

**Findings Statement of the  
Town Board of the Town of Red Hook  
Respecting Local Laws No. C (Proposed)  
and No. D (Proposed) of 2011  
(Centers and Greenspaces Code Amendments) and  
Comprehensive Plan Amendments  
617.11  
State Environmental Quality Review Act (SEQRA)**

Pursuant to the New York State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and its implementing regulations, 6 NYCRR Part 617 (referenced herein as “SEQRA”), the Town Board of the Town of Red Hook, as Lead Agency, makes the findings contained herein for the Proposed Actions identified below:

**Name of Actions:** Proposed Amendments to Chapter 143 entitled “Zoning” and Chapter 120 entitled “Subdivision of Land” of the Code of the Town of Red Hook and the *Comprehensive Plan*

**Location:** Town of Red Hook, Dutchess County, New York

**Agency Jurisdiction:** The Town Board of the Town of Red Hook served as Lead Agency under SEQRA for the Proposed Actions. The Town Board is the only body authorized to adopt amendments to the Town Code and Comprehensive Plan.

**Lead Agency:** Town Board of the Town of Red Hook  
7340 South Broadway  
Red Hook, New York 12571

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**SEQRA Status:** Type I

**Date Final GEIS Filed:** February 23, 2011

**Lead Agency Adoption of this Statement of Environmental Findings:** July 12, 2011

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## **DESCRIPTION OF THE ACTIONS:**

The proposed actions involve amendments to the Town of Red Hook Zoning Law, Subdivision Law and *Comprehensive Plan* to implement the proposed Centers and Greenspaces plan. The individual actions are integral to one another and each was developed in a coordinated fashion to ensure consistency. As such, the proposed actions have been evaluated together and are referred to as the Proposed Action. The amendments will create two new zoning districts (the Agricultural Business District and the Traditional Neighborhood Development District), and will replace the Town's existing cluster regulations with provisions for conservation subdivisions, designed to more concertedly preserve the natural and scenic qualities of open space. The amendments will also add a new section on open space incentive zoning, in addition to other incidental changes necessitated by these amendments. In order to encourage village-scale density within the Traditional Neighborhood Development District, the Zoning Law amendment eliminates the density bonus for provision of central water in the R1 and R1.5 Districts. The amendments are designed to protect the health, safety and welfare of Town residents and to bring the Town's Zoning Law and Subdivision Law into conformance with the Town's *Comprehensive Plan, Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* pursuant to Chapter 17-3 of the Town Code, and with recent changes to New York State Town Law.

This Statement of Findings makes reference to the Proposed Action and relies upon the analyses presented in both the DGEIS and the FGEIS as well as the extensive written and oral public and other agency comment received throughout the SEQRA process as appropriate. Those documents and testimony are incorporated into the Statement of Findings by reference.

## **PURPOSE AND NEED:**

The Proposed Action is intended to enhance the Town's small town character, with close-knit villages surrounded by rural countryside ("centers and greenspaces"). Its overall vision, based on public input, is to reinforce Red Hook as a rural community, while allowing for a diversity of housing options. The Proposed Action will guide growth into an appropriate center immediately adjacent to the Village of Red Hook and allow for preservation of farmland and open space throughout other areas of the community. The public need that would be fulfilled, and the public benefits to be gained from the adoption of the Proposed Action include, but are not limited to, the following:

- Implement the current recommendations of the Town's *Comprehensive Plan* to maintain the Town's rural character by providing incentives for new development to locate within or adjacent to existing centers while discouraging a land use pattern that uniformly disperses development throughout the Town.

- Implement the current recommendations of the Town's *Open Space Plan* to ensure that as the Town grows, it maintains its historic "town and country" settlement pattern with new development located in and adjacent to existing centers and the preservation of farmland.
- Promote small town development, with close-knit villages surrounded by rural countryside, in keeping with traditional rural land use patterns of the Hudson Valley and in conformance with the Town's existing *Comprehensive Plan* and *Open Space Plan*, rather than the sprawl-type development which is currently prescribed by the Zoning Law.
- Reduce the costs of infrastructure and create greater community cohesiveness by encouraging compact development in areas already fully or partially served by community water, and by making construction of a community sewer system more feasible, rather than continuing to promote a sprawling pattern of development served exclusively by individual water and sewer systems spread throughout the Town.
- Strengthen the existing commercial base of the community by creating compact development adjacent to the Village of Red Hook, which will support existing businesses and make a community sewer system more cost effective, an essential element for attracting new businesses.
- Provide expanded opportunities for economic development by increasing the areas in the Town where commercial development can occur, particularly light industrial and office research, while protecting the gateway.
- Reduce future school tax impacts by decreasing the overall potential for new residential development in the Town.
- Provide for a more comprehensive set of design regulations to govern new development in the TND District so that architectural and streetscape elements are more in keeping with the traditional and nationally significant historic character of the Town's settled areas.
- Provide a positive vision for where new development is most desirable, thereby attracting new economic investment with a streamlined review process.
- Implement the current recommendation of the Town's *Comprehensive Plan* to protect rural and agricultural lands, discourage incompatible nearby land uses, and promote agriculture as a component of the local economy now and in the foreseeable future.
- Allow for development and redevelopment of the emerging center south of the Village of Red Hook as a walkable mixed use center that reflects the principles of traditional neighborhood design through the TND District.
- Provide for a greater variety of housing styles, types, sizes, and costs to accommodate a diversity of age and income groups and residential preferences.

- Ensure the availability of a safe, locally grown food supply.
- Provide better control over the pace and location of development.
- Minimize traffic impacts of new development in the Town by creating mixed-use neighborhoods and re-establishing pedestrianism as a primary form of mobility.
- Enhance agricultural businesses that contribute to the general economic conditions of the Town by allowing a wider range of industrial and commercial uses on farm properties.
- Prevent fragmentation of the Town's existing agricultural lands by non-agricultural development.
- Conserve a critical mass of important farmlands in order to facilitate active and economically viable agricultural use of the lands now and in the future.
- Create conformance with the Dutchess County Plan, *Directions* to strengthen community centers and protect agricultural lands, amongst other policies.
- Create conformance with *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* ("Greenway Connections") to reinforce centers and preserve farmland and open space, amongst other recommendations.
- Create conformance with New York State's Quality Communities Interagency Task Force Report *State and Local Governments Partnering for a Better New York* (January 2001) to revitalize downtowns, promote agriculture and farmland protection, conserve open space and other critical environmental resources, enhance transportation choices and encourage more livable neighborhoods.

## **PROJECT BACKGROUND:**

The Town and the Village of Tivoli each adopted *Greenway Connections* in 2000 and the Village of Red Hook adopted *Greenway Connections* in 2002 to serve as guidance for best practices in planning and zoning. The Town Board and the Villages of Red Hook and Tivoli appointed an 11-member Intermunicipal Task Force ("Task Force") comprised of representatives from each of the three municipalities' planning boards and zoning boards along with additional "at large" appointees from each of the municipalities, including one member from the Town's Conservation Advisory Council. Beginning in 2005, the Task Force worked for over three years to create the "Centers and Greenspaces" plan and the proposed amendments to the Zoning and Subdivision Laws and suggested draft amendments to the *Comprehensive Plan*. In preparing the proposed amendments, the Task Force sought out the preferences and priorities of townspeople during an extensive public participation process that included more than 200 public meetings. This process began with community meetings and numerous discussions with stakeholders, community groups, and Town and Village boards and committees. Hundreds of residents were involved in the public meetings, and additional outreach was conducted with

individual stakeholders representing various interests, including developers, realtors, landowners, environmentalists, farmers, builders, historians, architects, business people, civic and community groups. A more complete description of the community outreach process can be found in the GEIS. The public outreach meetings indicated strong support for the “Centers and Greenspaces” plan. Stakeholders across the board felt the “Centers and Greenspaces” plan was “*clearly a better way to develop than the current zoning permits,*” and most were very excited about the “smart growth” approach to planning in Red Hook.

The Task Force also met with other Town and Village boards, committees, and organizations to solicit their input, including the Town of Red Hook Planning Board, Economic Development Committee, Trails Committee, Recreation Commission, Agriculture and Open Space Advisory Committee, Water District Board, Hamlet Buildings Review Committee, and Conservation Advisory Council, the Village of Red Hook Board of Trustees and the Village of Tivoli Board of Trustees, the Red Hook Central School District, Red Hook Chamber of Commerce, Dutchess County Water and Wastewater Authority, and the Dutchess County Planning Commissioner. With the Town’s Agriculture and Open Space Advisory Committee, the Task Force also conducted a survey of landowners in the proposed Agricultural Business (AB) District and offered to meet with survey respondents to further clarify the proposal. In response to community comments, numerous changes were made to the plans during the planning process.

In preparing the proposed Local Law amendments, numerous model and adopted zoning laws and subdivision laws were examined by the Intermunicipal Task Force, the Town Board and/or Town consultants. These included existing zoning and subdivision regulations or model regulations found in surrounding towns and villages, other local municipalities in the region and State, and from around the nation. For the proposed amendments to the Town’s Subdivision regulations, the Dutchess County Department of Planning and Development’s *Model Subdivision Regulations* were consulted. State of the art land use control recommendations by the American Planning Association (APA) were considered. A wide variety of other reference and scholarly publications were also consulted by the Intermunicipal Task Force, the Town Board and/or its consultants in preparing the proposed amendments, as cited in the GEIS.

#### **COMPLIANCE WITH SEQRA PROCEDURAL REQUIREMENTS:**

The Town Board of the Town of Red Hook served as Lead Agency for the environmental review of the Proposed Action. The Town Board certifies that the following procedural steps were taken in full compliance with SEQRA:

- On January 13, 2009, the Town Board declared itself Lead Agency for the SEQRA review of the Proposed Action, identified the Proposed Action as a Type I

Action under SEQRA, and adopted a Positive Declaration indicating that the Proposed Action may result in one or more significant adverse environmental impacts. As the Town Board is the only agency able to adopt amendments to the Town's Local Laws and *Comprehensive Plan*, there were no other Involved Agencies.

- On February 6, 2009, the Town Board introduced a Draft Scoping Document, which was prepared by consultants to the Town, and was made available to the public at the Town Hall, the Red Hook and Tivoli Public Libraries, and on the Town's website at [www.redhook.org](http://www.redhook.org) for viewing or downloading.
- On March 10, 2009, the Town Board held a publicly-noticed Scoping session to receive public comments on the Draft Scoping Document. Written comments were accepted until March 16, 2009.
- On April 14, 2009, after considering the public comments received during the public scoping session as well as written comments received, the Town Board adopted a Final Scoping Document.
- A Draft Generic Environmental Impact Statement (DGEIS) was prepared and a Notice of Completion was issued on May 11, 2010. The DGEIS was made available to the public at the Town Hall, the Red Hook and Tivoli Public Libraries, and on the Town's website at [www.redhook.org](http://www.redhook.org) for viewing or downloading.
- On June 10, 2010 the Town Board held a duly noticed Public Hearing on the DGEIS and the proposed amendments to the *Comprehensive Plan*. The Public Hearing on the DGEIS was continued to July 7, 2010. A second Public Hearing on the *Comprehensive Plan* amendments was also held on July 7, 2010. The Town Board allowed for additional written comments to be submitted until July 19, 2010. Transcripts of the Public Hearing were prepared by a court reporter engaged by the Town of Red Hook.
- On December 22, 2010, the proposed Local Laws were referred to the Town of Red Hook Planning Board and to the Dutchess County Department of Planning and Development for a recommendation and report in accordance with Sections 143-141 of the Town Code and Section 239-m of the General Municipal Law.
- On January 20, 2011 and February 3, 2011, the Town Board held a duly noticed Public Hearing on Local Law No. 2 (Proposed) of 2010 and Local Law No. 3 (Proposed) of 2010. The Town Board allowed for additional written comments on the proposed Local Laws to be submitted until February 18, 2011. Transcripts of the Public Hearings were prepared by a court reporter engaged by the Town of Red Hook.

- A Final Generic Environmental Impact Statement (FGEIS) was prepared and a Notice of Completion was issued on February 23, 2011. The FGEIS was made available to the public at the Town Hall, the Red Hook and Tivoli Public Libraries, and on the Town's website at [www.redhook.org](http://www.redhook.org) for viewing or downloading.
- The Town Board developed a number of revisions to Local Law No. 2 (Proposed) of 2010 and Local Law No. 3 (Proposed) of 2010 in response to comments, with the revised Local Laws being referred to as Local Law No. C (Proposed) of 2011 and Local Law No. D (Proposed) of 2011. The Town Board determined to hold a new public hearing and refer the revisions to the Town of Red Hook Planning Board and Dutchess County Department of Planning and Development. On May 31, 2011, the Town Board found that the revisions to the proposed Local Laws were within the scope of impacts studied under the FGEIS. A duly noticed Public Hearing on Local Law No. C (Proposed) of 2011 and Local Law No. D (Proposed) of 2011, was held on June 22, 2011.
- The Town Board adopted this Findings Statement on the date noted on the cover page.

**ADDITIONAL ACTIONS UNDERTAKEN DURING THE REVIEW OF THE PROPOSED ACTION:**

In addition to the formal actions taken above, which demonstrate strict compliance with SEQRA procedures, the Town Board has actively encouraged public participation in the development of the Proposed Action. The following are dates of meetings, workshops, mailings and other actions taken by the Town-appointed Intermunicipal Task Force and by the Town Board to fully engage the public and to facilitate a dialogue on the details of the proposed action:

- On August 7, 2006, a community meeting was held to introduce the Centers and Greenspaces plan and included breakout groups to discuss the concept.
- October 12, 2006, a second community meeting was held to explore the different land use tools that could be employed to implement the Centers and Greenspaces plan.
- On November 16, 2006, a third community meeting was held to solicit community feedback on the best way to implement the plan.
- On May 9, 2007, a fourth community meeting was held to discuss the specific amendments proposed to implement the plan and the fiscal impacts of the proposed zoning in comparison to the existing zoning, as determined by a "Fiscal Impact Analysis for the Centers and Greenspaces plan" conducted for the Town by Fairweather Consulting (May 2007).

