

FINDINGS STATEMENT

State Environmental Quality Review Act (SEQR)

6 NYCRR Part 617.11

This Findings Statement is issued pursuant to Article 8 of the New York Environmental Conservation Law - the State Environmental Quality Review Act (SEQR), and its implementing regulations at 6 N.Y.C.R.R. Part 617. The Town of Warwick Planning Board, as Lead Agency, makes the following findings:

- Name of Action:** The Fairgrounds
- Description of Action:** Preliminary site plan, subdivision and special use permit approvals to facilitate development of a mixed commercial/retail use on approximately 16.4 acres of a 47.5 acre site. The proposed development is comprised of an approximately 56,430 square foot (SF) supermarket, an approximately 22,720 SF automobile dealership and an approximately 3,600 SF pad building for a bank or other service oriented commercial/retail use. The automobile dealership will be located on proposed Lot 1 (22.301 acres), and the supermarket and pad building will be located on proposed Lot 2 (25.228 acres).
- Location:** The proposed development is located on NYS Route 94 (New Milford Road) east of Sanfordville Road in the Town of Warwick, Orange County, New York (SBL # 51-1-40)
- Lead Agency:** Town of Warwick Planning Board
Warwick Town Hall
132 Kings Highway
Warwick, NY 10990
Contact: Benjamin Astorino, Chairman
Phone: (845) 986-1127
- Agency Jurisdiction:** The Town of Warwick Planning Board, as Lead Agency, has been authorized to issue Site Plan Approval, Special Use Permits, and Subdivision Plat Approval in accordance with §§ 274-a, 274-b, and 276 of New York State Town Law, Article IV, Chapter 164, § 164-46 of the Town of Warwick Zoning Law and Article I, Chapter 137, § 137-1 of the Town of Warwick Subdivision Regulations.
- SEQR Classification:** Type I

Date Final EIS Filed: September 26, 2006

Date Findings Adopted: November 15, 2006

I. INTRODUCTION

A. Development Concept

Fairgrounds, LLC (the “Applicant” or “Project Sponsor”) proposes to construct a mixed commercial/retail use development on approximately 16.4 acres of a +/- 47.5 acre site located on NYS Route 94 (New Milford Road) east of Sanfordville Road in the Town of Warwick, Orange County, New York (the “Project”). The mixed use development, known as “The Fairgrounds,” is comprised of an approximately 56,430 square foot (sf) supermarket, an approximately 22,720 sf automobile dealership and an approximately 3,600 sf pad building for a bank or other service oriented commercial/retail use. The property is zoned for this use. The Applicant is requesting preliminary site plan, subdivision and special use permit approvals for the Project. The automobile dealership will be located on proposed Lot 1 (22.301 acres), and the supermarket and pad building will be located on proposed Lot 2 (25.228 acres). The Project will utilize on-site water supply and sewage disposal systems.

B. Procedural History and SEQR Review

The Town of Warwick Planning Board (the “Planning Board”), as SEQR lead agency, has conducted a site specific environmental review of the Project. This document is the lead agency’s Findings Statement required pursuant to 6 N.Y.C.R.R. § 617.11.

In early 1999, an application for site plan, subdivision and special use permit approval for the Project was submitted to the Town of Warwick Planning Board (“Planning Board”). The Planning Board established itself as lead agency on July 7, 1999. The Applicant voluntarily offered to prepare and submit an Environmental Impact Statement (“EIS”).

On September 1, 1999, after conclusion of a public scoping process, the Planning Board issued a final scoping document designating the potentially significant environmental impacts to be addressed in the Draft Environmental Impact Statement (“DEIS”) for the Project. On January 19, 2005, the Planning Board accepted the DEIS as complete with respect to its scope, content and adequacy and issued a Notice of DEIS Completion and Notice of Public Hearing and caused the DEIS to be filed with all involved agencies. A Public Hearing on the DEIS as well as a public hearing on the preliminary site plan, subdivision and special use permit applications was held on February 16, 2005, upon which date the hearing was closed. Comments on the DEIS were received for an additional twelve (12) days following the close of the Public Hearing.

A Final Environmental Impact Statement (“FEIS”) was prepared and accepted by the Board as complete on September 20, 2006. A Notice of Completion and the FEIS were filed with all involved agencies on September 26, 2006.

C. Site Characteristics

The Project site is located on NYS Route 94 (New Milford Road) east of Sanfordville Road in the Town of Warwick, Orange County, New York. The property is located in the Designated Shopping (DS) and Office and Industrial Park (OI) Zoning Districts. The portion of the site proposed for development lies almost entirely within the DS District. The Project site and extensive areas surrounding the site are located within an Agricultural District pursuant to the New York Agriculture and Markets Law. However, only 7.9 acres of the site remains actively farmed. The owner of the Project site has not taken advantage of any agricultural tax exemptions for several years and has requested that the Orange County Planning Department remove the Project site from the District. The site has approximately 1,325 feet of frontage on NYS Route 94. Land use in the vicinity of the site includes commercial, residential and agricultural uses and vacant land.

The Project site is 47.529 acres in size and consists of open agricultural land, non-agricultural meadow/brush-land, freshwater wetlands and wooded uplands. The site contains four wetland areas, which make up 14.4 acres of the site. Two wood frame residences, several barns and vacant buildings from a former farm operation are grouped in the center of the Project site. Site topography is mostly gently sloping from a central ridge rising more steeply toward the rear of the property. Relatively level topography forms the center and southern edge of the property, along NYS Route 94. Nearly level areas of wetland are found on the eastern and western edges of the property. The majority of the site (45.1 acres or 95%) has slopes of under 20%; steep slopes of greater than 20% occupy approximately 2.4 acres or 5% of the site and are mostly located on the hillside in the northern portion of the site. The site drains towards a wetland/watercourse to the west and toward a wetland/watercourse to the east.

Views into the Project site occur from nearby roads. The highest and most visible elevations on the site are a wooded knoll, along with a gentle ridgeline through the center of the site where the farm buildings exist. The existing cluster of farm buildings is a visually prominent feature on the local landscape. Grassy fields are visible on the sides of the ridgeline. Shrubby lowland areas occur on the east and west sides of the site and are generally visible only from immediately adjacent portions of Route 94.

D. Detailed Development Description

The purpose of the Project is to provide a supermarket to the Warwick Route 94 corridor and to accommodate a long standing automobile dealership in the community with a modern facility.

The Project site is currently owned by Country Fairgrounds, LLC, of Warwick, NY. The development site is comprised of a single 47.5 acre tax parcel (51-1-40). The Project applicant, Fairgrounds, LLC, proposes development of the property for an automobile dealership, a supermarket and a bank or similar service-oriented commercial/retail use. Country Chevrolet, which has operated at a site in the Village of Warwick since 1982, will move its operation into the

new facility on the site. Hannaford Bros. Co. has committed to locating a new Hannaford Supermarket on the Property.

The existing tax parcel will be subdivided into two lots, indicated as proposed Lot 1 and Lot 2 on the subdivision plan. Lot 1 will remain in ownership of Country Fairgrounds, LLC, and will be developed by it consistent with the needs of Country Chevrolet. Fairgrounds, LLC will develop the supermarket facility on Lot 2. The other commercial/retail use (pad building) on Lot 2 and the water supply and wastewater treatment systems serving both lots will also be developed by Fairgrounds, LLC.

1. Lot 1 - Automobile Dealership

The automobile dealership includes one principal building which would house the proposed dealership's retail showroom, offices and auto maintenance operations. The dealership is sited to face Route 94, set back from the road some 300 feet. Employee and customer parking areas are proposed to be located on all four sides of the building, with new vehicle storage on the north side of the lot, some 500 feet from Route 94. Total floor area of the building is proposed to be 22,720 square feet.

The proposed parking for employees and customers at the auto dealership is 113 spaces as demonstrated by the latest revised site plan filed with the FEIS. The proposed parking has been reduced on the latest revised site plan by 23 spaces to avoid wetland buffer impacts. The perimeters of the parking, circulation and vehicle storage areas for the automobile dealership will be landscaped. Vehicle storage includes space for an additional \pm 373 vehicles using pervious gravel pavement.

2. Lot 2 - Supermarket and Pad Building

The supermarket consists of one principal building which will house the proposed supermarket retail areas, customer services such as recyclable returns, and loading areas. The supermarket is sited to face Route 94, set back from the road some 600 feet. A 2-bay truck receiving area for the supermarket, which would also house coolers for refrigerated storage and trash compactors, is located at the rear of the building and out of sight from any view from off-site areas. Vendor receiving will also occur at the rear of the store. Employee and customer parking is proposed on the south side of the supermarket. The total floor area of the supermarket will be 56,430 sf.

A second building is proposed toward the front of Lot 2 for a bank or similar service-oriented commercial/retail use. Employee and customer parking will be located on the west side of the building, and a drive-through is planned on the east side. The perimeter of the parking and circulation areas will be landscaped. Total floor area of the pad building will be 3,600 sf.

