

SEQRA Findings Statement of Town of Victor Planning Board

Environmental Review Process for the Victor Commerce Park

Project Location: The location of the proposed action is off New York State Route 96 just to the north of the intersection of I-490, the NYS Thruway (I-90) and NYS Route 96 in the Town of Victor, New York.

Project Description: The proposed action involves the site plan and subdivision applications for a development that contains 323,287 square feet (“sf”) of retail space, clustered in the northern half of the project site (Phase 1 lands) (the “Project”). No building would be larger than 100,000 sf. The southern half of the site (Phase II lands) would be left vacant and the Applicant has reserved the right, in the future, to subdivide and sell this portion of the site or develop it with office and hotel uses only. The entire site, upon subdivision, contains 93.3 acres with 56.8 acres located on the Phase 1 lands and 36.5 acres located on the Phase 2 lands. As part of the Project, a conservation easement will be imposed over considerable portions of the site (including portions of Phase 1 and Phase 2 lands). The lands under the conservation easement will remain undeveloped and protected from any future development.

Lead Agency: The Planning Board of the Town of Victor, 85 Main Street, Victor, New York 14564.

SEQRA Classification: Type I action.

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This Findings Statement has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law, 6 NYCRR Part 617 and Section 211-22 of the Town of Victor Zoning Code.

Findings of Fact

The environmental review of the proposed action has included the preparation of comprehensive draft and final environmental impact statements (“DEIS” and “FEIS”, respectively). The impact statements identified and evaluated potentially significant adverse environmental impacts of the Project and measures to avoid or mitigate the potential impacts to the maximum extent practicable. Based on the evaluation and analysis presented in the impact statements, this Board makes the following findings of facts and conclusions regarding the proposed action:

Project History.

The Victor Commerce Park Project began in 1999 with the original application for a project containing 566,072 square feet of commercial space consisting of multiple uses such as office, retail, hotel and restaurants. The Board undertook a complete environmental analysis of this original plan through the preparation of the DEIS. The DEIS identified and discussed potentially significant adverse environmental impacts created by this original plan as well as by a smaller alternative plan containing 473,287 square feet of commercial space.

In response to comments on the DEIS raised by the Board, the public and the Town's consultants, the Applicant developed another smaller alternative project plan which was identified and discussed in the FEIS. That project alternative consisted of 323,287 square feet of commercial space divided among the following four buildings: Wal-Mart Supercenter (211,699 sf), a northern retail building (98,088 sf) and two restaurants (7,500 sf and 6,000 sf, respectively). Wal-Mart was the only known tenant for this project alternative. That alternative resulted in a reduction of commercial square footage on the site by over 42-percent from the original proposal. As part of that alternative, the building envelope was clustered at the northern portion of the site, thereby leaving the southern lands as undeveloped.

However, in the FEIS, the Planning Board noted that certain environmental impacts could be avoided or mitigated further if individual building sizes were limited to no more than 100,000 sf. As a result, based on the FEIS, this findings statement discusses the environmental impacts associated with the development of 323,287 sf of commercial space on the Phase 1 lands with no individual building being larger than 100,000 sf. (the "Project").

Project Site

The Project site contains approximately 95.4 acres of vacant land located off NYS Route 96 at the I-490/I-90 interchange in the Town of Victor (the "Site"). The Site is comprised of five parcels, all of which are owned by the Applicant. These parcels are described in more detail below. The Site is zoned for commercial uses. The area surrounding the Site is a mixture of uses including: commercial businesses, State and Interstate highways, offices, utility buildings and residential subdivisions. Adjacent residential uses make up 43% of the total Site boundary while commercial and highway uses make up 57% of the total boundary. The Site was used previously for a number of commercial uses including a sand and gravel mine, a gas station and a disposal site for municipal solid waste and construction and demolition material. The Site is made up of low brush, dirt paths, grassy areas, a federally regulated wetland and tree cover.

The Site is located at the approximate center of the commercial corridor along Route 96 in the Town. To the north/northwest along Route 96 lie various commercial developments like Eastview Mall, Cobblestone Court, Eastview Commons and Eastgate Square. To the south/southeast lies the intersection with Main Street Fishers where various commercial businesses are present. To the north and east are located a number of residential subdivisions including Rolling Meadows (33 lots), Indian Hollow (16 lots), Violet Valley (41 lots) and Hertfordshire Heights (40 lots).

Purpose, Need and Benefits of the Proposed Action.

The purpose of the Project is to allow the development of a retail/commercial project on the Site in close proximity to three major highways (I-490, I-90 and NYS Route 96) and other nearby commercial uses along the Route 96 corridor like the Eastview Mall, Cobblestone Court, Eastgate Square and others. The Project is expected to provide convenient and competitive retail and restaurant shopping opportunities in the corridor. To this extent, the Project is consistent with the goals of the Town's Comprehensive Plan to "continue to concentrate commercial and office uses along the Route 96 Corridor" and to "maintain its position as a regional shopping area."

Before the size of individual buildings was limited by the FEIS to no more than 100,000 sf, the Project contained a grocery store as part of the Wal-Mart Supercenter building. Given that this building can be no larger than 100,000 sf, it is unknown if the Applicant will continue to propose a supermarket as part of the Project. If such a grocery component is ever proposed as a future tenant, it would fill a need for such a use in the Town of Victor. As noted in the FEIS, of particular need to the immediate Victor market is a full line grocery store which is competitive with the 100,000+ square feet stores elsewhere in the County and outside the County as in Perinton and Pittsford. Currently, there is no full line grocery store within the Town or its immediate market. In addition, the Project will continue to foster retail and commercial growth in Ontario County which will strengthen its long term viability against the encroachment and the siphoning impacts from existing and future retail developments in nearby Rochester and Monroe County.

As noted by both the Town's and the Applicant's economic consultants, the Project will provide substantial direct and indirect economic benefits to the Town of Victor and Ontario County. The Project will create numerous new jobs during construction and 260-273 net new jobs after construction as part of its operations. The Project will add approximately \$18.2 million in property assessment value to the Town and Ontario County, resulting in a net increase in property taxes of approximately \$420,350, annually to Ontario County and the school district, combined. The Project will also generate an additional \$40.3 to \$42.3 million in net retail sales in Ontario County. The additional sales taxes derived from this activity will contribute \$296,400 to \$315,900 annually to Ontario County and another \$44,100 to \$47,000 annually to the Town of Victor.

The Project's direct and indirect economic benefits meet the goals and needs of the Town's Comprehensive Plan which states that "the tax revenues provided by commercial and industrial development have eased the burden on residential property in the community. This makes Victor a more affordable setting for residential development. The Town should continue to support commercial and industrial economic development projects when the interest of local government and the private sectors are mutual."

In addition to the benefits noted above, the Project will also provide a variety of other social benefits to the Town of Victor. Those benefits include:

1. The Project will provide a large conservation easement covering approximately 40% of the Site or approximately 37 acres. The land covered by the conservation easement, which would otherwise be available for future development, will be protected, in perpetuity, from any future development.
2. The Project will preserve the Victor Hiking Trail in its current location on the Site. The trail will remain open to public use and will connect the Project to the trail and nearby neighborhoods.
3. As part of the Project, sidewalks will be installed in front of the Site along Route 96. While no sidewalks or pedestrian amenities are located along Route 96 today, these sidewalks will be the first step towards a “walkable community” initiative the Town has expressed an interest in creating.
4. The Project provides substantial vegetated buffers for the neighboring residential properties to the north and east. The buffers along the northern property line range from 180 to 255 feet. The buffers along the eastern property line range from 263 to 331. These buffers substantially exceed the 100’ buffer requirement in the Town’s zoning code for commercial property located next to residential property. These buffers provide an important transition between the Project and the adjacent residential uses. These buffers will be preserved permanently as part of the conservation easement noted above.
5. As part of the Project, a pedestrian cross-walk will be installed across Route 96 allowing a pedestrian connection to the Project from Hampton Inn and TGI Friday’s Restaurant.
6. The Project provides over 27 acres of green space or over 48 % of the Phase I lands. The Project provides over 48 acres of total green space or over 51 percent of the entire 93 acre parcel. This exceeds the 35% requirement in the Town’s zoning code.
7. As part of the Project, conduit and pull boxes will be installed along Route 96 to allow for the future installation of a closed loop traffic management system. The conduit and pull boxes will be installed along Route 96 from the Site to High Street. When the rest of system is installed by NYSDOT in the future, it will allow NYSDOT to instantly monitor traffic conditions along Route 96 from their office and make signal timing adjustments, as needed, to improve traffic operations in the corridor.
8. The Project is setback considerably from Route 96 limiting its visibility from many areas on the highway. Based on the Alternative Plan in the FEIS, the closest retail building is 700 feet away from Route 96, leaving substantial green space between the Project and the highway.
9. The Site was an old sand and gravel mine as well as a dump for municipal solid waste and construction and demolition material. While most of this material was removed from the site years ago, limited quantities of C&D material still remain. As part of the Project, this material will be cleaned-up, as required by New York State law, and the Site will be returned to productive reuse.

10. As a further benefit to the Town, the Applicant has agreed to purchase and install, at its expense up to ten thousand dollars (\$10,000.00), park benches, landscaping and/or playground equipment or park enhancements at the direction of the Town's Director of Parks and Recreation as additional mitigation for the loss of the on-site wetland.
11. The Applicant has agreed to restrict any future development on the Phase 2 lands to office and hotel uses only (and related accessory uses).

Relevant Environmental Impacts and Measures to Avoid or Mitigate Impacts

1. Zoning, Comprehensive Plans and Land Use.

a. Zoning Regulations.

The Project site ("Site") is comprised of five parcels: "Parcel A" 74.665 acres, "Parcel B" 13.285 acres, "Parcel C" 5.508 acres, "Parcel E" 0.986 acres, and "Parcel 54" 1.001 acres, comprising a total of 95.445 acres. With the exception of Parcel A, all these parcels are zoned Commercial (C-1) under the Town of Victor Zoning Code. Parcel A is a split-zoned parcel with a majority of the parcel (71.175 acres) being zoned C-1 and the remaining 3.494 acres being zoned Residential (R-1). The entire Project will be constructed within the commercial zone and no development will be built within the residential zone. Each of the proposed uses of the Project is a permitted use, as-of-right, in the C-1 Zoning District. The Project does not require any zoning variances and complies with the bulk requirements contained in the Town's zoning code.

As part of the Project, the Applicant is seeking a subdivision approval that involves two components. The first component involves a land-swap or lot line adjustment with a neighbor, Robert J. Scala, whose property is located adjacent to the northeast corner of the Site and which is also split zoned between R-1 and C-1 zoning districts. The proposed land-swap is to deed 3.494 acres which is residentially zoned to Mr. Scala. In return, Mr. Scala would deed 1.403 acres, which is commercially zoned to the Applicant. The result of this land-swap would be two new parcels: one 72.574 acre parcel zone of entirely C-1 and owned by the Applicant and the second 5.102 acre parcel zoned entirely R-1 and owned by Mr. Scala. This subdivision will reduce the size of the site from 95 acres to 93 acres. This lot line adjustment will realign the parcel boundaries to be consistent with the boundaries of the residential and commercial zoning districts. In addition, as part of this lot line adjustment, the land that is transferred to Mr. Scala will be restricted as "forever wild" by deed or conservation easement to prevent any future development thereon. This will provide an additional buffer between the Project and adjacent residences.

