses were observed in either wetland area. In fact these pockets have been mowed in past farming activities on the site.*

Given the size and health of the existing copper beech tree located on the knoll near the front of the site, the applicant proposes to locate the project access drive outside of "drip line" of the tree to avoid impacts to its root system and thereby preserve this notable tree. A retaining wall is proposed to avoid grading in this area.

Comment 6-15 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The bog turtle assessment should provide information on the qualifications of the consultant who conducted the bog turtle surveys, and on the survey methodology.

Response 6-15: *The Bog Turtle Assessment report submitted to NYSDEC, USFWS and to the Planning Board's consultants for review includes the qualifications of the biologists who conducted the studies. The survey methodology is discussed in detail in the report.*

Comment 6-16 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Field surveys for bog turtles conducted after 2001 must conform to... US Fish and Wildlife Service's *Bog Turtle Northern Population Recovery Plan* (Recovery Plan)... standards; this was not documented in the DEIS. How does the Recovery Plan describe bog turtle habitat, and is this present on the Fairgrounds site? What condition is it in? Have bog turtles been found within the same watershed, or on adjacent sites, or in other portions of wetlands connected to those on the project site?

Response 6-16: *The Bog Turtle Assessment report prepared for this project discusses the field survey methodology and findings. This report is included in this FEIS as Appendix H. The study exceeds the guidelines presented in the USFWS Recovery Plan. As indicated in the DEIS, the study concludes that no Bog turtle habitat was identified within the subject site where direct impacts could occur from the project. The on-site wetlands were found not to be suitable for bog turtles. In its letter to David Griggs, dated April 18, 2006 (see FEIS Appendix A), USFWS indicates the Bog turtle is known to occur off-site within a wetland contiguous with the proposed project and at other*

(unnamed) sites within the Wawayanda Creek system. The Bog Turtle Assessment describes potential suitable habitat off-site in both larger wetlands to the northwest and northeast (Wetlands A and D in the DEIS). No Bog turtles were observed on-site or off-site in the potential habitat.

Comment 6-17 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Review of the bog turtle assessment is essential for completion of the technical evaluation of the DEIS and comment on potential impacts to this species and its habitat. The potential presence of bog turtles on the Fairgrounds property, or, as noted in the Recovery Plan, the presence of turtles in any portion of the watershed, will affect other issues including stormwater management practices, water supply and quality issues, and wetland buffers. It will also be a factor in assessing impacts to wetlands B and C.

Response 6-17: *As discussed in the Bog Turtle Assessment report submitted to NYSDEC, USFWS and the Town's consultants, suitable habitat for this species is present northwest of the site a significant distance from the project, in the same watershed as on-site Wetland D on the west side of the project site. Additionally, potentially suitable habitat for this species is also present northeast of the site in the same watershed as on-site Wetland A on the east side of the site. These areas are all within the Wawayanda Creek system. The actual presence of Bog turtles, if any are known to exist on other properties, are not disclosed in this EIS per the request of NYSDEC.*

Stormwater and wastewater that drain into this watershed must meet NYSDEC standards for intermittent streams prior to release. (Refer to Response 6-18.) While there is no regulatory buffer for this wetland, the project has been designed with an undisturbed buffer of some 100 feet or greater (except for buffer area plantings) including the wastewater treatment facility discharge pipe and all impervious surfaces.

Portions of Wetlands B and C are proposed to be filled, as discussed in the DEIS, however these areas have been characterized as low value habitats which is evidenced by the extent of dense, invasive vegetative cover.

Comment 6-18 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): [The DEIS does not address the] assessment of potential impacts to onsite and adjoining wetlands due to stormwater and treated wastewater effluent. Of concern are changes to vegetation (short and long term) due to nutrient loadings etc., associated with these discharges.

Response 6-18: *As described in DEIS Appendix H, the wastewater treatment plant would provide tertiary treatment and the State's highest standards for effluent discharge. These standards are established for intermittent streams where the discharge would not receive any dilution. The proposed treatment plant will discharge to a dry, vegetated swale designed to further treat the effluent by infiltration before surface discharge at a point greater than 100 feet from the wetland boundary. Nutrient loadings from this and all other discharges are quantified in the project engineer's pollutant calculations presented in FEIS Appendix G. Permitting requirements applicable to these surface discharges are intended to minimize or avoid adverse impacts to downstream water resources.*

Permits must be obtained from the NYSDEC that ensure treatment of stormwater and wastewater that drain into the watershed to meet all NYSDEC standards prior to release. The treatment plant operator will be required to sample and test the effluent on a regular basis to demonstrate permit compliance. Due to historic disturbances associated with the past agricultural activities that have impacted all wetlands on the site, vegetation in the wetlands includes invasive species. While the level of past nutrient loading from these activities is not documented (and was not regulated), it is anticipated that the treatment requirements for stormwater runoff and treated wastewater will avoid further impact to these wetlands that would increase the already dominant invasive species through increased loading.

Comment 6-19 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The DEIS does not provide sufficient information for an assessment and evaluation of impacts on habitats, wetlands, and protected species. The following information is required:

Assessment of onsite habitats and their condition.

Identify the various habitat types.

Assessment of habitats from two perspectives: site specific and the surrounding landscape.

Description of probable plant and animal species present.

Value of the habitats for non-protected as well as protected species. This includes habitat for breeding, nursery habitat, foraging, seasonal movements, nesting, overwintering, and population dispersal.

Response 6-19: *Existing habitat types found on the subject site include meadow / agricultural fields, wetlands, and upland mixed woodland. The DEIS identifies plant and animal species observed and likely to be found in each of the habitat types. Each of the habitat types on the project site extend beyond the site boundaries onto adjoining land and, in fact, are each a small part of larger habitat systems of the same type in the region. Open meadow, agricultural fields, wetlands, and upland woods are common in the local region.*

Approximately 60 percent of the site consists of meadows or agricultural fields. A small portion of this area that was historically used for agriculture is still farmed. The remainder of this community type is not currently supporting agricultural use and is characterized by old-field meadow vegetation.

Wetland systems represent approximately 30 percent of the project area. This cover type is further subdivided into ecological systems of emergent wetlands, deciduous forested wetlands, and scrub-shrub wetlands. Emergent wetlands comprise 22 percent of the project site. Predominant species in the herbaceous layer of the on-site portions of emergent wetlands include a relatively low diversity of species. In particular, Wetlands B and C are both small, isolated wetlands resulting from past farming activity (excavated to be farm ponds) and consist entirely of herbaceous vegetation. Deciduous forested wetlands represent five percent of the project site. This wetland type is located within the emergent wetland in the western portion of the site in Wetland D and is dominated by an overstory of trees, with a uniform shrub cover layer and a relatively sparse herbaceous layer. The scrub-shrub wetlands cover approximately three percent of the project site and occupy portions of Wetlands A and D. It lacks an overstory and is

dominated in the shrub layer with an abundant herbaceous layer. Further specifics of each of the four wetland areas on the project site are described in the DEIS.