The Hannaford parking lot will have 284 parking spaces. Twenty-seven (27) of the spaces, located on the western side of the Lot 2 area, will be initially developed as lawn and considered

“banked” spaces with the provision that should additional parking be needed on the site this area would be adaptable to paved parking. The proposed parking for the pad building is 14 spaces.

3. Water and Sewer Systems

A non-community non-transient water supply system will be developed on the Project site to serve the proposed buildings. It will include wells, storage, treatment, pressurization and distribution facilities. A pump system will pressurize the distribution system. The 60,000 gallon water storage tank will be located north of the supermarket building. Based on pump testing performed at the site, the capacity of the two existing wells far exceeds the design flow requirement for the project.

The wastewater treatment facility will be a “package plant” engineered specifically for the Project. The plant design is a modular type of design that could accommodate expansion for additional users, subject to Town, County and State approvals. All buildings on the Project site will be served by the wastewater treatment plant. The sewage treatment plant has been located so it will discharge (after tertiary treatment) through a vegetated swale to a point outside the eastern wetland buffer. Discharge is approximately 5,000 gallons per day (gpd); 3.5 gallons per minute on average, which is comparable to moderate flow from a garden hose.

A recorded unsubordinated reciprocal easement arrangement between the two lots will allow for perpetual use and maintenance of the wastewater treatment and water supply systems by all on-site users. The Town of Warwick’s policy on water and sewer systems, as expressed in § 137-25 of the Town Code, is that all central water and sewer systems are to be owned and operated by the Town. In the event that the Town of Warwick wishes to acquire the water and/or sewer systems, easement rights will be established for that purpose. The particulars of a transfer of ownership, including delineation of Town responsibilities and bonds for maintenance, will be determined prior to Final approvals.

4. Site Access

Site access from Route 94 will be centrally located at a single point. To operate at acceptable levels of service during peak hours, this new intersection is proposed to have a traffic signal as well as a Route 94 eastbound left turn lane and a westbound right turn lane to accommodate traffic entering the site. The entrance drive will include one ingress lane and two egress lanes. Exiting traffic will be handled in two lanes - one for left turns and one for right turns. Conceptual approval of the proposed access was provided by the New York State Department of Transportation (NYSDOT) in its letter dated August 30, 2006, included in Appendix A of the FEIS. Installation of the signal is subject to the NYSDOT Highway Work Permit process.

5. Landscaping and Lighting

A site landscaping plan has been designed that includes tree and shrub plantings throughout the developed areas of the site that will be visible to the public. A tree and shrub planting theme is

provided along the entrance driveway, in the parking lot islands and at the perimeter of parking lots throughout the Project. The plan preserves the existing character of the site's frontage along Route 94 by preserving the majority of the existing large healthy trees except in the immediate area of the Project entrance driveway. The existing copper beach tree located on the knoll near the front of the site will be preserved by locating the Project's access drive outside of the tree's "drip line" to avoid impacts to its root system.

The Project site will be illuminated at night to provide pedestrian and vehicle safety throughout the developed portion of the Project site. The proposed site lighting plan will consist primarily of pole mounted fixtures with fully shielded light sources to prevent off-site glare.

E. Required Permits, Approvals and Review by Other Agencies

The following agencies are Involved Agencies under SEQRA, and have approval authority over various aspects of this proposal:

Town of Warwick Planning Board: Subdivision and Site Plan Approvals, and Special Use Permit

New York State Department of Health; Orange County Department of Health: Approval of Non-community, non-transient water supply system

New York State Department of Environmental Conservation: (1) Approval of wastewater treatment facilities; (2) SWPPP conformance with SPDES General Permit No. GP-02-01.

New York State Department of Transportation: (1) Work Permit for Activities in the State Right of Way (2) Traffic Signal Permit

In addition, the Orange County Department of Planning was referred the application for review pursuant to Section 239 of the New York State General Municipal Law

II. IMPACTS, MITIGATION MEASURES AND SPECIFIC FINDINGS:

The DEIS and FEIS include an environmental evaluation of the following resource issues:

- Geology, Soils and Topography
- Terrestrial and Aquatic Ecology
- Wetlands
- Water Resources
- Land Use and Zoning
- Traffic and Transportation
- Community Services and Socioeconomics
- Air Quality
- Noise

- Cultural Resources

A. Geology, Soils and Topography

Impacts to the geology, soils and topography of the Project site will occur because approximately 16.4 acres, or 34.5%, of the site must be graded to accommodate the Project. Site development and grading will mostly occur in upland areas located at the center of the Project site. Grading is necessary to create a level area for the retail buildings and parking areas of the Project. Grading is also necessary to achieve the appropriate road gradients for the entrance drive. Grading is also anticipated to occur along the site frontage at the proposed entrance to create sufficient site distance for vehicles. Additional site grading is necessary for the construction of the stormwater management facilities for the Project. The Project will result in the disturbance of approximately 0.4 acres with slopes of greater than 20%, or less than 1% of the Project site. Total earth movement to accommodate the Project will entail approximately 60,000 cubic yards of material which will be excavated and relocated to other areas on the Project site. No earth cut will need to be exported or imported to the site for Project construction. No blasting is anticipated. Overall, 26.1 acres, or 64.5%, of the site will remain undisturbed.

The soils on the Project site are common in Orange County. The on-site soils were mapped according to soil classifications in the United States Department of Agriculture Soil Conservation Service's (USDA SCS) *Soil Survey of Orange County, New York*. USDA SCS maintains a list of soils designated as "prime farmland" or "farmland of statewide importance," which was compared with the soils found on the Project site.¹ The Project site contains 15.7 acres of soils designated as "prime farmland" soils. Of these 15.7 acres, 11.9 are found in the wetlands and buffer areas on the northwest and northeast property borders, which will not be impacted by the Project. The rest of the soil types on site have been designated as soils of "statewide importance." The amount of actual land of this soil type on the Project site that is suitable for agricultural use is limited because it occurs in wetlands, on steep slopes and the existing developed area of buildings, pavement and lawns. These environmental constraints along with the development pressure in the Route 94 corridor render the site no longer suitable for agricultural use. The Project will convert the 7.9 acres of currently used agricultural soils to use as landscaped and lawn areas, stormwater management facilities and impervious surfaces within the Project.

Impacts to geology, soils and topography will be minimized by implementation of the detailed Sediment and Erosion Control Plan developed specifically for this Project. The Erosion Control Plan will provide both temporary controls during the construction period and permanent controls which will be in place and functioning at the completion of construction. During construction, the Plan will minimize the potential for soil erosion from areas exposed during construction and prevent sediment from reaching the down-gradient wetlands and watercourses through the use of silt fence barriers, sediment traps and other erosion control measures. All soil

¹ Prime Farmland soils, as defined by the USDA Natural Resources Conservation Service are those that have physical and chemical attributes in conjunction with a sufficiently long growing season and moisture supply necessary to produce high crop yield when treated and managed properly. "Soils of Statewide Importance" are soils other than Prime farmland soils which have a good quality combination of physical and chemical characteristics for crop production.

erosion and sedimentation control practices will be installed in accordance with the New York guidelines for Urban Erosion and Sediment Control, best management practices of the Orange County Soil Conservation Service and the Town of Warwick Municipal Code. The erosion and sediment control measures will be installed according to the approved construction drawings prior to any construction that will result in disturbance of soils. All erosion control measures will be maintained in good condition and left in place until permanent vegetative cover is established. The measures will be monitored during construction by the project engineer and representatives of the Town. Pursuant to the Erosion Control Plan, the area of soil disturbance will be minimized to the greatest extent practicable in accordance with the conditions of the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities. Following construction, erosion will be averted by the established vegetation and by the stormwater management facilities for the Project.

Finding: The Planning Board finds that, although there will be impacts to the geology, soils and topography that are inherent in the construction of the proposed Project, impacts from construction will be temporary and will be minimized by implementation of limitations on site disturbance and compliance with the detailed Sedimentation and Erosion Control Plan for the Project prepared in accordance with NYSDEC requirements. The removal of 3.8 acres of prime agricultural soils out of the on-site total of 15.7 acres of prime farmland soils will not create a significant impact since this site is no longer considered economically suitable for agricultural use (see also Section II.E herein).

B. Terrestrial and Aquatic Ecology

The Project site contains three different vegetative community types: (a) 28.2 acres of meadows/agricultural fields, (b) 14.4 acres of wetlands, and (c) 3.9 acres of upland mixed woodlands. Approximately 7.9 acres of the agricultural fields in the western portion of the site are currently used to grow corn and other crops. The remainder of the meadow/agricultural fields (20.3 acres) are primarily located on the eastern portion of the Project site, are not currently supporting agricultural use and are characterized by old-field meadow vegetation. The woodlands are located on a hillside in the north-central portion of the Project site. The Project site also contains a portion of a tributary to the Wawayanda Creek that flows to the north along the western side of the site, which has been identified by the NYSDEC as a Class D freshwater stream. The wetland on the eastern portion of the site is also associated with an off-site watercourse. None of these existing habitat types are unique to the area or the Project site. The Project site exists as either mostly undeveloped land or was used for agriculture for many years. The areas to be developed are largely the agricultural areas and, therefore, their value as wildlife habitat is more limited than the undeveloped areas as a direct result of past human activities.