- On April 24, 2008, a community forum was held in Tivoli and later a separate meeting was held with officials from the Village of Red Hook.
- On June 6, 2008 and June 18, 2008 meetings were held with landowners in the proposed Agricultural Business District.
- In April 2010, the Task Force with the Town's Agriculture and Open Space Advisory Committee, mailed a survey to landowners in the proposed Agricultural Business District and offered to meet with survey respondents to further clarify the proposal.
- In total, to prepare the proposed Local Laws, the Intermunicipal Task Force held five community meetings and workshops, two meetings held specifically for landowners in the proposed Agricultural Business District, numerous meetings with individual stakeholders representing various interests in the community, and more than 200 Task Force meetings, workshops, and forums, including meetings with Town and Village Boards, committees and organizations to solicit their input.
- In addition to the above, during the initial stages of preparing the proposed Local Laws, the Intermunicipal Task Force met with over 30 individual stakeholders representing various interests, including developers, realtors, landowners, environmentalists, farmers, builders, historians, architects, business people, civic and community groups. The Task Force subsequently met with other Town and Village boards, committees, and organizations to solicit their input, including the Town of Red Hook Planning Board, Economic Development Committee, Trails Committee, Recreation Commission, Agriculture and Open Space Advisory Committee, Water District Board, Hamlet Buildings Review Committee, and Conservation Advisory Council, the Village of Red Hook Board of Trustees and the Village of Tivoli Board of Trustees, the Red Hook Central School District, Red Hook Chamber of Commerce, Dutchess County Water and Wastewater Authority, and the Dutchess County Planning Commissioner.
- Subsequent to the public hearing held on the Local Laws on January 20, 2011 and February 3, 2011, the Town Board discussed the Proposed Action during a number of regularly scheduled Town Board meetings and also held a number of duly noticed special meetings. In addition, individual Town Board members met on numerous occasions with landowners in the proposed TND District and AB District. At the request of the Town Board, the Dutchess County Department of Planning and Development facilitated two meetings with representatives of the agricultural community regarding the proposed AB District. These additional meetings were in excess of any requirements of SEQRA and demonstrate the Town Board's intent to make its deliberations over the Proposed Action as transparent, accessible, and responsive as reasonably possible. These additional sessions also demonstrate the Town Board's implementation of the SEQRA process and the "hard-look" required as a Lead Agency to ensure that the Proposed Action is one that properly achieves a balance between promoting and

advancing potential beneficial impacts, and identifying and avoiding to the maximum extent practicable potentially significant adverse impacts.

As indicated by the above chronology, the Town held no fewer than 200 public meetings and presentations during a five year planning process, during which the Town Board was able to take an extraordinarily “hard look” at all environmental issues required as a Lead Agency and to modify the Proposed Action in response to comments received. This ensures that the Proposed Action, modified in response to comments, is one that properly achieves a balance between promoting and advancing potential beneficial impacts, and identifying and avoiding to the maximum extent practicable potentially significant adverse impacts. It is important to remember that the Town Board prepared a generic EIS, typically used to consider broad-based actions such as the subject action. While the DGEIS and FGEIS included and analyzed general projections and conceptual development patterns and impacts, they were not meant to analyze direct site-specific conditions or impacts, which are most appropriate for future site-specific development and other applications. All proposed plans, maps, reports, drafts of the amendments and Local Laws prepared during the five year planning process, and all SEQRA documents, were posted on the Town’s website for public viewing and downloading.

#### **FINDINGS:**

After careful deliberation of potential environmental impacts of the Proposed Action and several alternatives, and with due consideration to the stated purpose and intent of Article 8 of the Environmental Conservation Law and specific procedural regulations of SEQRA (6 NYCRR Part 617), the Town Board of the Town of Red Hook, as Lead Agency, finds that:

- 1) The requirements of 6 NYCRR Part 617 have been met and complied with in full;
- 2) The Proposed Action, as modified through the selection of several of the alternatives studied in the GEIS (hereinafter the “Modified Action”), in its development and adoption, achieves a suitable balance of social, economic and environmental factors;
- 3) Consistent with social, economic, and other essential considerations from among the reasonable alternatives thereto, the Modified Action to be approved minimizes or avoids significant adverse environmental impacts to the maximum extent practicable; and
- 4) This written Statement of Findings contains the facts and conclusions used by the Town Board to support its decision.

#### **A. DEVELOPMENT OF THE MODIFIED ACTION**

The Proposed Action, including a range of feasible alternatives, was identified and analyzed in the DGEIS. Following public comment on the DGEIS and the Local Laws, the Town Board selected two of the alternatives analyzed in the DGEIS and incorporated

them into the “Modified Action,” along with a number of clarifications and minor revisions made to the Local Laws which are discussed herein.

### **Original Proposed Action**

This section describes the key elements of the original Proposed Action as described in full in the DGEIS.

#### ***Proposed Zoning Law***

The proposed amendments to the Zoning Law would create two new zoning districts, the Agricultural Business (AB) District and the Traditional Neighborhood Development (TND) District. The purpose of the AB District is to implement the goals of the Town’s *Comprehensive Plan* and *Open Space Plan* to protect agricultural lands, discourage incompatible land uses, and promote agriculture as a component of the local economy now and in the future. The purpose of the TND District is to ensure that development adjacent to the Village of Red Hook is designed to conform to the Village’s traditional compact, pedestrian-oriented, mixed-use neighborhood pattern. Adoption of these two new Zoning Districts would promote small town development, with close-knit villages surrounded by rural countryside, in keeping with traditional rural land use patterns of the Hudson Valley and in conformance with the Town’s *Comprehensive Plan* and *Open Space Plan*, rather than the sprawl-type development which is currently prescribed by the Zoning Law.

The TND District would have the same features that characterize existing villages, such as walkable, mixed-use neighborhoods and more variety and choice in housing types. The “form-based” zoning of the District would ensure that these features are included in new development. The TND District would consist of three subdistricts: the Commercial Center, the Residential Neighborhood, and the Office-Industrial area. The Commercial Center would be designed similar to a traditional Main Street with buildings close to the sidewalk and parking behind buildings and along the street. Reduced setbacks would permit shopfronts to be built to the sidewalk. As of right maximum building coverage was originally proposed at 15 percent, consistent with the existing B1 District. An increase in maximum lot coverage (up to 85 percent through incentive zoning) would allow for a continuous row of shops to encourage walking. The Office-Industrial Subdistrict, located south of Rokeby Road and east of Route 9, includes a requirement for a 200’ vegetated buffer along Route 9 to preserve the Town’s southern gateway. In the Office-Industrial Subdistrict, development potential would be determined by the dimensional requirements of the district, including a maximum lot coverage of 45 percent and a maximum building coverage of 20 percent. The Residential Neighborhood Subdistrict was originally proposed with a base zoning of one (1) dwelling unit per net acre. Developers could increase building potential above the base zoning, in keeping with the existing Village character, by contributing to a dedicated greenspace fund through incentive zoning. These funds would be used to purchase development rights

from lands in the proposed AB District, thereby shifting building potential from the Town's farmlands to its center.

The proposed Open Space Incentive Zoning provisions would authorize adjustments to building potential in the TND District *in exchange for* funds to be used exclusively to preserve greenspaces in the AB District or alternatively in exchange for the permanent protection of land within the AB District, at no direct cost to residents and taxpayers of the Town. This is the mechanism for shifting building potential to lands that have been identified for development (i.e., "centers") in the Town's *Comprehensive Plan* from lands that have been identified in the *Plan* for conservation (i.e., "greenspaces"). A developer who wished to increase building potential above the base zoning in the TND District could contribute to a fund that could only be used to buy development rights from lands in the AB District. Alternatively, the developer could purchase development rights directly from a landowner in the AB District. In this way, residential development is promoted in the traditional neighborhoods, where it supports Village businesses and encourages additional commercial development in the TND Commercial Center, rather than on farmland. In order to encourage village-scale density within the TND District, the proposed Zoning amendments would eliminate the density bonus for provision of central water in the R1 and R1.5 Districts. Under the proposed zoning, large development projects in the TND Residential Subdistrict would be required to consist of a minimum of three different housing types (such as houses, duplexes, multi-family, townhouses, etc.), with no one type comprising less than 20 percent of the total units proposed. Moreover, Row or Attached Dwellings would be added as a permitted use in the R1 and Hamlet (H) Zoning Districts. These measures are intended to ensure an adequate supply of more affordable housing types in the Town.

The AB District would permit farmers greater business opportunities to enhance their farms, and many of these permitted uses would receive a streamlined review process, requiring only minimal site plan review with no public hearing.

In the AB District, landowners could avail themselves of different development options for their properties. Under the "conservation option," they could sell their development rights at the rate allowed under the current Zoning Code as depicted on the Town's 1999 Zoning Map. As originally proposed, this would be based on buildable acreage. For example, if the property was in the RD3 Zoning District, development rights could be sold at a rate of one development right per three buildable acres. This will create an incentive for landowners in the AB District to sell development rights and protect their lands rather than develop them for residential purposes. In addition, under the conservation option, landowners would be permitted to retain the right to build some new homes on the farm in a farmstead complex without the need to subdivide. The farmstead complex would be developed in a whole farm plan to be approved by the Planning Board. Housing for farm labor would be exempt from the calculation of retained farmstead dwelling units and could be located outside the farmstead complex.

As originally proposed, under the “limited development option,” landowners in the AB District could develop their lands at a reduced density based on a sliding scale ranging from 1 dwelling unit per six acres to an average of 1 dwelling unit per 16 acres, using conservation subdivision design and siting guidelines to minimize impacts of new residential development on agricultural soils and other farms in the area. As originally proposed, there was no conventional subdivision option.

The proposed AB District incorporates many of the standards of the Town’s current important farmlands law found in § 143-47D(4) of Zoning Law, which would be eliminated upon establishment of the AB District.

The proposed Zoning amendments would replace the Town’s existing cluster regulations with provisions for conservation subdivisions to more concertedly preserve the natural and scenic qualities of open space. Using a four-step design process that identifies important natural resources, conservation subdivision would allow limited development in the AB District and in other parts of the Town, where appropriate, to fit into the landscape while conserving greenspaces and minimizing impacts on agricultural lands.

The Proposed Action would also amend §143-23 of the Zoning Law to provide new criteria for determining buildable acreage and permitted density in all districts of the Town excepting the limited development option of the AB District and the proposed TND District.

### ***Proposed Subdivision Law Amendments***

Two major amendments are proposed to the Town’s current Subdivision regulations. First, provisions for conservation subdivision design, consistent with the proposed amendments to the Zoning Law, would replace the existing provisions for residential cluster development. Second, the pre-application procedure would be amended to include the submission of a resource analysis map for major subdivisions based on the Model Subdivision Regulations prepared by Dutchess County Department of Planning and Development. The purpose of the resource analysis map is to help applicants and the Planning Board design a subdivision around a site’s important natural and cultural features and to fit new development into the landscape in conformance with the Town’s *Comprehensive Plan* and as recommended by the *Greenway Guides*.

Minor amendments to the Subdivision regulations that will not have any significant adverse environmental impacts include the addition of a subsection on application fees to replace repeated references to application fees in other sections of the regulations, and amendments to the timeframes for public hearings and expiration of approvals to be consistent with those in the NYS Town Law. SEQRA timeframes for the review of applications have also been added, and an inconsistency in the existing subdivision regulations regarding the number of lots permitted on a cul-de-sac and on a shared

driveway has been revised. The permitted length and design of cul-de-sacs has also been revised.

### ***Proposed Comprehensive Plan Amendments***

Two amendments to the land use portion of the *Comprehensive Plan* are proposed. First, language would be added to clarify that for lands in the Conservation/Rural Development area that are suitable for agriculture (as determined by a land evaluation assessment consistent with rating systems developed by the US Department of Agriculture and other recognized organizations), permitted density should be lowered for the purposes of conserving irreplaceable agricultural soils and to minimize land use conflicts between agricultural and non-agricultural uses. This amendment is consistent with the existing policy statements in Section 3.i and Section 5 of the *Comprehensive Plan*.

Second, language would be added to the land use portion of the *Comprehensive Plan* identifying lands located within a ¼ to ½ mile radius of the Old Farm Road/US Route 9 intersection as the “receiving area” for the transfer of building potential from agricultural lands within the Town. Base density in this area was originally proposed at one dwelling unit per acre. In order to support and expand the emerging commercial center in this area, an increase in building potential, consistent with village-scale development, would be allowed in this area through the use of incentive zoning. Incentive zoning would allow adjustments to the permissible building potential in exchange for providing the community benefit of preserving agricultural lands in other areas of the Town.

### **Alternatives Analyzed**

The following Alternatives were identified by the Town Board and analyzed in the DGEIS. In selecting these Alternatives it was the Town Board’s intent to evaluate on an equivalent basis all potential reasonable and feasible Alternatives that could achieve the vision and goals of the “Centers and Greenspaces” concept as set forth in the Town’s *Comprehensive Plan* and *Open Space Plan*. In so structuring the Alternatives, the Town Board was able to modify the Proposed Action (as described more fully below) into the Modified Action through a process of balancing potential benefits with potential environmental impacts.

#### ***A. No Action Alternative***

The Town Board may consider taking no action with respect to the proposed amendments to the Zoning Law, Subdivision Law and *Comprehensive Plan*. A decision to take no action would mean that the existing Zoning Law, Subdivision Law and *Comprehensive Plan* would remain in effect. The Town Board, the Intermunicipal Task Force of the Town of Red Hook and the Villages of Red Hook and Tivoli, and members of the public have engaged in extensive research, analysis and discussion concerning the future of the Town. The No Action Alternative would result in a lack of public benefits outlined in

Chapter II of this DGEIS, and would not implement the major recommendations of the Town's *Comprehensive Plan, Open Space Plan, and the Greenway Compact and Directions: The Plan for Dutchess County*.

***B. Modification to Conservation Option of AB District***

This alternative evaluates the impacts of the proposed amendments to the Zoning Law but with the modification that the conservation option of the AB District permits a purchase of development rights density bonus of: a) one (1) dwelling unit per five (5) acres; or b) one (1) dwelling unit per six (6) acres.

***C. Modification to Conservation Option of AB District***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with a modification that provides an alternative method to determine the number of development rights that could be sold from lands in the AB District by subtracting fewer unbuildable features. It also evaluates an alternative method to sell development rights, permitting landowners to sell development rights from a parcel over a period of time

***D. Modification to Limited Development Option of AB District***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with the modification that the limited development option of the AB District is calculated at: a) one dwelling unit per ten (10) acres using conservation subdivision design; b) one dwelling unit per six (6) acres using conservation subdivision design. ***Alternative D(a), calculating the limited development option of the AB District at one dwelling unit per ten (10) acres using conservation subdivision design, was selected by the Town Board as an alternative to the sliding scale originally included in the Proposed Action.***

***E. Modification to Limited Development Option of AB District***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with a modification that the limited development option of the Agricultural Business District is calculated as follows: one dwelling unit for parcels 0 to 6 acres in size; two dwelling units for parcels > 6 to 40 acres in size; one dwelling unit per twenty (20) acres for parcels greater than 40 acres in size, all using conservation subdivision design.