The second component of the subdivision approval involves combining the five lots comprising the Project Site into one lot. This "re-subdivision" will maintain the existing outer boundaries of the Site while eliminating the complex network of internal boundary lines.

b. The Comprehensive Plan.

The Town of Victor Comprehensive Plan states that the Town should maintain its position as a regional shopping area and enhance its local economy and tax base, both in jobs and property assessments. The NYS Route 96 corridor is identified as the place for such commercial growth.

The Comprehensive Plan discusses the intent to concentrate future commercial and office uses along the NYS Route 96 corridor. Specifically, the Plan identifies the Site as a commercial/industrial zone. The areas north and south of the Site, along NYS Route 96 are also slated for commercial /industrial uses according to the Town's Comprehensive Plan. Also, the Town's Zoning Map indicates commercial and commercial-light industrial zoning for the stretch of NYS Route 96 on either side of the Site from East View Mall to the Village of Victor. The Project is consistent with these goals and the policies set forth in the Comprehensive Plan.

The Comprehensive Plan states that retail development provides a benefit to the Town in that it generates both real property and sales taxes, and in turn will relieve the tax burden on the residential properties in the community. Commercial development places limited demands on public services and minimal impact on the school system. As noted above, the Project is consistent with these objectives of the Plan.

c. Corridor Overlay Design Guidelines.

The Corridor Overlay Design Guidelines are intended to guide the discretion of the Planning Board when reviewing and approving site plans for buildings that lie in the Corridor Overlay. The entire Project site is located within the Town's Route 96/Route 251 Corridor Overlay District. The Project, as mitigated, adheres in large part to the Corridor Overlay Design Guidelines in the following ways:

- Landscaped retaining walls are used to minimize disturbance to existing grade and substantially eliminate the needs for cut/fill embankments steeper than 5:1. In general, these walls will be located behind structures to minimize views from on-site or Route 96.
- Cut and fill slopes, when used, have been rounded to avoid an engineered appearance particularly in areas visible from the Route 96 corridor.
- Lawn areas along the perimeter of the Site and along the entrance road have been graded in an undulating/rolling manner for visual interest.
- Subtle berms are used along the entire entrance drive to assist in screening retail structures and parking areas from both on-site and off-site locations. Berms vary in height and are broken into smaller units to appear somewhat random and natural.

- From on-site vantage points, views of parking lots and service areas will be screened by carefully placed shrub and tree masses. Views of building entrances and architectural features will be framed by vegetation to focus attention on destinations and create a positive sense of arrival.
- Significant shrub and mixed tree plantings are proposed for the western perimeter of the Site to screen or soften views from the NYS Thruway toll plaza.
- Side setbacks have been substantially increased along the north and east boundaries, thereby preserving all existing vegetation in these areas. Where existing vegetation does not exist or is otherwise insufficient to provide a meaningful visual barrier, significant new plantings will be added to assure substantial screening from adjacent residential properties.
- Over 40 % of the Site will be preserved under a conservation easement. The easement will cover the buffers to the residential properties as well as the hill in the middle of the Site. The Project will provide in excess of the 35% green space required by the Town's zoning code. The combination of green space and conservation easement lands will improve the Project's "green" appearance from Route 96.
- Buildings will be located on areas previously disturbed by past mining operations and waste disposal activities. Most of the undisturbed and natural areas on the Site will be protected under the conservation easement.
- To avoid impacts to topography to the maximum extent practicable, the buildings will be located on the flattest part of the Site and the northern retail building will be stepped in elevation to emulate the gradually sloping topography.
- Along the north and east residential perimeter the setback has been increased in excess of the minimum 100 foot wide densely vegetated buffer. This is above and beyond any buffer that is provided by the forever wild deed restricted Scala land swap parcel, the existing gas right-of-way and/or areas of new site grading. All existing vegetation within these areas will be maintained.
- Elevated views from adjacent residential properties are minimized by extended setbacks and dense vegetative buffer. Rear building facades have been designed and parapets included to screen views of rooftop equipment.
- While the Project will be visible from certain areas along Route 96, the Project's visibility is limited from many areas on the highway.
- Individual building sizes have been limited to no greater than 100,000 sf in order to reduce the Project's impacts on steep slopes, reduce visual impacts and reduce the scale of the buildings to be more compatible with the surrounding commercial and residential uses.

2. Traffic and Transportation.

At full build-out of 323,287 sf of commercial space on the Phase 1 lands, the Project will generate an estimated 749 trips (363 entering/386 exiting) during the PM weekday evening peak hour. For the Saturday midday peak hour, 1,030 (531 entering/499 exiting) trips will be new trips on the network.

In order to assess the Project's impacts and evaluate mitigation options, a traffic impact study was conducted using two methods to incorporate background growth rates and a trip generation method agreed upon by the Town's traffic consultant, Stantec and NYSDOT. The traffic impact study assessed the impacts of the Project on the area road network and intersections and evaluated how various highway improvements might mitigate the impact of the Project and improve traffic service. The traffic impact study was updated to account for current traffic volumes and reductions in the project proposal.

As part of the Project, the following roadway improvements and mitigation measures will be constructed by the Applicant at its expense:

1. Install conduit and pull boxes on Route 96 between High Street and the Thruway off-ramp to facilitate a future closed loop traffic signal control system (to be installed by NYSDOT or others)
2. Construct the following improvements at the Route 96/High Street and Mall Driveway:
 - A 400-foot eastbound right-turn lane on Route 96 on the approach to the Mall Driveway.
 - A 200-foot exclusive southbound left turn lane on High Street on the approach to Route 96.*
 - Extension of the eastbound left-turn lane from Route 96 to High Street from 190 feet to 500 feet.*
 - Install a right-turn overlap phase on the traffic signal.*
(*The Planning Board has already approved these improvements as part of the High Point Business Park project)
3. Install sidewalk along the Site frontage on Route 96 west of the Project driveway along with a pedestrian crosswalk and installation of a pedestrian signal indications on Route 96 on the west side of the Project driveway.
4. Construct the following improvements at the intersection of Route 96/Project Site Drive/Hampton Inn Driveway:
 - A second left-turn lane into the site
 - Extension of the existing left turn lane into the site on Route 96.

- Widening of the existing Site driveway.
 - Construction of either a westbound right-turn lane or a right turn slip ramp from Route 96 (either option is acceptable to NYSDOT, but Stantec recommends the right turn lane) along with traffic signal improvements.
5. Posting a financial guarantee for the construction of the following roadway improvements which NYSDOT has determined are not necessary now to mitigate any traffic impacts from the Project, but which may become necessary in the future as determined by NYSDOT:
- Widening the Hampton Inn Driveway approach to Route 96 opposite the Project driveway (financial guarantee to be in place at NYSDOT's discretion).
 - Installation of a traffic signal at the Route 96/I-90 and I-490 westbound off-ramp (financial guarantee to be in place for 1 year).
 - Installation of a westbound left turn arrow, along with a northbound right-turn overlap phase at the intersection of Route 96/Turk Hill Road/Mall Drive #2 (financial guarantee to be in place for 1 year).
6. The NYSDOT has agreed (verbally) to install special traffic signal timings, during the holiday season along the Route 96 corridor to facilitate increased traffic volumes during the holiday season.
7. Six months after the last certificate of occupancy is issued for the Project, the Applicant will conduct a follow-up traffic study to evaluate the Route 96/Site Drive intersection. The Applicant will work with NYSDOT and the Town Engineer to address any significant issues identified in the study.”

With the implementation of the proposed highway improvements and mitigation measures listed above, the Town's traffic consultant concluded that traffic operations in the Route 96 corridor will remain at the same levels of operations as they currently exist NYSDOT has also reviewed the Project's traffic impact study several times and it has concluded that the roadway improvements noted above will properly mitigate the Project's traffic impacts.

More specifically, the Town's traffic consultant concluded that the twelve signalized intersections that were studied will operate at an overall acceptable level of traffic operation providing an overall level of service of "C" or better with no individual traffic turning movement below level of service "D" except for the left turn from southbound High Street onto Route 96 during the Saturday peak travel hour (which will operate at level of service E). In addition, the Town's traffic consultant concluded that the eight unsignalized intersections that were studied will continue to provide reasonable traffic operations, except for the two intersections noted below.

- The northbound left turn from Benson Road onto Route 96 is estimated to operate under failing traffic conditions during the weekday evening peak hour. However, the Town's traffic consultant noted that even without traffic generated by the Project, this turning

movement would operate poorly under existing background conditions. In addition, as noted in the FEIS, the Project's traffic is not expected to have any significant impact on this intersection. The Project does not add any additional vehicle trips to this turning movement and the traffic study shows an insignificant reduction in the level of service during the weekday peak hour with only an additional two seconds of delay for vehicles turning left onto Benson Road and an additional eight seconds of delay for vehicles turning left onto Route 96.

- The southbound left-hand right-turn from I-90 and I-490 eastbound off-ramp to Route 96 is estimated to operate under failing traffic conditions during the weekday evening peak travel period. However, the intersection will operate at acceptable levels during the morning and weekend peak periods. As noted in the FEIS, the Project's traffic is not expected to have a significant impact on this intersection. The Project will not add any additional left-turn movements to this intersection during the weekday evening peak hour. Moreover, the Project will add only three new cars per minute traveling east bound on Route 96 and only two new cars per minute traveling westbound during this period. This results in a minimal reduction in the level of service at this intersection over the existing condition. Nevertheless, the Applicant has offered to install a traffic signal at this intersection to improve its operating efficiency. However, after careful review, NYSDOT has concluded that a signal would not be in the best interest of the traveling public for the following reasons: (1) the majority of traffic through this intersection is right-turn traffic which, overall, keeps the intersection free flowing; (2) rear-end accidents would increase with signalization; (3) queue lengths would be increased with signalization causing gridlock at the intersection; and (4) recent roadway improvements to the intersection have improved the sight distance to the left and have widened the center median on Route 96 providing a wider refuge for vehicles turning left. NYSDOT has agreed to monitor the intersection and, as noted above, the Applicant has agreed to post a financial guarantee for the installation of a traffic signal in the future if deemed necessary by NYSDOT.

The Planning Board has also evaluated the cumulative traffic impacts of this Project and other major commercial developments approved recently in the Route 96 corridor. To this end, in August 2005, the Planning Board adopted SEQRA Findings related to the High Point Business Park, a mixed use project on NYS Route 96 containing over 400,000 s.f. of commercial space and 72 town homes. As part of that project, the Planning Board evaluated the combined and cumulative traffic impacts from Victor Commerce Park and the High Point project. In general, the same intersections were evaluated for both projects and similar roadway improvements measures were identified for both projects. In those SEQRA Findings the Board stated, "as a result of the development of the project, including road improvements to be implemented by the Applicant, traffic conditions in the area of the project will result in overall acceptable levels of service, will improve overall levels of service at some intersections in the project area and will not cause any significant decrease in levels of service at any other intersection. The project will not alter the existing character of any of the area roads. The project will not have a significant adverse impact on traffic" This conclusion related to the cumulative traffic impacts from the Project as well as High Point.

In total, five different traffic engineers, (Stantec, SRF, FRA, NYSDOT and Bergmann Associates), including two engineers who worked on the High Point project (SRF and Bergmann) all concluded that traffic from Victor Commerce Park will be adequately accommodated on the area's roadways with the proposed highway improvements noted above.