Bog turtle surveys were conducted for the Project site over a six year period, including three April-May-June trapping surveys during three years, and documented in a *Bog Turtle Assessment* dated March 2005. The multiple surveys concluded that no bog turtles are present on the Project site. The on-site wetlands identified as wetlands A and D in the DEIS were determined to contain marginal bog turtle habitat but are dominated by invasive plant species. Two small wetlands areas (identified as wetlands B and C in the DEIS) located on the eastern side of the Project site are low

value wetland habitats and are not vernal pools. These conclusions were reached by ERS Consultants, Inc., under the direction of biologist David Griggs, and confirmed by Dr. Michael Klemens, author of the United States Fish and Wildlife Service's ("USFWS") *Bog Turtle Recovery Plan*, and co-author of the *Southern Wallkill Biodiversity Plan*, and by Karen Schneller-Macdonald of Hickory Creek consulting for GREENPLAN, Inc. on behalf of the Town of Warwick. (FEIS p. 1-2). An April 18, 2006, letter from the USFWS to David Griggs, reiterates and does not contest the *Bog Turtle Assessment's* conclusion that there is "no potential [bog turtle] habitat in any of the project area wetlands where direct impacts could occur from project construction."

The various on-site surveys conducted by the Applicant's consultants over the past six years and documented in the DEIS and FEIS have not characterized the site as rich in biodiversity. The DEIS contains lists of various plant and wildlife species identified on the site. Wildlife on the site is comprised of species typically encountered in the woodlands, wetlands and farm fields of Orange County. During several site visits by the Applicant's ecological consultants, no threatened, endangered or rare plants were observed on the Project site. The April 18, 2006, USFWS letter to David Griggs acknowledges that "[e]xcept for the bog turtle, the potential for Indiana bats, and occasional transient individuals, no other Federally-listed or proposed endangered or threatened species under [USFWS] jurisdiction are known to exist in the vicinity of the project area." No fisheries are associated with the unnamed tributaries to which the site drains.

In response to public comment, the FEIS also included an analysis of the Project site's potential as habitat for the following species:

Upland sandpiper: While appropriate vegetative structure presently occurs on the Project site, the parcel, even in its present open, partially agricultural state, is not extensive enough to be usefully exploitable for this species for breeding purposes, although it is, and will remain, 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: While appropriate vegetative structure presently occurs on the Project site, the parcel, even in its present open, partially agricultural state, is not extensive enough to be usefully exploitable for this species for breeding purposes, although it is, and will remain, 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.

Horned lark: Appropriate habitat presently exists and would persist on the Project site after development. 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.

Cooper's hawk: Wooded nesting habitat presently exists within the Town of Warwick, though not on the Project site. Appropriate hunting habitat presently exists and would persist on the Project site after development for the Cooper's hawk to hunt the small field and forest birds and animals that constitute its prey.

Box turtle, Spotted turtle and Wood turtle: The Project site contains suitable habitat for box turtle and spotted turtle, while wood turtle habitat exists off-site in the western wetland area. Spotted turtle were observed both on and nearby the site during preparation of the SEQR documentation.

Jefferson salamander: The Project does not contain suitable habitat for this species.

None of these species were observed on site (with the exception of the spotted turtle that was observed on and off site) either visually, or audibly in the case of bird species, during the several visits by naturalists over the course of several years in more than one season.

There will be a loss of habitat at the Project site. The Project will impact 16.4 acres, or 34.5%, of the 47.5 acre Project site. The majority of impacts will be to meadow/cropland cover type, the largest cover type found on the Project site, of which 7.9 acres is currently farmed. Approximately 0.2 acres, or 5%, of the upland deciduous forest will be directly impacted by the project. Due to the presence of similar habitat on nearby properties, wildlife dispersal is expected. Wetlands B and C will also be directly impacted. Less than one-tenth of an acre of wetland will be impacted, representing less than one percent (0.7%) of the overall wetland area on the site.

The existing vegetative cover and habitat on the remaining 65.5% of the site will not be disturbed by the Project. The Project will not result in any long-term modifications to the functions of Wetlands A or D, which will not be impacted by the proposed development.

The Project has been designed to avoid wetlands and steep slopes to the greatest extent practicable. The proposed Project plan confines the developed area of the Project to the south-central portion of the site that abuts the NYS Route 94 development corridor while preserving the majority of the Project site as undisturbed habitat that connects to adjacent wetlands and upland woodland to the west, north and east. After extensive consultations with the Town's consultants, engineers, scientists and regulators, the Project plans were revised to include a comprehensive array of enhancements to further minimize or avoid impacts to wildlife, wildlife habitats, and water quality affecting those habitats.

Although the *Bog Turtle Assessment* concluded that no bog turtles are present on the Project site, and the on-site wetlands contain only marginal bog turtle habitat, modifications and design commitments have been made to the original proposed site plan which treat the adjacent wetlands as "occupied" by bog turtles. The measures were developed in consultation with Dr. Michael Klemens, and received review and approval from the USFWS as demonstrated in the April 18, 2006 USFWS letter to David Griggs.

The following is a summary description of the measures that have been incorporated into the site plan design to minimize and/or avoid impacts to terrestrial and aquatic ecology as delineated in the FEIS for the Project:

- a. *Project Modifications and Design Commitments*
 1. There will be no development within 100 feet of the Army Corps of Engineers (ACOE) jurisdictional wetland boundary to the west as well as the NYSDEC regulatory wetland boundary to the east. There will be a temporary disturbance

within this absolute 100 foot buffer for the ACOE wetland in the southwest corner of the site in order to remove an existing paved driveway, install a subsurface drainpipe from a stormwater basin and restore the area with transitional vegetation. There will be no permanent disturbance within this buffer.

2. Parking area pavement reduction. Lot 1 parking pavement surface has been reduced from 195,000 sf to 166,300 sf on the site plan. In addition, 1.35 acres of impervious pavement on Lot 1 has been replaced with pervious gravel surface in the vehicle storage area. Also, 4,374 sf of proposed impervious pavement in Lot 2 has been replaced with a lawn surface as “banked” parking for future use if necessary.

3. A wildlife underpass for amphibians will be constructed between the auto dealership’s vehicle storage areas to facilitate any wildlife movement between the western wetland and the wooded upland knoll.

4. The impervious driveway and land in agricultural use in the southwest corner of the property will be removed and a vegetated wetland buffer in this area will be restored.

5. 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 funnel them through the wildlife underpass.

6. Stormwater management practices have been redesigned for the revised plan to improve stormwater treatment. The current plan includes dry vegetated swales, an organic filter system and a bio-retention basin to serve as filtration devices which will treat the stormwater collected on the Project site.

7. The sewage treatment plant has been relocated so it will discharge (after receiving tertiary treatment) through a vegetated swale to a point outside the eastern NYSDEC wetland buffer.

b. *Operational Mitigation Measures*

Various additional management measures are proposed to be implemented during the long term operation of the Project. These measures are described in detail in a letter to USFWS from ERS Consultants dated February 23, 2006, included in Appendix A of the FEIS and summarized as follows.

1. Landscape plan enhancements in wetland buffers: the landscape plan has been re-designed to provide for plantings of certain native species within the buffer areas to be established around wetlands A and D to further reduce and prevent potential indirect impacts to wetlands

2. Snow removal and storage: the Grading and Utility Plan for the Project has been revised to include designated snow storage areas and requirements for snow storage and removal which will prevent snowmelt from entering the wetlands

3. Surface water quality monitoring once every three (3) years for a nine (9) year period after construction completion.
4. Monitoring of water table and wetland vegetation for a ten (10) year period after construction completion. Monitoring of wetland buffer plantings for a five (5) year period.
5. Bog turtle monitoring in the vicinity of the Project site during construction and for a ten (10) year period after construction.

The April 18, 2006 USFWS letter to David Griggs states the following conclusions based upon the USFWS review of the Project modifications and mitigation measures:

1. 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;
2. There is no potential bog turtle habitat in any of the onsite wetlands where direct effects could occur from Project construction;
3. USFWS does not anticipate adverse impacts to bog turtles in the form of harm through temporary degradation of wetland habitat;
4. The likelihood of bog turtle presence within the disturbance footprint appears low;
5. USFWS does not anticipate any impacts to bog turtles in the form of harm through long-term alteration of wetland hydrology by use of the proposed well;
6. Adverse impacts to bog turtles due to altered wetland hydrology are unlikely; and
7. Adverse impacts to bog turtles due to wetland degradation from changes in surface water quality are unlikely.