***F. Modification to Limited Development Option of AB District***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with a modification that the limited development option of the Agricultural Business District is calculated at one dwelling unit per forty (40) acres, using conventional subdivision (i.e., without a requirement for conservation subdivision). ***This alternative was selected by the Town Board and included as an additional option for lots that are one hundred (100) acres and greater in size as of the date of adoption of the Local***

*Law. The remaining lands shall retain their previous full development potential under the limited development option, minus one (1) dwelling unit for each new forty (40) acre parcel. For example, if a 100-acre lot was permitted ten (10) dwelling units, and a 40 acre parcel was created with one dwelling unit, the remaining sixty (60) acre lot would be permitted a total of nine (9) dwelling units sited in accordance with the siting standards of the AB District and preserving eighty (80) percent of the sixty (60) acre parcel. Thus, the 40-acre option does not increase density beyond what would be allowed in Alternative D(a), which was also selected (see above).*

***G. Deletion of Limited Development Option of AB District***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with a modification that the limited development option of the Agricultural Business District is deleted. This alternative is a means to evaluate what the impacts would be if all lands in the AB District sold their development rights.

***H. Increased Development Potential in TND District***

This alternative analyzes the impacts of the proposed amendments but with a modification to Table 1 in Section 143-49.1G of the Zoning Law that would increase development potential in the Residential Neighborhood Subdistrict of the Traditional Neighborhood Development District.

***I. Deletion of TND District and Open Space Incentive Zoning***

This alternative analyzes the impacts of the proposed amendments to the Zoning Law but with a modification that the Traditional Neighborhood Development District and the Open Space Incentive Zoning provisions are deleted.

**Modified Action**

Following a Public Hearing on the DGEIS and the receipt of extensive additional written and oral comment on the proposed Local Laws, the Town Board engaged in a deliberative process to determine the final elements comprising the Modified Action. The Modified Action includes the proposed adoption of amendments to the Zoning Law, the Subdivision Regulations and the Comprehensive Plan, as modified to reflect the Town Board's determination regarding the most appropriate way to balance potential environmental impacts with the Town Board's understanding and interpretation of the Town's community character and objectives.

The Town Board evaluated comments and suggestions for modifications in the light of its responsibilities under SEQRA to identify the action that best avoids potential environmental impacts or modifications, which would mitigate certain unavoidable impacts to the maximum extent practicable, consistent with general and conceptual social, economic and other essential considerations from among the reasonable alternatives appropriate to a generic EIS. The Town Board also considered whether the

modifications being considered were sufficiently new, significantly different, or not adequately addressed in any of the previous analyses or SEQRA assessments of documentation as to require supplemental environmental review. As stated earlier, the Town Board determined that all modifications being considered were well within the thresholds of evaluation within the DGEIS, FGEIS and related SEQRA review so as not to warrant a supplemental EIS.

The Town Board's deliberative process that allowed the Proposed Action to evolve into the Modified Action included evaluation of the issues described below. If not specifically stated herein or changed by any of the discussion below, elements of the original Proposed Action are considered part of the Modified Action. Two major revisions were the modifications to the AB District through the selection of Alternative D(a) and Alternative F, discussed above. In addition, density was modified for a portion of the Residential Subdistrict of the TND District. Finally, a number of minor revisions and clarifications were made to the Local Laws as listed below.

***Major Revisions Studied in the DGEIS or Included as Alternatives:***

- The Town Board selected Alternative D(a) from the DGEIS and amended density for the limited development option in the AB District from the originally proposed sliding scale (ranging from 1 dwelling unit per 6 acres to an average of 1 dwelling unit per 16 acres), to 1 dwelling unit per 10 acres.
- The Town Board selected Alternative F from the DGEIS and added a 40-acre conventional subdivision option to the AB District.

***Minor Text or Map Changes:***

The Modified Action also includes several minor text and zoning map changes, as discussed below.

**To the Subdivision Regulations:**

- Clarified that the 200' agricultural buffer is a guideline to be applied when appropriate and with flexibility in the case of small lots where provision of a 200' buffer may not be feasible.

**As recommended by NYS Agriculture and Markets:**

- Revised the definitions of "agriculture" and "farm labor housing" to apply not just to lands in the AB District but to all parcels in the Town in a NYS certified Agricultural District, consistent with NYS Agriculture and Markets Law.
- Added "timber operation" as a permitted use on farms in a NYS certified Agricultural District subject to conditions established by the NYS Agriculture and Markets, and allowed "sawmill" as a special permitted use for non-farm properties in AB District.

- Renamed “whole farm plan” as “farmland protection plan.”
- Deleted reference to “sound agricultural practices” in the discussion of agriculture and farms, and revised the opening paragraph of § 143-39 to clarify the Town’s intent to encourage farming.
- Deleted restrictions on the number of horses permitted per acre for “boarding stable and riding academy” in AB District consistent with NYS Agriculture and Markets’ definition of agriculture.

To the Proposed Agricultural Business District:

- Eliminated the requirement that maximum residential lot size in a conservation subdivision must be ½ acre in size. To give landowners greater flexibility, the Zoning was revised to allow lots of varying sizes as long as the minimum 80 percent open space requirement is met. This may result in landowners choosing to subdivide fewer, larger lots, resulting in fewer environmental impacts than were studied in the GEIS.
- Deleted the requirement for deductions for unbuildable acreage for the conservation option in AB District, and clarified that an appraisal is required to determine the value of development rights. Recognizing that the Town’s current procedure for valuing the purchase of development rights, which involves an appraisal by a professional certified appraiser, takes into consideration the development potential of the land, the Town Board felt that this procedure could continue without the need to specify that unbuildable features be deducted.
- Included a maximum building coverage of 7 percent in cases where there is not a farmstead complex or building envelope, which is the maximum currently permitted in the RD3 District.
- Clarified that a farmland protection plan may be based on readily available GIS mapping data and is not required to be surveyed or fully engineered for lands not proposed to be developed initially; reduced the review period for the Agriculture and Open Space Advisory Committee from 45 to 30 days; added a provision that a farmland protection plan may be amended in future, subject to Planning Board approval.
- Increased the number of rooms for new inns from 10 to 16 rooms if accessed from a State highway, and reduced the required minimum lot area for new construction from 25 to 15 acres, to be more consistent with the current requirements for a hotel in the RD 3 District.

To the Traditional Neighborhood Development District:

- Revised the as-of-right density for the ± 50-acre Residential Subdistrict of the TND District west of Route 9 from 1 dwelling unit per net acre to 2 dwelling units per net acre, consistent with the existing zoning and the existing character of residential development in this area. Currently, these lands are zoned R1 (1

dwelling unit per acre) and density may be increased to 2 dwelling units per acre if central water is provided. Thus, this revision is consistent with the current zoning and does not increase density above what is currently allowed. Moreover, the GEIS analyzed the impacts of even greater density in the TND District as permitted through incentive zoning (up to 4 dwelling units per net acre for detached houses and up to 6 dwelling units per net acre for other housing types); thus no additional SEQRA review of this modification is necessary.

- Clarified the provisions regarding creation of special improvement districts for water and sewer service.
- Revised the length of time for lands in single ownership to require phasing, from any time subsequent to date of adoption of the Local Law to any time during the preceding 5 years.
- Deleted the requirement that a minimum of 30 percent of the Commercial Center Subdistrict be commercial uses, since this requirement may not be feasible for lands located off the main corridor. The Town's current zoning has no minimum commercial requirement for the B1 District, so this revision is consistent with the current zoning.
- Added a maximum limit of 300 total dwelling units in the TND District, consistent with the build-out analysis, which determined that approximately 300 dwelling units could be constructed in the proposed TND Residential Subdistrict if all landowners availed themselves of the incentive zoning provisions.
- Increased the number of rooms for lodging in the TND Commercial Center from 14 to 16 rooms.
- Added some additional uses in the TND District, including self-storage warehouse in the Commercial Center, and medical care outpatient clinic, bank, veterinarian's office, telecommunications tower, public or franchise utility station, and accessory restaurant (accessory use to a principal use) in the Office-Industrial Subdistrict.
- Increased the maximum building coverage for the Commercial Center Subdistrict from 15 percent to 30 percent to encourage economic development and be more consistent with Village of Red Hook (where 30 percent coverage is permitted in the General Business District). As proposed, and as studied in the GEIS, maximum building coverage in the Commercial Center Subdistrict can be increased to 65 percent through incentive zoning; thus the impacts of this increase have already been analyzed in the GEIS.
- Clarified that lodging includes hotels, motels, inns, etc.

#### To Incentive Zoning:

- Simplified and reduced the fees for increasing building potential.

### To Zoning Map:

- Added six (6) parcels to proposed AB District. The Town Board reviewed an analysis of these parcels prepared by the Town Planner in a memo dated May 4, 2011 captioned “Proposed Agricultural Business District Parcel Analysis,” and an accompanying Table dated May 4, 2011 entitled “Agricultural Business District Parcel Analysis,” and determined that the six parcels met the criteria for inclusion in the AB District. Together the six parcels total ± 68 acres.
- Deleted one (1) parcel from the AB District so that the parcel remains in the RD3 District. Based on the parcel analysis referenced above, the parcel in question (Skypark) may meet the criteria for inclusion in the proposed AB District. However, this parcel is unique in that, unlike any other parcel in the Town, it includes a commercial airport. A commercial airport is a special permitted use in RD3 District, but would not be permitted in the AB District. In order to allow for a potential commercial airport in the Town, the Town Board decided to maintain the current RD3 Zoning of this parcel. This parcel is ± 101 acres in size.

Based on these map revisions, the size of the proposed AB District would be reduced by approximately 33 acres, or less than 0.5% of the ± 8,000 acre District. In terms of the Build-out Analysis and the analysis of environmental impacts, this reduction is *de minimus*.

- Added a missing note referring to the existing Light-Industrial Overlay (LI-O) District.

### **Modified Action--General Principles:**

#### ***Centers and Greenspaces Goals***

The Town Board is committed to implementing the “Centers and Greenspaces” goals, which are articulated throughout the Town’s *Comprehensive Plan* and *Open Space Plan*. The amendments are also designed to bring the Town's Zoning Law and Subdivision Law into conformance with the *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* (“*Greenway Connections*”) pursuant to Chapter 17-3 of the Town Code. *Greenway Connections*, which has been adopted by the Town of Red Hook, promotes a “smart growth” strategy that focuses development in well planned centers (“priority growth areas”) rather than randomly sprawled on greenspaces or farmland. The proposed amendments are consistent with the recommendations of *Greenway Connections* to reinforce centers and preserve farmland and open space, particularly the policy framework (*Greenway Connections* pages 19-20), Guides A through E, and the following principles: reinforcing centers as primary growth areas; fitting outlying development into the natural landscape to preserve farmland and open spaces; encouraging development of walkable mixed use centers; creating an integrated system of scenic roads and streets, bike routes, open space corridors, waterways and sidewalks; coordinating development with community water and sewer systems; and

streamlining the review process. In fact, Dutchess County has recently proposed a new *Greenway Guide* entitled “Centers and Greenspaces,” which uses Red Hook’s Modified Action as a model for other Dutchess County communities to emulate.

The Centers and Greenspaces goals are implemented through several provisions of the proposed amendments to the Zoning Law and Subdivision Regulations working in tandem, including:

- Reduction in permitted residential density in areas outside of the identified Traditional Neighborhood Development (TND) District
- Allowance for increased building potential within the TND District through incentive zoning
- Establishment of the Agricultural Business (AB) District
- Requirement for conservation subdivision design and “net-out” of environmentally sensitive features, protection of those environmentally sensitive features
- Provision for opportunities for the creation of diverse and more affordable housing types in the TND District.

It is important to note that the proposed zoning does not rely on large minimum lot sizes to retain the Town’s community character. Such a zoning strategy, often referred to as “large-lot zoning,” does not, on its own, result in beneficial results to community character. Large-lot zoning is often synonymous with suburban sprawl. The Modified Action envisions a distribution of new residential development between the TND District and the lands outside this area in a manner that reflects existing and desired development patterns and the historic and natural character of the community, such as the farmstead complex typical of rural development and use of conservation subdivision practices that preserve environmental features and enhance community character. The conventional lot of a minimum of 40 acres in size (the “40-acre option” in the AB District ) is large enough to support small agricultural operations. Moreover, it will affect a maximum of only nine unprotected parcels (parcels that are not currently encumbered with a conservation easement) in the AB District, and that number will likely be reduced to seven since two of the nine parcels have recently applied for the Town’s purchase of development rights (PDR) program and would be protected with conservation easements. Based on their size (which ranges from 100 to 148 acres), a total of eleven (11) 40 acre parcels could be created from the remaining seven parcels. This sort of balanced and comprehensive management of growth is more likely to result in longer-term benefits and preservation of community character than the existing zoning.

The conservation subdivision regulations and procedures include the provision for mandatory preservation of a percentage of the overall land area and for protection of identified primary (e.g., wetlands, steep slopes) and secondary (e.g., prime and statewide

important agricultural soils) conservation features. This pattern results in greater preservation of contiguous areas of farmland, greater protection of natural systems that do not follow property boundaries, greater protection of scenic and historic resources, and greater protection of the Town's overall rural character. Conservation subdivision represents one facet of "smart growth," and is a viable alternative to conventional subdivision, which will ultimately produce nothing more than house lots and streets. Clustering homes, rather than allowing them to sprawl throughout the town, creates a more attractive and pleasing environment. Furthermore, conservation subdivisions are consistent with the Town's long term planning goals to preserve farmland, rural character and wildlife habitats, and to protect water quality.

Included in the proposed amendments to the Zoning Law is the proposal to require the reduction of gross acreage by deducting areas within environmentally sensitive features such as wetlands, floodplains, and steep slopes prior to calculated permitted density. The deduction of unbuildable features is intended to recognize the environmental sensitivity of many areas within the Town of Red Hook and to adapt permissible development levels in accordance with those sensitive features.

The deduction of unbuildable features applies to all residential Zoning Districts. However, the Town Board felt that in the TND District, the allowance for multi-family housing and the provisions for increased building potential could accommodate the full amount of permissible development units and protection of environmentally sensitive features without requiring the full requirements for deduction of unbuildable features and therefore modified deductions were developed for this District. Originally, the deduction of unbuildable features was also required for the "conservation option" of the proposed Agricultural Business (AB) District. However, recognizing that the current procedure for valuing the purchase of development rights, which involves an appraisal by a professional certified appraiser, takes into consideration the development potential of the land, the Town Board felt that this procedure could continue without the need to specify that unbuildable features be deducted.