Upland mixed woodlands cover approximately eight percent of the site. This community type occupies the wooded hillside in the north-central portion of the site, with a composition of overstory trees, and sparse understory and herbaceous vegetation. (The remaining two percent of the property is developed.)

Each of the vegetation associations noted above represents a different type of wildlife habitat. The meadow, wetland and woods areas that remain undisturbed can support some or most of the habitat requirements for local fauna, particularly small animals (such as their needs for breeding, foraging, cover, overwintering, and population dispersal), however the DEIS does not include detailed analyses of habitat value for particular animal species. The "edge habitats" between different vegetative communities also provide a diversity of structure and niches for wildlife species. The DEIS states that the overall value of the subject parcel as wildlife habitat is relatively high due to the large amount of contiguous open space that extends beyond the site boundaries. Wetlands A and D contain the greatest biomass and biodiversity, and are considered the most productive habitat types on the site.

The habitat descriptions and species tables provided in DEIS Section 3.2 Ecology provide listings of vegetation, wildlife and habitats based on actual observations of species present as well as indications of probable wildlife present based directly upon potential habitat observed. The wildlife table identifies the habitat types in which each species is typically found. These descriptions and observations were based upon three years of field studies which included three different seasons. This level of investigation was commensurate with the level of significance of impacts expected from the project, particularly since the areas of direct impact from project construction would be located only in the areas previously disturbed by agriculture.

Comment 6-20 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Upland habitats. From the brief descriptions provided in the DEIS it is not clear whether species listed were actually observed onsite. For species found onsite, the date of the observation and method used must also be provided. Many species are readily found only at certain times of the year. Additional species that were not observed, but that are usually associated with a particular habitat found on site (or that may use it at some stage of their life cycle) should also be listed. Did field investigations target species or groups of species? Did they follow accepted scientific protocol?

Response 6-20: *The wildlife surveys conducted for preparation of the DEIS sought to determine the presence or absence of species at the project site. The list of wildlife provided in the DEIS documents species actually observed, evidence such as tracks that indicates the presence of species, and probable species inhabiting or frequenting the site based upon identification by experienced biologists of potential habitat for those species. Species not observed but usually associated with a particular habitat found on the site are listed in the DEIS table. The list was compiled based upon observations made in three separate years that included three seasons of the year. Species or direct evidence of species actually observed are identified in the DEIS text. Species that were not observed but are usually associated with a habitat found on site are included in the table. Field observations were not targeted toward any particular species or group of*

species since the goal of the DEIS investigations was to provide an overall “look” at habitat characteristics of the site for the purpose of identifying the sensitivity of the site environment to the proposed action.

Comment 6-21 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Descriptions of wetland habitats are not sufficient for impact evaluation; an accurate assessment of impacts depends on specific information regarding existing conditions. Wetlands A and D extend beyond property boundaries, and they must be described in their entirety.

Response 6-21: *Descriptions of wetlands on site have been presented based upon scientific methodologies including USFWS Cowardin nomenclature and further defined based upon the direct in-field investigations of the biologists. The Bog turtle study prepared in accordance with NYSDEC and USFWS guidelines includes an overview of contiguous off-site wetlands habitat.*

*The Bog Turtle Assessment report that is included in FEIS Appendix H provides the following descriptions: Wetland A, located in the eastern portion of the site, is the headwaters of an unnamed tributary to the Wawayanda Creek. This wetland can be classified as a Palustrine Emergent (PEM) Wetland System containing small Palustrine Scrub/Shrub Broad-leaved Deciduous (PSS1) Wetland System (refer to the National Wetland Inventory map in Appendix H, Figure 5). Off-site, this wetland (NYSDEC Wetland WW-3) includes areas classified as Palustrine Forested Broad-leaved Deciduous Seasonally Flooded/Saturated (PFO1E) Wetland Systems, based on inspection of the NWI map. Wetland D, located in the western portion of the site, also incorporates an unnamed tributary to the Wawayanda Creek. Wetland D is classified as a Palustrine Emergent (PEM) Wetland System with Palustrine Forested Broad-leaved Deciduous (PFO1) components. FEIS Appendix H includes descriptions of the dominant vegetative species observed as well as the general types of soils found in Wetlands A and D. The wetland assessments for this project concentrated on wetland characteristics relevant to the habitat for the Bog turtle (*Clemmys muhlenbergii*) since this species was identified by NYSDEC and USFWS as the primary species of concern in this area.*

Comment 6-22 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The NWI wetland map in the DEIS indicates that the two main types of wetlands onsite are palustrine emergent-persistent, and scrub/shrub broad-leaved deciduous. The text mentions palustrine aquatic bed - but this type is not found onsite according to the map. NWI wetland codes are based on “Classification of Wetlands and Deepwater Habitats of the United States” (Cowardin et al., 1979. USFWS/OBS-79/31). If this nomenclature is to be used in the DEIS, the wetlands should be described accurately, according to the information provided in this document.

Response 6-22: *The statement about the “aquatic bed” is what the NWI maps called the dammed section of the unnamed tributary in the western portion of the site. Since the dam has failed, this description is no longer current. Cowardin nomenclature has been used accurately throughout the document to describe the wetland systems found on site.*

Comment 6-23 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Filling a portion of wetlands B and C will destroy habitat and impact water quality. What species use these ponds?

Response 6-23: Wetlands B and C are small, isolated wetlands, and would not be considered ponds. They are dominated by invasive species, creating a monoculture, having an effect that is opposite to biodiversity (refer to FEIS Appendix H). During the three years of on-site field studies, neither wetland maintains water into the growing season and no breeding amphibians or egg masses have been observed in either wetland area. In its April 18, 2006, letter to Mr. David Griggs, USFWS states that Wetlands B and C “are not considered ‘classic bog turtle habitat’, however these areas are in fairly close proximity to wetlands that have been identified as providing suitable habitat for bog turtles” and recommends three specific precautions to be implemented during project construction. The project applicant will commit to implementing these measures:

1. A qualified bog turtle monitor shall be present during all construction activities within Wetlands B and C to ensure that there are no bog turtles within the work area.
2. A silt fence shall be installed to exclude turtles from the work area.
3. Any turtles found in the work area shall be moved by a qualified monitor to suitable habitat outside the work area. A permit from NYSDEC shall be obtained to do this, if needed.

Comment 6-24 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The scoping document calls for discussion of downstream impacts on fish, including cumulative impacts to fishery resources of Wawayanda Creek. This information is not found in the DEIS.

Response 6-24: The following measures are identified in the DEIS with regard to minimizing or avoiding any downstream impacts on Wawayanda Creek and its fish populations. By designing the project to exceed NYSDEC’s water quality standards for intermittent streams from wastewater discharge, and the NYSDEC SPDES General Permit #02-01 requirements for stormwater discharge, this project can be expected to avoid any adverse water quality affects to the maximum extent practicable.

