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June 21, 2021

Via Email (tokclerk@gmail.com; UlaFest@gmail.com)

John Konior, Chairman
Town of Kingston Planning Board
Town Hall
906 Sawkill Road
Kingston, NY 12401

**Re: 850 Route 28 - Public Hearing Comment
Proposed 850 Route 28 Manufacturing Project
Comments on SEQR Review of Project**

Dear Chairman Konior and Members of the Planning Board:

This office submits this letter and the enclosed Greenplan Inc. letter on behalf of Catskill Mountainkeeper, Inc. ("Catskill Mountainkeeper") and the Sierra Club Mid-Hudson Group. Please accept these letters as written comments on the application submitted by 850 Route 28, LLC ("Applicant") for the proposed Manufacturing Facility (the "Project"). We request that these letters be made a part of the Record of today's public hearing and/or the current written comment period regarding the Project's application.

Catskill Mountainkeeper has retained J. Theodore Fink, AICP, with Greenplan, Inc., who is a professional planner and professor of environmental science and policy including environmental impact assessment. Mr. Fink has been retained to provide analysis of the compliance with the State Environmental Quality Review Act ("SEQRA") and the applicable Town and County Zoning Code and Comprehensive Plans. As mentioned above, annexed hereto is Greenplan, Inc.'s comment letter, dated June 21, 2021, regarding the Project's Site Plan and Special Use Permit applications ("Fink Letter").¹ Mr. Fink's review focuses on the Full Environmental Assessment Form (EAF) documents submitted by the Applicant in support of the proposed Project. While we reference Mr. Fink's comments herein as support of Catskill Mountainkeeper's and Sierra Club Mid-Hudson Group's position concerning this Project, we request that Mr. Fink's full comments are made a part of the record.

SEQRA Procedure

The Town of Kingston Planning Board ("Planning Board") adopted a Resolution on August 29, 2019 (the "Resolution") determining to rescind the negative declaration for the Project

¹ J. Theodore Fink's Curriculum Vitae is also included with this submission to the Planning Board.

due to the potential that it “may have a significant adverse environmental impact.” The Planning Board’s action to rescind must be followed by a positive declaration regarding the Project. Fink Letter, p. 1-2. Pursuant to the relevant SEQRA regulations:

At any time prior to its decision to undertake, fund or approve an action, a lead agency must rescind a negative declaration when ... the lead agency determines that a significant adverse environmental impact may result. Prior to any rescission, the lead agency must inform ... the project sponsor and must provide a reasonable opportunity for the project sponsor to respond. If, following reasonable notice to the project sponsor, its determination is the same, the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.

6 NYCRR 617.7(f)

Thus, any time period provided to the Applicant to respond to the Planning Board’s determination to rescind the negative declaration would occur prior to the rescission. See 6 NYCRR § 617.7(f)(2). Upon proceeding with the rescission, the Planning Board “must prepare, file and publish a positive declaration.” 6 NYCRR 617.7(f)(3). The Planning Board’s upcoming public hearing and current comment period is valuable to obtain further public participation. However, regardless of whether the Planning Board agrees with the public input, as lead agency, it must proceed with a positive declaration for the Project as a result of the negative declaration rescission. See 6 NYCRR § 617.7(f).

Also, the Planning Board seemed to raise the Town’s zoning change as a contributing issue to the rescission. Therefore, aside from the procedure requirement for the positive declaration as stated above herein, the Planning Board identified a substantive issue that will potentially have significant impacts under SEQRA. Mr. Fink highlights the need for consistency with the Town Zoning Law under SEQRA:

When completing the Part 2 EAF, as discussed below, there are two topical areas in which an environmental assessment of consistency must be made. Question 17, Consistency with Community Plans, and Question 18, Consistency with Community Character, both require that the action be posed against a series of questions relating to whether “The proposed action is inconsistent with any local land use plans or zoning regulations” among other thresholds. This is only one of 13 questions on community plans and community character that each must be answered by the Planning Board. The entire action including changes to the Zoning Law and possible changes to the Comprehensive Plan, represent a “Moderate to large impact may occur” threshold and as such, require identification of all relevant areas of environmental concern that may be impacted by the action. The Planning Board is also responsible for preparation of a written determination: “containing a reasoned elaboration and providing reference to any supporting documentation.” to support its decisions. [see Part 2 EAF, question 17a through g, question 18a through f, and 6 NYCRR 617.7(a)(2)].

Fink Letter, p. 4.

Further, Mr. Fink elaborates on the Zoning Map Amendment as another procedural step in the SEQRA process that must be addressed by the Town.

A Zoning Map amendment from the Town Board changing the existing MU-2 Zoning District to the MU-1 Zoning District, must be included in the potential environmental impacts of the proposed action, which has not been included to date. The Zoning Amendment impacts must be assessed generically under SEQR, in addition to the site-specific impacts of the proposed industrial facility on the property and the neighborhood. This requires that a generic environmental impact assessment of the Zoning change is carried out for the broader community and region.

Fink Letter, p. 2.

Finally, as Mr. Fink notes, public submissions have identified numerous substantive issues related to the Project that are expected to result in significant adverse environmental impacts. Fink Letter, p. 2-5.

Since this Resolution was adopted, additional new environmental information, detailing potentially significant adverse impacts, has been revealed by numerous authoritative organizations and professionals. The SEQR rules for a Positive Declaration specify that: "To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse impact." [emphasis added, see 6 NYCRR 617.7(a)(1)].

Fink Letter, p 3.

The Planning Board Resolution already identifies the potential for at least one significant adverse impact, which triggers the requirement for a positive declaration. Aside from the Resolution, the additional substantive and significant issues identified by public comment further supports the need and requirement for a positive declaration. Fink Letter, p 2-5.

Community Character

SEQRA analysis and the Project's application does not adequately address community character, even though an assessment of such impacts is not only warranted for the proposed action but is required by the State Environmental Quality Review Act (SEQR) and Regulations [see New York State Environmental Conservation Law (ECL) Section 8-0105 and Regulations at 6 NYCRR 617.2(l) and 617.7(c)(1)(v)]. Fink Letter, p. 2. SEQRA defines the term "environment" broadly to include, "the physical conditions which will be affected by a proposed action, including ... existing patterns of population concentration, distribution, or growth, and existing community or character." ECL § 8-0105(6). "The impact that a Project may have on population patterns or existing community character ... is a relevant concern in an environmental analysis." *Chinese Staff & Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 366, 502 N.E.2d 176 (1986). Adverse impacts to community character are clearly cognizable under SEQRA. *Matter of Chinese Staff &*

Workers Ass'n, 68 N.Y.2d 359 ; *Jackson v. New York State Urban Dev. Corp.*, 67 N.Y.2d 400, 494 N.E.2d 429 (1986); *Matter of Lane Construction*, 1998 WL 389019 (N.Y. Dep't Envtl. Conserv.).

The proposed Project creates potential impacts on socio-economics, recreation and open space, noise, tourism, aesthetics and visual resources, health and safety, and cultural resources, all of which are intertwined with the community character of the Catskills Region. These effects also impact the region's local municipalities and their role in influencing community character through official planning and zoning documents, including plans for tourism in the region.

As the NYSDEC guidance explains:

Many people define their community's character in very general terms: suburban, rural, urban, quiet, safe, scenic, or friendly are terms often used. Others describe community character only in terms of visual features. Community character is broader than this however. Community character is defined by all the man-made and natural features of the area. It includes the visual character of a town, village, or city, and its visual landscape; but also includes the buildings and structures and their uses, the natural environment, activities, town services, and local policies that are in place. These combine to create a sense of place or character that defines the area.

Environmental Assessment Form Workbook, Part 2, question 18.

Further, the Applicant proposes the site or a location off of New York State Route 28 surrounded by the Bluestone Wild Forest in Catskill Park. This portion of Kingston is one of the most recognized gateways into the Catskills. Tourists heading to the heart of the Catskills often begin their trip on the Catskill Mountains Scenic Byway that begins with Route 28 in Kingston. This 52-mile Byway primarily follows Route 28 and connects the hamlets of Phoenicia and Pine Hill, the villages of Fleischmanns and Margaretville, and the towns of Olive, Shandaken, Middletown and Andes.

Generally speaking, gateways help define the edge of a community, providing a point of entrance to let the traveler know he/she has "arrived" in the community. Similarly, byways, hamlets and towns which are "gateways" to a region develop their own community character and economy based upon the traits and the characteristics of the region. Kingston and the communities mentioned above that are connected by Route 28 represent unique places distinguishable from other communities by the particular character of those hamlet communities and their proximity to and connection with some of the most visited high peaks of Catskill State Park.

Community character is uniquely and intimately linked to the area's natural, cultural, historic, aesthetic and community resources. *Wal-Mart Stores Inc. v. Planning Bd. of Town of N. Elba*, 238 A.D.2d 93, 668 N.Y.S.2d 774, 776 (3d Dep't 1998). Although ultimately decided on local zoning law grounds, the cited *North Elba* case involved adverse environmental impacts to a community in the Adirondacks. In that instance, the court found that the project also ran afoul of SEQRA and the protections afforded to visual, aesthetic and community character resources. *Wal-Mart Stores Inc.*, 668 N.Y.S.2d at 776. Recognizing the unique nature of the resource that the Town of Lake Placid in the Adirondacks presents, the Court further observed that "with respect to

the store's [Wal-Mart] likely impact upon community character, it appears that the evidence . . . that other communities have suffered no decline in commercial property values after a Wal-Mart store opened is of little probative value, for most of the areas studied are not truly comparable to the Lake Placid region, a premier resort and tourist community." *Id.* at 97.


The issue of community character is both substantive and significant to this proceeding. Examination of the full scope and depth of the issue requires assessment of the impact of the proposed facility in the context of Route 28 and Kingston acting as a recognized gateway to Catskill Park for tourists. Similar to the other communities and regions across the State that have been ruled to have an identifiable character, the character of the Catskills region and its *regional* brand of arts, travel and leisure presents a SEQRA issue that must be addressed by a Draft Environmental Impact Statement. *See, In the Matter of The Applications of Crossroads Ventures, LLC*, 2005 WL 2178473, at *83 (ALJ ruled, "It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities."); *See also, Wal-Mart Stores Inc.*, 668 N.Y.S.2d at 776.