### ***Affordable Housing***

Between 2007 and 2008, Orange, Dutchess, and Ulster County Planning Departments conducted a study on affordable housing needs within the three counties. The report, entitled *Three County Regional Housing Needs Assessment* (February 2009) was intended to document housing affordability gaps or need at a regional scale, and provide recommendations for the number of affordable units each area might need. The study analyzed affordability at various levels relative to median household incomes and for both ownership and rental units. The report provides an affordability gap analysis for individual towns that is determined through a process of weighting and indexing. The report estimates that the "to be built" target to address the affordability gap in the Town of Red Hook is the construction of 230 owner-occupied units and 159 rental units (for a total of 389 units) by the year 2020. It should be noted that these figures include the

Town's two villages, the Village of Red Hook and the Village of Tivoli. Based on discussions with Ann Saylor, the Dutchess County Housing Coordinator,<sup>1</sup> it is estimated that the unincorporated Town (outside its two villages) would be responsible for 275 "to be built" target units, as discussed in greater detail in the FGEIS.

The Proposed Zoning would require that larger projects in the TND District (those with more than 10 dwellings) consist of a minimum of three different housing types (such as houses, duplexes, multi-family apartments, townhouses, etc.), with no one type comprising less than 20 percent of the total units proposed. The Build-Out Analysis conducted for the Town by GREENPLAN in March 2010 determined that the TND District could accommodate an estimated 297 dwellings. Based on the TND provisions, up to 60 percent of these units (178 units) could be multi-family apartments as-of-right. Another 20 percent (59 units) could be two-family dwellings as-of-right. Thus the TND District would permit construction of approximately 237 affordable dwelling unit types as-of-right, within range of the "to be built" 275 units recommended by the *Three County Regional Housing Needs Assessment*. This does not include ancillary or accessory dwelling units (a dwelling unit not greater than 600 square feet) which could also be built on residential lots in the TND District and do not count towards permitted density per acre.

The proposed zoning is inclusionary rather than exclusionary, and it represents a significant improvement over the current Zoning in providing for affordable housing. As discussed above, the proposed TND District would require that larger projects consist of a minimum of three different housing types; these amendments would allow for increased development of more affordable multi-family apartments and two-family dwelling units. Moreover, the amendments would permit construction of these more affordable housing types **as-of-right**, without the need for a special use permit as is currently required by the Town's Zoning Law. This applies not only to two-family and multi-family dwellings in the TND District but to accessory or "ancillary" dwellings as well.<sup>2</sup> Thus, the TND District would increase affordable housing opportunities in the Town.

The provisions would ensure that a full range of housing opportunities, including opportunities for individuals with low and moderate incomes, would be provided in the Town. The provisions would address any potential adverse impacts on housing affordability resulting from the decreased permitted density proposed in certain Zoning Districts in the Town. Single-family development on one- three- or five-acre lots is not a successful strategy for achieving affordable housing units. By allowing for village-scale development adjacent to existing settled areas, development levels in areas outside these centers can be reduced without adverse impacts on housing affordability.

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<sup>1</sup> Conversation with Ann Saylor, October 26, 2010.

<sup>2</sup> Accessory apartments are currently allowed by the Town's zoning, but only subject to issuance of a Special Use Permit.

The traditional design of the TND District would also contribute to housing affordability. By encouraging development on small lots adjacent to the Village (rather than in low density development known as “sprawl”), infrastructure costs per dwelling unit is reduced and housing is made more affordable for potential owners and renters. Transportation costs would also be reduced since residents, living within walking distance of shops and services in the TND District, don’t have to drive if they don’t want to. According to the US Department of Housing and Urban Development, “the average American household now spends 34 percent of their annual income on housing and 18 percent on transportation--the combined total of 52 percent of their budgets is wrapped up in these two largest expenses. . . Households in a centrally located neighborhood with access to mass transit only spend 34 percent of their income on the same costs.”<sup>3</sup> Decreased transportation costs makes housing more affordable.

The Town’s adopted *Comprehensive Plan* recommends encouraging a range of housing types in or adjacent to existing centers to meet the housing needs of Town residents with a range of income levels, ages, household sizes and housing preferences. It also recommends concentrating higher-density residential development in areas that can be most efficiently served by existing and prospective municipal or municipally-approved central water and/or sanitary sewage facilities, such as the Village of Red Hook and the area immediately to the south. The proposed TND District is consistent with these recommendations.

### ***Land Use, Zoning and Public Policy***

The Town Board, in consultation with its professional consultants, and after carefully considering the entire SEQRA record, including all agency and public comments concludes that, consistent with the goals of the Town’s adopted *Comprehensive Plan* and *Open Space Plan*, the Modified Action would create a positive land use impact. Consistent with the traditional neighborhood design principals and the goals of the Town *Comprehensive Plan* and *Open Space Plan*, the Modified Action would allow for well-defined, mixed-use, neighborhoods in an area immediately south of the Village of Red Hook, coupled with conservation of agricultural lands and open space in the remainder of the Town. Residential uses in the proposed TND District would include single-family homes, cottages, duplex units, townhouses, multifamily apartments, and apartments above commercial space, permitting greater housing diversity and affordability than the Town’s current regulations, which require special use permit approval for two-family and multifamily housing.

The Town Board finds that by allowing for compact residential development adjacent to an existing commercial area, the Modified Action will allow for growth in a responsible

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<sup>3</sup> “The Affordability Index: A New Tool for Measuring the True Affordability of a Housing Choice” [www.brookings.edu/reports/2006/01\\_affordability\\_index.aspx](http://www.brookings.edu/reports/2006/01_affordability_index.aspx).

manner. It limits impacts on the road network and reduces pressure for development and conversion of farmlands and greenspaces throughout the rest of the Town, thereby helping to preserve the Town's agricultural industry and overall rural character.

The Town conducted a build-out analysis to estimate the potential impacts of growth prescribed by the existing Zoning Law, the proposed Zoning amendments and the alternatives studied in the GEIS. The build-out analysis estimated that the current zoning would permit 3,588 new single family dwelling units and 11,089 new residents of the Town. The impact of build-out under the existing Zoning is that the Town's population would more than double to 19,544 people. The 11,089 additional residents, including 2,479 school age children, would require 22 new paid police officers and 18 new full-time firefighters, new town facilities, and more classrooms and other space to accommodate the additional school children. The dwellings that these new residents would live in would require construction of about 3,500 new septic disposal systems generating more than 1,148,000 gallons of sewage per day discharged into the ground, and these dwellings would also depend upon 3,500 new groundwater wells drawing more than 1,148,000 gallons of water per day. Projected vehicle trips in the Town (generated by the residential development alone) would be more than 34,000 additional trips per day by an additional 7,176 vehicles on the roads, and these vehicles would need to travel to or through the Village of Red Hook or on Route 9G.

By comparison, the Modified Action, modified based on comments and incorporating Alternatives D(a) and F, may result in 1,420 new dwelling units and 4,325 new residents, including 962 new children needing to go to school, an additional 2,840 vehicles making 12,743 vehicle trips per day on local roads, an additional 1,420 new septic disposal systems generating 445,520 gallons of sewage per day, an additional 1,420 new groundwater wells drawing approximately 445,520 gallons of water per day, and the need to add 8 new police officers and 7 new firefighters.

The Town Board finds that the future build out of the remaining undeveloped or underdeveloped lands in the Town under the existing Zoning would result in suburban sprawl-type residential development, accompanied by commercial strip development, a significant increase in traffic and other related environmental impacts.

The Town Board finds that the Modified Action would avoid potential adverse environmental impacts to the town's rural, small-town character by directing new development towards the existing Village of Red Hook, coupled with a continuation of the dominant pattern of sparsely settled rural lands in the remainder of the Town. This development pattern, identified as the "town and country" pattern in the Town's *Open Space Plan* and also known as smart growth, would strengthen areas immediately adjacent to the existing Village of Red Hook (i.e., a "center"), resulting in compact, mixed-use, walkable neighborhoods consistent with the existing historic character of the

Village of Red Hook, while conserving agricultural lands and open space (i.e., “greenspaces”) in the remainder of the Town.

The Modified Action is consistent with the public policies articulated in numerous recommendations of the Town’s *Comprehensive Plan*, *Open Space Plan*, and *Local Waterfront Revitalization Program*, the Dutchess County *Plan Directions*, and *Greenway Connections*, and the Dutchess County *Agricultural and Farmland Protection Plan*. All of these plans call for directing development towards existing centers rather than dispersing it throughout a community in a sprawling manner.

## **B. ASSESSMENT OF IMPACTS OF THE MODIFIED ACTION**

The Town Board’s deliberation throughout the development of the Modified Action was conducted with due consideration of potential environmental impacts with the Town Board’s intent to avoid or minimize environmental impacts to the maximum extent practicable. The Town Board determined during these deliberations that the DGEIS and FGEIS, together with extensive public comment, contained substantial environmental analyses of all matters considered, and that the modifications considered throughout the process did not create conditions that would lead to significantly different levels of development as those considered in the DGEIS and FGEIS, or result in significant impacts different from those already addressed in the DGEIS and FGEIS.

It was further determined by the Town Board that the generic, or broader and more general, level of analysis in the DGEIS and FGEIS could not possibly consider all specific future impacts resulting from proposed amendments to the *Comprehensive Plan*, Zoning Law, or Subdivision Regulations on all properties throughout the Town. Rather, it was determined that the overall intent of the amendments being considered was to further the Town Board’s implementation of the key recommendations within the *Comprehensive Plan* to protect the Town’s environmental, scenic, historic, and community character to the maximum extent practicable. In making this determination, the Town Board determines that the requisite “hard look” was taken at all potential environmental impacts within the applicable rule of reason, and that the modifications to the Proposed Action in the form of the Modified Action, will not result in impacts not already adequately assessed by the present state of the information in the DGEIS and/or FGEIS, the public comments and other relevant SEQRA documentation thereof. Thus, the Town Board concludes that the substantive and procedural requirements of SEQRA have been met, and that a Supplemental Environmental Impact Statement (SEIS) is not required to separately analyze potential impacts of particular modifications made to any element of the Proposed Action.

As the analyses contained in the DGEIS and FGEIS, and other SEQRA documentation hereunder, are generic, or broader and more general, in nature by definition, the Town Board understands that future actions undertaken by the Town Board to continue

implementation of the *Comprehensive Plan* or certain private actions taken by land owners will require additional generic or site specific environmental review.

This section summarizes the Town Board's findings with respect to the evaluation of potential impacts of the Modified Action. As discussed above, the Proposed Action has been modified to incorporate Alternatives D(a) and F of the DGEIS. Also as discussed above, Alternative F (the 40-acre option) does not increase density beyond what would be allowed in Alternative D(a). Therefore, in evaluating impacts that result from density, the impacts of Alternative D(a) are assessed in the analysis of the Modified Action.

### **Land Use, Zoning and Public Policy**

A variety of land uses and land use patterns contribute to Red Hook's unique character. The Town is known as the "Breadbasket of Dutchess County" and it retains significant areas of agricultural lands. In general, the Town consists of low-density rural uses predominated by open fields, agriculture, and some forested areas. This overall rural character is complemented by the two prominent higher density centers within the Town, the Villages of Red Hook and Tivoli, in addition to historic hamlets scattered throughout the Town. Despite a number of scattered suburban subdivisions, particularly north of the Village of Red Hook and near the approach to the Kingston-Rhinecliff Bridge, the Town's historic "town and country" settlement pattern has been largely retained.

The largest Zoning District in the Town is the RD3 District (1 dwelling unit/3 acres), which encompasses the majority of the Town's farmland. Additional agricultural lands are zoned in the Limited Development (LD), RD5 and Institutional (I) Districts, with a density of one dwelling unit per 5 acres, and the R1.5 District, with a density of one dwelling unit per 1.5 acres. Lands adjacent to the Village of Red Hook, the Town's principal commercial center, are primarily zoned for low density residential uses, R1 and R1.5 (1 acre and 1.5 acres per dwelling unit, respectively). For residential developments that connect to a town-approved community water supply system, density may be increased in these Districts to one dwelling unit per half acre or per 1 acre, respectively. Adjacent to the Hudson River is the Waterfront Conservation District, with a permitted density of one dwelling unit per 10 acres. The historic hamlets of Annandale, Barrytown, and Upper Red Hook are included in the Hamlet District, with a required minimum lot size of 5 acres, with the exception of Upper Red Hook where minimum lot size is 1.5 acres. South of the Village of Red Hook is a commercial district, the B1 District, that includes a requirement for a deep (80') front yard setback that encourages commercial strip development. The Town also includes a B2 District, a floating Light Industrial District, and a number of overlay districts.

The Villages of Red Hook and Tivoli are the two prominent higher density centers within the Town. The Town, by law, cannot control zoning in the Villages. Although land uses within the Villages of Red Hook and Tivoli are not included in the Modified Action, the proposed Centers and Greenspaces plan was prepared by the Intermunicipal Task Force

of the Town of Red Hook and the Villages of Red Hook and Tivoli, and officials and residents in all three municipalities were directly involved in the extensive public planning process in preparation of the plan and the Modified Action. The Villages of Red Hook and Tivoli provide evidence of historic land use patterns with compatible uses on smaller lots. The Village of Red Hook plays an important role as the principal commercial and residential center in the Town. The Village of Tivoli has a smaller central business district. The Hamlets of Upper Red Hook, Barrytown, and Annandale consist primarily of residential development, but a small amount of commercial space exists within some of the hamlets.

The Town Board recognizes that growth in Red Hook and in surrounding communities will continue, but finds that certain Zoning amendments can be implemented to more effectively preserve the rural character, farmlands, historic and scenic resources, and natural resources within the Town. These modifications include overall reductions in permitted densities and requirements that land in certain cases be subdivided with conservation subdivision techniques, and the establishment of a TND District that is consistent with the existing Village of Red Hook. In order to continue to accommodate growth in the Town and to maintain housing affordability, the Modified Action would require that larger projects in the TND District (those with more than 10 dwellings) consist of a minimum of three different housing types (such as houses, duplexes, multi-family apartments, townhouses, etc.), with no one type comprising less than 20 percent of the total units proposed; these housing types would be permitted as of right.

The Town conducted a build-out analysis to estimate the potential impacts of growth prescribed by the existing Zoning Law, the proposed Zoning amendments and the alternatives analyzed in the DGEIS. The Build-Out Analysis estimated 3,588 new single family dwelling units and 11,089 new residents of the Town if lands in the Study Area were built in accordance with existing Zoning. In 2008, the Town of Red Hook had approximately 1,128 dwellings in the Study Area<sup>4</sup>, and an estimated population of 8,482 residents<sup>5</sup>. The impact of build-out under the existing Zoning is that the Town's population would more than double to 19,544 people. The 11,089 additional residents, including 2,479 school age children, would require 22 new paid police officers and 18 new full-time firefighters, new town facilities, and more classrooms and other space to accommodate the additional school children. The dwellings that these new residents would live in would require construction of about 3,500 new septic disposal systems generating more than 1,148,000 gallons of sewage per day discharged into the ground, and these dwellings would also depend upon 3,500 new groundwater wells drawing more than 1,148,000 gallons of water per day. Projected vehicle trips in the Town (generated

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<sup>4</sup> There are an additional 1,090 dwelling units on lands in Study Areas C and D which were not included in the build-out analysis since they are already fully developed; see discussion on pages 5 - 6 of the Build-Out Analysis in Appendix F of the DGEIS.