- the stormwater management plan is designed to treat all runoff from developed areas of the site in one or more redundant treatment systems and control the quantity and quality of site discharges to on-site and off-site surface water resources, and to comply with the NYSDEC SPDES General Permit #02-01 requirements.
- soil erosion and sedimentation control measures are proposed in accordance with the standards of NYSDEC to minimize or avoid temporary impacts to water resources resulting from construction.
- pollutant loading calculations have been prepared by the applicant’s engineer (FEIS Appendix G) that conservatively demonstrate the minor change in quality of water discharges at design points on the site and greater than one and one-half mile upstream from Wawayanda Creek.
- the proposed wastewater treatment plant will provide tertiary treatment before discharging to a vegetated swale for supplemental treatment before discharging at a point more than 100 feet from the edge of Wetland A and more than 750 feet from the tributary to Wawayanda Creek, to minimize or avoid any adverse water quality affects on the receiving surface waters. The plant effluent will meet the NYSDEC’s

water quality standards for intermittent streams, the State's highest and most stringent water quality standards, before it receives supplemental treatment in the dry swale, upland buffer or wetland. .

- *the proposed wastewater treatment plant is designed to discharge an average of 5,000 gallons per day or 3.47 gallons per minute, which is comparable to the flow of water from a garden hose and a small fraction of the total flow in the receiving wetland.*
- *the above measures are proposed as integral parts of the project plans to minimize or avoid any potential cumulative impacts from these systems to the on-site stream and to downstream resources of Waywayanda Creek.*

Comment 6-25 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Several vernal pool breeding amphibians were found onsite, yet no mention was made of vernal pools or areas where these species were found onsite. Are wetlands B and C used by these species?

Response 6-25: *The DEIS does not mention vernal pools because no vernal pools were found on site. All amphibians found were located in either Wetland A and/or D. No amphibians were found in Wetlands B and C.*

Comment 6-26 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In the DEIS, the section labeled Potential for Use by Rare, Endangered, Or Protected Species including Bog Turtle on page 3.2-9 discusses bog turtles, but no other species. The possible presence of threatened, endangered, special concern species of animals, and threatened, endangered or rare species of plants was not discussed in sufficient detail in this DEIS to support a determination of impacts. Given the extent of wetlands onsite, and the potential for the presence of sensitive species, additional species information must be provided. ... The reader needs to know which species and which habitats are being assessed. ... Were these species field surveyed at the appropriate time of year to maximize the probability of observation?

Response 6-26: *Based upon three years of studies on the site by experienced biologists, which included extensive Bog turtle investigations and presence/absence studies of flora and fauna, no rare, endangered, threatened, or species of special concern were observed on the site and no potential habitat for such species was identified. Refer to Response 6-13 regarding other species of concern.*

Comment 6-27 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Mitigation for loss of a portion of wetlands B and C cannot be accomplished by the construction of water quality basins. On page 3.2-13 the DEIS states "several water quality basins will include a permanent pool. These will create some wetland functions and values, including wildlife habitat that should compensate for the minimal impacts to wetlands B and C." This is not supported by recent research. Basins constructed for stormwater quality management do not duplicate wetland functions. The DEIS must provide specific, factual statements regarding impact mitigation. The impacts to wetlands B and C have not yet been fully described; until more information is provided, mitigation cannot be evaluated.

Response 6-27: *The DEIS provides an assessment of wetland functions of the wetlands on the site and identifies Wetlands B and C as providing low quality wetland functions/values with regard to stormwater control, wildlife habitat, protection and recharge of subsurface water resources, recreation use, pollution treatment,*

erosion/sedimentation control, education and scientific research value, open space and aesthetic value, and sources of nutrients for fish.

According to the US Army Corps of Engineers (ACOE) and US Environmental Protection Agency (USEPA), impacts of less than 1/10th acre are permissible without mitigation under the Nationwide Program since such impacts are considered by both the ACOE and USEPA to not be significant ecological impacts. However, the water quality basins that are proposed for the purpose of stormwater quality management will also provide at least as much wildlife value and stormwater retention than is currently provided by Wetlands B and C. Planting of the basins and surrounding areas is intended to enhance their wildlife value.

Comment 6-28 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): [T]here is a difference between wetland disturbance regulated by the U.S. Army Corps of Engineers and impacts on wetland habitat, which is not necessarily protected by either federal or state wetland regulations.

Response 6-28: *The project will conform to NYSDEC and ACOE wetland regulations. The project has also been reviewed by USFWS with regard to sensitive wildlife habitats and extensive design modifications have been made to the project plans in response to the USFWS comments. The applicant has committed to a number of mitigation measures (outlined in Section 1 of this FEIS) to minimize or avoid impacts to wetland habitats both on the project site and off-site. There are no other regulatory agencies having jurisdiction over wetlands in the Town of Warwick. Wetland disturbance resulting from the proposed project is fully documented in the DEIS and the subsequent studies that are presented in the FEIS.*

Comment 6-29 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): Page 3.2-14. Landscape plantings are not necessarily mitigation for habitat loss and may in fact contribute to proliferation of invasive species. If vegetation is to be used as mitigation, a detailed planting plan and plant species list should be provided in the DEIS along with the wildlife species expected to use the plantings. Vegetation in all buffers adjacent to wetlands should also be described in the DEIS; again, species lists should be provided.

Response 6-29: *The landscape planting in this project is not proposed as mitigation for habitat loss. However, the DEIS recognizes that the landscaped areas will be used by wildlife in addition to the untouched natural environment after project development. The landscape planting will provide opportunistic foraging and shelter to wildlife utilizing the site. In addition to the ornamental landscape plantings proposed, perimeter areas of the site will be stabilized with seed mixtures that have been selected for both their suitability for use at this site and their ability to blend with the natural character of the Town's open spaces as cited in the Town's site landscaping design guidelines. A meadow mix consisting of noninvasive and predominantly native plant species will be specified to reestablish the perimeter areas.*

Comment 6-30 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): On page 3.3-3, errors in wetland descriptions in the DEIS reflect inaccuracies in the information presented. For example, a palustrine emergent wetland does not contain components of palustrine scrub/shrub and forested wetlands. Also, the 'small size' and 'lack of hydrology' of wetlands B and C are not

meaningful statements; size does not determine wetland value and wetlands do not exhibit a 'lack' of hydrology.

Response 6-30: *Wetland systems very typically contain components of other wetland systems. Wetland A is an emergent wetland. Within this wetland lies a smaller scrub/shrub system. Wetland D has components of scrub/shrub as well as forested wetlands. The size of a wetland is a very meaningful statement that clearly has a direct relationship to certain wetland functions. According to Paul Adamus, author of Wetland Evaluation Technique (Department of the Army) and Dennis Magee, author of A Rapid Procedure for Assessing Wetland Functional Capacity, size affects many of the wetland functions and values a wetland system can have. The "lack of hydrology" in Wetlands B and C is intended to mean that these wetlands are not "ponds". These wetlands are dry most of the time.*

Comment 6-31 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The Wetland Benefits table on page 3.3-4 cannot be completed accurately until additional information on species that use these wetlands is provided.