Prior to constructing the roadway improvements noted above, maintenance and protection of traffic plans will be developed during detailed design and must be in accordance with the permit requirements issued by NYSDOT and the Town of Victor. Every effort will be made to stage construction of the roadway improvements to minimize impacts to existing traffic. As part of the maintenance and protection of traffic plans, the Town will ensure that emergency traffic can continue to access to the area particularly during roadway widenings.

a. Holiday Traffic

The Project's potential traffic impacts during the holiday season were also evaluated during the SEQRA process. Additional traffic counts were conducted during December 2003 for a weekday evening and Saturday peak hour and again on Friday December 17, 2004. ITE 'Christmas Season' projected traffic, along with traffic from other approved developments, were added to existing holiday season traffic volumes to predict future holiday season traffic. The analysis concluded that with the highway improvements proposed above, plus minor signal timing adjustments, the NYS Route 96 at High Street and Project drive/Hampton Drive intersections will be able to accommodate the holiday season traffic. NYSDOT has agreed to manually implement specific signal timings during the holiday season to accommodate additional traffic. The Town's traffic consultant noted that even with the adjusted signal timings, certain intersection movements will be approaching failing conditions (level of service E). However, many of these movements would operate under failing traffic conditions even without the Project or the adjusted signal timings.

b. Potential For Accidents

As previously determined by the Planning Board in its SEQRA Findings for the High Point Business Park (which included cumulative traffic data and analysis pertaining to both the Project and High Point) accidents and accident rates on Route 96 and High Street were analyzed in accordance with established Statewide NYSDOT accident analysis procedures. A review of more recent accident reports indicates that there has not been a significant increase in the rate of traffic accidents since the time frames studied. The safety analysis indicates that the proposed mitigation measures at High Street/NYS Route 96 intersection to accommodate existing and proposed traffic volumes when combined with the installation of a new dedicated left-turn arrow recently installed by NYSDOT, will decrease the potential for accidents.

c. Pedestrian Access

The Project will be the first to install sidewalks on NYS Route 96 to facilitate pedestrian safety and access as well as the Town's walkable community initiative. As part of the Project, sidewalks will be installed along Route 96 to the west of the Project's driveway along the frontage of Victor Square, with a logical terminus dependent on right-of-way or physical

constraints. Additionally, a pedestrian cross walk will be installed on the west side of the NYS Route 96 and at the Project Site Drive/Hampton Inn intersection. The signal modifications to this intersection will include the infrastructure necessary to install pedestrian crossing amenities such as pushbuttons, heads and signs.

To further facilitate pedestrian access and safety, the Applicant has also agreed to provide sidewalks between the buildings on-site and the Route 96 intersection as well as pedestrian access to the Victor Hiking Trail. Overall, the Project is expected to improve pedestrian safety and access around the Site and is not expected to have any significant adverse impacts on pedestrian safety.

d. Public Transportation

Currently public transportation is provided by RTS (bus route 92) and C.A.T.S. (bus route 3) to and from Eastview Mall. RTS (bus route 92) provides service to Eastview Mall for Perinton, Bushnell's Basin, and Lyons. C.A.T.S. (bus route 3) provides service for Canandaigua and Victor using a flag down system along NYS Route 96. The flag down system means buses will stop anywhere along NYS Route 96 for a pedestrian where it is safe to pull over. C.A.T.S. provides a schedule of times buses go through intersections along Route 96 as well as stops at Cobblestone Square and Eastview Mall. C.A.T.S. reports that only 4 to 5 people a week are dropped off along NYS Route 96 at its intersection with High street in the Village. The Project will not affect this service and a stop at the Project could be incorporated into these bus routes. The Project is not expected to have any significant adverse impact on public transportation in the area.

In conclusion, as a result of the development of the Project, including the roadway improvements listed above, traffic conditions in the area of the Project will result in overall acceptable levels of traffic service, will improve overall levels of service at some intersections in the Project area and will not cause any significant decrease in levels of service at any other intersections. The Project will not alter the existing character of the area roads. As a further assurance of the mitigation measures proposed for the Route 96 / site drive intersection the applicant agreed to conduct an additional traffic study six (6) months after the last certificate of occupancy is issued for the Project. The Project will not have a significant adverse impact on traffic, including pedestrian and bicycle safety or on the existing roadway network.

3. Visual and Aesthetic Resources.

The Planning Board evaluated the potential visual impacts of the Project. The DEIS noted that due to the Project's relatively low profile, as well as surrounding rolling topography and woodland vegetation, the Project's view shed will be substantially limited to foreground views within ½ mile. Extended visibility beyond ½ mile will be highly limited. As a result, the Project's visual analysis focused primarily on the potential visual impacts to the neighboring residential properties and from Route 96.

The DEIS and FEIS contained a number of visual simulations and line-of-sight cross sections to depict the Project's visual impacts from nearby receptors at Meadowlark Lane,

Sachem Trail, NYS Route 96 near NYS Route 490 Overpass, NYS Thruway Exit 45 Toll Plaza, and two along the NYS Thruway ramp approaching Route 96. Additional photographic simulations of the Project have also been prepared to illustrate its visual character from both on-site and off-site vantage points. The Town's visual consultant noted that while the Project will be visible from certain vantage points, overall, the Project's visibility is limited from many areas around the Site. Each simulation is discussed in more detail below:

- **Main Street Fishers:** This location was selected to represent views along Main Street Fishers, a heavily traveled commercial corridor in the Town of Victor. The views of the Project will be completely screened from this vantage point by intervening landform and vegetation.
- **Rolling Meadows Subdivision:** This residential subdivision is located immediately to the north of the Project. The rear yards of five homes on Meadowlark Lane border the Site. Given the vegetation, screening, setbacks and topography, filtered views of the top ten feet of the northern retail building might be visible through screening vegetation from both first and second story windows. These filtered views are expected to diminish over time as screening vegetation matures.
- **Indian Hollow Subdivision:** This residential subdivision is located immediately to the east of the Project. The rear yards of seven homes border the Scala land swap parcel. Given the vegetation, screening, setbacks and topography, filtered views of the top ten feet of the northern retail building might be visible through screening vegetation from both first and second story windows. These filtered views are expected to diminish over time as screening vegetation matures.
- **High Street:** This local road is approximately 25' to 100' higher in elevation than the Project site. Given its elevation, motorists traveling for a short distance on this road will have unobstructed views of most of the Project. This road also has existing views of other commercial uses in the Route 96 corridor like the Hampton Inn, TGI Fridays and Victor Square. Similar views may be found in the front yards of five homes located on Berkshire Lane (a short cul-de-sac paralleling High Street). Due to vegetation, portions of the northern retail building and most of the service areas will be screened from this vantage point. Given its elevation, most of the development on the Site will be visible from this location.
- **Trillium Trail Subdivision:** This residential subdivision borders the southeast portion of the Site. The views of the Project are completely screened by intervening landform and vegetation.
- **Route 96/Site Drive Intersection:** This view was selected to represent views from Route 96 at the Project's entrance. From this location, intervening landform and Project landscaping will screen much of the retail buildings and parking lots, although portions of these features will be visible from Route 96. Also the Project's proposed pylon sign will be clearly visible from Route 96 as will

entrance road improvements and site landscaping. The Project is setback considerably off Route 96 which should also diminishes its visual impact from the highway. The Project's visibility from Route 96 is considered limited when compared to the high visibility of other nearby commercial projects.

- **Thruway Toll Plaza:** This view was selected to represent views of motorist exiting the NYS Thruway at Exit 45. From the toll plaza, the top portion of the back of the Wal-Mart building would be visible, but the service areas would be screened by existing landforms. Screening vegetation would be planted to partially screen this view. The view would be diminished overtime as the screening vegetation matures. This view is somewhat affected by foreground features such as the toll plaza and a truck storage yard. Limiting the size of individual buildings on the Site to 100,000 sf would further reduce the visual impacts from this vantage point.
- **Ramp to NYS Route 96:** This view was selected to represent views for motorists traveling on the off-ramp from the Thruway toll plaza to Route 96. Motorist on this ramp will have unobstructed views of most of the northern retail building, restaurants, parking lots and other features. However, most of the Wal-Mart building would be screened from this view by intervening vegetation and topography. Any development on the Site would be visible from this location.

The Project, which has been substantially reduced in size from the Applicant's original proposal, provides further opportunity for effective aesthetic mitigation including increased Project setback and screening from residential neighbors. Key visual and aesthetic benefits of the proposed Project include:

- a. **Site Layout:** Commercial square footage has been reduced by over 40% from the original proposal;
- b. **Topography:** Landscaped retaining walls are used to minimize disturbance to existing grade and substantially eliminate the need for steep cut/fill embankments (in excess of 5:1). Small retaining walls are primarily located behind proposed northern retail structure (at service areas) to avoid views from both on-site and off-site vantage points, including the NYS Route 96 corridor. The Project is also recessed below the grade of the adjacent residential properties, further reducing any visual impacts.
- c. **Vegetation:** Greenspace on the Phase 1 lands exceeds the 35 percent required by the Town's Zoning Code. The Phase II portion of the Project site is removed from consideration at this time, thus avoiding disturbance to all existing vegetation on the southern 36+ acres of the Project site. Additionally, enhanced landscaping and berms at the site entrance are provided for visual interest and to shield views of retail structures and parking lots from NYS Route 96. Retaining walls are landscaped to soften their appearance. To add visual interest, the entrance drive and parking islands are landscaped with shade trees as well as shrub massing and

ornamental planting for screening and aesthetic benefit. All newly planted vegetation will be designed in natural patterns consistent with local context.

- d. Setbacks: Side yard setbacks have been increased along the north and east boundaries to further mitigate potential impact to adjacent residential properties. This buffer ranges from 180 feet to over 300 feet in depth; in excess of the 100-foot setback required by the Town's Zoning Code. In all areas, this additional setback includes a minimum 100-foot wide vegetated buffer, the buffer provided by the "forever wild" deed restricted Scala land swap parcel; the existing gas line right-of-way and/or landscaped retaining wall areas. All existing trees within this buffer area will be preserved under a conservation easement. Where existing vegetation does not exist, is of poor quality or otherwise insufficient to provide a meaningful visual barrier, new plantings will be added to assure substantial screening of the Project from adjacent residential properties;
- e. Architecture: Project architecture has been redesigned as a "town center streetscape" with varying building heights and elements of the façade. Architectural facades are broken into smaller elements with details reflecting the residential scale of the surrounding neighborhoods. A signature architectural element (consistent with the theme) has been located at the visual terminus of the site access road creating aesthetic interest.
- f. Other Features: The Victor Hiking Trail is preserved for public use. The trail connects the Project to adjacent residential neighborhoods. Circulation systems in the retail area are designed to allow direct pedestrian access between retail structures. A new slip ramp is provided as an alternative to minimize the number of turning lanes along NYS Route 96 at the Project intersection creating a more attractive entrance area; and the main access road has been re-designed to create a sense of arrival focusing on a plaza center. The width of the access road has been reduced commensurate with a lower traffic volume resulting from Project downsizing.

Overall, the Project minimizes significant adverse visual impacts to the maximum extent practicable.