Community character should be applied to a broader area on large projects that have the potential to alter population patterns or the large number of people that are drawn to a place like the Catskills. Fink Letter, p. 8. The Catskills today are far different than they were just a few decades ago when the economy depended on visitors to large hotels. *Id.* Many visitors and transplants have sought the quiet solitude of the exceptional natural environment found on Forest Preserve lands instead of the resort experience. *Id.* Long-term residents have stayed because the Catskills offers a refuge from the urban and suburban development that is encroaching upon many other areas of the State. The Catskills provide hundreds of thousands of acres today that are utilized as center for hiking, backpacking, camping, hunting, fishing, picnicking and other recreational activities. *Id.* Today, Towns such as Kingston and its neighboring municipalities depend upon this natural resource base, which has been deemed by the New York State Constitution to be "forever wild", as a vital economic driver and intrinsic attribute of the community's character. *Id.*

Due to the procedural factors and substantive issues raised by this letter and the letter of Greenplan, Inc., Catskill Mountainkeeper and the Sierra Club Mid-Hudson Group urges the Town and Planning Board to issue a SEQRA positive declaration concerning the Project.

Thank you for your attention to this matter. If you have any questions, please feel free to contact this office.

Very truly yours,


John L. Barone

cc: Roslyn Borghere (via email)
Dennis Weiss, Town Clerk (via email)
Richard Golden, Esq. (via email)
Kelly Naughton, Esq. (via email)

GREENPLAN

June 21, 2021

John Konior, Chairman
Town of Kingston Planning Board
Town Hall, 906 Sawkill Road
Kingston, NY 12401

Sent via email to Roslyn Borghere: UlaFest@gmail.com

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Re: 850 Route 28 - Public Hearing Comments
For Distribution to Planning Board and Town Board Members

Dear Chairman Konior and Members of the Planning Board:

GREENPLAN Inc. is assisting Catskill Mountainkeeper with a review, analysis, and comments on the proposed 850 Route 28 structural steel and precast concrete manufacturing facility on a 110.6 acre parcel in the Town. I am submitting this letter for the Planning Board's consideration at the June 21, 2021 Public Hearing on the project's Site Plan and Special Use Permit applications. This review has focused on the Full Environmental Assessment Form (EAF) documents submitted by the applicant in support of the proposed development. This includes the original EAF dated 11/18/19, the Environmental Assessment Form Addendum for 850 Route 28 LLC Proposed Manufacturing Facility (Addendum) dated as revised to February, 26, 2020, and such other documents as noted in the Addendum. This letter presents the results of my review and analysis of the documents and it includes both procedural and substantive issues that must be properly resolved.

Summary of Comments

This comment letter will discuss the thresholds already reached for a focused and full environmental impact statement (EIS) process to assess the industrial facility's significant adverse impacts on the environment. According to the statement made on page 6 of 28 in the applicant's Addendum: "The PB rescinded the Negative Declaration on August 29, 2019 because it determined that the new information presented by the public comments indicated that the project may have a significant adverse environmental impact and, together with the new involvement of the Kingston Town Board as a SEQRA Involved Agency owing to the Town Board's introduction of a Local Law proposing a Zoning Map change to include the property in the MU-1 district."

What the above means for the Planning Board's SEQRA review is that an official determination has already been made under SEQRA that obligates the Board to take the next step required under the SEQRA Regulations [see 6 NYCRR 617.7(a)(1), which states: "To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse environmental impact."]. The Resolution adopted by the Planning Board on August 29, 2019 similarly concluded that: "The new information presented by public comments as noted above may have a significant adverse environmental impact and, together with the new involvement of the Kingston Town Board as a SEQRA Involved Agency, hereby rescinds its prior

SEQRA *Negative Declaration and to make a future SEQRA determination of significance.*" [see Town of Kingston Planning Board 850 ROUTE 28, LLC SEQRA Resolution dated August 29, 2019].

In a case like this, issuance of a Positive Declaration is required by the SEQR regulations and it begins by notifying the applicant, involved and interested agencies, and the public that a Draft EIS will be prepared. From my review of the record, this required step has not as yet been carried out but should be completed as soon as possible. As discussed below, the rules for rescission of a Negative Declaration under SEQR further commit the Planning Board to a course of action that requires an EIS to be prepared.

The second procedural step in the process is that related actions that are required for the action to proceed, namely a Zoning Map amendment from the Town Board changing the existing MU-2 Zoning District to the MU-1 Zoning District, must be included in the potential environmental impacts of the proposed action, which has not been completed to date. The Zoning Amendment impacts must be assessed generically under SEQR, in addition to the site-specific impacts of the proposed industrial facility on the property and the neighborhood. This requires that a generic environmental impact assessment of the Zoning change is carried out for the broader community and region. For example, what other uses would be permissible on the property, once the Zoning has been amended from MU-2 to MU-1 and then the proposed manufacturing facility does not move forward. The site will have already been rezoned but other uses could be proposed and approved under the changed Zoning district. This means the full build-out potential of the entire site is assessed under the MU-1 Zoning District in a conceptual manner. It also means that any Zoning Map amendment enacted by the Town Board must be determined to be consistent with the Town's adopted 1996 Comprehensive Plan [see NY State Town Law Section 272-a.11.(a), which states: "*All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.*"].

From a substantive standpoint, this letter will focus on one potentially significant adverse impact of the proposed industrial development, that has received virtually no attention to date. That is the issue of impacts of the action upon community character. None of the documents I noted above mention the potential for adverse impacts upon community character, even though an assessment of such impacts is not only warranted for the proposed action but is required by the State Environmental Quality Review Act (SEQR) and Regulations [see New York State Environmental Conservation Law (ECL) Section 8-0105 and Regulations at 6 NYCRR 617.2(l) and 617.7(c)(1)(v)]. The ECL defines the term "*environment*" as encompassing community and neighborhood character, the Regulations mirror the Statute's definition, and such Regulations further require that potential adverse impacts on community character be assessed in all SEQR reviews.

SEQR Procedures

The Planning Board is to be commended for Rescinding the Negative Declaration (on August 29, 2019), due to anticipated significant adverse environmental impacts of the action identified during the Spring and Summer of 2019. It was the right call at that time and in hindsight is now even more important because it has provided an opportunity for other Involved agencies, Interested agencies, and the public with the opportunity to respond further to the rescission. In addition, linking the need for a Zoning Amendment from MU-2 to MU-1 in order for the proposed project to proceed and identifying the Town Board as an Involved Agency on the action, was also the right action.

Now that further consideration of the potentially significant adverse impacts of the action have been reassessed under SEQR, it is time for the Planning Board to adopt a Positive Declaration and notify the applicant that a Draft EIS must be prepared. In the adopted August 29, 2019 SEQRA Resolution, the Planning Board already determined that the proposed project “may have a significant adverse environmental impact.” Since this Resolution was adopted, additional new environmental information, detailing potentially significant adverse impacts, has been revealed by numerous authoritative organizations and professionals. The SEQR rules for a Positive Declaration specify that: “To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse impact.” [emphasis added, see 6 NYCRR 617.7(a)(1)]. The potential adverse impact issues include but are not limited to the following relevant areas of environmental concern:

- Eligibility of the approximately 800 acres of the Bluestone Wild Forest adjacent to and extending onto the area of the 850 Route 28 parcel for the National Register of Historic Places [see August 7, 2020 letter from Office of Parks, Recreation and Historic Preservation (OPRHP)]. The OPRHP has called for additional cultural resource documentation on the site to determine the potential adverse impacts of the proposed project on the early to mid 19th century Hemlock Historic Quarry District. In addition, the OPRHP followed up with an April 12, 2021 letter to the Planning Board that further reinforces their position that additional studies to address adverse impacts on National Register eligible properties is warranted. This recent letter states: “The OPRHP does not concur with the Report’s conclusion [i.e. “Phase 1B Archaeological Addendum 850 Route 28, LLC Steel and Concrete Fabrication Facility Report” (the Report), prepared by Joseph Diamond, (October 6th 2020; 20SR00640)] that the Phase 1B Addendum analysis mitigates the adverse impacts of the project on the early to mid-nineteenth century Hemlock Historic Bluestone Quarry District (11106.000034), which OPRHP has determined is eligible for the New York State and National Registers of Historic Places, and that no further work is warranted for this project. It is the OPRHP’s opinion that additional systematic Phase 1B archaeological survey work is warranted for all undisturbed portions of the project area to investigate the potential for portions of the former Waughkonk Road, for other quarry related features such as stone berms and worked sandstone flagstones, and for Native American sites that may be associated with the former trail.” When a: “a significant adverse impact may result” [see 617.7(f)(1)(iii)] “the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.”]. This issue alone warrants issuance of a Positive Declaration. In this case, preparation of a Part 3 EAF and issuance of an Amended Negative Declaration will be insufficient to demonstrate compliance with SEQR.
- Inadequate site hydrology needed to support the proposed water supply needs of the proposed project [see May 31, 2020 letter from David Walker, Earth and Environmental Sciences Professor at Columbia University]. Professor Walker’s comments demonstrate that site hydrology conducted by the applicant doesn’t meet the minimum requirements of the New York State Department of Health (DOH). They also assert that groundwater pumping tests conducted to date and water use estimates have the potential to adversely impact nearby wetlands and ponds including those on public parkland within New York State’s Forest Preserve.
- Adverse surface water and groundwater impacts and numerous other identified related water resource, geological resource, and cultural resource issues [see May 5, 2020 Report by Paul Rubin of HydroQuest]. Mr. Rubin has documented potential off-site adverse environmental impacts on Picketel Pond and its wildlife including loss of pond water from groundwater pumping. Mr. Rubin’s documentation of historic quarrying at the site led OPRHP to retract its prior finding of “No Impact” on historic resources. The OPRHP’s more recent requirement that additional cultural resource investigations be conducted is a prerequisite for the applicant to obtain any State Permits including

those from the New York State Department of Environmental Conservation (DEC), Department of Transportation, and possibly others (see bullet below).