Response 6-31: *Table 3.3-1 provides an account of the functions and values for each of the wetlands located on site based on the observations of the applicant's biologists. This information was derived from three years of studies on the subject site. The field effort for this project far exceeds the guidelines in documents such as Wetland Evaluation Technique and A Rapid Procedure for Assessing Wetland Functional Capacity regarding assessment of wetland functions and values.*

Comment 6-32 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The discussion regarding wetland impacts and mitigation does not address indirect impacts. The increase in stormwater pollutant levels as a result of this project (i.e. a dramatic increase in impervious surface) is not addressed specifically. Evaluation of existing stormwater quality (for each pollutant) as compared to the post-construction stormwater quality has not been included in the DEIS, but this information is essential to mitigation planning and the development of an effective SWPPP. Potential thermal effects of stormwater runoff are not discussed in the DEIS.

Response 6-32: *Treated stormwater from this project will meet or exceed current NYSDEC stormwater requirements so that indirect effects on wetlands will be minimized or avoided, as stated in the DEIS. The stormwater treatment system is designed to provide treatment of runoff to the maximum extent practicable and accommodate the increase in impervious surfaces on the site.*

Chapter 5 of the NYSDEC's Stormwater Management Design Manual includes a list of accepted management practices for water quality treatment based on their proven ability to mitigate potential affects on the various constituents of stormwater when used according to the specifications in the Manual. Practices taken from the Manual that are appropriate to this project have been adopted into the draft Stormwater Pollution Prevention Plan (SWPPP) prepared for this project. The draft SWPPP is presented as FEIS Appendix E. The proposed practices for the Fairgrounds project have been selected from the approved list of treatment measures for installation in accordance with the Design Manual's recommendations. Based on the comments of the Planning Board, its consultants, and of USFWS in its review of the project plans and on-site conditions, the applicant has added a number of supplemental water treatment measures that will

provide redundant treatment and control to water quality and quantity before the stormwater is discharged to the environment. These measures are outlined in Section 1 of this FEIS.

A site-specific analysis of the fate of specific pollutants has been conducted by the project engineer to demonstrate the effectiveness of proposed stormwater management measures (FEIS Appendix G). While compliance with the stormwater permit is predicated on conformance with NYSDEC's Design Manual, several aspects of the proposed mitigation measures have been upgraded from the requirements in the Design Manual so that they will be more effective in removing pollutants. Refer to Response 4-23 for additional discussion.

7.0 COMMUNITY SERVICES AND SOCIOECONOMICS COMMENTS AND RESPONSES

Comment 7-1 (Letter #8, Penny Steyer, 02/21/05): There is one effect of the application currently under review that absolutely must be remedied prior to approval being granted by the Town Planning Board to this present development: the adverse affects of the addition of a supermarket to this location. ... Remedy the losses of village supermarkets in Greenwood Lake, Warwick and Florida before adding a supermarket on the Fairgrounds property....

Response 7-1: While the scope of a SEQR assessment for a site-specific action would not include consideration of land use effects beyond the impacts that can be associated with the action proposed by the project sponsor, the DEIS for the Fairgrounds includes analysis of effects on the area economy as presented in the DEIS scope. The discussion encompasses the retail trade area envisioned for the supermarket. This analysis concludes that the proposed supermarket, automobile dealership and retail building are not expected to significantly alter economic conditions or trends in the Town of Warwick, the Village of Warwick, or surrounding areas.

Comment 7-2 (Letter #8, Penny Steyer, 02/21/05): Before the Town destroys open space in order to facilitate Hannafords coming to the property, it is imperative to have a long-term guarantee of occupancy and operation of the food market on it as well as proof of the removal of any clauses restricting trade. There should also be a contingency requiring that the property shall not “go dark” for more than a set period of time and a contingency requiring that should the property “go dark,” it must be restored to the condition it was in when the approval was granted (open green space).

Response 7-2: The market analysis of the Warwick area conducted by Hannaford (which is proprietary) establishes that there is sufficient demand to sustain a supermarket of this size at this site into the foreseeable future. Hannaford will have a long term lease agreement (25 years or more) with Fairgrounds, LLC, to operate its store at this location. The Town cannot require the property owner to demolish the site improvements after a set period of inactivity and restore that area of the site to open space. Regardless, it is in the interest of the Town and of Fairgrounds, LLC, to maintain ongoing commercial operations at the site.

Comment 7-3 (Letter #10, Stephen L. Pascal, Village of Warwick Trustee, 02/22/05): This [project] will create much needed competition with the ShopRite Grocery Store and in the end benefit everyone. This is what business is all about, choice for the people they serve and competitive pricing to allow it to be affordable for all incomes. Not to mention opening up the job market for our local residents. ... The Country Chevy dealer will also be able to grow and compete with the rest of the car sales and manufacturing businesses in the same locale. All in such close proximity to the Village, which will also benefit in the long run to draw more people to the area of retail etc.

Response 7-3: Comments noted.

Comment 7-3 (Letter #11, Marlene Falot Stabin, 02/23/05): Warwick supported 2 grocery stores in the past and there are certainly enough people now to support 2 grocery stores with all the growth that has come to this town. ... I speak for several residents of the area who would welcome another grocery store and larger Chevy/Olds Dealership.

Response 7-3: *Comments noted.*

Comment 7-4 (Letter #14, Lynn Miller, 02/27/05): Between the Town of Warwick Master Plan, the Village of Warwick Master Plan and the Intermunicipal Agreement, the idea of having commercial development and services centered in the downtown center is a major goal. It is understandable that Country Chevy needs a larger location, but why must a huge grocery store be part of this arrangement? For a downtown to survive, everyday services must be available. Moving a food store to this location will continue to drive local dollars away from our downtown merchants.

Response 7-4: *Given the market area demand that is established in the DEIS market study, and the size of the supermarket that Hannaford wishes to build in the Warwick area to meet that demand, the subject property seems to be an appropriate site for such use.*

Comment 7-5 (Letter #14, Lynn Miller, 02/27/05): What assurances do we have that Hannafords will stay at this location for 2, 5, or any amount of years at all? If they do not survive there, will another grocery store be able to, or want to, move into this 58,000 square foot building? Will we end up with an empty big box on this agricultural land?

Response 7-5: *Refer to Response 7-2.*

Comment 7-6 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In the subsection on Community Services and Socioeconomics, the applicant notes the Fire Department indicated a radio repeater in one of the buildings would be beneficial to the community. The applicant should more fully discuss its willingness to cooperate with the Fire Department to address this concern.