4. Neighborhood Character.

As noted above, the neighborhood surrounding the Site is comprised of commercial uses to the west and north on Route 96 (like Hampton Inn, FGI Fridays Restaurant, and Victor Square) as well as residential uses to the north and east. The Project will be consistent with the adjacent and nearby commercial uses. However, the Planning Board carefully evaluated the Project's impact on the adjacent residential properties. Overall, the Project will preserve the integrity of adjoining properties due to its layout and buffering measures which will adequately screen the Project buildings from adjacent residential lands. Based on these measures and the Project's consistency with pertinent Town zoning and overlay regulations and guidelines, it is

not anticipated to have any significant adverse impacts on surrounding residential neighborhoods or the character of the community.

The setback and buffer provided along the Site's northern property line is adjacent to the residents on Meadowlark Lane in the Rolling Meadows subdivision. Specifically, five residential lots on Meadowlark Lane abut the Site. These five houses are an average of 150-feet from the Project's property line, with maintained backyard lawn areas and a staggered row of evergreen trees providing an existing vegetated buffer between the Project Site and the houses. Not including this buffer, the Project's will also provide a substantial buffer consisting of the following: a 50-foot wide utility easement area with minimal landscaping proposed (per gas company guidelines), a 100-foot densely landscaped buffer (per the Town's zoning code), and a 30-foot wide (+/-) terraced landscaping area. These buffers will be permanently protected by a conservation easement. The Project will also be recessed and below the grade of the adjacent residential properties further screening the Project from these properties.

The setback and buffer provided along the eastern property line is adjacent to the residents on Sachem Trail in the Indian Hollow subdivision. Specifically, six residential lots on Sachem Trail abut the Site; however, upon subdivision approval, they will abut the "forever wild" lands to be owned by residential neighbor, Mr. Robert Scala. The remaining residential lots that abut the Project's eastern property line such as Trillium Trail lots, Wintergreen Grove lots and random deep lots from High Street are unaffected by setback/buffer concerns since no development is proposed in the immediate vicinity to these lots. These six houses on Sachem Trail are an average of 134-feet from the Project's property line, with maintained backyard lawn areas and existing vegetation at the property line. Notwithstanding this existing vegetation, the Project's setbacks are comprised of the following: 125-foot (+/-) vegetated "forever wild area" to be preserved, a 100-foot densely landscaped buffer, and a 38-foot wide (minimum) terraced landscaping area. These buffers will be permanently protected by a conservation easement. The Project will also be recessed and below the grade of the adjacent residential properties further screening the Project from these properties.

In addition, the facade of the northern retail building has been broken down into individual store fronts to resemble a Town "streetscape." The architectural style of the other retail buildings on the Site is designed to mirror the northern retail building as much as possible. This architectural style will be more compatible with the scale of adjacent residential homes located to the north and east and complies with the Town's architectural standards. This style has been received favorably by the Planning Board and its architect. Also, limiting the size of individual buildings on the Site to no greater than 100,000 sf will also serve to reduce the scale of the Project to be more compatible with the surrounding commercial and residential uses.

5. Impacts to Historic, Archeological and Cultural Resources.

In 1994 and 2003, the Project Site was studied and investigated for the presence of any historic, archaeological or cultural resources that may be affected by the Project. With respect to historic resources, no buildings or sites listed on the National or State Registers of Historic Places were located on the Project Site or immediately adjacent to the Site. The Project's

potential impacts on the nearby Valentown Hall Historic Site and Ganondagan State Historic Site were also evaluated.

- Valentown Hall is listed on the National Register of Historic Places and is located approximately fourth-tenths of a mile to the north of the Site near the Route 96/High Street intersection. It is located within several hundred feet of other commercial uses. As noted on the DEIS, views of the Project Site from the Hall are substantially screened by foreground vegetation and the intervening Rolling Meadows subdivision, but limited views of the Site might be possible during leaf-off periods. Given this screening and the local context, Project views, if any, from the Hall are considered to be minor in nature.
- Ganondagan State Historic Site is located 4.5 miles southeast of the Project Site. As noted in the DEIS, this historic site is completely screened from the Site by intervening vegetation. As a result, no impacts from the Project are expected.

With respect to archeological and cultural resources, a detailed site survey was undertaken for the Project site. An archeological records check and site assessment were completed for the Site by the Rochester Museum and Science Center (RMSC). Photographs were taken of the entire Project area during a Phase 1A site visit, and two sections of the Site where undisturbed soils were presumed to exist were subsequently subjected to a Phase 1B field investigation. No archaeological or cultural resources were encountered as part of these field studies.

A report prepared by RMSC concluded that no significant or potentially significant archeological or cultural resources would be impacted by any ground altering activities conducted within the proposed Project area. This conclusion was reviewed and approved by the New York State Office of Parks, Recreation and Historic Preservation.

6. Land Resources.

a. Greenspace.

The Project results in over 48% or 27 acres of the Phase 1 lands being left as greenspace. The greenspace includes undisturbed lands to be preserved under the conservation easement discussed below and landscaped areas of the Project. The Town's Zoning Code requires that 35% of the Phase 1 lands must be green space which includes parking lot landscaping and buffering areas. In general, greenspace is provided along the Project's perimeter to act as a buffer to the adjacent residential properties. Additionally, greenspace is provided at the Site entrance to shield views of retail structures and parking lots from NYS Route 96. Immediate views of the Site entrance from Route 96 are predominately green which are consistent with the goals of the Town's Route 96 Corridor Guidelines. Landscaped areas are also proposed around building facades and along internal roads and landscaped islands are located throughout the parking lots to interrupt and soften the parking fields. The amount of land offered as greenspace contributes to reducing the Project's visual impacts from both on-site and off-site locations.

b. Proposed Conservation Easement Lands.

As part of the Project, a conservation easement is proposed covering a considerable portion of the entire Project site (both Phase 1 and 2 lands). The lands proposed under conservation easement will remain undisturbed and protected from any future development. The total greenspace for the Project site, as noted above, includes the undisturbed lands under conservation easement. The general location of the conservation easement is depicted in the FEIS as Figure IV-04B.

The majority of the lands covered by conservation easement are along the northern and eastern boundary lines abutting the residential properties. These undisturbed lands offer a desirable transition from the commercial to residential zoning districts. The existing hiking trail is encompassed within the proposed conservation easement lands as well, thereby permanently preserving this recreational amenity for the Town. The easement also excludes three areas in the southern half of the site (Phase II lands). These would be exempt from the conservation easement and would be available for the potential development of any future uses allowed under the Town's zoning code. These open areas were selected where the topography was relatively level and where there is no significant vegetation. Each area was designed to support a building and its related infrastructure. No specific development plans are proposed for these areas at this time. The Applicant has agreed to restrict any future development on Phase 2 lands to office and hotel uses only (and related accessory uses). The boundaries of the conservation easement restrict any future development to within the limits of these open areas. If and/or when any buildings are proposed for these areas in the future, the applicant would be required to submit a formal site plan application to the Planning Board and would be subject to an additional environmental review under SEQRA. These findings cannot be construed as an approval for any type of future development in Phase II. The current Project does not propose any work within these areas.

The proposed conservation easement covers lands that are in their most natural state. By contrast, the areas of the Site designated for the construction of the Project and any potential future development in Phase II are the areas that have experienced the most disturbances from past mining and waste disposal activities. The conservation easement lands cover the most natural landform that is available on the Site and protects it in its existing condition. The conservation easement provides the following benefits: (1) it preserves the buffer between the Project and the adjacent residents from future development; (2) it identifies the size and location of future development areas in the Phase 2 lands; and (3) it provides some indication as to where the Applicant or its successor might propose to develop other portions of the Site in the future.

c. Subsurface Soil Conditions

As noted above, the Site was formerly used as a commercial sand and gravel mine. As part of the mine's reclamation, the Site was used as a dump for municipal solid waste ("MSW") and construction and demolition ("C&D") material. To assess any significant environmental impacts related to these past activities, the Planning Board required a number of studies including: a Phase 1 Environmental Site Assessment, two geotechnical reports and two environmental test pit reports. As noted in the FEIS, a total of forty test pits and eighty-nine soil

borings were conducted across the Site. As part of these tests, the soil was analyzed and no evidence of hazardous waste or soil contamination was found. The results of the studies also showed that all of MSW and most of the C&D material had been removed previously from the Site. However, a small amount of C&D material was discovered in a limited area on the Phase 1 lands. This material was further analyzed and determined to consist of innocuous material like reworked natural soils, wood chips, scrap steel and pipe, fragments of concrete, brick and asphalt. No concerns were noted regarding this material. As noted in the FEIS, this material will be removed as part of the Project and either disposed of off-site in a permitted disposal facility or reused on site as non-structural fill as permitted by any applicable law. As a precautionary measure, the Planning Board requested the preparation of a soil management plan to ensure the proper handling of all excavated soil and C&D material on the Site. The plan addressed the following issues, among others: development and pre-excavation planning; soil fill characterization; excavation monitoring; management of excavated material; and procedures for excavation below the water line. No significant adverse environmental impacts will result from the Project's development in relation to subsurface soil conditions.

d. Steep Slopes and Grading.

The Site contains rolling hills and, in general, slopes from east to west. A prominent hill containing steep slopes is located in the middle of the Site and acts as a natural divide between the Phase 1 and 2 lands. Other than this hill, most of the Site's topography has been disturbed by previous mining and waste disposal operations. Where possible, the Project has been designed to work with the Site's existing grade. For example, the Site access drive from NYS Route 96 follows the terrain into the Site. In addition, the largest building pad was designed to be situated in the flattest part of the Site. Also, the retail building located near the northern property line was stepped in elevation to emulate a gradually sloping terrain. Retaining walls minimize disturbance to existing grade and reduce the need for steep cut/fill embankments (in excess of 5:1). These walls are primarily located behind proposed structures (at service areas) to minimize views from both on-site and off-site vantage points, including the NYS Route 96 corridor. The walls will be landscaped at their base to soften their appearance.

The Project also requires less earthwork operations than originally proposed in the DEIS because the size of the Project has been reduced and because a sizeable portion of the Project Site will be protected from any future disturbance by a conservation easement. It also offers greater setbacks, increased buffer, less impervious surface in buildings and pavement, and clusters the area designated for development.

Under the Alternative Plan in the FEIS, the Planning Board was concerned that the building footprint of the Wal-Mart Supercenter cut too far into the natural hillside in the middle of the Site. This cut required an extensive retaining wall behind the building. The Planning Board and its consultants repeatedly expressed concerns about the height of the wall and the depth needed for the construction of the wall, which impacted the existing slope. The Applicant attempted to address these concerns by modifying the wall design to a single-face retaining wall that would be 35-feet tall at its highest point. This maximum height coincides with the maximum building height of 35-feet allowed under the Town's Zoning Code. As a result, views of the wall would be screened from many viewsheds by the height of the building. The wall, at

its maximum height, could not be viewed by travelers on NYS Route 96 or by patrons on the Site. The wall would only be viewed by those limited number of people using the service area behind the building. Notwithstanding these efforts, the Planning Board concluded that the impact to this steep slope is too severe and could and should be mitigated further by limiting the size of individual buildings on the Site to no greater than 100,000 sf. and pulling those buildings away from the hillside as much as possible without impairing the functionality of the Project. Subject to this important condition, the Planning Board concluded that the Project's impacts to steep slopes and Site topography would be avoided or minimized to maximum extent practicable

7. Water Quality.

a. Wetlands.

The Site contains approximately 1.2 acres of federally regulated wetlands. This wetland is best described as an intermittent drainage wetland traversing the Site from northeast to southwest. The wetland is consistently dry, especially during the summer months, except for extended rain events, snow melts or intense thunderstorms. The wetland is regulated by the US Army Corps of Engineers (the "Corps") under federal regulations, but is not regulated by either NYSDEC or the Town of Victor. The wetland will be eliminated as part of the Project.