- Inadequacy of wildlife studies completed to date by the applicant and the potential for significant adverse impacts on wildlife not previously assessed, such as noise impacts on wildlife [see September 9, 2020 revised Hudsonia Report by Erik Kiviat]. The Hudsonia Report concluded that: *"Site preparation and construction at 850 Route 28 for 2-3 years will have an ecologically significant adverse effect on some of the local fauna."* The Report also represented that: *"Environmental documents for the industrial project assert that, since agency guidelines will be followed (e.g., tree removal during winter only), there will be no harmful effects to the federally-listed Indiana bat and northern long-eared bat. Even if the wooded areas of the site are preserved, the construction and operations noise (and night lighting) may make the site and nearby areas uninhabitable by those bat species. Published research indicates that chronic loud noise from industrial activities can make habitat unusable by certain bat species (e.g., Bunkley et al. 2015). Noise can also deter other wildlife from using otherwise suitable habitats (Francis and Barber 2013). Many bird species are sensitive to chronic noise. Because comprehensive biological surveys have not been conducted at and near the industrial site, it is impossible for me to judge the extent to which species of conservation concern might be affected by the proposed project."* Mr. Kiviat's assessment represented that potential loss of habitat for the Indiana bat and northern long-eared bat, species protected by both State and Federal laws. The need for "taking" permits from the DEC and the US Fish and Wildlife Service will need to be documented and determined.
- Significant adverse impacts on the Catskill Park and especially the Bluestone Wild Forest lands that adjoin the site, are a part of the Catskill Forest Preserve protected under Article XIV of the State Constitution. These lands have been acquired by the State's residents to be *"forever kept as wild forest lands."* [see January 21, 2020 email correspondence from Bill Drudge, Natural Resources Supervisor, DEC Region 3 Office, to applicant's Engineer, Barry Medenbach found in Appendix J of applicant's Addendum]. Potential adverse impacts on constitutionally protected lands is certainly cause for concern and will need to be carefully evaluated in cooperation with State agencies, Ulster County, and the Town of Kingston.
- Consistency with the Town Comprehensive Plan and Zoning Law must be addressed under SEQR. When completing the Part 2 EAF, as discussed below, there are two topical areas in which an environmental assessment of consistency must be made. Question 17, Consistency with Community Plans, and Question 18, Consistency with Community Character, both require that the action be posed against a series of questions relating to whether *"The proposed action is inconsistent with any local land use plans or zoning regulations"* among other thresholds. This is only one of 13 questions on community plans and community character that each must be answered by the Planning Board. The entire action including changes to the Zoning Law and possible changes to the Comprehensive Plan, represent a "Moderate to large impact may occur" threshold and as such, require identification of all relevant areas of environmental concern that may be impacted by the action. The Planning Board is also responsible for preparation of a written determination: *"containing a reasoned elaboration and providing reference to any supporting documentation."* to support its decisions. [see Part 2 EAF, question 17a through g, question 18a through f, and 6 NYCRR 617.7(a)(2)].
- Discussed below is an outline of how the proposed project may impact community character. The community character associated with the region derives from the protections afforded to such lands by Article XIV of the New York State Constitution, which have been in place for the benefit of all New Yorkers since 1885. Just one month ago in May 2021, New York's highest court, the Court of Appeals issued a decision on Article XIV that summarized the importance of the Catskill Park as follows: *"The*

Forest Preserve is a publicly owned wilderness of incomparable beauty. Located in two regions of the Adirondack and Catskill Mountains, the Forest Preserve—with its trees, rivers, wetlands, mountain landscape, and rugged terrain—is a respite from the demands of daily life and the encroachment of commercial development. It has been this way for over a century because our State Constitution mandates: ‘The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.’ This unique ‘forever wild’ provision was deemed necessary by its drafters and the people of the State of New York to end the commercial destruction and despoliation of the soil and trees that jeopardized the state’s forests and, perhaps most importantly, the state watershed.” [emphasis added, Decision 21 of the New York State Court of Appeals, May 4, 2021, quote was downloaded from <https://nycourts.gov/crapps/Decisions/2021/May21/21opn21-Decision.pdf> on June 14, 2021]. Community character in the Town derives from different sources as discussed further below.

As noted above, the Planning Board only has one option before it and that is to issue a Positive Declaration. The decision is no longer discretionary as to whether an Amended Negative Declaration or a Positive Declaration is warranted. The SEQR Regulations at 6 NYCRR 617.7(f) clearly specify, under the Negative Declaration Rescission rules, that: “Following reasonable notice to the project sponsor, its determination is the same, [i.e. rescission of a negative declaration due to a determination: “that a significant adverse impact may result” as per 617.7(f)(1)(iii)] “the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.” [emphasis added]. Only one potential adverse impact is sufficient for a lead agency to issue a Positive Declaration. In this case, there are numerous adverse impacts on a wide variety of natural and cultural resources on the site and in the area that will result from the proposed industrial facility.

In addition to the above, there are issues of land use compatibility, impacts on the community character of the Town and Catskill region, consistency with the Town’s planning and zoning program, issues of Statewide importance such as off-site impacts on the Catskill Forest Preserve, and issues of Nationwide importance due to the National Register of Historic Places eligible resources on the site. This letter will not touch upon all other relevant areas of environmental concern that must be addressed by the Planning Board. The proper means to accomplish this is through preparation and thorough analysis of the Part 2 Environmental Assessment Form together with a review of 6 NYCRR 617.7(c), the SEQR Criteria for Determining Significance. My understanding is that this step has not as yet been accomplished. Only after this step is taken, should the Planning Board issue a Positive Declaration. Then, after issuing the Positive Declaration, the results of this analysis become the basis for a Draft Scoping Document that is prepared by the applicant. Then, the scoping process for the Draft EIS becomes the opportunity for Involved and Interested agencies and the public to become involved in the environmental review process.

Section 8-0109.4 of the New York State Environmental Conservation Law is clear that public input is essential to the SEQR review process. As stated in this section of the statute: “The purpose of a draft environmental statement is to relate environmental considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the environment, and to solicit comments which will assist the agency in the decision making process in determining the environmental consequences of the proposed action.” When important public resources like the Forest Preserve, National Register eligible sites, and other important environmental resources are involved, it becomes incumbent upon the agencies that administer SEQR to ensure that its terms are followed correctly, including a well-defined agency and public engagement component.

Community Character

Since community character is an essential element of the environment, as defined under SEQR, what exactly do the two terms mean and how does one even go about identifying it in the Town of Kingston, within the neighborhood of the proposed industrial facility, and can and should the larger Catskills region be included in an assessment of impacts on community character? Fortunately, New York State and the field of planning in general both have a wealth of information on how the unique features of a community and region can be characterized so that changes proposed as a result of new developments and their impacts on community character can be identified and assessed.

Community character has been broadly defined in SEQR guidance provided by the NY State Department of Environmental Conservation (DEC) and by the courts. For instance, DEC's 2020 The SEQR Handbook at page 84 states: "Community character relates not only to the built and natural environments of a community, but also to how people function within and perceive that community. Evaluation of potential impacts upon community or neighborhood character is often difficult to define by quantitative measures. Courts have supported reliance upon a municipality's comprehensive plan and zoning as expressions of the community's desired future state or character." Under this premise then, community character encompasses all elements of the Town of Kingston's Comprehensive Plan (Town Plan) adopted September 6, 1996. Terms used in the Town Plan to describe its existing and desired community character include "bucolic character," "rural character," "farming and other open space character." The Town Plan describes the Town of Kingston as: "A predominately rural, residential Town... [and] Route 28 serves as a gateway corridor to the Catskills." Further, "Most land uses appear to exist in relative harmony with one another. The Town has a rural, working feel rather than a suburban character, as might be expected of a location so close to the City of Kingston."

The Town Plan discusses how the Town of Kingston is predominantly a rural residential community. But it also discusses the Route 28 area and states that: "Route 28 serves as a gateway corridor to the Catskill Park... Kingston is located within the Catskill Park and approximately 40% of the Town consists of New York Forest Preserve, which by law, must remain forever wild. State land ownership is disjointed, resulting in many land locked parcels and generally poor access, and consequently inability to use Forest Preserve land...The Function and appearance of Route 28 as a gateway corridor to the Catskill Park should be enhanced and improved." [see Town Plan pages 2 and 3]. Each of these statements are hints as to the community character of the Town and region.

Another hint in the Town Plan about the Route 28 corridor and its community character is recommendation 4 on page 5, where it states that: "Except for Hill Road, Route 28, and Route 28A, which should be zoned 'Mixed Use', the remainder of land in the Town should be zoned 'Residential'. 'Mixed Use' allows for a mix of commercial and residential uses, both in the same building, on the same property, and on adjacent properties." Conspicuously absent from this Town Plan recommendation is any policy statement pertaining to industrial uses, since a heavy industrial use like the proposed structural steel and pre-cast concrete manufacturing plant, is not a commercial, mixed-use, nor residential land use.

The Town Zoning Law provides further evidence of the community character of the Town of Kingston. There are numerous references in the Zoning to "residential character" or the "rural character of residential neighborhoods," the "aesthetic character of the Town," or the "natural features and aesthetic character of the Town," and the "character of the neighborhood."

Omitting community character from the discussion of impacts in a SEQR environmental assessment, when it is relevant to a proposed action like the industrial facility, is contrary with caselaw on the issue of community character, as described in The SEQR Handbook. Such caselaw stresses the need to include community character issues such as sense of place, traffic, historic and pre-historic resources, noise, lighting, clean water and clean air, natural resources, population growth, socioeconomics, lifestyles, people, and visual and aesthetic values. Each of these issues overlap with topics normally addressed in a SEQR review but when looked at together, forms a composition that describes the existing community character of a community.

The impacts of the proposed structural steel and pre-cast concrete manufacturing facility on community character has been largely overlooked but may be one of the most significant environmental impact issues associated with the proposed project. This is because all elements of the Town Plan and others as described herein encompass the community character of the Town of Kingston. The Town Plan encourages commercial, mixed-use, and residential development in the Route 28 corridor but it also addresses the need to ensure that such development enhances and improves the Route 28 corridor as a gateway to the Catskills. This broadens the issue of community character to include the Catskills.

The Town Plan and Zoning Law provides indications of how the Town perceives its community character. But there are also quantitative measures that relate to the built and natural environment that can measure the impacts of a development project on community character. These include noise, lighting, truck traffic, blasting, loss of historic and/or pre-historic resources, and impacts on scenic views and aesthetic resources. For instance, noise estimates for a location at Pickerel Pond in the adjoining Forest Preserve lands have been calculated by the applicant to be 67.7 dBA with mitigation measures in place following construction.

While the above noise projections are subject to verification and may be louder than estimated, they can and should be compared with noise levels that have the potential to cause harm to humans and wildlife. Organizations such as the World Health Organization (WHO) and the US Environmental Protection Agency, Department of Housing and Urban Development, Federal Highway Administration, Occupational Safety and Health Administration, and others have well established noise level thresholds for avoiding noise pollution, designed to prevent health impacts such as hearing loss, sleep disturbance, annoyance and speech interference, among many other purposes.

According to the WHO, hearing impairment or loss can occur at decibel levels of about 70. This decibel level is the equivalent to what a person would be subjected to if they were about 100 feet from the noise made by a typical gas-powered lawn mower. The WHO's recommended noise levels¹ can be summed up as follows:

- To protect the majority of people from being moderately annoyed, noise levels should not exceed 50 decibels during the day.
- To protect the majority of people from being seriously annoyed during the day, the noise levels from continuous noise in outdoor living areas should not exceed 55 decibels.
- At night, outdoor noise levels should not exceed 45 decibels, so that a recommended level of 30 decibels inside bedrooms for continuous noise can be met with windows open.