Response 7-6: *The applicant has communicated with the Fire Department to inquire about the feasibility of this site for locating the desired radio apparatus. The applicant is willing to cooperate with the Department to address this concern, although it is not able at this time to confirm whether such equipment could be installed at the site, since the type, size, location and other requirements of the equipment are not known. The Department has provided no information relative to its earlier mention of a radio repeater.*

8.0 LAND USE AND ZONING COMMENTS AND RESPONSES

Comment 8-1 (Letter #6, David E. Church, Commissioner, Orange County Department of Planning, 02/16/05): Although the project will convert existing and once existing farmland to a commercial use, it appears from the DEIS that there was no intention by the land owner to protect or continue farming on this parcel. The Town has an aggressive plan to protect farmland in other areas where farming will continue with PDR protection... [The Applicant has] followed the zoning requirements of the Town's Zoning Law, the Town's Comprehensive Plan and the County Comprehensive Plan.

Response 8-1: Comments noted.

Comment 8-2 (Letter #8, Penny Steyer, 02/21/05): It is nearly impossible to... reconcile the application with new Town Master Plan and the Intermunicipal Agreement with the Village of Warwick. The Master Plan, while acknowledging a Designed Shopping district along the Route 94 corridor also encourages the Town to direct commercial development back toward the Village of Warwick in order to maintain traditional land use patterns. The IMA, which has been the supporting document behind several grants and awards under the Quality Communities initiative, specifically directs commercial development back toward the Village in order to maintain traditional land use — specifically maintaining a traditional downtown commercial center. The loss of 17 acres of current agricultural land is no longer in sync with the new Town of Warwick Master Plan, Town Zoning, and agricultural land preservation policies.

Response 8-2: While the land owner does not intend to continue farming on this parcel, the Town has an aggressive plan to protect farmland in other areas where farming will continue with PDR protection. The proposed plan follows the zoning requirements of the Town's Zoning Law, the Town's Comprehensive Plan and the County Comprehensive Plan.

Comment 8-3 (Letter #12, Patrick Gallagher, 02/24/05): I've owned the home on West St. for 13 years and have been blessed with wonderful neighbors [Country Chevy]. The lower lot for Country Chevy is right in my backyard. The lot is fenced and ringed by a wide border of trees. We have not been blighted by noise and light pollution. While other businesses close by have excessive and obnoxious lights on at all hours the lighting on the car lot is limited to a single unobtrusive lamp. The noise level is nominal. I garden on the green space surrounding the lot. Another grocery in the village is not necessarily precluded by the addition of a Hannaford's. An owner from the community with a record of thoughtfulness in the community will build the right kind of facility. No doubt the proposed Fairgrounds will benefit from the same level of neighborly consideration extended to the residents of West St. The Petruccis have been terrific neighbors and will take the community into consideration wherever they go.

Response 8-3: Comments noted.

Comment 8-4 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05): In Sections 1.2.4 and 3.5.2 of the DEIS, the applicant discusses its request for a waiver from the Town Zoning requirement to provide a marginal access road. According to the Town Zoning Code, "The Planning Board may waive any and all of the requirements for a marginal access road in § 164-42F if future interconnection with adjoining parcels is provided and offered for dedication to the Town of Warwick. Marginal access roads are encouraged in high traffic areas and are attainable pursuant to New York State Town Law §200." ... The applicant is not

proposing such an interconnection with adjoining parcels. In addition, the previously granted variance for Country Chevrolet applied to a radically different site plan proposal for the property. Therefore, the Planning Board likely lacks authority to grant a waiver and the applicant should be required to apply to the Zoning Board of Appeals for a variance.

Response 8-4: *The Planning Board looked at the feasibility of a future marginal access road at this site on its April 6, 2005, site walk and discussed whether a connection from the project interior road in front of the dealership building toward land to the west could address the long-term possibilities of the Route 94 corridor. A road connection to either the west or the east of the project site would require wetland permits due to the presence of State and Federal wetlands and their sensitivity as wildlife habitat. At the present time there are no proposals for development of adjoining properties with marginal access roads to connect to. The project site plan shows the alignment for a marginal access road to the west as discussed.*

Comment 8-5 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

Pages 2-6 and 2-10 contain an identical one-sentence reference to the proposed 60,000-gallon water tank. The DEIS contains no discussion of the size, height and paint color of the water tank, nor does it discuss any required lighting or potential use for mobile telephone or similar transmission facilities. The Executive Summary Section 1.2.10 on page 1-23 asserts the proposed water tank “will be hidden from view from off-site viewpoints” but there is no further explanation of how this is accomplished. The illustrative aerial view at Figure 2-6 and the Post-Development Views from Route 94 at Figures 3.10-10 and 3.10-11 omit the water tank.

Response 8-5: *Cross sections showing the size, height and location of the water tank are included at the end of this section (Figure 8-1). The water tank is proposed to be approximately 24 feet in height and 25 feet in diameter. The tank will be painted a neutral green and given its location at the rear of the project site and behind the supermarket building, it will be unobtrusive in any view of the site from Route 94. As shown in the cross sections, the supermarket will hide view of the tank from all view points on Route 94 except the extreme southeast corner of the site. To augment the line of street trees proposed along the eastern side of the supermarket parking lot, a row of evergreen trees will be added to the landscape plan on this potential sight line as indicated in Figure 8-2.*

Since the proposed water tank will be behind and lower than the supermarket building, it would not be conducive for use for mobile telephone or similar transmission facilities. No lighting of the tank is required or proposed.

Comment 8-6 (Letter #13, Matthew Rudikoff, Matthew D. Rudikoff Associates, 02/25/05):

The failure to explain the assertion contained in the executive summary [the proposed water tank “will be hidden from view from off-site viewpoints”] may be a serious omission from the DEIS. The DEIS should mention any and all compliance (i.e.: dimensions of the tank) to the Town zoning ordinances regarding the water tower.

Response 8-6: *Refer to Response 8-5 regarding visibility of the tank. The proposed water tank will be approximately 24 feet in height and complies with all requirements of the zoning regulations.*

Comment 8-7 (Letter #15, Joan T. Nagrod, Fran and Neil Sinclair, 02/28/05): Our home is at the junction of 17A and 94 in Warwick, across from Dawson Motors. About a mile up from my home is Kaytes Ford and ShopRite. A little further up 94 is the Chrysler Dodge dealership. What was once farmland, trees or fields are now cars, cars, cars, with no green buffer between them and 94. Now another dealership is planned for this area, right across from Kaytes Ford. Is this in keeping with Warwick Town plans for this area? Are we to have one car dealership after another on 94, similar to those on Route 23 in New Jersey? Is this what the Warwick Town Planning Board has in store for us who live at this entrance to the Village of Warwick?... No one ever bought a home in a town or a village because it was near a car dealership. In fact, it is just the reverse. People who live near them move on.

Response 8-7: *Comments noted.*

Comment 8-8 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant indicates that 7.9 acres of active prime and statewide agricultural soils will be converted to other uses. These soils will no longer be available for agricultural use and although it may seem insignificant in the context of this project, contributes to a continuing trend of farmland loss in the Town.