The Erosion Control Plan will also minimize or avoid impacts to soils and thus downstream surface water resources and wetlands as more fully described in Section II.A, above. The FEIS demonstrates that the proposed permanent stormwater management measures will promote the removal of pollutants to the maximum extent practicable prior to discharge. Wherever possible, such discharges will be at least 100 feet from the wetlands, thereby allowing further filtration and infiltration through the natural wetland buffers. In the single incident where such separation is not possible due to grades, the discharge from bioretention basin W3 will be filtered through a soil medium before discharge in the buffer. The stormwater management practices for the Project are based on the NYSDEC standard methods of design for compliance with Clean Water Act regulations for water quality and quantity. Treated water at the design discharge points will meet or exceed the most stringent standards of the NYSDEC Design Manual and federal Clean Water Act standards.

The discharge from the proposed sewage treatment plant will conform with NYSDEC intermittent stream effluent limits (ISELs). These ISELs represent the highest degree of treatment required by NYSDEC and will be specified in the discharge permit issued by NYSDEC for the facility to protect wetlands and surface water quality and therefore downstream ecological conditions.

Operation of the Country Chevy facility must comply with various industry standards as well as state and federal regulations for employee training, equipment maintenance, storage facilities and spill control procedures. Physical measures and operational practices at the proposed auto dealership which will minimize or avoid the Project's potential impact on wetlands, water resources and the terrestrial and aquatic ecology are more fully described in Section II.D., below.

Finding: The Planning Board finds that impacts to terrestrial and aquatic ecology have been appropriately minimized or avoided by Project design; implementation of the extensive physical and operational measures for the Project; the Erosion Control Plan and stormwater management practices for the Project, and the location and treatment of the sewage treatment plant discharge.

C. Wetlands

The Project site contains a total of four wetland areas, which make up 14.4 acres of the site. Wetland A, located on the eastern portion of the site, is the only NYSDEC mapped wetland on site. NYSDEC mapped wetlands have a regulated 100' buffer or "adjacent area" extending from the wetland boundary. Wetland A consists of approximately 5.92 acres on site and extends off site to the east. Wetland A is the headwaters of an unnamed tributary to Wawayanda Creek. It is classified as a Class I wetland by NYSDEC. Wetland D is located in the western portion of the site, extending from NYS Route 94, along an unnamed tributary to Wawayanda Creek, to the northern boundary property. Wetland D consists of 8.06 acres on site and extends off-site to the north and west. This wetland is within the jurisdiction of the Army Corps of Engineers (ACOE).

The Project will not result in any long-term modifications to the functions of Wetlands A or D, and will have no direct impact on these wetlands. There will be no development within 100 feet of the Army Corps of Engineers (ACOE) jurisdictional wetland boundary to the west (Wetland D) as well as the NYSDEC wetland boundary to the east (Wetland A). There will be a temporary disturbance within this absolute 100 foot buffer for the ACOE wetland in the southwest corner of the site in order to remove an existing paved driveway, install a subsurface drainpipe from a stormwater basin and restore the area with buffer wetland vegetation. However, there will be no permanent disturbance within this buffer.

Wetlands B and C are small wetlands located close to Wetland A, in the eastern portion of the site. Wetland B is 0.25 acres and Wetland C is 0.14 acres. Wetlands B and C are a remnant of man-made ponds created for farming purposes. Both wetlands have minimal vegetative diversity, and thus appear to provide little habitat for wildlife. During the three years of on-site studies, neither of these wetlands 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. These wetlands also provide only minor flood storage during storm events and little erosion and sediment control.

Wetlands B and C will be directly impacted as a result of the proposed development. These impacts result from the cut and fill needed to level the development area. Approximately 2400 sf of disturbance to Wetland B and 1,700 sf of disturbance to Wetland C are proposed. Due to their small size, isolated nature and past mowing practices, Wetlands B and C provide only

limited wetland functions such as groundwater discharge and wildlife habitat. These limited functions will be diminished as a result of the direct disturbance to portions of Wetlands B and C. Activities involving small amounts of wetland impact below 1/10 of an acre are authorized by the ACOE Nationwide Permit (NWP) #39 and do not require mitigation beyond adherence to the conditions associated with NWP #39.

The DEIS and FEIS demonstrate that the Project will not cause drawdown of the surface water levels in the wetlands. Well pump testing for the Project showed no correlation between the pumping of the well and water levels in the wetlands. The “cone of depression” around the well does not affect surface waters on the Project site.

Impacts to the wetlands and their associated habitat will be minimized and/or avoided by implementation of the Erosion Control Plan for the Project, as described above in Section II.A.

The stormwater management practices for the Project are based on the NYSDEC standard methods of design for compliance with Clean Water Act regulations for water quality and quantity. The FEIS demonstrates that the proposed stormwater management measures will promote the removal of pollutants to the maximum extent practicable prior to discharge at least 100 feet from the wetlands wherever possible, thereby allowing further filtration and infiltration through the natural wetland buffers. Treated water at the design discharge points will meet or exceed the most stringent standards of the NYSDEC Design Manual and federal Clean Water Act standards.

The proposed sewage treatment plant has been relocated to the east side of the Project site. Discharge from the proposed sewage treatment plant will conform with NYSDEC intermittent stream effluent limits (ISELs). These ISELs represent the highest degree of treatment required by NYSDEC and will be specified in the discharge permit issued by NYSDEC for the facility to protect wetlands and surface water quality and therefore downstream ecological conditions. The discharge 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.

Finding: The Planning Board finds that impacts to wetlands on the Project site will be appropriately minimized or avoided by the Project’s design; extensive physical and operational mitigation measures for the Project; the Erosion Control Plan and stormwater management practices, and location and treatment of the sewage treatment plant discharge.

D. Water Resources

1. Stormwater

The Project must comply with the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities, GP-02-01. A draft Stormwater Pollution Prevention Plan (SWPPP) for the Project has been developed and included in the FEIS.

a. *Stormwater Quantity*

Development of the Project will involve the construction of approximately 7.75 acres of new impervious area (buildings, parking areas, sidewalks, etc.) on the site. Although construction of the Project will require regrading of the central portion of the site, existing drainage patterns

will generally be maintained. There will not be any significant diversion of runoff from one side of the Project site to the other.

b. Stormwater Quality

During construction, the regrading and stockpiling of soil materials will create the potential for erosion and resulting sedimentation of downstream areas. During construction, a comprehensive Erosion Control Plan will be implemented to mitigate potential impacts to receiving wetlands and streams. The Erosion Control Plan is more fully described in Section II.A, above.

During operation of the Project, an increase can be expected in the levels of some pollutants commonly associated with commercial land uses, including particulates, metals, nutrients and thermal impacts. Stormwater quality management facilities are part of the Project design. The stormwater management practices are based on NYSDEC standard methods of design for compliance with Clean Water Act Phase II regulations for stormwater quality and quantity. The proposed measures will promote the removal of pollutants to the maximum extent practicable, and the treated stormwater at the design discharge points will meet or exceed the most stringent standards of the NYSDEC Design Manual and Federal Clean Water Act standards.

2. Sewage Disposal Discharge

The proposed sewage treatment plant has been relocated to the east side of the Project site. Discharge from the proposed sewage treatment plant will conform with NYSDEC intermittent stream effluent limits (ISELs). These ISELs represent the highest degree of treatment required by NYSDEC and will be specified in the discharge permit issued by NYSDEC for the facility to protect wetlands and surface water quality and therefore downstream ecological conditions. The discharge 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. The DEIS indicates that no adverse impacts to downstream water resources are anticipated to result from the proposed waste water treatment facility.

3. Wetlands

The extensive physical and operational measures for the Project to minimize or avoid impacts to wetlands are described in Section II.C, above.

4. Aquifer

An *Aquifer Impact Assessment* has been prepared by the applicant and included in the FEIS as required by Section 164-47.2(D) of the Town of Warwick Zoning Code, which demonstrates that the Project includes various measures as part of its stormwater and wastewater management systems which protect surface water resources and the aquifer. The *Aquifer Impact Assessment* includes the findings of the well pump tests that demonstrate that the wells for the Project will have no adverse effect on the aquifer.

The results of the pumping test program indicate that no adverse effect on groundwater resources is expected from the Project. The pump tests reveal no hydraulic connection between the groundwater and surface water resources at the site. The *Aquifer Impact Assessment* therefore demonstrates that no adverse impacts to the aquifer are anticipated as a result of the Project. The

groundwater quality will also be protected by the provisions of the SWPPP and treatment of the waste water treatment plant discharge. Finally, the DEIS also demonstrates that the projected water demand for the Project is far below the expected aquifer recharge and is expected to have no effect on off-site wells.