¹ World Health Organization (WHO). 2018, Environmental Noise Guidelines for the European Region. Retrieved from <https://www.euro.who.int/en/health-topics/environment-and-health/noise/environmental-noise-guidelines-for-the-european-region> and World Health Organization (WHO). 1999, Guidelines for Community Noise retrieved from <https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>

In the above example, typical noise levels on protected Forest Preserve lands coming from the project site, will exceed by a considerable extent noise levels recommended based on sound science to prevent a hazard to human health. Hudsonia has also documented potential hazards to wildlife on Forest Preserve lands. Noise level increases that will occur off-site and combining this impact with an assessment of other measurable standards, such as the number of new truck trips, new lighting and any off-site spillage or glare that occurs associated with site development, the extent, frequency, and magnitude of blasting that will occur, loss of historic resources due to the proposed manufacturing facility's site layout, loss of scenic views from Forest Preserve and other dedicated open space lands adjoining or near the site all lead to an assessment of the cumulative factors that impact community character. Then, this cumulative analysis is assessed along with the characterization of community to arrive at how severe the adverse impacts could be on the "residential character" of the Town or the "rural character of residential neighborhoods," or "aesthetic character of the Town," or the "natural features and aesthetic character of the Town," as well as the "character of the neighborhood." [see Zoning Law and above discussion]. Identifying the relevant areas of environmental concern as part of the SEQRA determination of significance is tied in with item 5 in the SEQRA Criteria for Determining Significance [i.e. 6 NYCRR 617.7(c)(1)(v). This is where the proposed action has the potential to cause: "the impairment of the character of the quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character."

The above discussion of community character addresses the potential for impacts to the site and the immediate area surrounding the site including adjoining State Forest Preserve lands and nearby commercial and residential uses in the Town. Community character can also be applied to a broader area on large projects that have the potential to alter population patterns or the large number of people that are drawn to a place like the Catskills.

The Catskills today are far different than they were just a few decades ago when the economy depended on visitors to large hotels. Many of these hotels have now closed as people have sought the quiet solitude of the exceptional natural environment found on Forest Preserve lands instead. This has become even more obvious during the past year and a half, when city dwellers have flocked to the natural areas in the Catskills for hiking, backpacking, camping, hunting, fishing, and picnicking on the hundreds of thousands of acres of land available for this purpose. Today, the Catskills economy is dependent upon this natural resource base that has been deemed by the New York State Constitution to be "forever wild" and its presence in the Town provides recreation lands that grant solitude and scenic beauty that is intrinsic to the attractiveness of the place, another attribute of the community character.

It is the absence of noise and visual intrusions created by heavy industrial sites and the abundance of clean air and water, wildlife, scenic viewsheds, historic resources, and quaint hamlets and villages that attract people to the Catskills. As long as the protections of these public lands stay in place and are free from the potential nuisances associated with heavy industrial uses contiguous to such public lands, then these resources will continue to be available and will be used for solace and enhancement of the environment for the foreseeable future. Otherwise, a project like the proposed industrial steel and precast concrete facility will be felt in the Town of Kingston, other local communities, and the entire surrounding area.

Authority to Comment

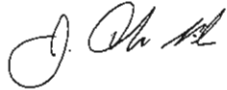
I am a certified professional planner and have worked primarily in the Hudson River Valley for 56 different agencies (state, county, local) over the past 40+ years. I have worked on a variety of municipal planning

projects, including the preparation of comprehensive plans, zoning laws, subdivision regulations, and special natural resource laws and other related land use rules affecting the environment. I have worked on SEQR environmental impact assessments for as long, including personally reviewing or preparing thousands of SEQR environmental impact assessment documents and environmental studies required by statutes and regulations. I am also a part-time professor at Marist College, teaching three environmental science and policy courses including "Principles of Environmental Assessment" (ENSC 380) that focuses on SEQR and the National Environmental Policy Act (NEPA).

Conclusion

I urge the Planning Board to consider the issues identified herein for the proposed industrial facility and to proceed with issuance of a Positive Declaration as required by SEQR. I thank you in advance for your kind consideration of these comments.

Very Truly Yours,



J. Theodore Fink, AICP
President

Cc: Roslyn Borghere, Planning Board Secretary
John Barone, Esq., Tooher & Barone, LLP
Kathleen Nolan, MD, MSL, Catskill Mountainkeeper
Richard Golden, Esq. (rgolden@bmglawyers.com)
Kelly Naughton, Esq. (knaughton@bmglawyers.com)

J. Theodore Fink, AICP | Curriculum Vitae

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DEGREES

Master of Urban Planning and Policy. University of Illinois at Chicago. Masters Project entitled "Grant Park Tomorrow" funded by the National Endowment for the Arts and the Illinois Humanities Council (see citations below).

Bachelor of Arts in Environmental Design. University at Buffalo, SUNY.

ACADEMIC EXPERIENCE

Marist College School of Science, Poughkeepsie, New York. Adjunct Instructor of three courses: Introduction to Environmental Issues (ENSC 101), Environmental Explorations of the Hudson (HONR 370/375), and Principles of Environmental Assessment (ENSC 380). Beginning with ENSC 101 in 2014, teaches natural systems, adverse impacts of human activities upon these systems, and how society deals with the impacts. Sustainability is emphasized, since a goal of environmental science is to sustain natural resources, essentially forever. Topics include land use; ecology; biodiversity; human population growth; food production; energy resources; and water and air pollution. In addition to the scientific issues, related politics, economics, and ethics topics are covered. Through lectures, case studies, readings, documentaries, discussions, ethical dilemmas, group projects, and field trips, students develop an interdisciplinary foundation for understanding how natural systems influence and are shaped by human activities. The Honors course focuses on the Hudson River Valley National Heritage Area, using Marist's research boat as an extended classroom. Students in this course gain a new appreciation of the natural processes that have shaped the River, see first hand how humans impact and manage those processes, and in turn students learn to become stewards of the environment. Environmental Assessment is focused on the substance and procedures of the National Environmental Policy Act (NEPA) and the New York State Environmental Quality Review Act (SEQR).

Bard College Graduate School of Environmental Studies, Annandale-on-Hudson, New York. Professor of Land Use Planning. In the mid-1990's, taught basic principles and practical applications of environmentally sensitive land use planning for individual properties, municipalities, and regions. The course provided the tools necessary to perform a site analysis, constraint mapping, natural and cultural resource inventories, land conservation/open space planning, analysis of land use controls, and the economics of development and preservation.

State University of New York College at New Paltz, Continuing Education Program. Advanced Open Water Diving Instructor, 1982-1985. Taught SCUBA diving in a training program that combined formal classroom study with practical experience. Trained students in the safe operation of equipment and lectured on the physiological affects of the underwater environment as well as how divers effect the delicate ecology of surface waters. A step by step approach was used to train students beginning with exercises in a pool and then advancing to

a series of dives in open water settings. At the successful completion of the course of study, students were then "certified" to SCUBA dive throughout the world.

Center for Urban Studies, University of Illinois at Chicago. Teaching and Research Assistant. In the mid-1970's, assisted the United States Department of Housing and Urban Development with the preparation of an environmental impact statement for a major urban redevelopment project. Devised population projections for the Chicago Regional Hospital Study. Compiled and interpreted population, housing, land use, and economic statistics in support of Center publications. Assisted the Little Village Industrial Association with preparation of a plan for the future of the residential and industrial community.

NON-ACADEMIC INSTRUCTIONAL EXPERIENCE

Low Impact Development Forum - Aquifer and Stream Corridor Protection. Dutchess County Planning Federation and Cornell Cooperative Extension of Dutchess County. Training Instructor for Stream Corridor Protection Planning. Fall 2019.

Municipal Law and Planning: A Local Perspective on Hydrofracking. Albany Law School, The Government Law Center. Speaker on Effective Local Planning Tools, September 2012.

Conservation Design. Trainer for an alternative design approach to conventional development in numerous municipalities throughout the Hudson Valley since 2001.

Conservation Development. Trainer for the Teatown Reservation's Environmental Leaders Learning Alliance (ELLA) program. ELLA involves 31 town and village Conservation Advisory Councils, Conservation Boards, and Open Space Committees from northern Westchester, Putnam, and parts of Dutchess, Orange and Rockland counties in New York State.

Growth Centers. Speaker, Land Use Leadership Alliance Training Program, Pace University School of Law, 2004.

Smart Growth Success in the Hudson Valley: Implementation in Warwick. Speaker, Hudson Valley Smart Growth Alliance Conference, November 2002.

Elements of Site Plan Review. Speaker, New York Planning Federation 2000 Annual Conference, October 2000.

Planning for the Future. Speaker, Wappingers Falls Business and Professional Association, March 1999.

Rural Character and Rural Quality: Are They Worth Preserving? Speaker and Panelist, Town of Warwick Master Plan Committee, November 1994.

New York Updates Its Planning and Zoning Laws. Various Municipal Planning Boards, October 1994 through present.

The Basics of SEQR. Town and Village Boards, Town and Village Planning Boards, June 1993 through present.

SEQR's Role in Municipal Land Use Planning. Municipal Planning Boards, April 1993 through present.

PLANNING CAPABILITIES

Progressively responsible community and regional land use planning advice to government and private parties. Organizes and conducts collaborative planning to engage residents with local officials by helping each understand and visualize the implications of sustainable development. Lectured at conferences, colleges and universities, and in local training programs on sustainable development techniques. Promoted a variety of innovative planning tools, aimed at conservation of natural and cultural resources, with proven results. Successfully secured government and other funding for implementing planning, zoning and waterfront revitalization projects. Honed communication skills to achieve successful planning outcomes. Prepared comprehensive plans, open space plans, scenic protection plans, farmland protection plans, waterfront revitalization plans, and a wide range of zoning and other specialized land use controls to implement such plans. Expert witness for court cases and amicus briefs.

PLANNING EXPERIENCE

GREENPLAN Inc., Rhinebeck, New York. Founder and President. Since 1991, provides planning services to a variety of clients including villages, cities, and towns as well as counties and state government agencies, attorneys, engineers, architects, planners, landscape architects, private developers, not-for-profits and educational institutions. Prepared illustrated form-based zoning for a number of NY municipalities. Created unique land use controls to protect biodiversity. Advanced conservation development practices and other sustainable development techniques. Promoted a variety of innovative planning tools for implementation of Hudson River Valley Greenway Communities Council approved Greenway Compact and Greenway Program policies. Prepared comprehensive plans, open space plans, scenic protection plans, community preservation plans, farmland protection plans, waterfront revitalization plans, and a wide range of zoning and specialized land use controls to implement such plans. Collaborated with committees, legislative boards, administrative boards, attorneys, and other consultants to achieve adoption and implementation of a wide variety of plans and land use controls.