Response 8-8: *While implementation of the applicant's plan will remove some agricultural land from use, the applicant purchased this land for the purpose of developing the site for commercial use. The proposed plan conforms to the zoning requirements of the Town Zoning Law, the Town Comprehensive Plan and the County Comprehensive Plan.*

Comment 8-9 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): On page 3.5-10, the applicant refers to the Orange County Comprehensive Plan and states the project falls within a "mixed use corridor", however, the applicant does not provide the full description of how Orange County describes a mixed use corridor. The Orange County Comprehensive Plan (p. 36) defines a mixed use corridor as "currently identified by a mix and range of land uses, these corridors have the potential for an additional mix of development as well as in-fill development. While additional development is anticipated, quality of design is important in addressing road access, corridor transportation capacity, and roadside appearance as well as in avoiding conflict with current land uses." The Planning Board is encouraged to emphasize the quality of design in this project in furtherance of the County Plan.

Response 8-9: *Comment noted.*

Comment 8-10 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant notes (pg. 3.5-13) the proposed total square footage of the auto dealership and the supermarket is less than the limit of 80,000 square feet noted in § 164-46(J), number 49. The provision in the code notes the limit is per lot, however, these two lots are under unified ownership by the Fairgrounds, LLC. The total square footage for both lots is 82,750 when you include the pad building and exceeds the stated limit in § 164-46(J), number 49.

Response 8-10: *As the commentor notes, the limit of 80,000 square feet noted in § 164-46(J), number 49, applies per lot. Since the project proposal is clearly for 2 lots with 22,720 square feet proposed on Lot 1 and 60,030 square feet proposed on Lot 2, this project conforms to this requirement. This subdivision is proposed by the applicant for the purpose of operating the dealership separate from the remainder of the project. As*

stated in the DEIS, proposed Lot 1 will remain in ownership by Country Fairgrounds, LLC. The dealership facilities on Lot 1 will be developed by Country Fairgrounds, LLC, consistent with the needs of Country Chevrolet. The other partner of Fairgrounds, LLC, will acquire and develop Lot 2 for the supermarket facility consistent with the needs of Hannaford, and will lease the land to the supermarket, and will develop and lease the pad site proposed on Lot 2.

Comment 8-11 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): In the discussion of compliance with the design guidelines, we believe the Planning Board should examine the location of the parking for both the supermarket and the dealership. A basic tenet of the design guidelines calls for parking to the rear or side of the building. The supermarket locates the parking directly in front and dealership surrounds the building with parking. This is in clear opposition to the guidelines. There is great potential here to break up the parking lots and relocate them to adhere to the standards the Town is seeking for new development.

Response 8-11: *To the extent possible, the proposed site plan responds to the Town's Design Guidelines by placing the majority of vehicle parking for the dealership (the temporary inventory storage and over one-third of its customer/employee spaces) behind the building, and truck loading operations behind the supermarket, both out of sight from Route 94. A landscaped buffer of 150 feet and deeper is proposed along the entire road frontage and the smallest building in the project, the pad building, has been located at the front of the site to further screen a portion of the parking field and the supermarket from the road. Given the two primary buildings proposed for this site, relatively large parking areas are necessary for each use. In particular, the operation of a modern supermarket necessitates having the majority of customer parking at the front of the store since a single point of entry and exit is most efficient and customers leaving the store with filled carts must negotiate the parking field with ease and safety to reach their cars. The operation of an automobile dealership, which has as its inventory vehicles that will be on display to customers, necessitates easy access to the display areas.*

The current plan provides the optimal site layout for the proposed uses, in the applicant's opinion, given the natural constraints of the site and the requirements for accessibility, safety, and vehicular storage for the supermarket (which is the smallest full service store that Hannaford operates) and the dealership (which is designed to accommodate Country Chevy's current operation.) Parking for the two businesses is separated by the entrance aisle which includes two rows of landscaping on either side (with trees and shrubs) and the supermarket parking area is further "broken up" into four parking fields by landscaped islands, an added paver pattern across the center of the parking area, and increased number of diamond shaped tree islands.

As an alternative to the proposed plan, an alternative plan that places most parking on the building sides away from Route 94 is presented in the DEIS. However, given the narrow site frontage, the supermarket is turned to face the rear of the parcel. Placing the supermarket with its rear toward the road places its loading/service area toward the road, thus requiring significant screening. It is noted that the orientation of the supermarket building in this alternative would not provide an economically viable plan. The dealership in this alternative is oriented with its front facing the internal access roadway, its side toward Route 94, and its service area toward the rear of the parcel. Parking is located on the sides and rear of the building. A landscape buffer would

screen view of the side parking areas from Route 94. While this plan for the dealership may be feasible, the applicant could not build the supermarket plan as laid out in this alternative.

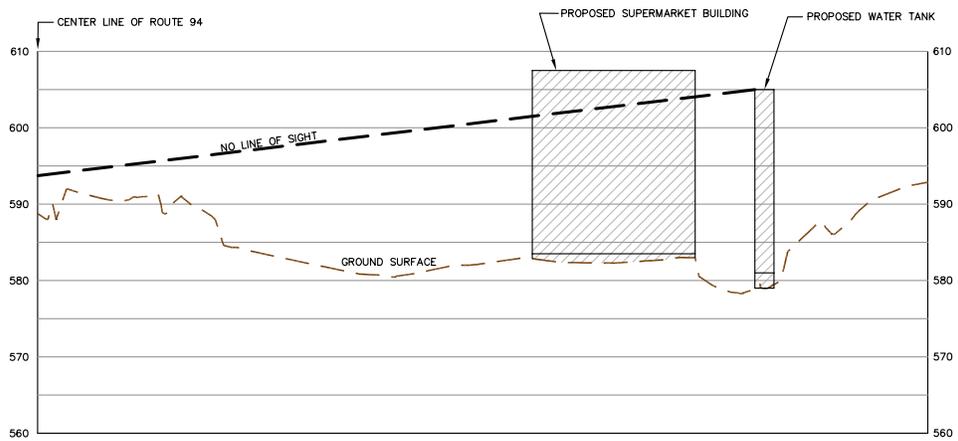
Comment 8-12 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant states (pg 3.5-17) that this project “is not a strip commercial type center, which typically provides convenience retail services to a relatively small surrounding area.” We believe it is not necessarily the services provided in a commercial center that makes it a strip, but rather it’s the location, how the buildings are sited and the auto dependent nature of the setting. In this case, one could make an argument that this is closely related, if not in fact a strip commercial development. Consider the following factors: this project involves stringing buildings along a major thoroughfare, it is outside an identified “center” and it requires the use of a vehicle to get to it.