5. Special Water Resource Protection Measures at the Auto Dealership

As a new facility, the automobile dealership will include state of the art 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 as follows:

- a. New vehicle fluids will be received in DOT-approved shipping containers and stored indoors in a designated area of the vehicle service area.
- b. Automobile service will be conducted inside the building.
- c. Waste fluid removed from serviced vehicles will be pumped to an indoor, alarmed aboveground storage tank, which will be emptied on a twice monthly basis by a licensed waste hauler. Any gasoline which may be removed from vehicle gas tanks will be held in a portable tank for this purpose and then returned to the vehicle after service.
- d. Materials that fall on the floor of the service area will be vacuumed, swept, soaked up in absorbent material or otherwise collected for proper disposal.
- e. Any auto found to be leaking outside will be promptly moved inside and the spill cleaned up. There will be a daily assignment for a service technician to visually inspect the outside vehicle service areas for leaked automotive fluids and initiate appropriate cleanup if necessary.
- f. All washing will be performed inside the automobile 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 and other means. Wastes collected by this system will be stored inside the building until they are transported offsite by a licensed hauler.
- g. Floor drains in the building will connect to an internal collection system without connection to the Project site stormwater system. The drains would also be used to collect rainwater and snowmelt from the cars and connect to the washwater recycling system.
- h. The inventory of new vehicles will be rinsed outdoors with clear water, without soap or chemicals. Runoff from this operation will consist of water and dust particles which will enter the Project site storm drainage system for treatment. These measures will ensure no adverse impact to the aquifer or surface waters.

6. Finding

The Planning Board finds that impacts to water resources will be appropriately minimized or avoided by the Project's design and operation which minimizes disturbance to wetlands; extensive physical and operational mitigation measures for the Project which protect water resources; implementation of the Stormwater Prevention and Pollution Plan in accordance with the SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01, and appropriate treatment of the sewage treatment plant discharge.

E. Land Use and Zoning

1. Conformance with the Town of Warwick Zoning Code

The Project site is located in the DS (Designed Shopping Center) and OI (Office and Industrial Park) Zoning Districts in the Town of Warwick. Most of the Project site, including a majority of the land proposed for development, is zoned DS. The northwestern portion of the site is zoned OI.

The uses proposed by the Fairgrounds Project consist of a retail store (grocery store), a motor vehicle sales and service facility and a bank or other retail/service use. Retail stores, banks, convenience stores, drive-in uses and motor vehicle sales and service uses are special permit uses in the DS Zone which require approval by the Planning Board.

The DEIS demonstrates that the Project complies with the special conditions applicable to the proposed uses on the Project site in the DS Zone. The DEIS further indicates that the proposed Project is not expected to threaten the public health, safety and general welfare or the general comfort and convenience of the public and surrounding neighborhood. The proposed site plan for the Project conforms with the area, setback and bulk control requirements of the Zoning Code. The proposed water tank will be approximately 25 feet in height and complies with all requirements of the Zoning Law.

The only portion of the Project development that is proposed to be located in the OI Zoning District is a portion of the stormwater management facilities that accompany the Lot 1 development. No building structures, parking or driveways are proposed in the OI Zoning District. There are no special use permit conditions that apply to temporary outdoor storage of vehicles for which the stormwater management facilities proposed within the OI Zoning District are accessory.

The Project also complies with the requirements of the Town of Warwick Aquifer Overlay District. An *Aquifer Impact Assessment* has been prepared by the applicant as required by Section 164-47.2(D) of the Zoning Code, which demonstrates that the Project includes various measures as part of its stormwater and wastewater management systems which protect surface water resources and the aquifer. The *Aquifer Impact Assessment* includes the findings of the well pump tests that demonstrate that the wells for the Project will have no adverse effect on the aquifer. The report also outlines how the Project will comply with the specific areas of concern listed in the Zoning Code.

Section 164.62.F of the Town of Warwick Zoning Code requires development proposals in the DS and OI Zoning Districts to set aside a sixty foot wide right-of-way extending the entire width of the parcel frontage for dedication to the Town for construction of a marginal access road.

Compliance with this requirement would result in increased site disturbance, tree removal, site excavation, wetland fills and impervious surface. Therefore, the Applicant has requested a waiver from the marginal access road requirement. The Warwick Zoning Law allows the Planning Board to waive the marginal access road requirement if future interconnection with adjoining parcels is provided and offered for dedication to the Town of Warwick. The Project site plan provides a sixty foot wide right-of-way from the Project entrance drive to the western property line, with a note that such right-of-way will be offered for dedication. This alignment for a future interconnection to the west was agreed upon pursuant to the Planning Board's discussion regarding the feasibility of future interconnections on an April 6, 2005, site walk. A road connection to the east or west of the Project site would require wetland permits due to the presence of the State and Federal wetlands at the eastern and western property boundaries. The Planning Board determined the western interconnection alignment to be sufficient for a waiver considering the Project site's environmental constraints. At the present time, there are no existing or proposed facilities on the adjacent parcels for connection to the Project via a marginal access road. Moreover, by not building such a road, the overall amount of disturbance at this site is reduced. Therefore, the Project merits a waiver from the requirement for a marginal access road.

2. Conformance with the Town of Warwick Subdivision Regulations

The development site is comprised of a single 47.5 acre tax parcel (51-1-40). The automobile dealership will be located on proposed Lot 1 (22.301 acres), and the supermarket and pad building will be located on proposed Lot 2 (25.228 acres). The DEIS demonstrates that the proposed Project has been designed in full compliance with all applicable requirements of the Town of Warwick Subdivision Regulations.

3. Conformance with the Town of Warwick Comprehensive Plan

The Town of Warwick Comprehensive Plan recommends focusing retail activity in the DS zone. The proposed Project furthers this objective.

The Town of Warwick Comprehensive Plan further recommends that such development should provide significant natural buffering between the development and the highway. It also recommends consideration of an "alternative plaza design" for commercial developments in the Town which would place parking in the rear of the proposed buildings, with landscaping and open space dominating the site to enhance the overall site design. The Town of Warwick Comprehensive Plan also recommends designation of the portion of Route 94 on which the Project site is located as a Scenic Road Corridor and calls for increased setbacks and natural screening for new development in such corridors.

The requirements of the automobile dealership and supermarket make it impractical to construct the Project as an "alternative plaza design." To the extent possible, however, the proposed site plan responds to the recommendations of the Town of Warwick Comprehensive Plan by placing the temporary vehicle storage behind the dealership building and the truck loading operations behind the supermarket, out of sight from Route 94. The supermarket structure has been sited approximately 585 feet back from Route 94. While supermarket parking is located in front of the building, parking areas have been set back more than 285 feet from the traveled way of Route 94. The automobile showroom and service facility has been sited approximately 300 feet

from the traveled way of Route 94. The majority of parking and vehicle storage spaces at the proposed automobile showroom and service facility have been located to the side or rear of the building. The pad building is located at the front of the site to screen a portion of the supermarket parking field from the road. A landscaped buffer of 150 feet and deeper is proposed along the entire road frontage, which minimizes the visibility of the Project's parking areas from the road.

4. Conformance with the Orange County Comprehensive Plan

The proposed project will result in the loss of agricultural soils and the conversion of farmland to commercial use. While this is not consistent with the general County goal of farmland preservation, in supporting commercial use, the proposed Project conforms to the specific land use plan recommended in the Orange County Comprehensive Plan for the Project site. The environmental constraints along with the development pressure in the Route 94 corridor render the site no longer suitable for agricultural use. The Project site is located in a "priority growth area" under the Plan. Priority growth areas are described by the Plan as "general areas of preference for future development to maximize efficiency of infrastructure and services and to minimize open space losses." The Project is sited at a location that is more suitable for commercial use, from a transportation and land use perspective, than farmland.

5. Agricultural Use of the Property

The Project site and surrounding areas are located within an Agricultural District pursuant to the New York Agriculture and Markets Law. However, the agricultural use of the property has declined significantly over the years. Only 7.9 acres of the site are currently in use as crop land. This small portion is rented on a short term basis. The owner of the Project site has not taken advantage of any agricultural tax exemptions for several years and has requested that the Orange County Planning Department remove the Project site from the District.

The soils on the Project site are common in Orange County. The Project site contains 15.7 acres of soils designated as "prime farmland" soils. Of these 15.7 acres, 11.9 are found in the wetlands and buffer areas on the northwest and northeast property borders, which will not be impacted by the Project. The rest of the soil types on site have been designated as soils of "statewide importance." (See footnote 1 on page 7.) The Project will convert 7.9 acres of currently used agricultural soils to use as landscaped and lawn areas, stormwater management facilities and impervious surfaces within the Project. The amount of actual land containing soils of "statewide importance" on the Project site, that is suitable for agricultural use, is limited because it occurs in wetlands, on steep slopes and the existing developed area of buildings, pavement and lawns. These environmental constraints along with the development pressure in the Route 94 corridor render the site no longer suitable for agricultural use. This is consistent with the Town of Warwick Community Preservation Project Plan (released July 27, 2006), which acknowledges the importance of the site for protection of its freshwater wetlands and biodiversity resources but does not recommend protection for agricultural purposes under the Town of Warwick Purchase of Developments Rights program.