EnviroPlan Associates, Inc., Poughkeepsie, New York. President. In the late 1980's, directed all planning and environmental services for this multi-disciplinary consulting firm. Supervised the preparation and/or review of several hundred environmental impact assessment studies. Supervised planning, scientific, and legal staff.

Quality Environmental Planning Corporation, Pleasantville, New York. Vice President. In the mid-1980's, directed all planning functions for the Westchester County office of a multi-state planning, landscape architecture and engineering firm. Prepared or supervised the preparation of concise environmental impact statements. Processed, in a timely manner, federal, state and local land use permits. Directed a study of the environmental quality of Little Neck peninsula in the Town of Huntington, Long Island. Developed proposed boundaries and completed a boundary justification report and Draft EIS for the Nissequogue State Scenic and Recreational River in the Town of Smithtown, Long Island. Analyzed and assessed local and state significant viewsheds. Prepared amendments to municipal planning and zoning documents. Delineated freshwater wetlands pursuant to Article 24 of the New York State Environmental Conservation Law. Supervised planning staff.

New York State Department of Environmental Conservation (DEC), New Paltz, New York.

Associate Planner. In the early 1980's, principal staff assigned to planning the Upper Delaware National Scenic and Recreational River corridor. Assisted the National Park Service in developing a River Management Plan and Draft Environmental Impact Statement. Prepared and presented technical papers on land and water use issues and policies. Identified and evaluated significant land and water resource values for protection. Evaluated state and local laws, ordinances, and plans for their effectiveness in protecting resource values and recommended appropriate actions. Provided responsive communication with local officials, landowners, and citizens in representing the Department and other State programs operative in the River Valley. Analyzed and prepared accurate maps, statistics, and other materials in conjunction with Plan and EIS development. Conducted field investigations, reviewed EISs for proposed developments within the River Valley, and evaluated the impacts of proposed developments.

Program Administrator for the Department's River Conservation Program in Southeastern New York State. Assisted citizen's advisory groups in developing multi-disciplinary studies of potential Wild and Scenic Rivers and adjacent lands. Analyzed eligibility of rivers and evaluated proposed designation and its environmental, social, and economic impacts. Prepared Departmental reports recommending action to designate rivers as Wild, Scenic, and Recreational by the governor and legislature. Provided program assistance to the Long Island Regional Office. Provided program support to the Heritage Task Force for the Hudson River Valley. Facilitated public participation to ensure the Program's success. Assisted in the Departmental review of the Marcy South high voltage electric transmission project. Supervised interns on various projects.

Prepared a public access development plan for the Hudson River from the Troy dam to the Yonkers/New Jersey boundaries. Identified existing public and private access sites. Evaluated site potential for expansion and improvement. Determined future access needs for the Hudson River. Conducted administrative and field surveys of suitable access sites and evaluated their potential for development. Provided recommended sites for public access in a final report.

Open Lands Project, a private non-profit organization, Chicago, Illinois. Project Manager. In the late 1970's, directed an innovative research project to evaluate the historic significance, present status and future use of Grant Park, a 320-acre lakefront park, often referred to as Chicago's "front yard." Developed a master plan for restoration of an 1840's pioneer homestead as a living history farm and agricultural museum. Editor of Terrain, a bimonthly newsletter presenting informative articles on open space issues. Produced effective grant proposals that successfully led to an expansion of the organization's programs. Assisted civic and community groups in developing financial, organizational, and planning strategies for the preservation of open space. Provided technical assistance on open space preservation to local, regional, and state agencies. Created policy statements and presented expert testimony at hearings. Commented on local, regional, and state plans affecting open space and recreation. Contributed to projects of CorLands, a land acquisition affiliate of Open Lands Project. Lectured and presented slide shows at civic and community group meetings on the values of open space preservation. Supervised staff and student interns on various projects.

Erie County Department of Environmental Quality, Buffalo, New York, Planning Intern. In the mid-1970's, established a review procedure for conducting environmental impact assessments of capital construction projects of the County.

SPECIALIZED TRAINING

Community Leadership Alliance (CLA), Pace University Land Use Law Center and the Glynwood Center.

Development Impact Fees, American Institute of Certified Planners (AICP).

River Conservation and Revitalization, United States Department of the Interior, National Park Service.

Landscape Design, Cary Institute of Ecosystem Studies.

Greenway Planning, United States Department of the Interior, National Park Service.

Master Instructor, Scuba Schools International.

CLIENTS SERVED SINCE 1991

NY State Department of Environmental Conservation, Dutchess County, Tompkins County and 56 municipalities (cities, towns and villages) in New York State, professionals, not-for-profit organizations and private for-profit entities.

ACCOMPLISHMENTS

- ▶ Member, American Institute of Certified Planners (AICP). The AICP establishes qualifications for membership, maintains examination procedures for this purpose, and requires annual certification maintenance.
- ▶ The Town of Warwick was awarded the New York State Association of Realtor's first annual "Smart Growth Award" for its planning program, including a Comprehensive Plan, Zoning Law and other planning efforts. Ted Fink has been Town Planner in Warwick since 1991 and developed the award winning planning and zoning documents for the Town Board.
- ▶ In November of 2017, the Town of Warwick became only the second municipality in New York State (after New York City) to achieve the SolSmart Gold Designation by the US Department of Energy. The Designation was achieved, in part, through a Solar Local Law amendment to the Town Zoning Law, prepared by Ted Fink.
- ▶ The American Farmland Trust uses Warwick's Comprehensive Plan, Zoning Law, Transfer/ Purchase of Development Rights and other preservation programs as models for farmland protection.
- ▶ Warwick's planning and zoning documents have been cited as the model of a smart growth strategy in publications of the Glynwood Center, New York State Association of Towns, Institute of Local Self-Reliance New Rules Project, and the Smart Growth Network.
- ▶ The Harvard Environmental Law Review used Warwick as an example of an "innovative land use law...[and a] successful approach...to emulate and encourage..."

- ▶ The American Planning Association's flagship publication, *Planning* magazine, highlighted Warwick's planning and zoning programs in an article that appeared in the July 2002 issue entitled "Keeping 'Em Down on the Farm."
- ▶ New York State's "Smart Growth" website cites the Town of Warwick Zoning Law as an example of a smart growth success story.
- ▶ Warwick's planning strategy was awarded the Upstate Chapter of the American Planning Association's Outstanding Planning Project Honorable Mention in 2002.
- ▶ The Hudson River Valley Greenway's "Tech Assist Toolbox" cites Warwick's planning and zoning documents as models. These include the Zoning Law and its provisions for Ridgeline and Viewshed Protection, Incentive Zoning, Design Guidelines and Design Standards.
- ▶ The Warwick Planning Board and GREENPLAN were commended for "Their outstanding achievement and innovative accomplishments toward better planning ideals for the community" by the Orange County Municipal Planning Federation.
- ▶ The New York Planning Federation and New York State Department of Environmental Conservation uses GREENPLAN's Habitat Assessment tool as a Model.
- ▶ The Pace University Land Use Law Center uses land use controls, developed by GREENPLAN, as models.
- ▶ Scenic Hudson uses GREENPLAN'S Telecommunications Tower law as a model.
- ▶ The Red Hook Intermunicipal Task Force, for which GREENPLAN provides on-going planning assistance, was awarded Pace University Land Use Law Center's "Groundbreakers Award" in 2009.
- ▶ The Red Hook Town Board, for which GREENPLAN provides on-going planning assistance, was awarded the New York Planning Federation's "Pomeroy Award for Zoning Achievement" for the Zoning Amendments it enacted in 2011, which were prepared by GREENPLAN. The Northern Dutchess Alliance awarded Red Hook their "Charting Our Course" Award in 2012 for the Town's planning and zoning initiatives.
- ▶ Advisory Member, Board of Directors of the Winnakee Land Trust, a not-for-profit organization dedicated to land conservation in Dutchess and Columbia counties, NY.
- ▶ Participant on the New York State Department of Environmental Conservation's Ad-Hoc Committee to Re-draft the State Environmental Quality Review Act (SEQR) Regulations.
- ▶ Presented with an American Planning Association, Eastern Pennsylvania Chapter Merit Award for "Outstanding Contributions to the Quality of Planning Within the Chapter Area."
- ▶ Listed, *Who's Who in the World* (22nd Edition).
- ▶ Traveled to 43 countries on six continents to better understand cultural diversity and how world cultures plan and manage their settlements and green spaces. As Mark Twain wrote in *Innocents Abroad*, travel is: "fatal to prejudice, bigotry, and narrow-mindedness."
- ▶ Professional Photographer. Photography services for private clients, realtors, and architects. Photographs published by PBS, Island Press, Environmental Defense Fund, Moms Clean Air Force, Huffington Post, Inland Architect, TLC (Discovery Inc. channel), KTVZ TV, Care2.com, The Urban Ecology Newsletter, 350.org, Econesting.com, and Terrain.

PLANS, PUBLICATIONS, LAWS, EXPERT WITNESS AFFIDAVITS AND MORE

1. *Town/Village of New Paltz Community Preservation Plan*. For the Town of New Paltz Community Preservation Task Force and Town Board of the Town of New Paltz, assisted in the preparation of a Community Preservation Plan for the Town and Village of New Paltz under a Hudson River Valley Greenway grant. The Community Preservation Plan provides the basis for creation of a Community Preservation Fund, which was approved by voters in November 2020. The Plan allows the Town to purchase, from willing landowners, land and interests in land (i.e. development rights) to preserve the character of the community. March through July 2020.
2. *Expert Witness on Application of New York Transco LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the New York Public Service Law to Construct, Operate, and Maintain a New 345 Kilovolt Electric Transmission Line and Related Facilities in the towns of Schodack, Stuyvesant, Stockport, Ghent, Claverack, Livingston, Gallatin, Clermont, Milan, Clinton, and Pleasant Valley in Eastern New York State*. Assisting towns and affected parties (Intervenors) along the transmission line right-of-way contribute to the development of a complete record leading to an informed decision in the case, and to foster broad public participation. October 2020.
3. *Affidavit of Expert Witness, J. Theodore Fink, AICP in Lerner-Pavlick Realty Company, Residents Protecting Montgomery v. Town of Montgomery, the Town of Montgomery Planning Board, and Bluewater Partners, LLC*. For the Supreme Court of the State of New York, Orange County, an Article 78 proceeding challenging the decision of the Town Board and Town Planning Board approval of a ±1,000,000 square foot Amazon warehouse on the applications for Zoning Amendment, Site Plan and Special Use Permit approvals. January 2020.
4. *Affidavit of Expert Witness, J. Theodore Fink, AICP in O'Malley, Peloso, McCracken, Leghorn, Arendes, Eichs, and Eaton v. Town of New Windsor Planning Board, Toleman Road Associates, Ltd. and Rock Tavern Village LP*. For the Supreme Court of the State of New York, Orange County, an Article 78 proceeding challenging the decision of the Town Planning Board approval of a ±500,000 square foot warehouse on the application for Stewart Hill Industrial Park, alleging the use is prohibited by the Town of New Windsor Zoning Law. November 2019.
5. *Affidavit of Expert Witness, J. Theodore Fink, AICP in Adler, Bohan, Torrone, Willow, Guenther, Rindlaub, , Adorney, Bozsik, Young, Hazlett, Lozier, Smith, and Navy v. Town of Gardiner Planning Board and Shinrin Yoku LLC*. For the Supreme Court of the State of New York, Ulster County, an Article 78 proceeding challenging the decision of the Town Planning Board approval of an 80 building lodging, dining and event facility known as Heartwood, alleging the approval was inconsistent with the the Town of Gardiner Zoning Law and failed to take a "hard look" at the environmental impacts of the facility in a quiet, rural and ecologically sensitive location. February 2019.
6. *Town of Red Hook Local Waterfront Revitalization Program (LWRP) Update*. Assisting a LWRP Working Group and the Town Board with development of an Update to the Town's 1995 LWRP document. The Update is focused on development of new policies to mitigate future climate risks from sea level rise, increased frequency and intensity of storms and