<sup>5</sup> Source: US Census Bureau. The Town population cited here does not include the two Villages.

by the residential development alone) would be more than 34,000 additional trips per day by an additional 7,176 vehicles on the roads, and these vehicles would need to travel to or through the Village of Red Hook or on Route 9G.

By comparison, the Modified Action, which incorporates Alternatives D(a) and F of the DGEIS, may result in 1,420 new dwelling units and 4,325 new residents, including 962 new children needing to go to school, an additional 2,840 vehicles making 12,743 vehicle trips per day on local roads, an additional 445,520 gallons of water per day consumed, and the need to add 8 new police officers and 7 new firefighters. The Modified Action results in approximately 223 more dwelling units than the Proposed Action, and this is still significantly fewer than the 3,588 new dwelling units that could be constructed under the existing Zoning.

The proposed zoning amendments would result in new development in the Town occurring primarily in a designated priority growth area, the Traditional Neighborhood Development (TND) District, located immediately south of the Village of Red Hook, coupled with a continuation of the dominant pattern of sparsely settled rural lands in the remainder of the Town. It would also be a method for achieving affordable housing in the Town since the proposed zoning would result in 1,420 new dwelling units.

The Town's adopted *Comprehensive Plan* recommends that the Town provide incentives for new development to locate within or adjacent to existing centers in the community while discouraging a land use pattern that uniformly disperses development throughout the Town. This "town and country" planning model is further emphasized by the *Comprehensive Plan's* recommendations to preserve the Town's "irreplaceable agricultural land resource" for this and future generations. The *Comprehensive Plan* recommends that density be transferred from environmentally sensitive lands (especially important agricultural lands) to prospective higher density areas around the Village of Red Hook where development is preferred and central water and sewer is feasible. The Modified Action is consistent with these recommendations.

For economic development other than agriculture, the *Comprehensive Plan* recommends that the Village of Red Hook be maintained as the primary commercial center of the community, with limited commercial expansion in carefully-defined areas outside the center, such as immediately adjacent to the Village of Red Hook. It also recommends small retail and service businesses consistent with the day-to-day needs of the community. Light industry and small-scale office/research facilities are encouraged in appropriately serviced locations as long as building scale, intensity and character is compatible with the community and its rural character. The *Comprehensive Plan* also discourages highway strip commercial development. The Modified Action is consistent with these recommendations.

In terms of housing policies, the Town's *Comprehensive Plan* recommends encouraging a range of housing types in or adjacent to existing centers to meet the housing needs of

Town residents with a range of income levels, ages, household sizes and housing preferences. It also recommends concentrating higher-density residential development in areas that can be most efficiently served by existing and prospective municipal or municipally-approved central water and/or sanitary sewage facilities, such as the Village of Red Hook and the area immediately to the south. This compact development is also intended to reduce the extent of new roadway construction in the Town. To service this concentrated development, the *Comprehensive Plan* recommends that the Town conduct a feasibility study for the installation of central water and sanitary sewage services in these areas. Accessory apartments are recommended as a more affordable housing type. The Modified Action is consistent with these recommendations.

The Modified Action would reinforce a “centers and greenspaces” or “town and country” land use pattern as is recommended by the *Comprehensive Plan*. The amendments would protect agricultural lands by creating incentives, through a new section on Open Space Incentive Zoning, for the transfer of building potential from the proposed AB District to the proposed TND District located immediately south of the Village of Red Hook, and would also minimize the amount of residential development permitted in the AB District, which would be required to be located away from agricultural soils, all as recommended by the Town’s *Comprehensive Plan*.

*Directions: The Plan for Dutchess County* (“Directions”), which was prepared by the Dutchess County Department of Planning and Development (February 1987) and was formally endorsed by the Town of Red Hook, recommends that anticipated population growth in the County be accommodated in community centers within and adjacent to existing villages, with large areas of rural and agricultural uses surrounding the villages (the “centers and greenspaces” concept). The Modified Action is consistent with the goals and objectives of *Directions*. The Modified Action would reinforce a “centers and greenspaces” land use pattern as is recommended by *Directions*. It would protect agricultural soils by transferring residential development from the proposed AB District to the proposed TND District. It would minimize the amount of residential development permitted in the AB District, which would be required to be located away from agricultural soils. The proposed amendments to delete unbuildable lands in residential districts prior to calculating permitted density would result in greater protection of sensitive areas such as steep slopes, wetlands and surface waters. Permitting greater residential building potential immediately adjacent to the proposed Commercial Center of the TND District would promote village-like commercial development rather than strip commercial. Finally, the proposed Office-Industrial subdistrict of the TND District would include limited access points and significant buffering (a minimum of 200’ with extensive vegetative screening) to screen future industrial and office research uses from views along Route 9. All of these planning strategies are consistent with the recommendations of the *Directions: The Plan for Dutchess County*.

*Greenway Connections: The Greenway Compact Program and Guides for Dutchess County Communities*, (“*Greenway Connections*”), which has been adopted by the Town of Red Hook, promotes a “smart growth” strategy that focuses development in well planned centers (“priority growth areas”) rather than randomly sprawled on greenspaces or farmland. The proposed amendments are consistent with the recommendations of *Greenway Connections*. In fact, Dutchess County has recently proposed a new *Greenway Guide* entitled “Centers and Greenspaces,” which uses Red Hook’s Modified Action as a model for other Dutchess County communities to emulate.

The *Local Waterfront Revitalization Program*, which was adopted by the Town of Red Hook and affirmed by the State and Federal governments, was reviewed to determine if the Modified Action is consistent to the maximum extent practicable with the LWRP as required. A Coastal Assessment Form (CAF) has been prepared for the Proposed Action. As noted in the CAF, the Proposed Action (and this is true for the Modified Action as well) is designed to protect scenic resources, agricultural lands, and historic, archaeological and cultural resources, and therefore no significant adverse effects on coastal resources is anticipated as a result of the Proposed Action as modified. Moreover, no development is proposed as part of the action and therefore no direct impacts would occur.

Based upon the analysis completed, the Town Board finds that the Modified Action would avoid potential adverse environmental impacts to the Town’s rural, small-town character by directing new development towards existing centers, designing that development as walkable village-scale neighborhoods consistent with the existing historic character of the Village of Red Hook, and protecting agricultural lands and other important natural resources.

### **Agricultural Resources**

To determine which lands should be included in the proposed AB District, the Town evaluated parcels against a set of land evaluation criteria. These criteria are consistent with those outlined in the American Planning Association’s “Policy Guide on Agricultural Land Preservation,” and the Land Evaluation and Site Assessment (LESA) rating system developed by the Natural Resources Conservation Service of the US Department of Agriculture as a way for local governments to assess the suitability of parcels of farmland for continued agricultural use. The land evaluation criteria combine a soil suitability analysis with other site factors that directly affect agricultural use of the land, such as neighboring land uses, availability of water for irrigation purposes, scenic or historic values, development pressure and development potential, local land-use policies, among other factors.

Some farmland in the Town is currently included in the NYS certified Agricultural District 20, which provides protection against overly restrictive local laws, and private nuisance suits involving agricultural practices. The New York State Agriculture Districts

Law was enacted in 1971 to protect and conserve the State's agricultural resource base. It is based on Article XIV of the State constitution which states that it is the policy of the State "to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products." Farmland owners also have the opportunity to receive real property assessments based on the value of their land for agricultural production rather than on its development value. This portion of Article 25-AA of NYS Agriculture and Markets Law is designed to provide a partial exemption for taxation for farmland where urban pressure causes the market value of the land to exceed the value of the land in agricultural production.

The Town of Red Hook currently includes provisions in §143-47D(4) of the Zoning Law ("Important Farmlands") that pertain to lands within the NYS certified Agricultural District 20. For all subdivision applications for lands within the NYS Agricultural District that contain prime or statewide important agricultural soils, cluster development is required, in accordance with siting standards that include, for instance, locating development on the least productive soils. One drawback of the current provisions is that since they are applicable only to lands in the NYS Agricultural District, landowners can opt out of the requirements, which makes zoning subject to landowner preferences rather than being based on sound planning principles. The proposed AB District incorporates some of the standards of the Town's important farmlands law (such as the siting standards), and amends others (replacing clustering with conservation subdivision that can more effectively protect agricultural lands). Section 143-47D(4) of Zoning Law would be eliminated upon establishment of the AB District.

Most of the land proposed for inclusion in the AB District is currently zoned RD-3 (1 dwelling unit per 3 acres), with smaller areas north and south of the Village of Tivoli currently zoned Limited Development (LD), which permits 1 dwelling unit per 5 acres, two parcels in the vicinity of Annandale-on-Hudson currently zoned Institutional (I), and some lands in the vicinity of the Village of Red Hook currently zoned R1.5 (1 dwelling unit per 1.5 acres). These densities, even with clustering, are not an effective tool for farmland preservation as they would result in significant land use conflicts if the remaining land were kept in agriculture.

The AB District would permit farmers greater business opportunities to enhance their farms by allowing additional uses for lands in agricultural production. Many of the permitted uses would receive a streamlined review process, requiring only minimal site plan review and no public hearing, as recommended by NYS Department of Agriculture and Markets in "Guidelines for Review of Local Zoning and Planning Laws."

The *Dutchess County Agricultural and Farmland Protection Plan* notes that significant concentrations of prime and important agricultural soils are located throughout the Town of Red Hook and that it is "our duty not to waste this valuable resource, but to use it in the manner that is most productive to the community. This means locating construction

projects based on soils information, and avoiding developing farmland.” Specific recommendations to preserve agricultural soils recommended by the *Dutchess County Agricultural and Farmland Protection Plan* that fall under the jurisdiction of local municipalities include ensuring that local regulations consider the importance of soil resources, and developing agricultural protection strategies such as transfer of development rights, purchase of development rights, and leasing of development rights to direct development away from agricultural soils while balancing a property owner’s interests. The *Agricultural and Farmland Protection Plan* also recognizes that, in order to protect agricultural soils, land use policies must also identify where development should occur in the community, and should simplify the approval process for developers whose proposals are compatible with community goals. As noted in the *Agricultural and Farmland Protection Plan*, “concentrating development in and around community centers reinforces the economic vitality of village centers and supports existing local businesses.” The Modified Action is consistent with these and other recommendations of the *Dutchess County Agricultural and Farmland Protection Plan*.

The Modified Action is consistent with the recommendations of the *Dutchess County Agricultural and Farmland Protection Plan*. Prime and statewide important agricultural soils were a primary consideration in the land evaluation criteria used to determine which parcels should be included in the AB District, as discussed above. Through the use of incentive zoning and sale of development rights, building potential would be shifted from lands with agricultural soils in the AB District to the proposed TND District adjacent to the Village of Red Hook, as recommended by the *Agricultural and Farmland Protection Plan*. Development rights could be sold from lands within the AB District at the level of the current Zoning.

The proposed AB District has been designed to maintain the viability of the most important agricultural lands in the Town for continued agricultural purposes, as recommended in the *Town Comprehensive Plan*, *Town Open Space Plan*, the *Dutchess County Agriculture and Farmland Protection Plan*, the *Dutchess County Plan: Directions*, the *Greenway Connections*, and the *2009 New York State Open Space Conservation Plan*. The Town Board finds that the Modified Action is consistent with the *Dutchess County Agriculture and Farmland Protection Plan*, and will have beneficial impacts on agricultural resources.

### **Groundwater Resources**

Aquifers in the Town were identified by the Dutchess County Water and Wastewater Authority in 1993. The aquifer that underlies the Village of Red Hook is a very large deposit of sand and gravel extending along both sides of Route 9 from Pitcher Lane south to the Town of Rhinebeck boundary. It is a primary source of well water in both the Town and Village of Red Hook. The Town currently has an aquifer protection overlay district which regulates uses within an aquifer protection area.

In 2007, The Chazen Companies conducted a groundwater resource assessment for the central part of the Town of Red Hook and the Village of Red Hook (the “study area”). The purpose of the assessment was to determine whether lands enclosing the study area receive sufficient aquifer recharge to support the anticipated future demand in the Town and Village Center. The Chazen assessment studied the impacts of three projects that were under review at that time (Red Hook Commons, Knollwood Commons, and Anderson Commons) and demand from future potential development of two traditional neighborhoods, one in the north portion of the Village of Red Hook, and one in the South Broadway area of the Town (the proposed TND District included in the Modified Action). The report assumed that the Town’s TND District would consist of 189 single family dwellings, 70 townhouses, 105 apartments, and 140,000 square feet of commercial space.

The study found that the Town and Village water supplies currently meet an approximate, combined average daily demand of 256 gallons per minute (gpm). With the addition of water demand from Red Hook Commons, Knollwood Commons, Anderson Commons and from the potential future North Village and South Broadway traditional neighborhoods, increased typical daily water demand could rise to a daily average of 466 gpm, with peak demand periods requiring well field daily yields averaging 640 gpm. The hydrogeologic review of the study area indicates that aquifer recharge refreshing aquifers in this area provide a sustainable annualized groundwater supply likely to average, under future build-out conditions, approximately 2,345 gpm during normal years and approximately 1,641 gpm during drought years. The self-replenishing rate at which aquifer recharge occurs in the study area exceeds the proposed average Village/Town water demand rate of 466 gpm by approximately 5 times during normal years and by approximately 3.5 times during drought years. The study concludes that there is sufficient renewable groundwater moving under Red Hook’s central area to meet the community’s present and proposed future water demands.

Subsequent to the Chazen groundwater report, the Build-Out Analysis determined that the TND Residential Subdistrict could accommodate up to 149 single family homes, 74 townhouses and 74 duplex/apartments. Using the multipliers provided by the Chazen report, the revisions to the proposed TND District would result in a water demand of 103 gpm, which is less than the 109 gpd in the Chazen estimate. Thus, the revised proposal is well within the estimates of the Chazen Report. The Modified Action includes a maximum limit of 300 total dwelling units in the TND District, consistent with the build-out analysis, to ensure that no adverse impacts to groundwater resources will occur.

The Chazen report recommends providing moderate levels of aquifer protection for all areas in the Town (similar to the Town’s current regulations), with a higher level of protection in particularly valuable aquifer areas and community water system wellfield wellhead protection areas. None of the higher risk land uses (such as underground storage tanks for soluble chemicals) cited in the Chazen report would be permitted by the Modified Action. Uses such as laboratories and light manufacturing would be permitted

in the Office-Industrial Subdistrict south of Hannaford Drive, a portion of which would overlay the Zone 2 aquifer. However, these uses would be subject to existing regulations to control pollutants, including the Town's aquifer protection overlay regulations found in the Zoning Law § 143-47D(2), which prohibit high risk uses such as those referred to in the Chazen report. Any development within the Office-Industrial Subdistrict would be required to undergo site specific environmental reviews of impacts to the aquifer.