Response 8-12: *The proposed project is supported by the following factors: developable land is available at this site to support the size of the proposed facility; a developer and its prospective tenant has determined that such a project is financially feasible and would be supported by the community; and the site plan advances the Town Plan objective of focusing retail activity in the DS zone on Route 94 south of the Village of Warwick.*

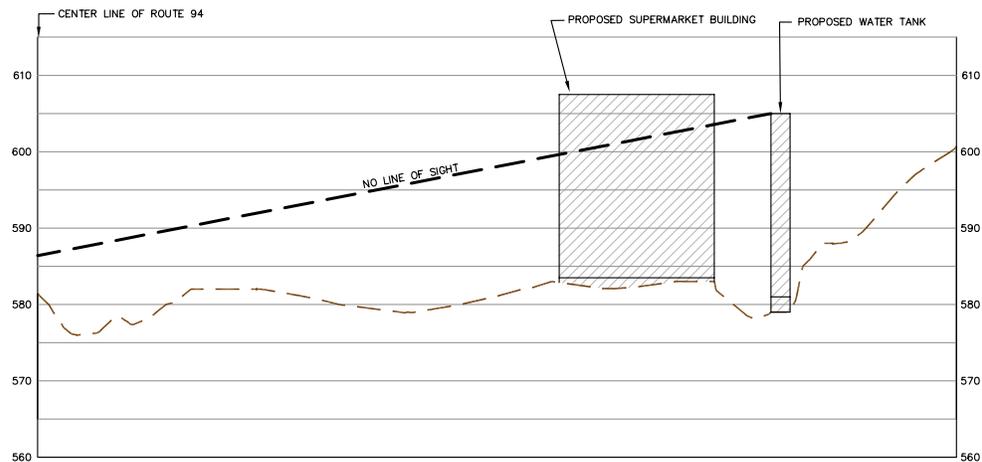
The proposed project conforms to the land use plan recommended in the Orange County Comprehensive Plan, as it is located in a designated Priority Growth Area. Additionally, to the extent possible, the proposed site plan responds to issues raised relative to commercial development in the Town Comprehensive Plan and the Town’s Design Guidelines by placing the majority of vehicle parking for the dealership (the temporary inventory storage and over one-third of its customer/employee spaces) behind the building, and truck loading operations behind the supermarket, both out of sight from Route 94. The pad building has been located at the front of the site to screen a portion of the parking field and the larger supermarket building from the road. Additionally, a landscaped buffer of 150 feet and deeper is proposed along the entire road frontage.

Comment 8-13 (Letter #15, Joan T. Nagrod, Fran and Neil Sinclair, 02/28/05): Why is a food store planned directly across from ShopRite?

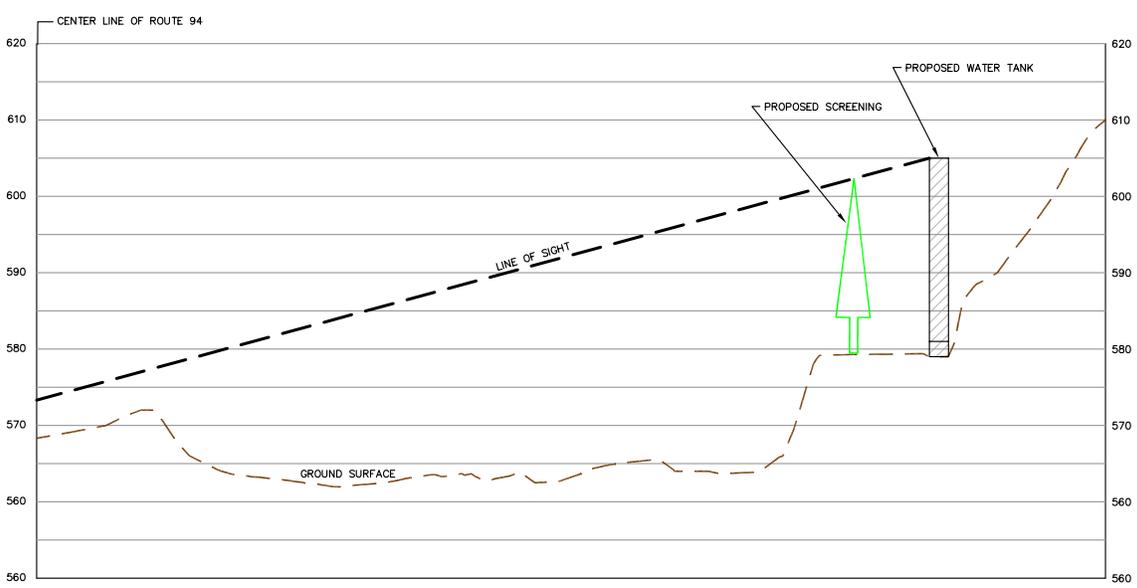
Response 8-13: *The applicant’s expressed purpose of the proposed project is to provide a first class supermarket to the Warwick Route 94 corridor and to accommodate a long-standing automobile dealership in the community in a modern facility. This project will utilize the existing zoning for the site in furtherance of the comprehensive plan of the Town of Warwick. Anecdotal information from residents in this community indicate that a supermarket in this neighborhood is desirable and will add convenience and a competitive alternative to existing shopping options. The Market Analysis in the DEIS concludes that there is sufficient projected demand to accommodate existing businesses and the proposed new development. Moreover, the site, situated along a State highway in an area which is becoming an important retail corridor for the Town, is suited for the supermarket and automobile dealership uses.*



SIGHT LINE 3 FROM ACCESS DRIVE
 VERTICAL SCALE: 1" = 25' / HORIZONTAL SCALE: 1" = 250'



SIGHT LINE 2 FROM ROUTE 94
 VERTICAL SCALE: 1" = 25' / HORIZONTAL SCALE: 1" = 250'



SIGHT LINE 1 FROM SE CORNER
 VERTICAL SCALE: 1" = 25' / HORIZONTAL SCALE: 1" = 250'

Figure 8-1: Sight Lines to Water Tower
 Fairgrounds Site
 Town of Warwick, Orange County, NY
 Source: Lehman & Getz, P.C., 04/2005
 Scale: As Shown