the resultant flooding from these weather related changes. The LWRP update will articulate a vision for the Town's waterfront, will reflect the strategic plans developed by the Mid-Hudson Regional Council to advance economic priorities and provide approaches to build greater community resilience, and will identify opportunities for expansion of public access while protecting sensitive coastal resources, protection of scenic vistas, protection of agricultural resources and open space. Since June 2018.

7. *Town of Fallsburg Draft Zoning: Neversink River Overlay District*. Assisted Catskill Mountainkeeper, a not-for-profit organization, with development of draft Zoning Amendments for the Town of Fallsburg, designed to establish new Zoning rules that would apply to a proposed Neversink River Overlay Zoning District. The Neversink River is significant for its water quality, its association with important public water supply aquifers in the Town, and for its Internationally recognized importance as one of the "Charmed Circle" of legendary Trout streams where fly fishing was refined in America. The recommendations included new Zoning provisions applying to aquifers, agriculture (to encourage and support farming as a viable open space use), hamlet redevelopment for compact growth supported by Town services, protection of biodiversity, establishment of a conservation design process for new development, and policy changes in an Updated Comprehensive Plan that favor agriculture, protection of rural character, and encouraging hamlet development rather than suburban development throughout the Town. April 2018.
8. *Affidavit of Expert Witness, J. Theodore Fink, AICP in Concerned Citizens For The Hudson Valley v. Town of Goshen, Town of Goshen Planning Board, and Merlin Entertainment Groups, US Holdings*. For the Supreme Court of the State of New York, Orange County, an Article 78 proceeding challenging the decisions of the Town to revise its Comprehensive Plan and Zoning Law to accommodate a previously "Prohibited Use" that had the potential to change Goshen from the largest rural and agricultural town in Orange County to "something else." The changes were alleged, among a number of other points, to: 1) represent "irrational ad hocery" and "spot zoning"; 2) be contrary with the New York Department of State Office of General Counsel's Legal Memorandums; 3) contrary with sound community planning; and 4) procedurally flawed and inconsistent with New York State's Planning and Zoning enabling laws as well as SEQR. January 2018.
9. *SEQR Analysis and Report: Legoland New York Commercial Recreation Facility Final EIS*. As an Expert Witness for Concerned Citizens For The Hudson Valley, prepared a Report that examined the Final Environmental Impact Statement for the Legoland Commercial Recreation Facility in the Town of Goshen, New York. The Report analyzed the action's compliance with New York State Town Law, the New York State Environmental Quality Review Act and related New York State planning and zoning enabling acts. The Report provided expansive details on the numerous errors and omissions identified in the Lead Agency's SEQR review process as well as the Comprehensive Plan and Zoning Law amendment processes. August 2017.
10. *Town of Red Hook Complete Streets Program*. Preparing Amendments to the Town of Red Hook Highway Specifications to incorporate "Complete Streets" principles that recognize pedestrians and bicyclists as equally important as motorists in the planning and design of

all new road construction, reconstruction, rehabilitation, and maintenance undertaken by the Town. Working with the Town Board, Highway Superintendent, and an Advisory Committee to develop such Amendments. May 2017 to present.

11. *Town of Warwick 2016 Comprehensive Plan Update*. Prepared an update to the Town of Warwick Comprehensive Plan that includes as official Town policy a number of key sustainability best practices including strengthening its centers supported by transit (i.e. its three villages), creating a complete community, reducing transportation fossil fuel consumption, improving regional infrastructure, reducing energy dependency and strengthening the local economy, expanding renewable energy generation, improving resilience of the energy delivery system, reducing the volume of solid waste, increasing farming and forestry activities and viability, advancing farming and forestry training, increasing residents' access to local food, reducing water consumption, and protecting habitats and water quality. Adopted June 2016.
12. *Red Hook Community Preservation Plan Update*. Assisted the Town Board of the Town of Red Hook and the Red Hook Community Preservation Advisory Fund Board with an update to their adopted 2011 Community Preservation Plan. The Plan is based upon a special New York State Statute (§ 64-h of NY State Town Law), enacted so that a "Community Preservation Fund," supported by revenues from a two (2) percent real estate transfer tax, could be used to protect the Town's farmland and open space, all vital to its future social, economic and environmental health. May 2011 (original Plan) and June 2016 (updated Plan).
13. *Affidavit of Expert Witness, J. Theodore Fink, AICP in RB Jai Alai, LLC v. Florida DOT et al.* For the United States District Court, Middle District of Florida, developed and outlined specific mitigation strategies funded by an "Impact Mitigation Fund" for a highway "Flyover" in the greater Orlando, FL region, based upon a finding by the Court that the DOT, Federal Highway Administration and others had engaged in an arbitrary and capricious action related to a defective environmental review under the National Environmental Policy Act (NEPA). The Court held the Florida DOT and the Federal Highway Administration liable for damages as a result of their defective review processes. October 2015.
14. *Affidavit of Expert Witness, J. Theodore Fink, AICP in Washington Development Associates v. City of Binghamton Planning Commission*. Proffered and elucidated numerous environmental issues that had been ignored during the review of a new college dormitory, proposed in a sensitive location. September 2015.
15. *Village of Cold Spring Zoning Update*. Assisting the Village Board of Trustees and a Code Update Committee with an innovative new zoning law and numerous other Code Amendments, funded through the New York State Energy Research and Development Authority's (NYSERDA) Cleaner, Greener Communities program and the Hudson River Valley Greenway. NYSERDA's program is designed to create local sustainable growth strategies in such areas as emissions control, energy efficiency, renewable energy, low-carbon transportation, and other carbon reductions through collaborative efforts to improve the quality of life, make communities more prosperous while making New York State more economically vibrant. Since July 2015.

16. *Creating a Natural Resources Inventory: A Guide for Communities in the Hudson River Estuary Watershed*. Cornell University Department of Natural Resources, in partnership with the New York State Department of Environmental Conservation's Hudson River Estuary Program. Reviewer of the *Guide*; edited all chapters and appendices for content and accuracy. Prepared a Model Local Law (template) in an Appendix to the *Guide*, designed to be used by local municipalities for adopting a Natural Resource Inventory, addressing the need for periodic updating, and to incorporate consideration of the Natural Resource Inventory in the community's land use controls. Winter 2015.
17. *Planning for Resilient, Connected Natural Areas and Habitats: A Conservation Framework*. Town of Red Hook, NY with financial support from Cornell University and the New York State Hudson River Estuary Program. With Michele Greig, AICP of GREENPLAN, Graham Trelstad, AICP and Peter Feroe, AICP of AKRF, Inc. developed a pilot project for enhancing wetland, stream, and forest resilience; local connectivity of wildlife habitats; connections to the Hudson River estuary; and adaptations of these ecosystems to climate change by preserving connectivity of intact connected natural areas. The planning document was developed through a collaborative stakeholder engagement process, identified conservation opportunities, and short and long-term actions based upon a Geographic Information System (GIS) model developed by Cornell. Fall 2014.
18. *Balancing of Public Interests: Town of Warwick and Pine Island Fire District*. Town Board of the Town of Warwick, Warwick, NY. The preparer of a "balancing of public interests" analysis to determine whether a proposed telecommunications tower, co-sponsored by the Pine Island Fire District, must comply with the Town Code of the Town of Warwick. The analysis is based upon a legal approach, established by the New York State Court of Appeals, to determine if local government agencies will be afforded "limited immunity" from zoning regulations. Draft, October 2014. In a related matter, prepared all SEQR "Lead Agency Dispute Resolution" documents for the Warwick Planning Board v. Pine Island Fire District. The State Commissioner of Environmental Conservation, on March 6, 2015, designated the Warwick Planning Board as the appropriate Lead Agency, based upon the arguments posited in the dispute documents.
19. *Walkway-Gateway Zoning*. City of Poughkeepsie Common Council, Town of Lloyd Town Board, Scenic Hudson, Inc., Walkway Over the Hudson, Inc., and Dutchess Regional Chamber of Commerce, Poughkeepsie, NY. Developed a structure and approach, including preparation of zoning amendments, for the City of Poughkeepsie and Town of Lloyd to implement form-based zoning regulations to achieve smart growth and sustainability objectives in the neighborhoods surrounding largely industrial zoning districts near the Walkway Over the Hudson State Historic Park, Hudson Valley Rail-Trail and Dutchess Rail-Trail. The project created a place-based development strategy to guide physical development and redevelopment that emphasizes physical form rather than separation of uses as a basic organizing principle. The Walkway has drawn up to three-quarters of a million visitors a year but the immediate neighborhoods near its entrances developed in the 19th Century around a freight railroad line. The Walkway-Gateway District concept is to redevelop the neighborhoods surrounding the Walkway area into vibrant walkable mixed-use areas. Elements include standards for quality placemaking

such as lot and building design standards, building placement, frontage types, pedestrian and vehicle circulation, streetscapes, and streamlined (expedited) review procedures. The standards meet the Hudson River Valley Greenway goals, allow for a range of transportation modes but de-emphasizing cars, and incorporate green infrastructure and green development concepts for stormwater, renewable energy, local food production and other environmental benefits. Lighting, signage, screening and landscaping standards were included. Zoning Amendments adopted by Poughkeepsie Common Council in October 2013. Zoning Amendments adopted by Lloyd Town Board in June 2013.