6. Compatibility of the Project with Surrounding Land Uses

The proposed Project will replace existing vacant and agricultural land with commercial development in three separate buildings, with associated parking and utilities. The proposed Project consisting of a supermarket, automobile dealership and a bank or other retail/service use, is permitted by and consistent with the current zoning of the site. The Project is expected to be compatible with adjacent and nearby land uses. Similar uses are located opposite and south of the Project site in Route 94. The Project's building design, siting and landscaping will provide separation and screening from Route 94 and surrounding properties.

Finding: The Project site is specifically zoned for the proposed commercial and retail use, and is located in a "priority growth area" under the County Comprehensive Plan. Therefore, the Project conforms to the land use plans recommended by both the Town of Warwick and Orange County.

F. Traffic and Transportation

The Project site is located on the north side of NYS Route 94, approximately 1 mile southwest of the Village of Warwick. Access to the Project site is currently via a driveway entering the center of the site from Route 94. The Project access will be in the same location. No road access other than from Route 94 is available to the property.

A *Traffic Impact Study* for the Fairgrounds Project was conducted, which assessed the effects associated with the development of this Project along with the effects of three other identified development projects in the Town of Warwick and background traffic increases. This study, dated May 2004, was conducted by John Collins Engineers, P.C.

The *Traffic Impact Study* evaluated existing and future traffic conditions at six existing intersections located in proximity to the Project, in addition to the Project site access. The following intersections were included in the study:

- NYS Route 94 and Sanfordville Road/Pennings Lane - unsignalized
- NYS Route 94 and Warwick Turnpike (CR 21) - unsignalized
- NYS Route 94 and the ShopRite Driveway
- NYS Route 94 and Pelton Road (CR 1A) - unsignalized
- NYS Route 94 and Hathorn Road (Both legs) - unsignalized
- NYS Route 94 and site access - to be signalized
- NYS Route 94 and Route 17A - signalized

No pedestrian or bicycle traffic activity was observed along NYS Route 94 near the Project site. There are no sidewalks, worn paths or paved shoulders in this area.

The *Traffic Impact Study* assessed future conditions projected to occur after construction of the Project. The Project can be expected to generate approximately 621 new vehicular trips in the

weekday PM hour, and 628 new vehicular trips in the Saturday peak hour. A No Build traffic condition, representing the traffic conditions in the year that the Project is projected to be entirely built (but without Project-generated traffic) was established. The projected build year is 2007. The No Build condition was established by combining a 2% per year increase in traffic volumes from 2004 to 2007 with peak hour traffic from other proposed developments in the Town of Warwick.² The Project traffic was then added to the No Build traffic condition to produce the Build traffic condition. Then a capacity analysis for each of the identified area intersections under the Build condition was carried out.

The capacity analyses in the *Traffic Impact Study* for the Project indicated that the NYS Route 94/Pelton Road (CR1A) unsignalized intersection would continue to operate at poor levels of service in the future No Build and Build conditions and will require improvements to serve future traffic volumes, regardless of the Fairgrounds Project.³

The intersection of the proposed Project access and NYS Route 94 was also analyzed. The analysis indicates the southbound lane would operate at LOS "F", an unacceptable condition. The *Traffic Impact Study* therefore recommends a traffic signal and other provisions at the Project access.

NYS Route 94/Pelton Road (CR1A): Installation of a traffic signal at the intersection of Route 94 and Pelton Road (CR 1A) is recommended by the *Traffic Impact Study* to bring the operating conditions to a LOS "C" or better for all approaches. The Town of Warwick has established a fund for installation of this traffic signal. The amount of contribution to such fund required for the Fairgrounds project will be established at the time of final Project approval based on the amount of traffic generated by the Project as a percentage of the existing traffic volumes on the local road network. This signal is approved and currently being installed.

NYS Route 94/Fairgrounds Project Access Road: To operate at an acceptable LOS of "C" or better during the peak hours, the new intersection created by the Project access road will require signal control as well as an eastbound left hand turn lane and a westbound right turn lane to accommodate traffic entering the site. Conceptual approval of the proposed access was provided by the New York State Department of Transportation (NYSDOT) in its letter dated August 30, 2006, included in Appendix A of the FEIS. Installation of the signal and turn lanes is subject to the NYSDOT Highway Work Permit process. The Project Sponsor will provide the mitigation measures at the Project entrance at its sole expense.

The *Traffic Impact Study* further indicates that with the signalization at the Project access and the Intersection of NYS Route 94 and Pelton Road (CR 1A), the other unsignalized intersections in the area will benefit from the increase in gaps in the traffic stream which will reduce the delays experienced at these intersections.

² The developments which were considered were:

- Sullivan Commercial development
- BCM Subdivision
- Gables Subdivision

³ This intersection currently operates at LOS "E" and "F" during the PM peak hour and Saturday peak hour.

The *Traffic Impact Study* concludes that the traffic expected from the Project can be accommodated on the area street network with implementation of the identified mitigation measures.

3. Finding

The Planning Board finds that with implementation of the highway improvements identified as mitigation measures in the *Traffic Impact Study*, the traffic impacts from the Project will be mitigated to the maximum extent practicable.

G. Community Services and Socioeconomics

1. Taxes

Tax revenues to the various taxing jurisdictions in which the Project is located will take the form of increased property tax and sales tax revenues. The additional permanent jobs that are added to the local economy by the Project will also add to the income tax revenues of the State and Federal governments.

The DEIS calculates a total projected increase in property taxes of \$276,907 above existing site-generated revenues, a tax increase from \$29,996 to \$306,903. The Project will provide significant benefits to the Warwick School District by adding a projected \$226,415 in new property tax revenue without creating any burden on school services. The projected revenues presented in the DEIS are based on current tax rates. With no changes in assessments, these rates are likely to increase over time.

Future sales taxes generated by the Project's retail centers are expected to be on the order of magnitude of \$3.86 million, which will be shared by the State of New York, Orange County and the Town of Warwick. Annual sales tax revenues to the Town of Warwick are projected to be \$40,279 and \$1,247,686 to Orange County.

As described below, no significant adverse impacts are anticipated as a result of the Project related to community service providers. Incremental costs associated with additional calls to these service providers would be expected to be offset by the taxes generated by the Project. The Project is not expected to result in adverse population or socioeconomic impacts. Estimated local property taxes and sales tax revenues will result in fiscal benefits for local taxing jurisdictions. No significant adverse impacts to community services or the Town or Village tax base are anticipated. Therefore, no mitigation measures are proposed related to taxes and fiscal conditions.

2. Market Conditions

A market study was completed by the Project Applicant's consultants to gauge the extent to which additional supermarket floor area at the Project site could be supported within the Town of Warwick. This analysis was conducted for the purposes of the EIS using commercially and publicly available data and does not include proprietary information. Based on the positive results of its own proprietary market study, Hannaford has entered into a long-term lease for its operation at the site.

The analyses conclude that the Town of Warwick and its environs have the ability to support the additional proposed supermarket. The FEIS demonstrates that 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 the proposed Hannaford supermarket. According to the DEIS analysis, the trade area food stores, including those 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.

Country Chevy is an existing auto dealership which will move from its facility in the Village of Warwick to the Project site. The DEIS provides a regional example demonstrating that successful re-use of the Village facility can be expected once Country Chevy moves to the Project site. Therefore, no long-term erosion of the Village of Warwick tax base is anticipated as a result of the relocation of County Chevy.

3. Employment

a. *Short-term Employment*

The Project is expected to directly and indirectly generate 41 person-years of employment in the form of short term employment.

b. *Long-Term Employment*

The supermarket is projected to provide 55 full time and 120 part time jobs. Assuming 2.5 employees per 1000 sf of floor area, the pad building use is expected to provide an additional 15 jobs. All of the 40 existing sales and service jobs at the existing auto dealership will relocate to the new facility.

No adverse impacts on area employment are anticipated. Therefore, no employment-related mitigation measures are proposed for the Project.

4. Community Services

a. *Police Protection*

The Project is served by the Town of Warwick police. The Town of Warwick Department of Police has indicated that the Department has capacity to deliver police protection services to the Project. The Project will provide an east-bound left hand turn lane into the Project and regrading for sight distance improvement at the Project access site as recommended by the Town of Warwick Police Chief.

b. *Fire Protection*

The Project site is in the Warwick Fire District. The proposed Project has been designed to comply with all applicable codes and regulations related to fire prevention and protection. Assistant Fire Chief Frank Corkum Jr. indicated that the Warwick Fire District has adequate resources to provide fire protection for the Project.

c. *Ambulance Services*

Emergency medical care and ambulance services are provided in the Project site area by the Warwick Community Ambulance Service, Inc. In a letter dated June 25, 2004, Captain Frank Cassanite, Jr. of the Warwick Community Ambulance Service indicated that it will be able to provide emergency services to the Project.