Based on the findings of the Chazen report, the Town Board finds that no significant adverse impacts to groundwater resulting from the water demands of the Modified Action will occur. Nonetheless, interconnecting water mains, a lift pump to deliver Town water to the elevation of the Village water tank, and one or more new wells may be needed to best manage future proposed water demand. Any development allowed by the Modified Action that proposes to connect to the Village municipal water system should fund the improvements necessary to service their proposed development. Potential impacts to groundwater may also result from an increase in impervious surfaces in the proposed TND District. To address potential impacts of increased impervious surfaces in the TND District, site specific reviews of development proposals that have a potential to impact the aquifer should include methods to retain or detain stormwater, such as low-impact development techniques including bioretention basins, vegetated roofs and other effective surface water treatment facilities, to ensure there is no infiltration of stormwater directly into the aquifer.

### **Surface Water Resources**

All of Red Hook's watershed areas ultimately drain into the Hudson River. Red Hook has eight State classified and regulated streams. In addition, there are numerous non-regulated streams in the Town. Many of the water bodies have floodplains, which have a chance of flooding occurring in any given year.

The proposed Zoning Law amendments would revised the current method of calculating permitted residential density based in part on surface waters. Currently, residential density is calculated in terms of minimum lot area per dwelling unit, with a minor subtraction under certain circumstances (depending on the land area of the resource and the size of the proposed lot) for State protected wetlands, surface waters and floodplains. The proposed amendments to the Zoning Law would provide for a maximum residential building potential that would be based on buildable acreage, the land area of the lot after subtracting non-buildable areas, including wetlands and regulated wetland buffers, 100-year floodplains, ponds, streams and buffer areas, and steep slopes 20 percent gradient or greater. This provision would exclude environmentally sensitive lands, including surface waters and floodplains, when calculating residential density, and would afford greater protection of these resources and associated ecosystems during the development review process than the current zoning allows, which the Town Board finds to be a beneficial impact.

There are no protected surface water bodies in the proposed TND District. A small portion of a stream (a tributary of the Rhinebeck Kill) is located in the proposed TND Residential Subdistrict to the west of Route 9, and a small segment of another tributary of the Rhinebeck Kill runs along the edge of the proposed TND Office-Industrial Subdistrict. However, both of these streams are Class C and are not regulated by the NYSDEC. There are no 100-year floodplains in the proposed TND District, and therefore no impacts on 100-year floodplains would occur as the result of development in this area. There are no significant areas of steep slopes 20 percent gradient or greater in the proposed TND District. Therefore, the Town Board finds that no significant adverse impacts to surface waters would result from adoption of the proposed TND District.

### **Terrestrial and Aquatic Ecology -- Flora and Fauna**

There is only limited data about specific ecological habitats and species within the Town of Red Hook since, to date, no Town-wide mapping and species identification has been performed. In the absence of a Town-wide ecological survey, the DGEIS and FGEIS relied heavily on generalized regional data provided through the New York State Natural Heritage Program's Data Base (Plant, Animal and Community Guides), U.S. Fish and Wildlife Service information, aerial photographs, and reported conditions documented in other studies, reports and publications prepared for locations within the Town and neighboring communities. It should be noted that the Tivoli Bays Wildlife Management Area, which contains some of the most significant habitats and protected species within the Town, is not discussed or included in the GEIS. The State of New York owns or controls more than 1,700 acres of the most valuable wetlands and adjacent upland buffers at Tivoli Bays and has an established policy of acquisition of land or conservation easements from willing sellers for additional lands adjacent to the Wildlife Management Area.

Habitats within the proposed TND District are predominantly active and abandoned agricultural fields and mixed hardwood forest or woodlands; a limited quantity of wetland habitats also exists within the proposed district. All such generalized habitats are common; none identified here appear to be of exceptionally high quality. Furthermore, all areas within the proposed zone have been altered to some degree by past and/or ongoing human activity, most particularly logging and farming in addition to residential and non-residential development.

The New York State Natural Heritage Program's 2004/2005 database indicates that a number of native plant species may exist both in the north western portion of Dutchess County and within the general habitat types found in the proposed TND District. Site specific surveys, during the development review and approval process, are needed in order to determine the actual existence of any of these or additional species of statewide concern.

The New York State Natural Heritage Program's 2004/2005 database indicates that the protected animal species have been identified within the northwestern portion of Dutchess County and are known to utilize, for at least a portion of their lives, the general habitat types found in the proposed TND District area. Site specific surveys prior to development would be needed in order to determine the actual existence of any of these or additional species of state wide concern. According to the US Fish and Wildlife Service, there are federally listed endangered and threatened species and candidate species within Dutchess County. Site specific surveys, during the development review and approval process, would be needed in order to determine the actual existence of any of these or additional species of concern.

The Town of Red Hook contains a diversity of habitat, plant and animal species including species of conservation concern which are most vulnerable to the adverse impacts often associated with development and construction. Most known occurrences of such special concern species within the Town occur in the Tivoli Bays Wildlife Management Area (not discussed here), yet the potential exists for species of conservation concern to be found elsewhere in the Town, including within the proposed TND District. There have been no reports of rare, endangered, or threatened, species, or species of conservation concern within the proposed TND District, only potential habitat. Nonetheless, site specific surveys are recommended during the development review and approval process, in order to rule out the presence of such species.

The proposed Zoning Law amendments would reduce permitted density in most areas of the Town. It would, however, allow for increased building potential in the proposed TND District, through the use of incentive zoning. Accordingly, lands proposed for inclusion in the TND District may be subject to substantial development, thereby eliminating the majority of existing habitat and plant communities. Existing trees, shrubs, ferns, grasses and forbes would be substantially eliminated and replaced with structures, impervious surfaces and landscaped vegetation. Little currently existing habitat would exist under full build out conditions.

However, all areas within the proposed TND District exhibit previous disturbance activities. Specifically, the proposed district encompasses the highly disturbed Route 9 corridor with its associated residential, commercial and industrial uses. Flanking both sides of this corridor lie lands under active or recent agricultural activity; such agricultural land use comprises the majority of vacant lands in the proposed TND District. The single large expanse of forest which currently occupies the eastern most portion of the proposed TND District displays rather recent logging activity. The Town Board finds that the proposed TND District exhibits some of the most altered habitats within the Town, but caution suggests a thorough field analysis to ensure that species of conservation concern, or their habitats, are properly considered during future site-specific environmental analysis under SEQRA. The Town Board also finds that the proposed zoning adds a degree of overall habitat protection in that it eliminates some of the

piecemeal approach to development. By concentrating development in the TND District, and by utilizing conservation subdivision techniques for development outside of the TND District, indirect and cumulative impacts to flora and fauna can be substantially avoided.

## **Wetlands**

New York State Freshwater Wetlands maps prepared by the NYS DEC, and National Wetlands Inventory (NWI) maps prepared by the US Fish and Wildlife Service show the general locations of all the Town's previously identified wetlands. A total of 35 state regulated wetlands, as identified on the NYS DEC maps, and numerous federally regulated wetlands, as shown on the NWI wetlands map (some of which overlap), are located within the Town. In order to ascertain whether or not additional wetlands exist on any given parcel, site specific surveys should be conducted on all lands during the development review and approval process.

At the federal level, the US Army Corps of Engineers protects wetlands under Section 404 of the Federal Clean Water Act, regardless of size. No upgradient adjacent areas or buffers are offered protection under federal law. Currently, smaller "isolated" wetlands are unprotected by State and Federal law.

Section 143-23 of the Town's Zoning Law currently requires a minor subtraction for NYSDEC wetlands in the calculation of permitted residential density; there is no deduction required for federal jurisdictional wetlands. Additionally, § 143-30 of the Town's Zoning Law currently requires a special use permit for development activities within 100 feet of a NYSDEC wetland; however, there is no similar protection afforded federal jurisdictional wetlands unless they are "established" by the Town as subject to this protection, which the Town has not undertaken. Section 143-33 permits the Planning Board to require clustering if it would result in better protection of wetlands than a conventional lot-by-lot subdivision. The Town does not have a local wetlands law.

Specifically within the area proposed for the TND District are four identified wetlands, including a portion of a NYS DEC wetland (KE-3), located on the east side of Route 9, and three small federal jurisdictional wetlands located on the west side. While the Modified Action by itself will not have any adverse impacts on these or other wetlands existing within the proposed District, potential impact due to future construction activities in proximity to these wetlands remain. Direct impacts would be attributed to the permitted filling of any State or federal jurisdictional wetland as well as isolated and therefore unregulated wetlands. Indirect impacts including but not limited to increased runoff from impervious surfaces, increased pollutant load, sedimentation, habitat degradation and the proliferation of invasive species may also result from activities permitted upon upgradient lands adjacent to wetlands. However, this potential would exist regardless of whether the current Zoning remains in place or if the Modified Action is adopted by the Town Board. Site-specific wetland delineation and impact assessment remains a requirement for regulated wetlands.

Furthermore, the lands proposed for the TND District are adjacent to existing commercial development along Route 9. It is therefore likely that these lands are already somewhat more disturbed than outlying areas (i.e., existing influx of pollutants, less quality habitat, higher density of non-native species). Moreover, the proposed Zoning amendments contain a requirement that “wetlands, floodplains, and other valuable environmental resources” are to be protected and integrated into the TND neighborhood as assets. Thus, the Town Board finds that no significant adverse impacts to wetlands would occur as a direct result of the proposed Zoning of these lands for an increased level of development.

The Town Board finds that no significant adverse impacts to wetlands would occur as a result of the Modified Action. Foremost, avoidance of wetlands and minimization of wetland impact is required by law and site specific activities within the proposed TND District must take existing State and federal wetlands and any associated buffers into consideration. However, the proposed zoning adds a degree of overall wetland protection in that it eliminates some of the piecemeal approach to development. By concentrating development, particularly into areas in which both the quantity and quality of existing wetlands is already somewhat limited, indirect and cumulative impacts can be substantially avoided.

### **Transportation**

The Modified Action would result in a reduction in development density throughout most areas of the Town. However, building potential could be transferred from the AB District to the TND Residential and Commercial Center Subdistricts through the use of incentive zoning. This zoning tool would authorize adjustments to building potential in the TND District *in exchange for* funds to be used exclusively to preserve greenspaces in the AB District. Thus, the increased building potential in the TND District would not increase density in the Town overall, but would rather shift potential development from farmlands in outlying areas of the Town to the area immediately south of the Village of Red Hook on US Route 9. The TND District would also permit greater commercial development on lands in the proposed Commercial Center Subdistrict, and would include an Office-Industrial Subdistrict, which would permit uses such as light industry, office, and lodging, on lands that are currently Zoned RD3. The DGEIS and FGEIS thus analyzed potential traffic impacts on the US Route 9 corridor in the vicinity of the proposed TND District.

According to the Annual Average Daily Traffic (AADT) for US and State routes in Red Hook, traffic volumes have declined on all segments of US Route 9 and NY Route 199 in the last 10 years, while traffic volumes have increased moderately on all segments of US Route 9G.

The traffic operating conditions of signalized and unsignalized intersections of local roads with US Route 9 in the vicinity of the proposed TND District were assessed in two recent traffic studies. In June 2005, a Traffic Impact Study was conducted by John Collins Engineers, PC for the Anderson Commons project located on Fisk Road in the

Town and Village of Red Hook. Detailed turning movement traffic counts were collected at several key intersections in the vicinity of the Anderson Commons site, including the intersection of US Route 9 with Firehouse Lane/Amherst Road, Fisk Road, and Metzger Road.<sup>6</sup> The Traffic Impact Study determined that all of the intersections would operate at a acceptable LOS and no improvements, beyond additional pavement markings, were necessary.

A Traffic Impact Study prepared by Creighton Manning Engineering, LLP for the Red Hook Hannaford Supermarket (June 29, 2000) studied additional intersections in the vicinity of the proposed TND District. A traffic signal was installed at the US Route 9 and Rokeby Road intersection as part of the Hannaford project. Signalization of this intersection was an alternative studied in the Hannaford DEIS, which concluded that the signalized intersection would operate adequately under this alternative.

The Town has preliminarily planned a connector road that would run parallel to US Route 9 from the Hannaford grocery store to Firehouse Lane. Portions of the road have already been constructed, and the Town is in the process of identifying the location of the remaining road segments.

Bus service in the Town of Red Hook is provided by the Dutchess County LOOP System. The LOOP System provides both express (commuter) and mid-day service throughout the county. Sidewalks are found in the Village of Red Hook and along US Route 9 between Firehouse Lane and Rokeby Road. The Town also has a few off-road dedicated hiking, biking and walking trails, particularly in proximity to the Hudson River. Signed bicycle routes exist on a network of Town, Village, County and State roads, but these are simply trail blazed “share-the-road” routes along existing roads rather than dedicated lanes in the public right-of-way.

The Build-Out Analysis conducted for the Town of Red Hook (Appendix F) found that the current Zoning would permit the development of approximately 3,588 new single family dwelling units in the study area. Projected vehicle trips in the Town (generated by the residential development alone) would be more than 34,000 additional trips per day made by 7,176 vehicles on the road, and these vehicles would need to travel to or through the Village of Red Hook or on Route 9G. In comparison, the Modified Action would permit approximately 1,420 new dwelling units, with 2,840 vehicles making 12,743 additional vehicle trips per day on local roads. Thus the Modified Action would generate 63% less traffic than the existing Zoning as a result of new residential development. The Town Board finds that this is a beneficial impact on transportation.

Additional traffic on US Route 9 south of the Village of Red Hook may occur as a result of the proposed TND District, although this would be offset by the overall 63% reduction

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<sup>6</sup> Proposed site access driveways to the Anderson Commons project, the intersection of NY Route 199 and Baxter Road, and other minor intersections of concern specific to that project were also analyzed.

in potential traffic that could result from the Modified Action. The annual average daily traffic on US Route 9 in 2008 was 9,550 vehicles. As noted in *Place Making, Developing Town Centers* (by Charles Bohl, 2002), traffic flow on an ideal Main Street is 16,000 to 20,000 average daily trips (Bohl, page 290). The Route 9 corridor is thus currently functioning at approximately half the ideal capacity for a Main Street commercial area.

The area immediately south of the Village of Red Hook on US Route 9 is an appropriate location for permitting increased building potential since this road, which serves as the primary corridor for travel within the community, has the capacity to accommodate the additional growth. It is also located on the LOOP bus route, and use of public transit would further reduce potential impacts of automobile traffic resulting from development in this area. Finally, the Town planned connector road running approximately one block east of US Route 9 will alleviate traffic on Route 9 and at the Route 9/Route 199 intersection without diverting traffic too far from the business district. The grid pattern of roads will diffuse most congestion by enabling traffic to take alternative routes without detracting from the vitality of the TND Commercial Center.