20. *Affidavit of J. Theodore Fink, AICP in Astor Rhinebeck Associates, LLC, v. Town of Rhinebeck and Town Board of the Town of Rhinebeck*, Supreme Court of the State of New York, Dutchess County. A large landowner (1,250 acres) in the Town of Rhinebeck alleged that adoption of the Town Comprehensive Plan and Zoning Law in 2009 failed to address the need for affordable housing. The *Affidavit* supported the Town's position that Rhinebeck had carefully crafted an inclusionary housing program, including the use of a variety of techniques that had never been implemented before in any other Dutchess County community. The Court decided in Rhinebeck's favor. The decision by Justice James V. Brands (Index 3147-2012) made September 2012.
21. *Town of Warwick Zoning Amendments*. Prepared a comprehensive revision of the Town's Zoning Law, originally adopted in 1927. Town of Warwick Code Revisions Committee and Town Board of the Town of Warwick. Adopted January 24, 2002. Prepared additional Zoning amendments adopted 2003, 2004, 2010, 2011, 2013, 2014, 2015, 2016, and 2018. Warwick's many innovative Zoning regulations have been held as models in New York State by the NY State Association of Towns, NY State's "Smart Growth" website, Pace University Land Use Law Center, American Farmland Trust, Glynwood, Harvard Environmental Law Review, New York Zoning Law and Practice Report, *Planning* magazine, Hudson River Valley Greenway, the Institute of Local Self-Reliance New Rules Project, and the Smart Growth Network. This includes but is not limited to a Biodiversity Conservation Overlay Zoning District, a Ridgeline Overlay District, an Aquifer Protection Overlay District, an Agricultural Protection Overlay District, and a Land Conservation Zoning District. Other innovations include Solar Energy amendments permitting large-scale facilities on farms while protecting agricultural resources, an Intermunicipal Agreement with the Village of Warwick to establish a Transfer of Development Rights (TDR) program so that important agricultural lands in the Town can be protected, and planning support related to the Town's Purchase of Development Rights (PDR) Programs. The TDR and PDR programs involve conservation easements on farmland through either transfer of development potential to the Village or areas adjoining the Village in the Town (where the new development's density increases proportionately and complies with Form-based Zoning principles for new Traditional Neighborhoods), or respectively through outright purchase of the future development potential on farms. Since 1992.
22. *Town of Bethel Land Use Analysis*. Town Board of the Town of Bethel, Sullivan County, NY. Assisted the Town Board with an analysis of the potential impacts of hydraulic fracturing for natural gas development on land use in the Town. Adopted January 2012 followed by

the adoption of Zoning Amendments to prohibit natural gas extraction and development in February 2012.

23. *Village of Cold Spring Comprehensive Plan, Local Waterfront Revitalization Strategy (LWRS), and Local Waterfront Revitalization Program (LWRP)*. Village of Cold Spring Special Board and Board of Trustees, Putnam County, NY. Assisted a Special Board with the preparation of a Comprehensive Plan and Local Waterfront Revitalization Strategy. The LWRS was approved by New York State in November 2011. The Comprehensive Plan was adopted by the Village Board in January 2012. Since 2014, assisting a Code Update Committee (see above) with a series of Zoning Amendments focused on sustainability and assisting the Village Board with completion of a Local Waterfront Revitalization Program (LWRP) document. Since 2009.
24. *Tompkins County Community Impact Assessment*. Tompkins County Council of Governments, Ithaca, NY. Prepared an assessment of the potential environmental, community, and economic impacts of high volume hydraulic fracturing using horizontal drilling techniques for the natural gas that underlies the Marcellus Shale region, to provide reliable and factual information for 17 municipalities in Tompkins County, including the Town of Dryden, so they would be better prepared if New York State issued permits to the gas industry. Approved by the Council's Gas Drilling Task Force, December 2011. Dryden prohibited natural gas (and oil) exploration and extraction through its Zoning Law. The Zoning Law was then challenged by natural gas interests. Dryden's Zoning Law was upheld through a series of court decisions that reached the New York State Court of Appeals in a precedent setting decision (see Middlefield Land Use Analysis below). The *Community Impact Assessment* was cited in the New York State Court of Appeals documents filed in support of the ban. Adopted December 2011.
25. *Town of Red Hook Comprehensive Plan, Zoning Law and Subdivision Regulations*. Assisted an Intermunicipal Task Force and Town Board with the development of Plan, Zoning and Subdivision modifications. Adopted September 2011.
26. *Town of Taghkanic Zoning Law*. Assisting the Town Board and Zoning Commission prepare a comprehensive rewrite of the Town Zoning Law. The first amendments addressing mining uses were adopted in September 2011 and the remainder of the Zoning amendments are expected to be adopted in 2017.
27. *Town of Middlefield Land Use Analysis*. Town Board of the Town of Middlefield, Otsego County, NY. Assisted the Town Board (in the town surrounding the Village of Cooperstown, NY) with an analysis of the potential impacts of hydraulic fracturing for natural gas development on land use in the Town. The Analysis became the basis for enactment of a prohibition on oil, gas or solution mining and drilling in the Town, through a new Zoning Law. The Zoning was then challenged by natural gas interests but was upheld by the New York State Court of Appeals in a precedent-setting decision. The Court of Appeals quoted the Middlefield Land Use Analysis in its decision, upholding the Zoning Law prohibition on oil and gas activities, as valid. (see also Tompkins County Community Impact Assessment above). Adopted May 2011.
28. *Affidavit of J. Theodore Fink, AICP in Creed-Monarch, Inc. d/b/a Creed Ankony Farm, Astor Courts, LLC, Andrew Solomon As Trustee of the Andrew Solomon Trust, Martin Sosnoff, Toni*

Sosnoff, Allison Hall, and Illiana van Meeteren, v. Town Board of the Town of Rhinebeck and Town of Rhinebeck. Supreme Court of the State of New York, Dutchess County. A group of large landowners in the Town of Rhinebeck alleged that adoption of the Town Comprehensive Plan and Zoning Law in 2009 lacked any rationale for the creation of a new Historic Preservation 20 Acre (HP-20) Zoning District. The Affidavit supported the Town's position that Rhinebeck had carefully undertaken a planning analysis and justification for the new 20-acre density requirement in a District adjacent to the Hudson River. The District addressed historic landscapes that gave rise to the Hudson River School of Painting. The Plan's Vision is to protect agricultural and other open space uses while curbing rapid population growth in the Town, reinforcing Rhinebeck as a Nationally Significant scenic and historic rural community. The planning technique included the use of a variety of techniques that had never been implemented before in any other New York State community. The Court's decision upheld all aspects of Rhinebeck's Zoning that were challenged. The decision by Justice James V. Brands (Index 3116-2010) made April 2011.

29. *Town of Warwick Design Guidelines and Design Standards.* Use of the Guidelines is encouraged in the Warwick Zoning Law and required for certain nonresidential uses. Use of the Design Standards is required in certain retail zoning districts. Addresses scenic resources including scenic roads as well as rural, nonresidential, and hamlet development. Adopted by the Town Board in 2002 and 2010 respectively.
30. *Town of Clinton Comprehensive Plan, Open Space Plan and Agricultural and Farmland Protection Plan.* Assisted the Town Board of the Town of Clinton, and special committee's appointed to advise the Town Board, with the preparation of three plans. The Agricultural and Farmland Protection Plan was approved by New York State in 2010. The other plans were adopted by the Town Board in 2012.
31. *The Rhinebeck Plan.* Prepared a comprehensive plan and implementing Zoning Law, Subdivision Regulations and a Freshwater Wetlands Law for the Town of Rhinebeck, Dutchess County, NY. The Plan focuses on the development of growth centers while protecting the rural character of the remainder of the Town (a "Centers and Greenspaces Plan"). Adopted December 2009. Two legal challenges to the 2009 Zoning Law were decided in the Town's favor by the Dutchess County Supreme Court.
32. *Village of Warwick Zoning Law.* Village of Warwick Board of Trustees, Orange County, NY. Rewrote the Village's Zoning regulations, including design guidelines, to reflect a newly adopted Comprehensive Plan. Adopted February 2009.
33. *Town of Fishkill Comprehensive Plan and Zoning Amendments.* Town of Fishkill Comprehensive Plan Review Committee and Town Board of the Town of Fishkill, Dutchess County, NY. The Comprehensive Plan was adopted in February 2009.
34. *Town of Warwick Comprehensive Plan.* Town of Warwick Comprehensive Plan Board and Town Board of the Town of Warwick. Adopted 1999. Plan Update adopted 2008. Another Plan Update, addressing sustainability policies, was adopted in June 2016 (see above for description).
35. *Town of Milan Comprehensive Plan.* Town of Milan Comprehensive Plan Review Committee and Town Board of the Town of Milan, January 2000 to 2007. The Plan was challenged in court but was upheld by the New York State Appellate Division, Second Judicial

Department in a precedent-setting decision. The case was significant because the New York State Attorney General's Office acted as counsel for the Town Board, based upon the indemnification provisions of the Hudson Valley Greenway Compact. April 2010.

36. *Town of Wawayanda Comprehensive Plan*. Town of Wawayanda Comprehensive Plan Review Committee and Town Board of the Town of Wawayanda, Orange County, NY. August 2004 to June 2006.
37. *Town of Copake Scenic Resource Protection Plan*. Comprehensive Plan Steering Committee and Town Board of the Town of Copake, Columbia County, NY. Adopted August 2005.
38. *Town of Greenville Comprehensive Plan*. Town of Greenville Comprehensive Plan Board and Town Board of the Town of Greenville. Adopted 2005.
39. *Kingston Mixed Use Overlay District Comprehensive Plan and Draft/Final Generic Environmental Impact Statements*. A comprehensive plan designed as a GEIS that addresses adaptive reuse of vacant commercial and industrial buildings in two areas of the City, while providing for affordable housing. City of Kingston Common Council. Adopted August 2004.
40. *Red Hook Land Use, Conservation and Development Working Group Report*. The Report addresses where various types of development should be targeted, where open space should be protected, and how the Town Board can achieve a land use vision for the community. Completed 2004.
41. *Karma Triyana Dharmachakra (KTD) Replacement Monastery Draft and Final Environmental Impact Statements and Findings Statement*. KTD, 2001 through 2004.
42. *Town of Lloyd Comprehensive Plan*. Town of Lloyd Planning Board and Town Board of the Town of Lloyd. Adopted 2004.
43. *Village of Wappingers Falls Sign Guidelines*. Village of Wappingers Falls Planning Board and Board of Trustees. Adopted 2003.
44. *Town of Lloyd Comprehensive Plan Amendments*. Town Board of the Town of Lloyd and Town of Lloyd Planning Board. Adopted February 2003.
45. *Village of New Paltz Landscape Guidelines*. Village of New Paltz Planning Board and Board of Trustees. Adopted December 2002.
46. *Village of New Paltz Lighting Standards*. Village of New Paltz Planning Board and Board of Trustees. Adopted December 2002.
47. *Kingston O-3 Limited Office Comprehensive Plan and Draft/Final Generic Environmental Impact Statements (GEIS)*. A comprehensive plan designed as a GEIS that addresses homelessness and affordable housing. City of Kingston Common Council. Adopted May, 2001.
48. *Adult Use Study: Town of Fishkill*. Town Board of the Town of Fishkill. August 2001.
49. *Dutchess Central Utility Corridor Draft and Final Environmental Impact Statements and Findings Statement*. Dutchess County Water and Wastewater Authority, February, 2001.
50. *Town of Warwick Open Space Plan*. Town of Warwick Open Space Committee and Town Board of the Town of Warwick, January 2000 through December 2001.
51. *Village of Wappingers Falls Comprehensive Plan*. Village of Wappingers Falls Board of Trustees and Village of Wappingers Falls Comprehensive Plan Committee. Adopted 2001.

