

**SEQR RESOLUTION – TYPE II  
BARDAVON 1869 OPERA HOUSE, INC./UPAC LLC PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the “Agency”) was convened in public session at the Karen Binder Library, Ulster County Office Building, 6th Floor, 244 Fair Street, Kingston, New York on December 14, 2016 at 8:00 a.m., local time.

The meeting was called to order by the (~~Vice~~) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Michael Horodyski	Chairman
John Morrow	Vice Chairman
Randall Leverette	Treasurer
John Livermore	Assistant Secretary
Michael Bernholz	Member

**ABSENT:**

Robert Kinnin	Secretary
James Malcolm	Assistant Treasurer

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Suzanne Holt	Director, Office of Economic Development
Linda Clark	Office of Economic Development
Christopher Fury	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by John Livermore, seconded by Randall Leverette, to wit:

Resolution No. 1216-

**RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF UPAC LLC IS A “TYPE II ACTION” AND NO FURTHER ACTION IS REQUIRED UNDER SEQRA WITH RESPECT THERETO.**

WHEREAS, Ulster County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more “ projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in November, 2016, Bardavon 1869 Opera House, Inc., a New York not-for-profit corporation (the “Applicant”), presented an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of UPAC LLC, a New York limited liability company (the “Company”), a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately 12,750 square feet located at 601 Broadway (Tax Map # 56.109-3-19) in the City of Kingston, Ulster County, New York (the “Land”), together with the existing theater/entertainment facility located thereon containing in the aggregate approximately 34,100 square feet of space (collectively, the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company, managed by the Applicant and operated as a theater/entertainment facility and any directly or indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on November 9, 2016 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on November 9, 2016 (the “Public Hearing Resolution”), the Chairman of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed on November 18, 2016 to the chief executive officers of the county and of each city, town, village and school district in which the Project is to be located, (B) caused notice of the Public Hearing to be posted on November 17, 2016 on a public bulletin board located at the City Hall Clerk’s office located at 420 Broadway in the City of Kingston, Ulster County, New York and on the Agency’s website on November 16, 2016, (C) caused notice of the Public Hearing to be published on November 16, 2016 in The Daily Freeman, a newspaper of general circulation available to the residents of City of Kingston, Ulster County, New York, (D) conducted the Public Hearing on November 29, 2016 at 7:00 o’clock, p.m., local time at the Legislative Chambers of the County Legislature, 6th Floor, in the Ulster County Office Building located at 244 Fair Street in the City of Kingston, Ulster County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency

must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination whether to undertake the Project; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant effect upon the environment, the Company has (A) prepared and submitted to the Agency an environmental assessment form (the "EAF"), and (B) delivered to the Agency a copy of a letter dated December 6, 2016 (the "Town Letter") from the Town of Shawangunk Planning Board describing its determination that the Project is a "Type II" action," copies of which are on file at the office of the Agency; and

WHEREAS, pursuant to the Regulations, the Agency has examined the EAF and the Town Letter in order to make an initial determination as to the potential environmental significance of the Project; and

WHEREAS, the Project appears to constitute a "Type II action" (as said quoted term is defined in the Regulations), and therefore it appears that no further determination or procedure under SEQRA is required with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency has received copies of, and has reviewed, the Application, the Town Letter and the EAF submitted to the Agency by the Company with respect thereto (collectively, the "Reviewed Documents") and, based upon said Reviewed Documents and the representations made by the Company to the Agency at this meeting, and based further upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

(A) The project (the "Project") consists of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately 12,750 square feet located at 601 Broadway (Tax Map # 56.109-3-19) in the City of Kingston, Ulster County, New York (the "Land"), together with the existing theater/entertainment facility located thereon containing in the aggregate approximately 34,100 square feet of space (collectively, the "Facility"), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, managed by the Applicant and operated as a theater/entertainment facility and any directly or indirectly related activities; (B) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

(B) The Project consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site and the purchase of equipment.

Section 2. Based upon the foregoing, the Agency makes the following findings and determinations with respect to the Project:

(A) Pursuant to Sections 617.5(c)(2) and 617.5(c)(25) of the Regulations, the Project is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations.

Section 3. The Chairman of the Agency is hereby directed to file a copy of this Resolution with respect to the Project in the office of the Agency.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Michael Horodyski	VOTING	<u>Yes</u>
John Morrow	VOTING	<u>Yes</u>
Robert Kinnin	VOTING	<u>Absent</u>
Randall Leverette	VOTING	<u>Yes</u>
John Livermore	VOTING	<u>Yes</u>
James Malcolm	VOTING	<u>Absent</u>
Michael Bernholz	VOTING	<u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.

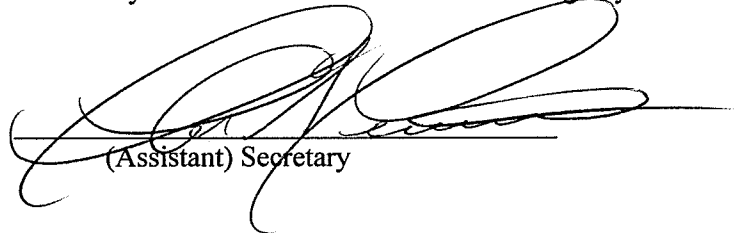
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF ULSTER            )

I, the undersigned (Assistant) Secretary of Ulster County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on December 14, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

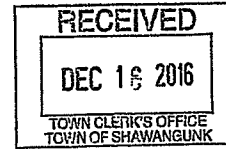
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 14<sup>th</sup> day of December, 2016.