The DEIS demonstrates that any incremental costs associated with additional calls to these service providers would be expected to be offset by the taxes generated by the Project. Anticipated tax revenues in excess of \$300,000 per year include \$5,698 in revenues for police, \$3,316 in revenues for fire protection and \$1,757 in revenues for emergency medical services.

5. Solid Waste

Based on Hannaford's experience at other locations, the proposed supermarket will generate approximately nine tons of solid waste (excluding corrugated cardboard) per week, or between 30-40 tons per month. This waste will be compacted and stored on-site prior to disposal approximately 5 times each month. Corrugated cardboard will be baled for recycling, and stored on site prior to disposal three times each month.

The pad building use has been assumed to generate solid waste at an overall rate of 0.001 tons per day per employee. With a total of 15 employees expected to work at this location, the pad building would be expected to generate approximately 5.5 tons of solid waste per year.

Solid waste is currently generated at the existing auto dealership at the rate of about 13.5 cubic yards per week. The auto dealership management expects the overall generation of solid waste to remain much the same at the new location. The existing car dealership is served by one dumpster for waste, picked up twice per week by a commercial carter. One dumpster of recyclables and one dumpster of cardboard materials are collected every other week.

The businesses in the Project will make appropriate arrangements with private carters for solid waste disposal. Dumpster and solid waste storage areas for the Project will be sited and screened to avoid visual impacts.

6. Finding

Given the substantial generation of tax revenues which will more than offset anticipated Town costs and the low service demands associated with the proposed uses of the property, the Planning Board finds the Project will not cause any adverse impacts to community services or socioeconomics.

H. Air Quality

The Project site is located in the NYSDEC Region 3, Hudson Valley Air Quality Control Region. The existing air quality in the vicinity of the Project site is acceptable and poses no known threat to the health or welfare of the general public. There are no known major sources of air pollution emissions in the vicinity of the Project site.

1. Construction Related Impacts

Temporary impacts on local air quality are expected to occur during the construction of the Project due to mobile source emissions of construction vehicles and equipment. Construction activities on the Project site are expected to result in the release of fugitive or airborne dust.

Construction activities will be limited to a specific construction schedule. Construction equipment will be maintained in proper operating condition. In addition, dust control measures will be provided as needed throughout the construction period, including (a) minimizing the extent of soil that is left unvegetated at any one time; (b) the use of fast-germinating seed or other

temporary cover on exposed soil surfaces; (c) spraying water on exposed areas used for construction traffic when needed; and (d) covering construction vehicles used to transport soil or demolition debris.

2. Vehicle Related Impacts

Carbon Monoxide (CO) is the primary pollutant studied at the local scale for impacts of vehicle emissions. The Air Quality study for the Project identified no significant Project impacts with respect to CO. Based upon the Traffic Impact Study for the Project, the intersection of NYS Route 94 and Pelton Road (CR1A) was determined to be the critical location in terms of its potential to affect air quality by Project related traffic. Results from the air quality prediction model for emissions at this intersection indicate that the highest potential concentration of CO would not exceed the National Ambient Air Quality Standard (NAAQS) of 9.0 ppm. Therefore, the proposed Project will not result in any exceedences of the NAAQS for CO, and the Project does not have the potential for long-term adverse impacts related to air quality. As no ambient air quality impacts are anticipated as a result of the vehicle traffic generated by the Project when it is built and occupied, no mitigation is proposed.

3. Finding

The Planning Board finds that any impacts to air quality from construction activities will be temporary and intermittent. Mitigation measures have been identified which will minimize those temporary impacts to the maximum extent practicable. No ambient air quality impacts are anticipated as a result of the vehicle traffic generated by the Project when it is built and occupied.

I. **Noise**

1. Construction Noise

Ambient daytime noise levels will increase in the vicinity of the Project site during Project construction. The level of impacts from construction noise sources depends on the type and number of pieces of construction equipment being operated, as well as the distance from the construction site. The noisiest period of construction will occur as site grading is conducted, and in the fourth and fifth months of construction as concrete and building materials are trucked to the site. Noise levels at the site property line are projected to range between 65 and 90 dBA, depending on the location of construction equipment at any given time. It is anticipated that existing residences on Wilder Drive will experience temporary elevated noise levels at occasional periods during construction of the Project.

Mitigation of construction-related impacts include the short construction period and limitation of construction to daytime hours.

2. Operational Noise

Off site noise will increase slightly with the addition of traffic to local roads due to the Project as well as normal traffic growth. Traffic entering and exiting the site via Route 94 will cause the greatest impact. Based on Projected traffic increases, noise on Route 94 is expected to increase 1.9 dBA, a barely perceptible change in noise level.

Normal operations at the Project site will create noise primarily from the rooftop HVAC equipment on each building, from customer car traffic on the site, and from truck circulation and loading on the site. Of these, truck traffic would create the greatest noise. The Town of Warwick Zoning Code provides a standard for noise that applies to any land use in the Town. Upon completion and occupation of the Project, it will be subject to compliance with the Town standards. The DEIS demonstrates that the noise from car and truck traffic generated by the Project is projected to be significantly lower than the lowest noise standard in the Town's regulation. Therefore, the normal operations on the Project site are not expected to increase the ambient noise levels in excess of the Town's noise standard thresholds at the property line.

Site characteristics and building siting will further minimize or avoid noise impacts. The topography of the site rises significantly from the loading area at the back of the supermarket toward the eastern property line with a setback of 285 feet or greater. More than 170 feet separates the waste collection of the auto dealership from the property line on the west side of the site. No residential use is located immediately to the north or west of the Project site. The closest residential use is located south of the Project site, more than 800 feet from the supermarket loading area, which will be effectively screened from noise impacts by the proposed building in between. The residential use is more than 475 feet from the dealership waste collection area, and thus buffered from the occasional noise at this location.

3. Finding

The Planning Board finds that any noise impacts from construction activities will be temporary and intermittent. Limitation of construction activities to daytime hours will minimize those temporary impacts. The permanent use and operation of the Project site will not result in noise significantly above current ambient levels.

J. **Cultural Resources**

1. Historical and Archeological Resources

Phase 1A, 1B and II site assessments were carried out for the Project site. The cultural resources investigator concluded that the proposed construction on the Project site would have no effect on potentially significant cultural resources and no further historical, architectural or archaeological investigation is recommended.

An assessment of the potential cultural resources significance of the house and other buildings that stand on the Project site was also conducted. The house, known as the Blain-Raynor-Miller house, was reported to retain some evidence of its eighteenth century origins, but has undergone several additions and alterations and extensive updating and enlargement. The house as it stands today presents an early twentieth century vernacular residential structure. The investigation concludes that the buildings have lost almost all of their physical connection with the first 150 years of their occupation. Therefore, the property and the main house in particular do not meet historical or architectural significance criteria for inclusion in the State or National Historic Registers. The assessment of the Blain-Raynor-Miller house is included in the DEIS and was reviewed by OPRHP, which determined that the house and its associated outbuildings do not meet eligibility criteria.

As the site of the existing buildings provides the best location for safe site ingress and egress, and the farmhouse cannot be moved and renovated for economic re-use within the Project, the current Project plan calls for its removal.

As an accommodation in response to a comment received on the DEIS which suggested moving the farmhouse, the Applicant has made inquiries into what could be done, and there appear to be two opportunities. The owner of the adjoining dairy farm has been contacted, and if moving the structure is feasible, has agreed to allow the physical movement of the farmhouse onto his property for preservation. If moving the entire structure is not found to be feasible, particular features of the farmhouse such as specific doors and woodwork can be removed and relocated to a museum setting selected by the Town Historical Society.

2. Visual Resources

A visual assessment in accordance with NYSDEC guidelines was carried out for the Project site. A visual assessment is an analytical technique that determines the viewshed of a particular property, identifies aesthetic resources within the viewshed, determines the potential impacts of the development of that property on aesthetic resources, and identifies mitigation strategies to avoid visual impacts.

Field surveys identified the actual viewshed, or specific publicly accessible locations in the site vicinity, from which the site and potentially the Project would be visible. The actual viewshed of the Project site is limited to the roadway about 1,000 feet immediately to the east of the property on Route 94, a location at the residential cul-de-sac on Wilder Circle some 1,500 feet to the southeast, 0.5 miles to the south on CR 21 and 1,000 feet west of the property on Route 94. Portions of the Project site are visible from the shopping center on the opposite side of Route 94 and from the Warwick Drive-In Theater on CR 21. No views of the site were found to exist from points to the north or northwest of the site due to intervening dense vegetation and topography.