As noted in the FEIS, a Wetland Functions and Values Assessment was performed to assess the quality of the wetland's ecological characteristics. The functions and values that were evaluated included, among others: groundwater recharge, fish and shellfish habitat, production export, sediment/shoreline stabilization, recreation, educational and scientific value, uniqueness/heritage, visual quality/aesthetics and endangered species habitat. The assessment concluded that due to the prior mining disturbances on the Site, the wetlands are of distinctly diminished quality and there is an inherent lack of principal functions and values.

Following this assessment, the Applicant submitted an application to the Corps seeking approval to fill the wetland. As part of the application, the Applicant submitted a detailed alternatives analysis which demonstrated that there were no practical alternatives to the wetland impacts. The alternatives analysis was accepted by the ACOE. In that analysis, the creation of a wetland mitigation area on-site was evaluated, however, such mitigation was considered infeasible by the Corps due to the Site's awkward topography (created by the prior mining operations); lack of a top soil layer (removed by the prior mining operations); the permeability of the sandy soil; and the lack of a hydrological connection and water source. The Corps directed the Applicant to look for an off-site mitigation area. As part of this search, seven potential wetland mitigation sites were evaluated in the Town of Victor. As noted in the FEIS, each of these sites was rejected for a variety of ecological and technical reasons. For a year or more, an exhaustive search was conducted to identify other possible mitigation sites in the Town. This search involved working with property owners, realtors, neighbors, private citizens and public officials (including officials at the Town, NYSDEC and the Corps). No viable sites were found.

To compensate for the loss of the wetlands on the Project Site, the Corps issued a provisional permit in 2005 allowing the wetland to be filled and approving an off-site wetland

mitigation plan for the Project which created 2.4 acres of new wetlands and restored approximately 900 linear feet of an existing drainageway next to the wetland creation area. The mitigation site is located in the Town of Chili. The mitigation plan approved by the Corps will replace, at a ratio of 2:1, the functions and values lost by filling the wetland on the Site. Based on the foregoing, the ACOE concluded that the Project's impact to the on-site wetland has been mitigated.

As noted in the FEIS, there are approximately 1200 acres of wetlands within the Town of Victor based on the USFWS National Wetland Inventory (NWI) maps. The Project will impact approximately 1.2 acres of these wetlands which represents a loss of 0.1% of the Town's overall wetland resources. This wetland on the Site is isolated; is of diminished quality; and is located on private property and not accessible to the public. The Planning Board, in its capacity as the lead agency, finds that the enhancement of a wetland in another community (Gates), along with the purchase and installation, at its expense up to ten thousand dollars (\$10,000.00), of park benches, landscaping and/or playground equipment or other park enhancements within the Town of Victor and at the direction of the Town's Director of Parks and Recreation is sufficient mitigation for the loss of this water resource within the Town of Victor.

b. Stormwater.

Construction of impervious surfaces on the Project Site has the potential to adversely impact storm water quantity and quality and any receiving waters of that storm water. Possible impacts during the construction phase include erosion and sedimentation due to the disturbance of the ground surface. Post construction impacts can arise due to increased storm water run-off from impermeable surfaces and human activity. As discussed below, no significantly adverse storm water impacts are expected from the Project either during pre or post construction.

During construction, storm water impacts will be mitigated through the implementation of a Storm Water Pollution Prevention Plan and an Erosion Control Management Plan that complies with the NYSDEC General SPDES Permit requirements, the Irondequoit Creek Watershed guidelines and the Town of Victor construction standards. These plans will include, among other things, construction sequencing guidelines, as outlined in the DEIS, to further mitigate erosion impacts. These plans are included in the DEIS and will be finalized, with input from the Town Engineer, as part of the site plan review process.

To further reduce storm water impacts during construction, the drainageway that bisects the Phase 1 lands will be enclosed within a pipe during the initial construction phases. This drainage way conveys off-site drainage from the residential areas to the east across the Site to an existing culvert under the NYS Thruway access road to the toll booth area for Exit 45. By enclosing this watercourse early on, the erosion and sedimentation that could flow into it during construction will be eliminated. At the request of the Ontario County Soil and Water Conservation District, this pipe will be designed to allow any run-off to infiltrate directly into the groundwater beneath the Site. The pipe will also be designed to meet the Thruway's applicable storm water requirements.

After construction, a Storm Water Management Plan will be implemented to avoid or mitigate potentially significant adverse impacts by ensuring that storm water run-off volumes and pollutant loadings will not exceed pre-development levels. This plan will also be finalized, with input from the Town Engineer, during the site plan review process. As part of this plan, the Project will use a closed storm water collection system, which will direct all storm water on the developed portions of the Site to an underground pipe storage and infiltration/recharge system. This system was designed to provide storm water detention for up to a 100-year storm event, in accordance with the Irondequoit Creek Watershed requirements. Infiltration/recharge is a preferred method of storm water quality management and works effectively in sandy soil conditions like those found on the Site.

As noted in the FEIS, the Project's storm water management system will work as follows. Storm water will be carried into the underground storage system via pipes and catch basins located through out the Site. The system is designed so that the first seven feet of water depth in the storage pipes will be infiltrated entirely into the ground without any direct run-off to downstream waters. The underground storage system maintains the groundwater regime below the Site through infiltration. It captures pollutants and suspended solids and prevents them from entering downstream surface water sources. It also utilizes the Site's underlying sandy soils as a natural filter to remove pollutants from run-off prior recharging it to the groundwater. Run-off that exceeds the storage capacity of the infiltration pipes will be conveyed to several holding ponds on the Site which will retain the storm water allowing suspend solids and other pollutants to settle out before releasing it into the existing drainage way that passes under I-490 and Route 96. Discharge rates from the holding ponds will not exceed those occurring under existing conditions for each design storm. The Project's storm water management plan will adhere to both the current NYSDEC General SPDES permit requirements for storm water discharges and the more stringent Irondequoit Creek Watershed guidelines. The Project's storm water design criteria, both pre and post construction, have been reviewed and accepted by the Ontario County Soil and Water Conservation District. Based on the foregoing, no significantly adverse storm water impacts are expected as a result of the Project.

8. Lighting.

It is recognized that adequate site lighting is needed for any business that operates beyond the hours that natural light (daylight or sunlight) is available. However, misdirected or misapplied outdoor lighting can cause an undesirable effect on neighboring properties as well as the business' patrons and employees. As a result, during the SEQRA process for this Project, the Planning Board considered lighting concerns related to the potential for increased sky glow, light spillage off-the-Site and the visibility of Project lights from the neighboring houses.

The Project includes a single lighting plan which utilizes luminaries mounted 25-feet above the ground. The height of these light poles complies with the requirements of the Town's zoning code. The lighting plan uses only single-head and double-head light poles. The four-head light poles proposed as part of the original Project have been eliminated. In addition, at the request of Stantec, the Town's lighting consultant, the average light levels on the Site will be reduced to approximately 2.7 foot candles before 11pm. This level represents more than a 40%

reduction in lighting levels over the Project proposed originally in the DEIS. Significant elements of the Project's lighting plan include:

- Full cut-off light fixtures with flat lens and house shields;
- Zero foot candles of light trespass onto adjacent properties;
- Compliance with IESNA full cut-off criteria;
- Light fixtures accredited by the International Dark Sky Association (IDA);
- Point source of illumination is concealed within the housing fixture;
- Use of vegetation, fencing, retaining walls and 35' high Project buildings to screen light poles and fixtures from adjacent properties; and
- No light poles will be located next to residential areas.

The Project will also employ an After Hours Lighting Plan to further reduce lighting impacts on adjacent properties after 11pm. As part of the plan, over 30 light poles will be turned off one hour after closing, but in no event later than 11pm. As a result, the lighting levels will be substantially reduced during the nighttime hours, which are more sensitive times of the day for the adjacent residential neighbors. As requested by the Town's lighting consultant, the average light levels on the Site will be reduced to 0.6 footcandles after 11pm. This light level is the minimum necessary to maintain adequate lighting for safety and security on the Project Site.

The Town's lighting consultant concluded that the Project minimizes the addition to night sky glow and objectionable light trespass to the surrounding residential neighbors. More specifically, Stantec concluded:

- The proposed lighting plans indicate minimal light beyond the parking lots.
- The majority of light poles will be screened from neighboring residential properties by buildings and plantings.
- The illumination levels do not exceed those recommended by the Illumination Engineering Society for this type of use and location. The lighting ratios indicate a well designed and even illumination.
- The Site is lower than the surrounding neighbors, therefore the light sources should not be visible to the neighbors.
- The light poles on the eastern edge of the parking lot will have house side shields installed. House shields will significantly reduce light trespass beyond the parking areas.

The Project's lighting plan has been revised significantly through the SEQRA process to a point where the plan now provides the mitigation measures requested by the Town's lighting consultant and significantly reduces the Project's lighting impacts. Based on the foregoing, the Project's lighting plan will not have any significant adverse environmental impacts.

9. Air Quality, Noise and Dust.

Air quality in the Town of Victor is generally considered to be very good and no significant adverse impacts are anticipated as a result of the proposed Project. The greatest potential for the Project to impact air quality arises out of the use of motor vehicles to access the Project Site. One way of assessing the potential impact to air quality is to determine whether the Project qualifies for a categorical exclusion from further air quality impact review. Under both State and Federal guidance, one of the categorical exclusion criteria focuses on whether the intersections impacted by the Project maintain, on average, a level of service classification of "C" or better. The longer the time spent at an intersection, the lower the level of service and the more air quality impacts caused by vehicles idling in the queue. Because the Project maintains an overall average level of service classification of "C" or better at all signalized intersections, it qualifies for the categorical exclusion from further air quality impact review. There are no nearby site-specific sensitive receptors, such as a school or hospital that would suggest that further study is necessary.

In addition, a microscale air quality impact assessment was conducted for the Project. Under the Clean Air Act, the United States Environmental Protection Agency sets limits on how much of a pollutant can be in the air anywhere in the United States. The Project Site is within an air quality attainment area, which means that it is within a geographic area that meets or does better than the primary standard (National Ambient Air Quality Standard, or NAAQS). The results of the microscale air quality impact assessment show that the concentration of pollutants under the full-build scenario is in full compliance with NAAQS. Therefore, the Project will not cause any significant adverse impact on air quality.

a. Odor.

Local codes limit activities that generate or are likely to generate noxious odors or release significant volumes of particulates. These codes are expected to be effective through the period of construction, build-out and ultimate use of the Project site.

The Project includes two restaurants that could potentially produce odors related to cooking. The restaurants will be required to use filters to remove odors from the cooking operations prior to venting to the outside air in order to comply with the Town of Victor Code provision that prohibits businesses from emitting odors that pass beyond the property line. All businesses operating within the Project Site will be individually subject to the requirements in the State air quality regulations that limit odor emissions. The nearest residential receptor is over 400 feet away from the nearest restaurant, further reducing any potential odor impacts. As a result, no significant adverse odor impacts are expected from the Project.

b. Noise.

The Project's potential noise impacts on neighboring properties were also considered during the SEQRA process. Potential noise sources were evaluated including noise from increased traffic generated by the Project and operational noise from delivery vehicles, service area activities, parking lot noise (car alarms, shutting doors, etc) and HVAC equipment. To assess these potential noise impacts further, a detailed noise study was undertaken.