The LOOP bus may see an increase in ridership over time due to the location of the proposed TND District on the bus route. Increased ridership is a beneficial impact that helps to offset the public subsidies needed to keep the LOOP operational.

Potential traffic impacts resulting from increased residential and commercial development in the proposed TND District can be mitigated by measures such as signalizing additional intersections, reconstructing intersections as roundabouts, retiming traffic signals, adding or improving pavement markings, and construction of the planned connector road. The Village of Red Hook has been working with the NYSDOT and a nearby landowner to improve the off-set intersection of US Route 9 with Firehouse Lane/Amherst Road, and plans to realign the roadway into a single four-leg signalized intersection. Alternatively, a roundabout might be appropriate at this location. Recent studies by the Insurance Institute for Highway Safety and New York State Department of Transportation show that roundabouts can improve safety and reduce delays at intersections. This parallels findings from studies of roundabouts in Europe and Australia. In addition, signalization or use of a roundabout at the US Route 9/Old Farm Road intersection would not only improve the operation of this intersection, it would also serve to space traffic along the corridor between Hannaford Drive and the Village of Red Hook, and thereby improve the level of service of the US Route 9/NY Route 199 intersection.

A project specific Traffic Impact Study assessing existing and projected traffic flow, operating conditions, and specific mitigation measures, should be required of any project in the Town when the Planning Board determines the project may have a potential impact on traffic. Generally, a comprehensive traffic impact analysis should be completed whenever proposed development is expected to generate 100 or more new inbound or outbound trips during the peak hours (the ITE's recommended practice). For example,

developments containing about 100 single-family homes, or approximately 15,000 square feet of retail would be expected to generate this level of traffic and hence, require a complete traffic analysis.

The Town Board finds that the Modified Action will have beneficial impacts on Town-wide transportation compared to the pattern of development possible under existing zoning conditions. Reducing the potential residential build-out of the Town will result in an overall reduction of approximately 22,000 fewer vehicle trips per day than the existing zoning. Furthermore, concentrating development into a priority growth area (the proposed TND District) that is in close proximity to shopping creates the potential for walking and biking trips, and this District can also be served by public transit. Therefore, the Town Board finds that while any new development will inevitably result in additional traffic, the Modified Action will have beneficial effects on transportation impacts compared to the existing zoning.

### **Community Services and Infrastructure--Emergency Services**

The Town of Red Hook is served by the Red Hook Police Department, which operates out of the Red Hook Village Hall. The Dutchess County Sheriff's Department and the New York State Police provide additional police protection in the Town. Fire protection services are provided by volunteers from two fire companies: the Red Hook Fire Company and the Tivoli Fire Company.

In a rural residential community such as the Town of Red Hook, calculation of the necessary numbers of emergency service personnel is based on a per capita calculation: the more residences the Town has in the future, the more personnel would be required. The build-out analysis indicates the need for approximately 22 new police officers and 18 new fire fighters should the additional development allowed by existing Zoning Law be realized. However, comparison of the existing Zoning with the Modified Action reveals a significant difference, with the need for only 8 new police officers and 7 new fire fighters required to serve the larger community with the Modified Action. The reduction in future population under the Modified Action is accompanied by a reduction in the need for emergency service providers, a beneficial impact on community services. The Town Board finds that the Modified Action will have beneficial impacts and reduced demand for emergency services compared to existing zoning.

### **Community Services and Infrastructure--Utilities**

CH Energy Group is a distribution utility and, through its subsidiaries and affiliates, services the Town of Red Hook with electricity. No natural gas lines extend to Red Hook. Propane, fuel oil, and other petroleum products are provided to residents by several local and regional companies. Central Hudson currently serves approximately 300,000 electric customers and 74,000 natural gas customers throughout its franchise area. It has an aggregate transformer capacity of 5.3 million kilovolt amps.

Central Hudson is regulated by the New York State Public Service Commission, which requires that every distribution utility in the State must provide residential service without unreasonable qualifications or lengthy delays and such service is necessary for the preservation of the health and general welfare and is in the public interest.

Frontier Communications provides basic local telephone service to the Red Hook area. No other basic local providers service Red Hook at this time. Numerous providers are available for regional and long distance service. Frontier is also subject to New York State Public Service Commission regulations.

The New York State Department of Public Service has a broad mandate to ensure that all New Yorkers have access to reliable and low-cost utility services. The Department is the staff arm of the Public Service Commission. The Commission regulates the state's electric, gas, steam, telecommunications and water utilities. The Commission also oversees the cable industry. The Commission is charged by law with responsibility for setting rates and ensuring that adequate service is provided by New York's utilities.

Time Warner provides cable service in the Town. The Town is served by a number of internet service providers, such as AT&T, Verizon, and Webjogger.

The Modified Action will reduce the need for utility services to be provided in the Town of Red Hook due to a reduced build-out over the existing Zoning. It is not possible at this time to predict the energy and other utility needs of any future development that may occur as a result of the Modified Action since this will require a site-specific assessment of energy needs and impacts as part of any SEQRA reviews that may occur in the future. However, the Town Board finds that no significant adverse impacts can be expected from the Modified Action.

### **Community Services and Infrastructure--Water and Wastewater**

The Build-Out Analysis estimates, under the Town's existing Zoning, would result in the addition of 3,588 new single family dwelling units and 11,089 new residents. The dwellings that these new residents would live in would require construction of approximately 3,588 new septic disposal systems generating more than 1,148,000 gallons of sewage per day discharged into the ground, and these dwellings would also depend upon new groundwater wells drawing more than 1,148,000 gallons of water per day.

In comparison, if the existing Zoning were amended as proposed, these impacts would be reduced as compared to the above figures as follows: there would be potentially 1,420 new dwelling units and 4,325 new residents requiring an additional 445,520 gallons of water per day. Thus the Modified Action would result in consumption of less water and the discharge of less sewage to ground and/or surface waters.

Limited areas of the Town, including the two Villages, Bard College, and residential developments to the northwest and immediately south of the Village of Red Hook, are served by existing central water supply systems. The entire community, except for the Village of Tivoli and Bard College, depend on private, on-site sanitary sewage disposal facilities.

The Modified Action would result in the consumption of less water and discharge of less sewage into ground and/or surface waters than build-out under the existing Zoning, which the Town Board finds is a beneficial impact. Moreover, the Modified Action would concentrate new development in the proposed TND District where it could be served by municipal water and community sewer provided by a developer, rather than continuing to disperse development throughout the landscape where it would be served by individual groundwater wells and septic systems discharging into the ground. As noted in the recent Dutchess County Aquifer Study, “*concentrating most new development in and around traditional mixed-use, walkable cities, villages and hamlet centers is still one of the best strategies to protect natural resources and the rural countryside, which provides significant filtering and recharge of our groundwater resources.*”<sup>7</sup> The Chazen Companies groundwater report (included as Appendix G of the DGEIS) determined that there would be an adequate amount of groundwater to support development in the proposed TND District.

The New York State Department of Health, in discussing the use of septic systems in rural and suburban areas, recommends that “*Wherever possible, sewage should be collected in community sewers connected to a central treatment plant.*” The Modified Action, therefore, is consistent with established State policies to avoid a proliferation of septic systems throughout the Town’s rural and suburban areas.

### **Community Services and Infrastructure--Public Schools**

The Red Hook Central School District encompasses approximately 90 square miles and includes most of the Town of Red Hook, and portions of the Towns of Rhinebeck and Milan in Dutchess County as well as Clermont and Livingston in Columbia County. Total enrollment in the Red Hook Central School District is currently 2,231 students. Enrollment in recent years has remained relatively stable, with only slight increases and decreases in the last five years. Previously, the District experienced a steady enrollment growth at an annual rate of 2.5%.

The Fiscal Impact Analysis conducted by Fairweather Consulting includes a detailed projection of future operating costs for the Red Hook Central School District under the Town’s existing Zoning. At full build-out, it is projected that the additional 2,479 new school-age children generated by new residential construction under the existing Zoning

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<sup>7</sup> *Dutchess County Aquifer Recharging Rates and Sustainable Septic System Density Recommendations* (The Chazen Companies, April 2006), page iv.

would more than double the School District's current enrollment and would require an increase of approximately \$28,839,930 in operating costs annually. These new costs would be partially offset by the \$17,340,946 in additional property tax revenues generated by the new residential growth. However, the net result would be an annual loss of \$11,498,983. It should be noted that this does not include the cost of capital improvements that may be required due to growth from new residents and school-children.

The Modified Action, which includes the TND District with its requirement for a range of housing types, which includes additional commercial development, and which reduces the potential build-out of the Town, would minimize potential impacts to the school district. The Fiscal Impact Analysis estimates that the reduction in the number of new school age children to 962 children generated by new residential construction under the Modified Action would reduce the annual loss in school revenues by approximately \$7 million, a significant improvement over the existing zoning. The Town Board finds that the Modified Action would significantly diminish the future tax burden in comparison to the current Zoning, a beneficial impact.

### **Cultural and Historic Resources**

Red Hook has a rich cultural past spanning over 300 years of European settlement and thousands of years of prehistoric habitation. This legacy is recognized in a nationally significant historic district and many scattered historic sites throughout the Town. The Hudson River National Historic Landmark District was designated by the US Secretary of the Interior in 1990 and is one of the nation's largest landmark districts. Its aim is to preserve the great estates region of the Hudson River Valley. The District includes over 500 contributing structures and features, and two sites (Montgomery Place and Rokeby) which are individually listed on the State and National Registers in Red Hook. Most of the estates included in the District would individually meet the criteria for listing on the State and National Registers, but they gain additional significance from their grouping along the Hudson River. The District, which draws 500,000 visitors annually, also has significant economic benefits for the region. In 1997, a Marist College-Greenway Council Survey estimated that the annual economic impact of these visitors was as much as \$250 million.

Outside the National Historic Landmark District, the following properties in the Town of Red Hook are individually listed on the National Register of Historic Places: Heermance (Bulkeley) Farmhouse; Hendrick Martin Stone House; St. Margaret's Orphanage; Parker Training Academy Dutch Barn.

A review of the NYS Site Inventory for pre-historic and historic sites indicates that archaeologically sensitive areas in the Town (areas with the potential for additional archaeological discovery) are primarily associated with the National Historic Landmark District and with historic sites listed on the National Register in the Town and Village of

Red Hook. Archaeologically sensitive areas contain one or more variables that make them likely locations for evidence of past human activities. The DGEIS identifies the location of all National Register sites and the general location of archaeologically sensitive areas in the Town of Red Hook.

Potential impacts to historic and cultural resources could result whenever development occurs in proximity to historic sites listed on the State and National Registers of Historic Places and in archaeological sensitive areas. It should be noted that all areas of Town that would be affected by the proposed amendments currently permit development and associated land disturbance. The potential impact of development on historic and cultural resources would thus not be increased by the Modified Action. Site specific investigations must be undertaken whenever development is proposed in proximity to historic sites and in archaeologically sensitive areas in accordance with the standards for cultural resource investigations adopted by the New York State Office of Parks, Recreation and Historic Preservation. The Town Board finds that no significant adverse impacts to historic and archaeological resources will occur as a result of the Modified Action.

### **Community Character**

Red Hook's community character has been defined in officially approved or adopted planning and zoning documents. Red Hook's *Comprehensive Plan* begins with a concise statement of the community's character:

“Although it is experiencing moderate population growth, the Town of Red Hook remains predominantly rural in character, with many distinguishing scenic resources, including country roads; open views of agricultural fields, mountains and woodlands; streams and other waterways; and its Hudson Riverfront setting. The rural character and scenic features are identified as important elements contributing to the sense of place and the quality of the living environment within the Town. The community's objective is to maintain this overall sense of rural character while accommodating the inevitability of growth and change. . . .“

The *Town of Red Hook, Village of Red Hook and Tivoli Open Space Plan* adopted by the Town Board in 2006, funded by the Hudson River Valley Greenway and a joint undertaking of the Town and two Villages, discusses the character of the Red Hook community as follows:

“The Red Hook community is twice blessed. First it is endowed with a bounty of open space resources that range from tidal wetlands to productive farmland, and include a variety of scenic, recreational and historic resources. Second, the Red Hook community is fortunate because its residents realize the value of these resources. Their acknowledgment of these values is demonstrated in the community survey where 88% said 'yes' to the question: do you believe the

community should actively pursue protecting open space as an ‘investment’ for keeping the community fiscally healthy and affordable?...Protection of farmland and other ecological, recreational, and scenic resources assures continuance of community character. A significant portion of the open space recommended for protection is productive farmland, important because agriculture occupies one third of the community’s land area and contributes significantly to the rural character and scenic working landscape of the community. Protection of open space land is necessary if we are to control sprawl development, protect wildlife habitat, maintain historic character, preserve scenic and rural roads, provide passive recreational opportunities, maintain water quality, preserve architectural and archaeological resource, and protect scenic corridors and views.”

A number of other planning studies and related documents<sup>8</sup> prepared in the past also provide consistent evidence of Red Hook’s characterization of and commitment to protect the character of its community.

As described in the subsection on Land Use, Zoning and Public Policy, the existing Zoning can be expected to change the Town from a predominantly rural community to a more suburban-like community. Houses would sprawl over the agricultural and other scenic landscapes and commercial strip development would continue to line the Route 9 corridor south of the Village of Red Hook in an auto-dependent manner. The Modified Action on the other hand, would direct new growth into a compact pattern that continues and strengthens the Town’s existing rural and agricultural character by concentrating mixed uses in a pattern of compact growth through the retrofitting of an almost exclusive commercial district while adding protections and reducing densities in the Town’s most rural and agricultural areas. The result would be a gradual transformation of a commercial strip into a traditional walkable Main Street more in keeping with small town character.

The TND District would permit development at levels that match the prevailing pattern of existing development within the village areas, which is consistent with the character of Red Hook’s settlements. The TND District would accommodate a more modest level of growth in the Town than would be possible now under Red Hook’s more suburban-oriented Zoning Districts pattern as outlined in the Build-Out Analysis. The TND District would permit a compact, mixed-use neighborhood where residential, commercial, and civic buildings are in close proximity to each other. This is a planning concept that is based on traditional small town development principles and would enhance the existing small town, rural community character of Red Hook. By allowing for village scale development in and adjacent to existing settled areas, density in areas outside the villages

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<sup>8</sup>For instance, see “Recommendations of the Land Use, Conservation and Development Working Group Report,” “Trails Feasibility Study,” Purchase of Development Rights Program (Chapter 56 of the Red Hook Code), Community Preservation Plan legislation (i.e. New York State Town Law Section 64-h and Chapter 57 of the Red Hook Code).

can be reduced without adverse impacts on housing affordability. A diversity of dwelling options would be provided in the TND District, including allowances for apartments, cottages, duplex units, townhouses and single family dwellings. The apartments and cottages would provide for a more affordable housing option that is possible now with the Town's predominant pattern of single family dwellings. Moreover, row or attached dwellings would be added as a permitted use in the R1 and Hamlet (H) Zoning Districts. These measures are intended to ensure an adequate supply of more affordable housing types in the Town.