Construction of the Project will convert existing meadow, crop land and a small portion of woods located in the center of the Project site to developed land, thus creating a change in the visual character of the site area. Sight line profile drawings were constructed to illustrate the potential visibility of the Project, including all buildings and the proposed water tower, from points in the actual viewshed.

The Town of Warwick Comprehensive Plan designates ridgelines as a scenic resource to be protected and the Route 94 corridor as a scenic road. The proposed Project will occupy a position in the landscape that is below the ridgeline immediately to the north. The Project plan reflects a sensitivity toward preserving the scenic nature of the roadway corridor. Provisions to preserve the visual character of the site are part of the Project design. The selection of the 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. The design of the structures, as well as their physical siting, the Project access, and development setbacks have been considered to minimize visual sensitivity from off-site locations. A site landscaping plan has been designed that includes tree and shrub plantings throughout the developed areas of the site that will be visible to the public. The landscape plan preserves the existing character of the site frontage along Route 94 by preserving the majority of the existing large, healthy trees except in the immediate area of the entrance driveway. The site

frontage between Route 94 and the new pavement areas will be maintained as meadow. Other perimeter areas disturbed by grading will be revegetated. Existing landscape vegetation outside the disturbed areas will be preserved.

The Project will use architectural styles that imitate the rural, agricultural styles that are characteristic of the area. The conceptual design for the auto dealership provides a look similar to a barn in color and bulk. Concept plans for the supermarket call for a varied front elevation treatment with horizontal colors, a bank of windows with pitched overhangs and an architectural front entrance that is reminiscent of the end view of a barn structure. Design of the pad building has not been completed, but the Applicant anticipates its design to reflect the bulk and roofline of the existing farmhouse on the property.

The lighting design (luminaire height, pole spacing and light type – fully shielded box mounted structures) 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. The proposed Lighting Plan for the Project demonstrates that no light trespass from the Project will exceed 0.01 footcandles at the property line, except at the site access. Potential nighttime visibility of the on-site lighting from the Drive-In will be mitigated since the light fixtures will be 8-10 feet below eye level. The fully shielded box mounted fixtures will shield any glare from off-site viewer locations.

3. Finding

The Planning Board finds that no significant historical, architectural or other cultural resources have been identified on the Project site. The Planning Board also finds that the visual impacts of the Project will be minimized by utilizing architectural styles that are in keeping with the community; incorporation of significant landscaping and buffering, and utilization of appropriately styled and shielded lighting.

III. ALTERNATIVES

Five alternatives to the proposed action were studied in the EIS:

- No Action Alternative
- Alternative 1 – Vernacular Architecture
- Alternative 2 – Alternative Development Plan: Buildings Close to Road with Parking Behind
- Alternative 3 – Use of Existing Farm Buildings
- Alternative 4 – Alternate to Wetland Loss and Mitigation

A. No Action Alternative

The No Action alternative is represented by the existing conditions on the Project site. Under this alternative, the site would remain agricultural land, non-agricultural meadow/brushland, freshwater wetlands and wooded uplands, with several farm buildings. With no improvements to the site, the new commercial and retail facilities associated with The

Fairgrounds Project would not occur. The No Action Alternative would avoid those adverse impacts that could result from the proposed Project. However, it would forego the substantial economic benefits of the Project as well as the desired land use policy to establish mixed-use commercial and retail development in the DS and OI Zoning Districts as per the Town of Warwick Comprehensive Plan. Potential tax revenues resulting from the development as allowed by current zoning would not be realized by the Town, County or School District. New sources of sales tax revenue would also not be realized. Moreover, this alternative does not meet the objectives and capabilities of the Project sponsor to generate new and enhance existing economic activity in the Town.

B. Alternative 1 – Vernacular Architecture

Given the architectural designs planned for the Project, the proposed buildings are not anticipated to create a stark contrast to the visual character of other development in the area, and the landscape treatment will provide a visual transition to the surrounding landscape. An alternative architectural style would not affect any environmental aspect other than aesthetics.

C. Alternative 2 - Alternative Development Plan: Buildings Close to Road with Parking Behind

This alternative presents an alternative site plan in strict conformance with the recommendations of the Town Comprehensive Plan and Design Guidelines. The alternative plan sites the 56,000 sf supermarket and 22,270 sf dealership at the front of the Project site near Route 94. The existing house site is shown as re-used for additional retail space on the existing footprint. Most of the parking in this alternative is placed behind the buildings, with landscape buffering and retaining wall screening the views from Route 94.

Given various circumstances, including the irregular site configuration, the narrow site frontage that is unconstrained by wetlands, site topography and the siting requirements of the Project facilities, this alternative does not meet the Applicant's objective to develop what it believes to be an economically viable plan. To locate the supermarket so close to Route 94, it is turned to face the rear of the parcel because such a facility requires direct pedestrian access between the main door and the parking field. This places the loading/service area toward the road, requiring significant screening in the form of a tall retaining wall and additional landscaping. This orientation of the supermarket does not present an economically viable plan.

Under this alternative, the general intensity of the use of the site would be the same as the proposed Project, and it would generate similar traffic, noise and use of community resources. However, under this alternative, impacts to on-site wetlands would be greater than the proposed Project plan as a result of locating the buildings toward the front of the site, necessitating wetland mitigation areas to offset the effects of wetland buffer disturbance. Moreover, the overall visual prominence of the Project would be increased since the buildings would be closer to Route 94. Finally, placing a building on the footprint of the existing farmhouse would require location of the Project entrance roadway east of the high point on Route 94 and would not take advantage of the best lines of sight for the entrance driveway.

D. Alternative 3 – Use of Existing Farm Buildings

There are several farm buildings located at the center portion of the Project site. The only existing building that is considered to be usable and safe in its present condition is the main house at the front of the property. This building lacks significant historical value due to significant remodeling and expansion since it was built, and is located at the optimal location for a safe access road into the property. Therefore, re-use of the existing buildings is not feasible and they are proposed to be removed.

E. Alternative 4 – Alternate to Wetland Loss and Mitigation

The Applicant submitted a site plan to the Town in 1999 proposing a dealership, supermarket and other retail use on the Project site which necessitated the elimination of approximately 0.4 acres of wetlands and proposed three areas of wetland mitigation to compensate for the loss. The current proposed plan for the Project was designed to avoid this impact and is proposed as the preferred alternative to this wetland loss. The Project proposes a reduced area of wetland disturbance of less than 0.1 acre which is permitted under federal regulations with no mitigation requirement other than adherence to the specific conditions associated with NWP #39.

IV. CONSISTENCY WITH DRAFT AND FINAL ENVIRONMENTAL IMPACT STATEMENTS

The Planning Board has determined that the Draft EIS and Final EIS documents and the public hearing on the Draft EIS are sufficient to inform the public of all environmental aspects of the proposed project's effects. The Planning Board has also determined that the detailed mitigation measures specified in the Draft and Final EIS's as well as the proposed subdivision plans are adequate to avoid or minimize environmental impacts of the project. All such measures are incorporated by reference in this Findings Statement as if they were enunciated herein.

V. CERTIFICATION OF FINDINGS TO APPROVE

Having considered the Draft and Final EIS, and having considered the preceding written facts and conclusions and specific findings relied upon to meet the requirements of 6 N.Y.C.R.R. Part 617, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met;
2. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement; and

3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

For Town of Warwick Planning Board:

Signature of Responsible Official

Name of responsible Official

Title of Responsible Official

Date

Town of Warwick Planning Board
Warwick Town Hall
132 Kings Highway
Warwick, New York 10990

Findings Statement Filed With:

Town of Warwick Planning Board

Michael Sweeton, Town Supervisor

Town Board of the Town of Warwick

Town of Warwick Zoning Board of Appeals

NY State Department of Environmental Conservation
Division of Regulatory Services
625 Broadway
Albany, NY 12233

NY State Department of Environmental Conservation
Region 3 Office
21 South Putt Corners Rd.
New Paltz, NY 12561

NY State Department of Health
Bureau of Water Supply
Flanigan Square, Room 400
457 River Street
Troy, NY 12180

NY State Department of Transportation
Region 8 Office
Flanigan Square, Room 400
4 Burnett Blvd.
Poughkeepsie, NY 12603

Maxcy Smith, M.D., Commissioner
Orange County Department of Health
124 Main Street
Goshen, New York 10924

Interested Agencies

Town of Warwick Conservation Board

Village of Warwick Board of Trustees

David Church, Commissioner
Orange County Department of Planning
124 Main Street
Goshen, New York 10924

New York State Office of Parks Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island
Waterford, New York 12188

David A. Stillwell, Field Supervisor
US Fish & Wildlife Service
3817 Luker Road
Cortland, NY 13045

Brian Orzell
Operations Division
US Army Corps of Engineers
26 Federal Plaza
New York, New York 10278-0090

Macintosh HD:Users:tedfink:Documents:Warwick:Reviews:Fairgrounds:Fairgrounds_Findings_Final.doc