As part of the study, ambient noise levels were monitored around the proposed Project Site on several different occasions. The survey periods on each day were selected to provide examination of noise on both weekday and weekend occasions, when the Project would be open, and during peak traffic periods. Background sound level measurements were made at two locations along the boundaries of the Project Site and opposite four residences that immediately border the Project Site. As noted in the FEIS, the ambient noise levels along the Site's northern and eastern property lines ranged between 50-56 dBAs. The threshold levels for noise abatement at picnic and recreation areas, playgrounds, schools and residence established by the U.S. Department of Transportation Federal Highway Administration guidelines is 70 dBA. All areas studied showed decibel levels well below 70 dBA in all instances.

In addition to ambient noise levels, the noise study also considered a variety of Project components that were designed to reduce the impact of noise levels on adjacent properties. These components include increased setbacks, vegetative buffers, topography, a noise barrier and source controls. Each measure is discussed in more detail below:

- **Increased Setbacks:** Under the Alternative Plan in the FEIS, the side yard setbacks have been increased to a range of 180' - 255' along the northern property line and 263'- 331' along the eastern property line. This increased distance reduces noise levels by approximately 5 dBA.
- **Vegetative Buffers:** More than 100' of existing and proposed vegetation is offered around the perimeter of the Site (and preserved by a conservation easement). These vegetative buffers will be located principally along the north and east property lines and will help reduce the transmission of noise to adjacent properties. The buffer provided reduces noise levels by approximately 5 dBA.
- **Topography:** The Project will be situated at an elevation lower than that of neighboring properties which will further reduce the transmission of noise. The Project employs retaining walls behind the retail buildings on the northern and eastern property lines to maintain existing grade closest to the neighboring properties, which in turn, provides additional sound attenuation. Because the Project activities will occur at an elevation lower than the adjacent houses, the difference in topography further shields noise. The retaining walls will reduce noise levels by another 3-4 dBAs.
- **Barrier:** As part of the Project, a noise barrier is proposed at the edge of the wooded buffer and on top of the retaining walls. The barrier would be a solid

wood, stockade type fence, which would extend to the ground to maximize noise shielding. The fence would further reduce noise levels by 5dBA.

- Source Controls: Certain types of equipment, like overhead waste container services, produce unacceptable noise levels and would not be used. In addition, parking is situated within the center of the Project Site and therefore is further away from neighboring residents.

The noise study found that ambient noise levels around the Project Site are highly dominated by traffic noise on the nearby highways, primarily NYS Thruway, I-490 and NYS Route 96. Some nearby properties are also exposed to traffic noise from High Street and other secondary roads by varying degrees depending on proximity to these roads. According to the noise study, the noise levels at the Site boundaries may increase slightly by ½ to 1 dBA with traffic increases from the Project. It will not be possible to detect this slight difference in noise level. In general, even an increase of 3 dBA would be considered negligible and undetected in terms of human perception. As a result, there should not be a noticeable increase in noise level in the area due to Project related traffic.

The noise study also found that potential noise impacts could result from certain operational components of the Project such as delivery vehicles, snow plowing, service area activities, parking lot noise (car alarms, closing car doors, etc) and HVAC equipment. For each component, the study concluded as follows:

- Snow Plowing: Plowing behind the retail building along the northern property line (in the location shown in the Alternative Plan in the FEIS) will be a few decibels or more above the average background noise level and will be relatively imperceptible. Plowing along the eastern property line (in the location shown in the Alternative Plan in the FEIS) will generate maximum noise levels that at most equal the average background noise levels at the closest receptor and will not be highly perceived. Snow plowing in the parking areas in front of the retail buildings will be 15 to 20 dBA lower than the background noise levels and will not be perceptible due to added distance and shielding by the retail buildings.
- Parking Lot Noise: Noise in this location would be predominantly shielded from the neighboring properties by the retail buildings and would not be perceived at the Site boundaries. However, the study noted that car alarms occurring at the extremes of the parking lot in open areas would still not significantly increase noise levels at the property lines although alarm tones may be partly audible. Car alarms are considered short-term events.
- Delivery Vehicles: Pass-bys of delivery and service vehicles in the service areas will produce noise levels (in the locations shown in the Alternative Plan in the FEIS) that minimally exceed background level without any mitigation. With an 8' high stockade fence installed along the wooded buffer, vehicle pass-bys would be reduced below the typical background noise levels.

- HVAC Equipment: Noise from mechanical roof-top equipment was also considered by the noise study. The study noted that mechanical sources are not significant noise sources and any impacts from this equipment was considered negligible.
- Waste Hauling Vehicles: Rear lift waste container services and roll-off waste container services will produce noise peaks (in the locations shown in the Alternative Plan in the FEIS) exceeding background levels by 8 or 9 dBAs at the nearest property line without using the noise fence. This increase would be moderately perceptible without any mitigation. However, with an 8' high stockade fence installed along the wooded buffer, noise levels would not exceed background noise levels by more than 3 or 4 dBAs and will be minimally perceptible. However, even with the fence, overhead lift waste services would likely exceed background noise levels by 12 dBAs, which would be very noticeable. As a result, overhead container services will not be used for the Project.

Construction noise was also considered. During construction, there could be an increase in noise levels from the construction equipment. Back-up alarms on vehicles are required for safety reasons and their sound may be perceivable during construction. Construction noise will be mitigated by limiting the hours of construction in accordance with the Town's Design and Construction Standards. Construction will occur only from 7 a.m. to 7 p.m. weekdays, and 7 a.m. to 6 p.m. Saturdays. Construction is not allowed on Sundays and holidays. Construction noise will be temporary and limited to the times allowed under the Town's ordinance. No significant adverse noise impacts are expected from the Project's construction.

The noise generated by snow plowing (behind retail buildings adjacent to the residential property line), delivery and waste hauling vehicles during the night time hours (when background noise levels are typically reduced) can result in a significant impact on residents of the adjacent neighborhoods. Those impacts cannot be adequately mitigated by the stockade fence or other mitigation strategies referred to above. Accordingly, the hours of operation within the Project, including but not limited to snowplowing, (behind retail buildings adjacent to the residential property lines, except during snow emergencies) waste hauling and deliveries, shall be limited to the hours between 7:00 am and 11:00 pm.

Based on the foregoing, no significant adverse noise impacts are expected from the Project.

c. Dust.

The Planning Board is aware that dust emissions from prior mining activities on the Site created problems for neighboring properties. As a result, the Project will employ a variety of mitigation measures to control any potential fugitive dust emissions during the Project's construction. In accordance with the Town's Design and Construction Standards, the Applicant will be required to control dust affecting adjacent developed areas, roads and streets.

As part of the Project, a dust control plan will be employed. This plan will be finalized, with input from the Town Engineer, as part of the site plan review process. As noted in the FEIS, the dust control plan will include the following measures, among others:

- Phased construction to limit disturbed areas;
- Crush stone access pads - crushed stone will be used to construct stabilized construction entrances, employee parking areas and earthwork hauling roads. Stabilized construction entrances will be designed to remove sediment from vehicles prior to entering paved highways. Inspections for tracking sediments onto the paved surfaces will be monitored by the Applicant's construction manager as well as the Town's Code Enforcement Officer and Town Engineer. Any accumulations of sediment onto the paved surfaces are to be swept clean;
- Water spray or application of other approved dust palliatives on the excavated areas to maintain optimum soil moisture to suppress dust. Frequent watering of access areas and areas where vehicles travel, as needed to suppress dust;
- Seed all disturbed areas within 48 hours of final grading operations;
- The Applicant's construction manager will monitor and implement the dust control plan with oversight by the Town;
- The Applicant will post a letter-of-credit or other financial guarantee to ensure that funds are available to properly implement all erosion and sediment control measures including the dust control plan; and
- Minimizing disturbed areas and temporary seeding of disturbed areas.

As noted in the FEIS, with the implementation of a dust control plan (including the measures noted above), fugitive dust is not expected to have any significant adverse affect on neighboring properties.

10. Wildlife, Vegetation and Protected Species.

a. Wildlife

While there are areas of vegetation and existing tree stands on the Site, the DEIS noted that little wildlife was present on the Site. The only wildlife observed was small snakes and birds. However, evidence indicated that the Site was inhabited by other animals at some point, as two to three deer carcasses were discovered during a site visit.

While wildlife impacts will occur as a result of the Project, they are not considered to be significant. Most of the impacts will be caused by the removal of existing vegetation. This reduction in available habitat affects individual members of a species and species groups differently. Permanent residents are impacted to a greater extent than migratory species that use

the Site seasonally or occasionally. Resident species whose home ranges are likely to be located entirely within the Site, which includes amphibians, reptiles and small mammals, could be eliminated, reduced in numbers or displaced. On the other hand, some species may benefit from the changes resulting from the Project. These are species that nest or feed in open lawn areas, scattered trees and shrubs, and landscaped areas.

Removal of wooded habitat will be limited to that which is necessary to accommodate the Project. The majority of habitat to be removed is upland scrub-shrub. Most of the mature vegetation on the Site will be preserved. Although the development of the Site will result in the elimination of some habitat for small birds, reptiles and mammals, some mitigation will be achieved in the use of landscaping around the Project's buildings, parking lots and roadways and reclamation of disturbed areas. Moreover, the large open spaces being retained on the Site under the conservation easement and adjacent land will serve as future habitat for displaced species. No significant adverse impacts on wildlife are expected as a result of the Project.

b. Vegetation

The Site has varying types of vegetation ranging from areas of low-lying grasses, scrub-brush, mature stands of evergreen trees and second growth stands of mixed hardwoods and softwoods. In particular, the Site includes a 40 inch oak tree located 28 feet west of the eastern property line. The location of this tree is depicted in Figure F-24 of the DEIS. This tree will not be disturbed as part of the Project. In addition, the Site contains two stands of evergreen trees located approximately 290 feet and 390 feet north of the oak tree. The locations of these stands are also depicted in Figure F-24. The first stand covers approximately 5,000 sf and contains 10-inch to 16-inch spruce trees. This stand is elevated on a "mushroom capped" knoll surrounded by excavations from the prior mining activities. Given its elevation, and isolation in the middle of the Phase 1 lands, it cannot be preserved. The second stand of evergreens covers approximately 3700 sf and consists of 4-inch to 6-inch pine trees. This stand will not be disturbed by the Project. Significant stretches of second-growth vegetation, especially along the Site's perimeter and on the hill in the middle of the Site will be preserved under the conservation easement. As noted in the DEIS, mostly scrub-brush will be removed as part of the Project with less than four acres of second growth trees (not including brush) to be removed. Little mature vegetation will be removed as part of the Project. Some lost vegetation will be replaced with landscaping. The Project is not expected to result in any significant impact to vegetation on the Site. The Project's impact on protected plant species is discussed in the next section below.

c. Protected Species

As noted in the FEIS, no federal or State endangered, threatened or special concern animals or plants have been identified on the Site or the Project area. However, one protected plant species, Butterfly Weed (*asclepias tuberosa*), was identified on the Project Site. The locations of this plant on the Site are depicted in Figure F-24 in the DEIS. Butterfly Weed is listed on the NYS protected native plant list and thus is protected under New York State law. State law establishes four lists of protected plants: endangered, threatened, rare and exploitably vulnerable. The Butterfly Weed is listed under the exploitably vulnerable list. State law provides

that protected plants cannot be severed plucked, removed, etc without the permission of the landowner (Benderson). No permission is required from any local, State or federal agency to remove or relocate the Butterfly Weed. As part of the Project, any Butterfly Weed existing within the construction area will be relocated to other areas on the Site where Butterfly Weed exits and will not be disturbed. The transplanting will be overseen by the Applicant's ecological consultant using guidelines from the Cornell Cooperative Extension.