52. *Town of Milan Wireless Communications Facility Local Law*. Town Board of the Town of Milan. Adopted December 2000.
53. *Town of Amenia Subdivision Regulations*. Town Board of the Town of Amenia and Town of Amenia Planning Board. Adopted August 2000.
54. *Town of Amenia Site Plan Regulations*. Town Board of the Town of Amenia and Town of Amenia Planning Board. Adopted August 2000.
55. *Town of Amenia Zoning Amendments*. Town Board of the Town of Amenia and Town of Amenia Planning Board. Adopted June 2000.
56. *Town of Greenville Zoning Amendments*. Town Board of the Town of Greenville, November 1999.
57. *Village of New Paltz Zoning Amendments for Senior Housing*. Village of New Paltz Board of Trustees. Adopted 1999.
58. *Town of Warwick Telecommunications Local Law*. Town of Warwick Planning Board and Town Board of the Town of Warwick. Adopted 1999.
59. *Town of Amenia Ridgeline Protection Overlay Zone*. Town Board of the Town of Amenia and Town of Amenia Planning Board, August 1999.
60. *Town of Shawangunk Zoning Amendments*. Town Board of the Town of Shawangunk. Phase 1 adopted 1997, Phase 2 adopted 1999.
61. *Town of Amenia Comprehensive Plan Amendments*. Town Board of the Town of Amenia and Town of Amenia Planning Board, July 1998.
62. *Town of Lloyd Zoning Amendments*. Town Board of the Town of Lloyd and Town of Lloyd Planning Board, various dates.
63. *Village of New Paltz Zoning Amendments for the B-1 Zone*. Village of New Paltz Board of Trustees. Adopted 1998.
64. *Adult Use Study: Town of Shawangunk*. Town Board of the Town of Shawangunk, January 1998.
65. *Village of New Paltz Interim Development Regulations for the Gateway Zoning District*. Village of New Paltz Board of Trustees. Adopted 1998, co-authored.
66. *Town of Warwick Zoning Amendments for Senior Housing*. Town Board of the Town of Warwick. Adopted 1997.
67. *Dutchess County Water and Wastewater Authority Acquisition of the Water System Assets of the Hyde Park Fire and Water District Draft Generic Environmental Impact Statement*. Dutchess County Water and Wastewater Authority, 1997.
68. *Village of New Paltz Gateway Zoning District Generic Environmental Impact Statement*. Village of New Paltz Board of Trustees. Adopted 1998.
69. *Adult Use Study: Village of Washingtonville*. Village of Washingtonville Board of Trustees, 1997.
70. *Town of Shawangunk Comprehensive Plan Amendments*. Town Board of the Town of Shawangunk. Adopted 1997.
71. *Adult Use Study: Town of Lloyd*. Town Board of the Town of Lloyd, 1996.

72. *Adult Use Study: Town of Hyde Park*. Town Board of the Town of Hyde Park, 1996.
73. *Zoning Law Amendments Governing Adult Uses*. Town Board of the Town of Hyde Park. Adopted 1996.
74. *District Bus Maintenance and Storage Facility Draft Environmental Impact Statement*. Beacon City School District, February 1996.
75. *Adult Use Study: City of Kingston*. City of Kingston Common Council, 1996.
76. *Mining Amendments Local Law*. Town Board of the Town of Wawayanda. Adopted 1995.
77. *Town of Wawayanda Comprehensive Plan Amendments*. Town Board of the Town of Wawayanda. Adopted 1995.
78. *Zoning Amendments Governing Earth Operations Draft and Final Environmental Impact Statements and Findings Statement*. Town Board of the Town of Wawayanda, November 1993 to May 1995.
79. *Village of New Paltz Comprehensive Master Plan*. Village of New Paltz Planning Board. Adopted 1994.
80. *Hickory Ridge Subdivision: Draft and Final Environmental Impact Statements and Findings Statement*. Town of New Paltz Planning Board, 1992 through 1994.
81. *Dutchess Stadium Draft Environmental Impact Statement*. Dutchess County Industrial Development Agency, December 1993.
82. *Milan Zoning Law Draft Environmental Impact Statement*. Town Board of the Town of Milan, October 1992 through January 1993.
83. *Westage at Castle Point Fiscal Impact Analysis*. Town of Fishkill Planning Board, 1993 through 1995.
84. *Breaking New Ground: Designing a Hyde Park Hamlet*. Winnakee Land Trust Newsletter, No. 5, Summer 1992.
85. *Senior Housing Floating Zone Local Law*. Town Board of the Town of Warwick, 1992.
86. *Town of Clinton Zoning Law Draft and Final Environmental Impact Statements and Findings Statement*. Town Board of the Town of Clinton, 1990 through 1992, Editor.
87. *Town of Dover Master Plan Adoption Environmental Assessment Form*. Town of Dover Planning Board, 1992.
88. *Town of Dover Mined Land Reclamation Local Law*. Town Board of the Town of Dover, June 1991.
89. *City-Town Water Agreement: Draft and Final Environmental Impact Statements and Findings Statement*. City and Town of Poughkeepsie, 1990 through 1991, Editor.
90. *Cedar Knolls Subdivision: Draft and Final Environmental Impact Statements*. Town of Fishkill Planning Board, 1989 through 1990, Editor.
91. *St. Simeon Senior Housing Draft Environmental Impact Statement*. Town Board of the Town of Poughkeepsie, 1989 through 1990, Editor.
92. *Town of Washington Master Plan, Zoning Law and Subdivision Regulations Draft and Final Environmental Impact Statements and Findings Statement*. Town Board of the Town of Washington, 1989, Editor.

93. *Red Oak Commons Planned Unit Development Draft and Final Environmental Impact Statements*. Town of Poughkeepsie Planning and Town Boards, 1988 through 1989, Editor.
94. *Pond Hills Planned Unit Development Draft and Final Environmental Impact Statements*. Town of LaGrange Planning Board, 1988 through 1990, Editor.
95. *Birch Hill Manor Draft and Final Environmental Impact Statements*. Town of Beekman Planning Board, 1986 through 1988, co-authored.
96. *Town of Poughkeepsie Local Waterfront Revitalization Program*. Town Board of the Town of Poughkeepsie, 1987, authored sections of the Program document.
97. *Silver Lake Development Draft and Final Environmental Impact Statements*. City of White Plains Common Council, 1985.
98. *Nissequogue River State Scenic and Recreational River Boundary Establishment: Draft Environmental Impact Statement and Boundary Justification Report*. Town of Smithtown Planning Department, 1985.
99. *Villa Loretto Adaptive Reuse Draft and Final Environmental Impact Statements*. City of Peekskill Planning Board, 1985.
100. *Maple Brook Townhouses Draft and Final Environmental Impact Statements*. Town of Yorktown Planning Board, 1985.
101. *Recommendations for Improving Public Recreational Access to the Hudson River*. New York State Department of Environmental Conservation, Division of Fish and Wildlife, December 1984.
102. *Upper Delaware National Scenic and Recreational River Draft Environmental Impact Statement and River Management Plan*. National Park Service, October 1982, co-author of portions of the Plan and EIS as a member of an Intergovernmental Planning Team.
103. *Legal Authorities and Programs for Resource Management and Land Use Control in New York State*. NYS-DEC, Division of Lands and Forests, September 1982.
104. *Evaluation of Local Authority and Plans for the Upper Delaware National Scenic and Recreational River*. NYS-DEC, Division of Lands and Forests, May 1982.
105. *Nissequogue River Summary Study Report*. NYS-DEC, Division of Lands and Forests, March 1982.
106. *Ramapo River Summary Study Report*. NYS-DEC, Division of Lands and Forests, March 1982.
107. *Shawangunk Kill Summary Study Report*. NYS-DEC, Division of Lands and Forests, November 1981.
108. *Land and Water Use Controls in the United States*. NYS-DEC, Division of Lands and Forests, October 1981.
109. *Grant Park's 150 Years*. Inland Architect, Volume 24, Number 2, March 1980.
110. *Preserving and Recreating The Urban Forest*. The Neighborhood Works, Volume 3, Number 1, January 11, 1980.
111. *Is Area's Open Space Threatened?* Illinois Parks and Recreation, Volume 10, Number 5, September/October 1979, co-authored.

112. *Grant Park Tomorrow*. Open Lands Project, National Endowment for the Arts and Illinois Humanities Council, June 1979. Cited in Grant Park: The Evolution of Chicago's Front Yard, by Dennis H. Cremin; Northwestern University School of Law, Northwestern University Law Review Vol. 105, No.4; Private Rights in Public Lands: The Chicago Lakefront, Montgomery Ward, and The Public Dedication Doctrine, by Joseph D. Kearney and Thomas W. Merrill; City of Chicago's City Space Implementation publication; The Art Institute of Chicago, The Plan of Chicago: 1909-1979, An Exhibition of the Burnham Library of Architecture; Retículas I Diagonals: El Pla Jaussely de Barcelona de 1907 I el Pla Burnham de Chicago de 1909 Doctoral Thesis of Carme Fiol Costa; and Wikiwand, Triposo, Wikipedia, and Chicago Park District Websites.
113. *Urban flight taking jobs from Chicago poor*. Chicago Sun-Times, May 27, 1979, co-authored.
114. *Is Area's Open Space Threatened?* Chicago Tribune, January 4, 1979, co-authored.
115. *Grant Park Has Cornerstone of Luck and Determination*. Chicago Tribune, July 20, 1978, co-authored.