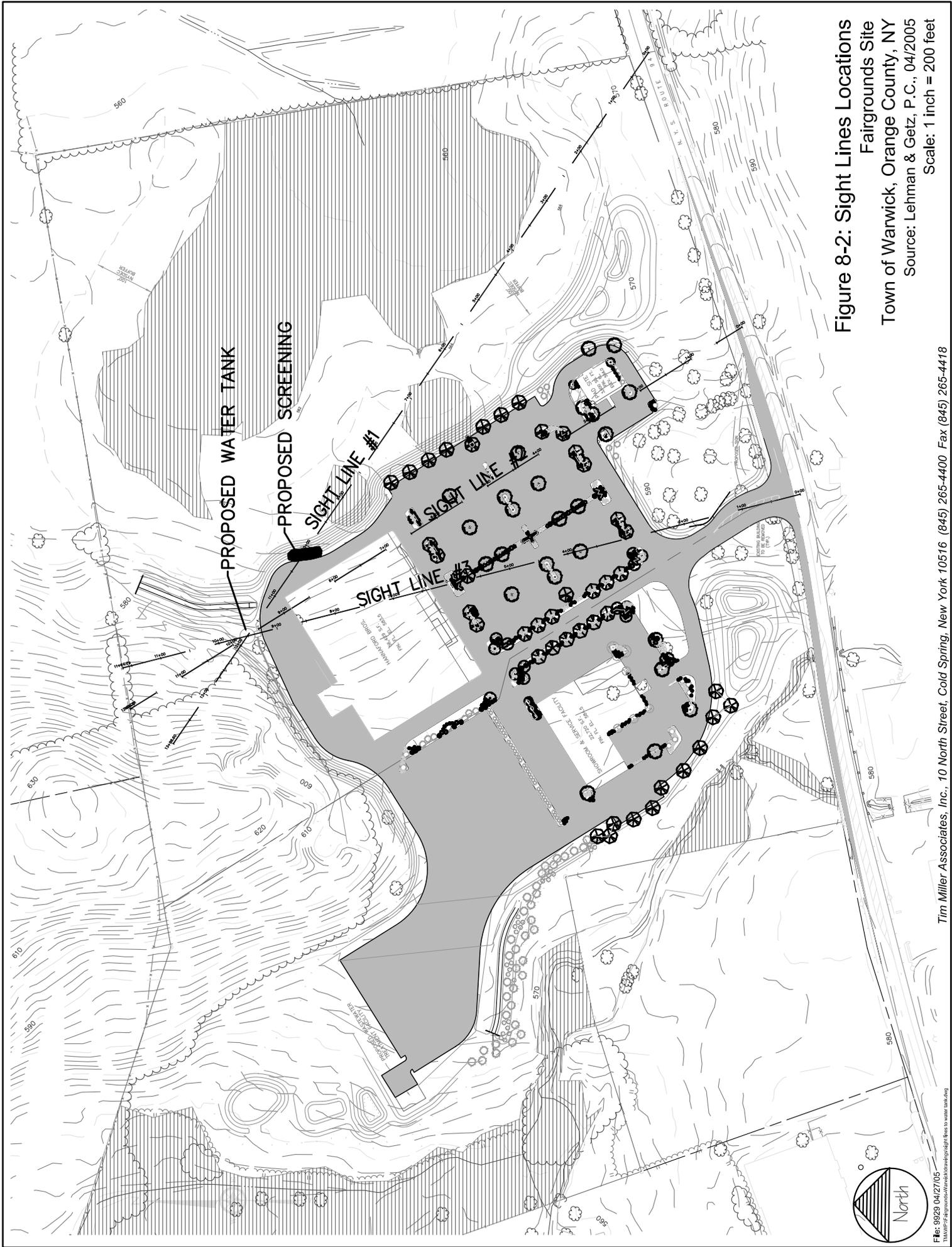
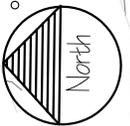


Figure 8-2: Sight Lines Locations
 Fairgrounds Site
 Town of Warwick, Orange County, NY
 Source: Lehman & Getz, P.C., 04/2005
 Scale: 1 inch = 200 feet



9.0 TRAFFIC AND TRANSPORTATION COMMENTS AND RESPONSES

Comment 9-1 (Letter #6, David E. Church, Commissioner, Orange County Department of Planning, 02/16/05): There is no doubt that the project will increase traffic on Route 94 and nearby feeder roads but the highways have adequate capacity and will handle the flow with the suggested additional improvements.

Response 9-1: Comment noted.

Comment 9-2 (Letter #14, Lynn Miller, 02/27/05): Have adequate studies been done on the traffic impact for the Village of Warwick, Route 94 and Warwick Turnpike?

Response 9-2: The traffic analysis for this DEIS was conducted in accordance with the accepted scope of study and following NYSDOT methodology for assessment of existing and future traffic conditions relative to a project of this size and type. NYSDOT has conducted its preliminary review of the subject project and conceptually agrees with the proposed mitigation for the project (see FEIS Appendix A).

Comment 9-3 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant has presented a traffic study that indicates the following intersections all experience a decrease in their level of service to an “E” or “F” for at least one lane group under the No Build conditions:

- NYS Route 94 and Warwick Turnpike CR21 (NB-L, Weekday Peak)
- NYS Route 94 and ShopRite (NB-L, Weekday & Saturday Peak)
- NYS Route 94 and Pelton Rd CR1A (SB-L,R, Saturday Peak).

Under the Build Conditions, these intersections all experience an increase in delay, with NYS Route 94 and Warwick Turnpike CR21 (NB-L, Saturday Peak) and NYS Route 94 and ShopRite (NB-L, Saturday Peak) decreasing to Level of Service “F”. The intersection at NYS Route 94 and Pelton Rd CR1A (SB-L,R) shows the greatest increase in delay time. Mitigation measures only discuss the installation of a traffic signal at NYS Route 94 and Pelton Rd CR1A and improvements at the site access. Further on in the DEIS, the applicant states these improvements will improve conditions for all other studied intersections. However, there is no evidence presented in support of this claim. The applicant needs to substantiate this claim.

Response 9-3: The traffic analysis identifies several unsignalized intersections that will experience Levels of Service “E” and “F” under future No-build or Build conditions. It is not unusual at an unsignalized intersection along a major roadway such as Route 94 that delays in excess of 50 seconds are experienced during peak time periods. The traffic study notes that the installation of traffic signals would improve these conditions. The study further indicates that with signalization at the site access drive, or at the intersection of Route 94 and County Route 1A, the other unsignalized intersections in the area will benefit from the increase in gaps in the traffic stream and this would reduce the delays experienced at these other intersections. The need for signalization at any unsignalized intersections will be determined by the NYSDOT under the Highway Work Permit review process.

Comment 9-4 (Letter #19, J. Theodore Fink, AICP, Greenplan, 02/28/05): The applicant, in several places in the DEIS, makes reference to the Orange County Comprehensive Plan and notes this project lies within an area designated as a “mixed use corridor.” If this is to become such an area, accommodations must be made for pedestrian and bicycle traffic. In this context,

the project cannot be perceived only in the present moment. The Planning Board is encouraged to envision the long-term possibilities of this site, its relationship to surrounding uses and the potential for it to become a "mixed use corridor" where incorporating alternative modes of transportation should not be ignored.

Response 9-4: *The possibilities of a future marginal access road at this site are examined in the DEIS and elsewhere in the FEIS, which could address the long-term possibilities of a mixed use corridor. At the present time there are no proposals for development of adjoining properties with which either a vehicular or pedestrian circulation system could connect. As no pedestrian traffic was observed along Route 94 during the preparation of the DEIS, there is no sidewalk system provided on the site plan from existing nearby properties. Similarly, since no bicycle traffic was observed along Route 94 during the preparation of the document, there is no dedicated bicycle access route provided on the site plan.*