The New York State Natural Heritage Program indicated that another protected plant species, *Valeriana uliginosa* (marsh valeria), might possibly be present on the Site or in the vicinity of the Site. As noted in the DEIS, the Site was investigated for the presence of this species and it was concluded that the plant did not exist on the Site given the field investigation and the on-site conditions which do not contain the appropriate habitat for this plant species.

Based on the foregoing, the Project is not expected to adversely affect any protected wildlife or plant species.

11. Emergency Services and Security.

The primary emergency service provider to the Project is the Fishers Fire Department. The department's closest station to the Project Site is located on High Street. The scale of equipment is adequate to service the Project. Police services are provided by the Ontario County Sheriff's Office and the New York State Police. In Victor and in all Ontario County, the "closest car" concept of response is in effect, where officers of the Sheriff's office and the New York State Police share responsibilities of law enforcement. The Victor-Farmington Volunteer Ambulance Corps (VHVAC) is a not-for-profit agency whose primary mission is to provide ambulance service to the Towns of Victor and Farmington. The VHVAC has three ambulances, centrally located at 1321 E. Victor Road. The VHVAC indicated that they have sufficient manpower and equipment to cover the Project.

The Project holds the potential to slightly increase demands on emergency services. Current staffing levels are projected to be adequate to meet the needs of the Project, with no transition from a volunteer to paid service warranted. The response time to the Project will be roughly equivalent to those response times for other area projects, such as Eastview Mall, Eastview Commons, Eastgate Square and Cobblestone Court. Emergency service vehicles would access the Project through the main site drive onto Route 96. In the rare event when this intersection is blocked, two additional emergency access points are provided to the Project – one on Willowbrook Road and one on Route 96 in front of Victor Square. Each emergency road would be equipped with a crash gate to prevent unauthorized access. An on-site emergency by-pass road is also provided to by-pass the only internal intersection on the Project Site. The proposed road grades are typical for roadways throughout the Town and surrounding areas and should provide adequate accessibility for all emergency equipment.

The Fishers Fire District would receive annually approximately \$28,174 in special district taxes from the Project. Based on the substantial net positive financial impacts to the Fire District (for Fire and EMS) and County and State Budgets (for police coverage by the Sheriff and State Police), it is anticipated that the Project will have a substantial net positive impact on emergency

services provided in the area. The Project will have no adverse impact on security and the provision of emergency response services. The increase in revenues will surpass the incremental cost, if any, incurred by the providers of emergency services. No significant adverse impacts on emergency services are expected as a result of the Project.

12. Water, Sewer and Other Utilities.

As discussed below, no significant adverse impacts are expected to utility services as a result of the Project.

a. Water.

The Project site will be supplied with water, for both domestic and fire suppression needs, from an existing 8-inch ACP main on NYS Route 96. There is adequate water capacity to serve the Project. This dedicated municipal water distribution system will be extended at the Applicant's cost to service the Project. This new connection should serve to improve water quality in this existing dead-end main, as water will be recirculated continually through the internal loop proposed for the retail area of the Project. This will avoid potential stagnation problems in the main. The main will be stubbed for future extension through the remainder of the Site, with interconnection to an 8-inch ACP line on Willowbrook Road. Detailed water system plans for the Project will be developed, with input for the Town Engineer and the Town Water Superintendent, as part of the site plan review process.

b. Sewer.

Municipal sanitary sewers are readily available to serve the Project and are located within the Central Victor Sewer District. The sanitary sewer service for the Project will run via an on-site sanitary lift station designed to the Town's standards to the existing 8-inch sanitary sewer main on NYS Route 96. This main leads to an existing pump station located at the High Street/Valentown Intersection, which is a dedicated facility owned by the Town and maintained by the Town of Farmington. From there, the sewage is conveyed through a network of public sewers until it reaches the Town of Farmington Sewage Treatment Plant. The Sewage Treatment Plant has sufficient capacity to handle the additional sewage that will be generated by the Project. Detailed sewer system plans for the Project will be finalized, with input from the Town Engineer, the Town of Farmington and the sewer district as part of the site plan review process.

c. Electric.

Electric service to the Project will be provided via a connection to the existing Rochester Gas and Electric Corporation ("RG&E") grid available along NYS Route 96. There is an existing overhead/pole system that runs the length on the northern property boundary, which will remain. Electric services to the proposed buildings will be provided in a 10 ft. wide easement area. RG&E has reviewed the plans and concluded that it has adequate electrical

supply to serve the Project. As required by the Town's zoning ordinance, all Site utilities will be located underground.

d. Natural Gas.

There are two natural gas mains located on the north end of the Site – a 24" main owned by RG&E and a 24" main owned by Empire State Pipeline Company. The natural gas service will be taken from a connection made to the existing gas main owned by RG&E. RG&E has reviewed the plans and concluded that it has an adequate natural gas supply to serve the Project. The existing Empire State Pipeline will not be disturbed.

13. Irreversible Commitments of Resources & unavoidable Environmental Impacts.

a. Irreversible or Irretrievable Commitment.

The primary resource being committed to the Project is land. The Project will occupy most of the Phase 1 lands, all of which is presently vacant. Once developed, this land is highly unlikely to ever return to its current vacant state. The irreversible or irretrievable commitment of land resources attributable to the Project are:

- Creation of approximately 30.2 acres of impervious area, consisting of buildings, access roads, parking lots, driveways and sidewalks.
- Approximately 1.2 acres of low quality wetland will be filled in. The loss of this resource will be mitigated by the creation of 2.4 acres of new wetlands and restoration of 900 linear feet of an existing drainageway next to the wetland creation area and by the purchase and installation, at the Applicant's expense of benches, landscaping and playground equipment and other park enhancements at the direction of the Town's Director of Parks and Recreation up to the dollar amount of Ten Thousand Dollars (\$10,000.00)
- Mostly scrub-shrub vegetation will be removed to make room for the Project. Little mature vegetation will be lost. The loss will be partly mitigated by replanting some of the trees as new landscaping and permanently preserving over 40% of the Site through a considerable conservation easement.
- The loss of habitat associated with the development will also affect wildlife that exists or migrates through these areas. Some of the wildlife will be lost or displaced. This loss will be partially mitigated by preserving over 40% of the Site as current and future wildlife habitat under the conservation easement.
- Views and vistas of the undeveloped property will be changed. This impact is partially mitigated by Project design, including the retention of natural and landscaped buffers and using topography to screen certain views of the Project. The Town's visual consultant has concluded that views of the Project are limited from many areas.

The intrinsic value of a land resource to a community is typically measured in three different ways. The first is public accessibility. In this case, the Site is privately owned with no public access. However, the Project will open most of the Site to the public through the proposed conservation easement. It will also permanently preserve and formally open the Victor Hiking Trail to public use. The second is location. The Site is zoned for commercial uses and falls in the middle of the Route 96 commercial corridor. It lends itself to commercial development given its location at the cross-roads of I-490, the NYS Thruway (I-90) and NYS Route 96. The third measure is unique natural features. The Site does not contain any unique natural features. It is comprised of some rolling hills, low brush, a small wetland and grassy areas and tree cover, all of which are common to the Victor environs. However, much of the Site was mined during the 1970s and 1980s and was used a dump for municipal solid waste and construction and demolition material. As a result, it is significantly disturbed from its natural state.

Other irreversible or irretrievable commitments of resources are related to the proposed construction of the Project. Fossil fuel will be consumed by operation of the construction equipment. Building materials such as steel, brick, glass, lumber, and asphalt will be used. Human effort and capital to construct and maintain the Project will also be expended.

The reserve capacity of the existing utility systems will be reduced to supply the Project with heat, electricity, water, sewer service and natural gas. The utilities providing those services, however, will not suffer any fiscal loss due to the use of those services and purchasing those services will cover the utilities' additional costs for improvements, operations and maintenance necessary to provide that additional capacity.

The available highway capacity will also be reduced as a result of the additional traffic that the Project will generate. That loss will be partially mitigated by improvements to the area road network, so that all area intersections will maintain acceptable levels of service.

These commitments of resources are also balanced by the community, economic and fiscal benefits of the Project. As noted above, these benefits include, among other things: (1) generating new jobs and substantial new tax revenues for the Town and Ontario County; (2) installing sidewalks along Route 96; (3) preserving over 40% of the Project Site as open space, much of which will be opened up for enjoyment by the community through a considerable conservation easement; (4) installing the infrastructure for a closed loop traffic management system along Route 96 to improve traffic conditions in the corridor; (5) installing park benches, landscaping and/or playground equipment or park enhancements at the direction of the Town's Director of Parks and Recreation; (6) cleaning up the remaining waste materials dumped on the Site many years ago; and (7) providing the Town of Victor and Ontario County with convenient, competitive and high quality shopping opportunities.

Based on the record, the Planning Board concludes that the commitments of resources required by the Project have been minimized to the maximum extent practicable and are more than offset by the benefits of the Project to the community.

b. Unavoidable Environmental Impacts.

The development of the Project will inevitably cause some unavoidable environmental impacts, despite the mitigation measures proposed. These impacts result from changing the landscape from undeveloped land to the proposed built environment, and from the environmental impact of the proposed retail uses of the Project. The unavoidable adverse environmental impacts of the proposed Project include:

1. Economic.

- a. Potential vacancies in existing retail buildings created by existing tenants moving to the Project or from being unable to compete with the tenants that will occupy the Project. However, economic consultants for both the Town and the Applicant have indicated that such vacancies are only a possibility, not an absolute. Neither consultant could identify definitively where any vacancies would occur, if at all, or for how long. Both consultants indicated that if any vacancies did occur in the Route 96 corridor, they would not remain vacant for long due to the high demand for retail space in the area.

2. Traffic.

- a. Increasing traffic in the vicinity of the Project. The Applicant will mitigate the impact by constructing highway improvements, at its expense, so that all area intersections will maintain acceptable levels of service.

3. Noise, Odors and Air Quality.

- a. Potential increase in dust during construction. This will be mitigated by implementing the Project's Dust Control Plan.
- b. Potential increase in noise levels due to construction activities and, upon completion of the Project, a slight increase due to the Project's operations. The potential increases in noise are mitigated by a combination of vegetative buffering, topography, setbacks, a noise barrier, source controls and limitations on the night time hours of operation within the Project.

4. Public Safety and Emergency Services.

- a. Potential increases in calls for fire, emergency medical services, and police assistance. The local fire department and other emergency service agencies have the capacity to cover these additional calls. The increased tax revenues from the Project will be well in excess of any additional costs incurred in responding to these new calls.