Coupled with the use of conservation subdivision throughout the Town, the proposed Zoning provisions would ensure that the greenbelts defining the edge of the villages are maintained. In terms of the southern gateway into the Village of Red Hook, the proposed TND Office-Industrial Subdistrict would require a minimum 200 foot setback and landscaped buffer from US Route 9 to effectively screen structures and parking on a year-round basis from views from Route 9 through the preservation of existing vegetation and landforms, and by substantial new plantings. These measures are intended to ensure that the greenbelt south of the TND is maintained. Design standards in the TND District's form-based Zoning amendments would ensure that new development follows the design principles and patterns of development that the villages were originally based upon. The Town Board finds that preservation of the historic "town and country" development pattern of the Town, which will result from the proposed Zoning, is a beneficial impact on community character.

The proposed village-scale development in the TND District could have the potential to have adverse impacts on adjoining lands resulting from increased noise, light and air quality impacts. These potential impacts can and should be addressed by site-specific SEQRA reviews of any development proposed in the future in the TND District. In any case, the Town already has performance standards for noise found in § 143-25 of the Zoning Law, in addition to standards for outdoor lighting found in § 143-27.1. Potential air quality impacts from increased traffic would be minimized or avoided altogether by the provision of a mix of land uses, interconnected streets, sidewalks and small lots, all of which would create a pedestrian-friendly environment, encourage walking and discourage driving. The existing Zoning, on the other hand, forces people to drive by separating different land uses and by locating houses at a distance from each other, frequently on cul-de-sacs that are not internally connected to neighboring subdivisions. The proposed Zoning would thus include provisions that would avoid or minimize potential impacts of the proposed TND District on noise, light, and air quality.

The proposed AB District would enable and encourage agriculture to continue to thrive in the Town by permitting farmers greater business opportunities, such as larger farm markets and a wide range of agri-tourism businesses, to enhance farm income. This is consistent with the goals of the *Comprehensive Plan*, *Open Space Plan*, and *Zoning Law*. Many of the new agriculturally related uses would receive a streamlined review process.

Farmers could choose different options for their properties. Under the conservation option, they could participate in the Town's PDR program, community preservation fund or incentive zoning program, to sell their development rights at the rate allowed under the current zoning as depicted on the 1999 Zoning Map, while retaining the right to build some new homes on the farm in a farmstead complex without the need to subdivide. Under the limited development option, farmers could develop their lands at a reduced density based on a sliding scale using conservation subdivision design so that new residential development did not adversely impact other farms in the area. Alternatively, parcels that are 100 acres and greater in size at the time of adoption of the Local Law would be permitted to subdivide lots a minimum of 40 acres in size. The remaining lands will retain their previous full development potential under the limited development option, minus one (1) dwelling unit for each new forty (40) acre parcel. For example, if a 100-acre lot was created with one dwelling unit, the remaining sixty (60) acre lot would be permitted a total of nine (9) dwelling units sited in accordance with the siting standards of the AB District and preserving eighty (80) percent of the sixty (60) acre parcel. Thus, the 40-acre option does not increase density beyond what would be allowed in the limited development option (i.e., one dwelling unit per 10 acres).

The AB District would provide a number of beneficial social, economic and environmental impacts, as discussed previously. The AB District will not cause a substantial change in the use or intensity of use of land but rather will allow for a reduction in the intensity of use of land over what could occur under the existing Zoning. It will allow for a reasonable increase in the use of agricultural lands for agricultural purposes, consistent with the Town's *Comprehensive Plan, Open Space Plan, Zoning Law*, as well as Article XIV of the New York State Constitution, which states that: "*The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources.*"

Encouraging agriculture in the Town has the potential to create a hazard to human health for several reasons. Agriculture is an industry and, while many farms throughout the nation have moved away from the use of pesticides and artificial fertilizers by adopting certified organic farming methods, many farms, including some in Red Hook, have not. Thus, potentially dangerous chemical substances are used by farmers in the production of food and other crops. This will not create a hazard to human health that is not already present on the Town's existing farms nor is it an unnecessary hazard that has been determined by the State of New York to exceed reasonableness, based upon the fundamental need for growing food and other crops.

New York State Agriculture and Markets Law prohibits local laws, including zoning laws, to unnecessarily restrict farm operations. State Law also addresses whether the local law limits, restricts or prohibits the production, preparation and marketing of any crop, livestock or livestock product as a commercial enterprise. Pesticides and artificial fertilizers are commonly used throughout the Town by residential, commercial, industrial, and agricultural land uses at present. What must be examined from a planning and zoning standpoint is whether agriculture would be subjected to more intensive reviews or requirements than other land uses without a demonstrated link to a specific and meaningful public health or safety standard designed to address a real and tangible threat. Red Hook's AB District will allow agricultural land uses to continue, to expand and to prosper. This is the threshold that New York State uses to judge whether agriculture can enjoy the protections embodied by the State Constitution and New York State Laws. In regards to pollutant discharge from chemical substances, if it is found that a farm operation is in contravention of "generally accepted agricultural and farm management practices," the Town of Red Hook may request a "Commissioner's Opinion" from the Department of Agriculture and Markets, which will evaluate the situation on a case by case basis.

Based on the foregoing, the Town Board finds that the Modified Action will result in beneficial impacts to community character.

### **Economic and Fiscal Considerations**

Fairweather Consulting conducted a Fiscal Impact Analysis of the current Zoning, the Proposed Action and the alternatives studied in the DGEIS. For each option, the analysis includes a review of the costs and revenues associated with new development for the Town of Red Hook general budget, general and highway budgets, and the Red Hook Central School District (RHCS D). The analysis does not estimate the cost of capital improvements that may be required due to growth from new residents and school children, nor does it estimate how inflation will affect costs and tax revenues of the jurisdictions. It is thus based on conservative assumptions. The analysis does not include special improvement districts in the Town, such as lighting, drainage, sewer and water districts, since those districts' revenues would be driven by user charges, not property taxes.

Based on current *per capita* expenditures, the new residents added to the Town's population upon build-out under the the current Zoning would increase the Town's Townwide (general budget) appropriations by \$855,766, and the Town's TOV (general and highway budgets) appropriations by \$1,188,316. The addition of new school children under this scenario would increase school district appropriations by approximately \$28,839,930, using current per-pupil estimates. These new costs would be partially offset by the additional property tax revenues generated by the Town's residential growth. As estimated by the Fiscal Impact Analysis, the added value of new housing units would generate an increase of \$805,821 in the town's Townwide (general

budget) revenues and \$1,128,261 in the town's TOV (general and highway) budget. Property taxes on the new units would generate an estimated \$17,340,946 in revenues for the RHCSD. The net result would be a total annual loss of \$11,608,983.

The Modified Action would significantly reduce the number of new dwelling units that could be developed within the Town. It would also permit an increase in commercial development in the TND District, creating the potential for 140,000 square feet of new commercial space in the Commercial Center of the TND District, and an additional 180,000 square feet of hotel and light industrial uses in the Office-Industrial Subdistrict. Moreover, the Modified Action would encourage the preservation of farmland, which cost-of-community services studies have repeatedly found is cost-effective since farms, on average, demand only \$0.35 in community services for every tax dollar realized; residential development, on the other hand, requires \$1.16 in services for every tax dollar realized. Thus converting farmland to residential uses can have adverse impacts on the tax base. By reducing the amount of potential residential development, increasing commercial opportunities, and preserving farmland, the Modified Action would bring land uses in the Town into better balance, which would have beneficial impacts on tax revenues. As shown in the Fiscal Impact Analysis, the Modified Action would significantly diminish the future tax burden in comparison to the current Zoning by generating approximately \$7 million in additional tax revenues per annum over the current Zoning at build-out. Thus, the net fiscal impact of the Modified Action represents a significant improvement over the current Zoning. The Town Board has determined that the Modified Action would minimize impacts on community services and the Town's fiscal conditions.

### **Unavoidable Adverse impacts**

Unavoidable adverse impacts are defined as those that meet the following two criteria:

- There are no reasonably practical mitigation measures to eliminate the impact.
- There are no reasonable alternatives to the Proposed Action that would meet the purpose and need of the action, eliminate the impact, and not cause other or similar significant adverse impacts.

The DGEIS and FGEIS evaluated the Proposed Action and alternatives at a generic level. The DGEIS and FGEIS indicate that there were no potential unavoidable adverse impacts identified for the Proposed Action or the alternatives that were selected for the Modified Action. The DGEIS and FGEIS did not, nor could it, evaluate potential site-specific impacts that may result from development of parcels based on the proposed Zoning and Subdivision Laws. As such, future site-specific environmental impact assessments of development proposals may identify unavoidable adverse impacts; but those impacts would be more a function of the site-specific conditions or the development program and not a function of the Modified Action.

## **Irreversible and Irretrievable Commitment of Resources**

The Modified Action would not directly result in the irreversible and irretrievable commitment of resources. To the extent that specific development encouraged by the Modified Action occurs, the building materials used, energy and electricity, and human effort expended in the construction process would be considered irretrievably committed. Given that the Modified Action would result in a reduction in total potential residential development levels compared to what the existing Zoning Law would permit, it is likely that this commitment of resources would also be less than what would be expected under the existing Zoning. It should also be noted that the decisions to amend the Zoning and Subdivision Laws and the *Comprehensive Plan* are, in fact, reversible.

## **Growth Inducing Aspects**

The Modified Action is intended to manage new development in a manner that is consistent with the vision of the Town's *Comprehensive Plan* (through the proposed amendments to the Zoning and Subdivision Laws). The Modified Action in itself will not result in new development and will not result in conditions that will make development any more, or any less, likely to occur within the Town of Red Hook. The Modified Action simply modifies the permitted densities, locations, and permitted or desired configuration of new development.

Future development in the Town, whether permitted by the existing Zoning or the Modified Action would likely generate additional residential or commercial populations, additional demands on community services, additional traffic, and additional pressure on environmental resources. However, the Modified Action will reduce overall levels of development when compared to existing Zoning. As discussed previously, the Modified Action would result in approximately 2,168 fewer dwellings units in Town. Under existing Zoning approximately 3,588 new dwelling units could be constructed in the Town. With the Modified Action, approximately 1,420 new dwelling units could be constructed. The Modified Action would also permit a modest increase in commercial development in the proposed TND District resulting from relaxed setback and parking standards in the Commercial Center and from the creation of the Office-Industrial Subdistrict; however, the Town currently has a floating Light-Industrial District which would permit similar light industrial uses on these lands. The Modified Action does not propose changes which will significantly affect commercial development at the scale of the entire Town. Therefore, the Modified Action does not have significant growth-inducing aspects.

To the extent that the Modified Action reduces permitted development levels within the Town, market demand for that development may cause increased interest in development in neighboring communities. However, the Modified Action includes a land use strategy based on well-considered plans for local and regional growth management that includes priority growth areas where new residential and commercial development is encouraged

(and permitted densities could be increased over existing permitted levels) to minimize the amount of development that would occur distant from existing centers or existing emerging centers. This provision may offset some of the potential displacement of growth from lower-density portions of the Town into surrounding communities. It should also be noted that the Modified Action was developed in collaboration with the Dutchess County Department of Planning and Development and the Villages of Red Hook and Tivoli, and is based on recommendations for intermunicipal actions to manage growth in a regional fashion.

### **Effects on the Use and Conservation of Energy Resources**

The Modified Action would not, in itself, consume any energy, nor would it have a direct impact on the energy supply system. However, development made possible by the Modified Action could lead to increased energy usage above existing conditions. Since the Modified Action would result in a reduction in total potential residential development levels compared to what the existing Zoning Law would permit, it is likely that total energy utilization would also be less than what would be expected under the No Action Alternative.

The Modified Action would have the effect of reducing vehicle miles travelled between residences and shops, services and other destinations by potentially shifting 240 dwellings from large lots in outlying areas of the Town to small lots in the centrally located TND District. This change in the location of new residential development would result in shorter automobile trips and would facilitate alternative modes of transportation such as walking, biking, public transportation, and car pooling. The Modified Action would also keep agriculture close to major markets, which would minimize vehicle miles required for transportation of agricultural products. The reduction in vehicle miles traveled and the increased use of transportation alternatives would reduce energy consumption and reduce greenhouse gas emissions.

### **Certification to Approve:**

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

1. The requirements of 6 NYCRR Part 617 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts shall be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable.

3. Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR Part 600.5, this action shall achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

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**Sue T. Crane, Supervisor**

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Date Signed

Address of Agency: 7340 South Broadway, Red Hook, New York 12571

## **SEQRA FINDINGS STATEMENT DISTRIBUTION**

### **A copy of this Findings Statement has been sent to:**

#### Lead Agency

Town of Red Hook Town Board and Town Supervisor

#### Interested and Involved Agencies

Town of Red Hook Town Clerk

Town of Red Hook Planning Board

Town of Red Hook Zoning Board of Appeals

Town of Red Hook Agriculture and Open Space Advisory Committee

Town of Red Hook Conservation Advisory Council

Town of Red Hook Economic Development Committee

Town of Red Hook Farmland Protection Committee

Town of Red Hook Design Review/Hamlet Committee

Town of Red Hook Greenway and Trails Committee

Town of Red Hook Recreation Commission

Town of Red Hook Water Board

Town of Red Hook Zoning Review Committee

Intermunicipal Task Force

Red Hook Central School District

Red Hook Public Library

Tivoli Free Library

Village of Red Hook Board of Trustees

Village of Tivoli Board of Trustees

Village of Saugerties Board of Trustees  
Town Board of the Town of Rhinebeck  
Town Board of the Town of Milan  
Town Board of the Town of Clermont  
Town Board of the Town of Saugerties  
Town Board of the Town of Ulster  
Dutchess County Department of Planning and Development  
Dutchess County Department of Health  
Dutchess County Water and Wastewater Authority  
Dutchess County Department of Public Works  
NYS Department of State (Coastal Management and Local Government)  
NYS Department of Transportation  
NYS Department of Environmental Conservation  
NYS Department of Agriculture and Markets  
NYS Office of Parks, Recreation, and Historic Preservation  
Pace University Land Use Law Center  
Hudson River Valley Greenway  
Hudson River Heritage  
Scenic Hudson  
J. Theodore Fink, AICP  
Christine Chale, Esq.