5. Effects on Adjacent Residential Districts.

- a. Visual impact of having filtered or direct views of certain buildings from some vantage points. This impact has been minimized by buffering, using a conservation easement and recessing buildings at a lower elevation than surrounding properties.
- b. Visual impact of increased lighting and sky glow. This impact has been minimized by buffering; using a conservation easement; preserving mature trees along the Site's perimeter; using cut-off fixtures with house shields; reducing light levels by 40% over original proposal; implementing an after-hours lighting plan; limiting the Project's hours of operation to no later than 11pm; using 1-2 luminaries per pole (as opposed to 3-4 luminaries); eliminating light spillage beyond the parking lots; and using vegetation, topography, retaining walls, and buildings as screening for light fixtures.
- c. Potential increase in the noise levels due to construction activities and, upon completion of the Project, a slight increase due to the Project's operations. The potential increases in noise are mitigated by a combination of vegetative buffering, topography, setbacks, noise barrier, source controls and limitations on the hours of operation.
- d. Potential increase in fugitive dust blowing onto adjacent properties during construction. This impact is mitigated through a dust control plan.

6. Land and Water Resources.

- a. Potential increase in erosion during construction when vegetative covers are temporarily removed. This impact is mitigated by the implementation of an erosion control plan and storm water pollution prevention plan.
- b. Potential impact to surface water quality from increased flow rates and pollutant loading in stormwater runoff. This impact is mitigated by implementation of a storm water management plan including an underground retention and infiltration system designed to maintain off-site flow rates at or less than rates under existing conditions.
- c. Visual impact of altering the existing topography. This impact is minimized by buffering, using a conservation easement, limiting building sizes to no greater than 100,000 sf and using concealed retaining walls to maintain existing grade, as much as possible.

7. Ecology.

- a. Potential loss of wildlife habitat causing the displacement and loss of wildlife. This impact is partially mitigated through preserving the

remaining wildlife habitat on Site under a conservation easement and replacing loss habitat with landscaped areas.

8. Visual Impacts.

- a. Converting views of the Site from undeveloped to developed. This impact is minimized by setbacks, buffering, conservation easement, greenspace/landscaping, recessing buildings at lower elevations than surrounding properties and developing buildings of a scale, materials and intensity of use that is complementary to nearby commercial and residential uses. Project views are limited from most areas.

14. Alternatives.

During the course of the environmental review, there has been extensive study and consideration of alternatives to the Project in many respects, including alternative land uses, size, lay-out, design and location.

a. Alternative Land Uses Considered.

A number of alternative land uses were considered by the Applicant. One alternative land use provided for the development of a movie theater complex along with various retail and office uses. This land use would be similar in terms of site layout to the Project originally proposed in the DEIS except that a movie theater would replace a portion of the retail square footage included in the Phase 1 development. Since this alternative would not require significant change in the site engineering and design, the environmental impacts would be similar to those identified in the originally proposed Project. However, based on the physical and economic analysis, the movie theater is not feasible or reasonable since the market would not support it. Further, it does not meet the objectives of the Applicant.

Another alternative use studied was that of an office park/hotel conference center project. The Site is too big for solely offices with a hotel/conference center component. An office complex on the entire Site cannot be absorbed in a reasonable amount of time to justify the Applicant's investment in the Project. Moreover, the office park with hotel/conference center alternative consists of an assumed 525,000 s.f. office park along with a 50,000 s.f. hotel (500 rooms). This alternative is anticipated to generate 1,063 trips during the weekday and evening peak hour and 425 trips during the Saturday peak hour, which is less than the proposed plan. It is anticipated that the peak hour of this alternative will coincide with the weekday evening peak hour on the adjacent street and the peak hour for the weekend would occur after the peak hour of the adjacent street traffic. The Applicant has never developed a conference center, and the Project would not meet its objectives.

Other alternative land uses for the property were also evaluated including the development a golf course and single-family homes/commercial development. These alternatives were found not to be feasible economically and also presented a number of other environmental impacts.

b. Alternative Sizes Considered.

A number of various size alternatives were examined in the DEIS and FEIS. The project began with the original application of 566,072 square feet of commercial space containing multiple uses such as office, retail, hotel and restaurants. The DEIS identified and discussed potentially significant environmental impacts created by the original plan.

An alternative project plan containing 473,287 square feet of commercial space was also presented and evaluated in the DEIS. The alternative project size plan was designed to further minimize or eliminate impacts identified in the DEIS. As discussed in the DEIS, there were several significant benefits to the alternative plan, such as: over 16% reduction in commercial space, increased greenspace, reduced traffic generation, reduction in number of proposed buildings, avoiding gas main relocation issues, and continued conformance with the Town's Comprehensive Plan/Route 96 Corridor Guidelines.

In direct response to certain environmental concerns raised by the Town, its consultants and the public during the comment period on the DEIS, a newly proposed project alternative plan was presented in the FEIS. That alternative consists of 323,287 square feet of commercial space with significant project modifications designed to further reduce environmental impacts. As discussed in this Finding Statement, this size plan mitigates the Project's significant adverse environmental impacts to the maximum extent practicable. This size plan is a reduction in commercial square footage by over 42-percent from the project proposed originally in the DEIS. The building envelope is clustered at the northern portion of the Site, thereby leaving the southern lands as undeveloped. This plan is very similar to the Phase I portion of the original Project proposed in the DEIS. Under this plan, the Applicant has reserved the right, in the future, to subdivide and sell the southern portion of the Site, or develop it for any purpose allowed under the Town's Zoning Code, subject to an environmental review under SEQRA.

c. Alternative Site Layouts Considered.

Three alternative site layouts were evaluated in the DEIS. The "south alternative" refers to the plan in which the Wal-Mart building was located on the southern end of the Site. The total square footage for building use (retail, restaurant, office) remain the same as the original proposal. The retail buildings (excluding Wal-Mart) restaurant, hotel and office buildings were originally proposed on the northern end of the site. The "south alternative" is not feasible for a number of reasons. Initially, the plan is not consistent with the NYS Route 96 corridor guidelines. The Wal-Mart building, which is the primary anchor building for the Project, was located the farthest away from the sole access to Route 96.

Additionally, the "south alternative" would increase traffic volumes along the length of the Site access drive versus the proposed Project plan which provides for an increase in traffic from the beginning of the Site drive and tapers to moderate traffic as one traverses the Site to the south. Moreover, under this alternative, visually the Wal-Mart structure would present a large and visually dominant structure on the hillside, visible from a greater viewshed area than would

the proposed Project plan. Interior green space would be minimized, clearing and grading would extend to the east and west property lines resulting in minimal perimeter screen. Moreover, extensive grading will be required to create a pad for the Wal-Mart building. Overall, this alternative was rejected due to these potential impacts.

Another site layout design that was reviewed was the “east alternative” which referred to the plan in which the Wal-Mart building was located to the east of the Site, with the front of the building facing the west. Again, the total square footage per building (retail, restaurant, office) remained the same as the original proposal. The “east alternative” had its advantages as well as a few varying degrees of impacts versus the original proposed plan. Those included the Wal-Mart structure would present a total visual structure in the Indian Hollow subdivision and the more frequent retail truck deliveries could heighten visual and noise impacts in the rear of the store. Additionally, a number of residents voiced concerns that the Wal-Mart store was too close to residential properties under this alternative. Overall, this alternative was rejected due to the potential impacts that could be created on the adjacent residential properties.

Another alternative layout referred to as the “north” alternative was evaluated. This alternative referred to the plan in which the Wal-Mart building was located to the north of the site with the front of the building facing south. Again the total square footage per building (retail, restaurant, office) remained the same as the originally proposed plan. Again this alternative had both advantages and disadvantages versus the originally proposed plan. This included that visually the Wal-Mart structure would present a taller visual structure to the Rolling Meadow subdivision than would a smaller retail building and the more frequent truck deliveries could heighten noise impacts in the rear of the store. Some nearby residents also voiced concern that the Wal-Mart store was too close to the residential properties in this alternative. Overall, this alternative was rejected due to the potential impacts that could be created on the adjacent residential properties.

d. No Subdivision, No Variances, No Utility Relocation Alternative.

Another alternative considered was the “no subdivision, no variances, no utility relocation” alternative. As originally proposed, the overall 95.4 acres of land is an accumulation of five individual parcels, all of which lie within the commercial zoning district. Only one of the five parcels has immediate access and frontage on NYS Route 96. Each of the other four lots is land-locked with no access to a public roadway. The proposed subdivision will maintain the existing outer boundaries of the Site while eliminating the internal boundary lines.

The application for subdivision involves two components. The first component was to combine four parcels into one. The second component was to swap a portion of land with the neighboring Scala property. Concurrent to the site plan application, the subdivision application is intended to consolidate the overall parcel into one property, and at the same time land swap the residential acreage of the site with the commercial land owned by adjacent property owner Robert Scala. The proposed plan was to utilize this swapped land as part of a forever wild buffer zone for the neighboring residents. The Applicant would acquire 1.4 acres of commercial property from Scala and transfer 3.49 acres of residential land to Scala. The transferred property

would provide for a single zoning classification for the subject site as well as for the Scala property. The transfer would also allow the zoning lines to follow the lot lines.

If there were no subdivision components, each of the five individual parcels would require individual setback restrictions, severely limiting the Site's developable area. Also, since each parcel would be independent of the other, a number of cross access arrangements or easements would be necessary simply to provide public access to and from each site.

The SEQRA regulations require every DEIS to include a description and evaluation of the range of reasonable alternatives to the action that are feasible considering the objectives and capabilities of the Project sponsor. Accordingly, the combination of the complicated cost easements, limited developable area, topography constraints, and land costs make this alternative infeasible for the Applicant.

15. Conclusion.

Accordingly, having considered the Draft and Final Environmental Impact Statements regarding the proposed action, the Planning Board of the Town of Victor hereby certifies that:

- A. It has considered the relevant environmental impacts, facts and conclusions disclosed in the draft and final environmental impact statements prepared in connection with the proposed action.
- B. It has weighed and balanced the relevant environmental impacts with the social, economic and other essential considerations relating to the proposed action.
- C. The requirements of 6 NYCRR Part 617 have been met.
- D. Consistent with social, economic and other essential considerations, from among the reasonable alternatives available, the action is one that avoids or minimizes the adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or mitigated to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable in the Draft and Final Environmental Impact Statements and this Findings Statement.
- E. Based on the social and economic benefits of the proposed action and the mitigation of the significant adverse environmental impacts, that a positive findings statement be made and that the proposed applications be approved.

RESOLUTION

WHEREAS, it was the intent of the applicant to secure subdivision approval to combine four parcels into one and to exchange land with the neighboring Scala property and also to develop approximately 95 acres of land with approximately 566,089 square feet of retail space, restaurants, offices, out parcels and a hotel; and,

WHEREAS, the application is a Type I Action under the State Environmental Quality Review Act; and,

WHEREAS, on March 14, 2000, the Planning board declared its intent to act as lead agency; and,

WHEREAS, the Planning Board assumed lead agency status on April 25, 2000, and made a determination that the subdivision and site plan applications may have a significant impact on the environment, and directed the applicant to submit a scope of issues to be addressed in the Draft Environmental Impact Statement; and,

WHEREAS, on February 11, 2003, the Planning Board adopted a Draft Environmental Impact Statement and held a public hearing on March 25, 2003 and April 29, 2003 to provide an opportunity for public comments and also accepted written comments until May 12, 2003; and,

WHEREAS, on August 22, 2006 the Planning Board adopted a Final Environmental Impact Statement (FEIS), filed and published the notice of acceptance of the FEIS, and distributed it to all involved and interested agencies; now therefore be it,

RESOLVED, that the Planning Board hereby adopts the attached SEQRA Findings Statement attached hereto and incorporates the same into this resolution as if it were set forth at length; and be it further

RESOLVED that a copy of this resolution be forwarded to the applicant and involved agencies.