  
(Assistant) Secretary

(SEAL)

NEGATIVE DECLARATION

- SEE ATTACHED -



**TOWN OF SHAWANGUNK PLANNING BOARD  
SEQRA RESOLUTION AND NOTICE OF  
NEGATIVE DECLARATION**

Greenhouses Hotel LLC Special Use Permit and Site Plan for a Country Inn  
2187 Bruynswick Road  
Applicant: The Greenhouses Hotel LLC  
Owner: Dennis Mercurio

**WHEREAS**, on May 19, 2016, the Planning Board of the Town of Shawangunk received a Site Plan and Special Use Permit application from the Greenhouse Hotel LLC, for the proposed construction of a country inn with accessory uses and structures on a 5.6 acre parcel of land located generally on the south side of the intersection of Bruynswick Road with Corey Lane in the Town of Shawangunk, Ulster County, New York; and

**WHEREAS**, the lands that are the subject of this application are designated on the Town of Shawangunk Tax Map as S/B/L 99.2-3-23.112, comprised of one parcel aggregating a total of 5.6 acres in size, and situated in the R-AG4 Zoning District; and

**WHEREAS**, the Applicant proposes to repurpose a former greenhouse complex for the development of a country inn with 14 lodging rooms, a restaurant, and facility space for conferences and events. The buildings and uses are as shown on a Site Plan and described in a project narrative last revised September 16, 2016, and said project narrative is subject to revision and final approval as part of the Special Use Permit decision; and

**WHEREAS**, in accordance with the regulations implementing the NY State Environmental Quality Review Act (SEQRA), Part 1 of the Short Environmental Assessment Form, was submitted on May 17, 2016; and

**WHEREAS**, the Planning Board determined that the action should be classified as an Unlisted Action. The Planning Board issued a Notice of Intent to act as Lead Agency for purposes of the review of this action, and the Notice of Intent was circulated to all involved and interested agencies on June 10, 2016. There being no opposition, the Planning Board declared itself Lead Agency on July 13, 2016; and

**WHEREAS**, the Special Use Permit and Site Plan are subject to Ulster County Planning Board review in accordance with New York State General Municipal Law Section 239-m, and the County's review dated October 6, 2016, recommended modifications to require necessary approvals from the Ulster County Department of Health for the septic and well systems, and the Ulster County Department of Public Works for highway access. The Planning Board deliberated the County modification and is in agreement with same; and

**WHEREAS**, the Site Plan which has been reviewed by the Planning Board, and is the subject of this SEQRA determination, is entitled "Greenhouses Site Plan", prepared by Taconic Engineering DPC, last revised September 15, 2016, and including map sheets prepared by Mapos, last revised November 16, 2016, and consisting of the following map sheets -

Sheet No	Description	Last Revised
1	C101- Title	9-15-16
2	C102- Existing Conditions Site Plan	9-15-16
3	C103 – Proposed Conditions Site Plan	9-15-16
4	C104 – Grading & Drainage Plan	9-15-16
5	C105 – Landscaping Plan	9-15-16
6	C106 – Lighting Plan	9-15-16
7	C107 – Erosion & Sediment Control Plan	9-15-16
8	C108 – Site Details	9-15-16
9	A-004a – Proposed Perspectives and Building Data	9-16-16
10	A-004b – Proposed Perspectives and Building Data	9-16-16

; and

**WHEREAS**, a public hearing was opened on October 4, 2016, and has been continued, and comments from interested members of the public on all issues, including environmental concerns, were sought and considered by the Planning Board; and

**WHEREAS**, the Planning Board requested that the Town of Shawangunk Environmental Management Council (EMC) conduct a field visit, and said visit was conducted on August 26, 2016. The visit is set forth in a September 5, 2016, memo to the Planning Board. These comments were reviewed by the Planning Board and are addressed as set forth in the findings below; and

**WHEREAS**, the Planning Board Planner prepared the short EAF, Part II, which was transmitted on September 2, 2016, which was subsequently reviewed by the Planning Board. The Planning Board determined that the Part II EAF reflected the Planning Board's determinations with regard to the potential impacts associated with the proposed project, and the magnitude of those impacts; and



**WHEREAS**, the Planning Board Planner prepared a compilation of all SEQRA materials that had been prepared and transmitted same to the Board on November 1, 2016. The Planning Board, at its November 1, 2016, requested that the Applicant prepare a Part 3 Environmental Assessment Form to summarize how all potential environmental impacts disclosed during the review process would be addressed; and

**WHEREAS**, the Planning Board received a draft EAF Part 3 and Part 3 Supplement from Andy Didio, Taconic Engineering, on November 10, 2016, and has reviewed same; and

**WHEREAS**, the Planning Board has duly considered the record, together with the action, and the project narrative which will accompany the Special Use Permit and Site Plan have been or will be modified to address any potential significant adverse impacts identified by the Planning Board; and

**WHEREAS**, the Planning Board has analyzed the potential areas of environmental concern associated with the proposed action in accordance with procedures set forth at 6 NYCRR Part 617 and the criteria set forth at 6 NYCRR Part 617.7 implementing the New York State Environmental Quality Review Act (SEQRA), and

**WHEREAS**, the Planning Board consequently finds that the action will not have a significant effect on the environment for the following reasons:

1. Land Use and Zoning. A country inn is a use allowed in the RAG-4 zoning district by Special Use Permit. The proposed project will operate within an existing hamlet neighborhood with a diversity of uses including other bed and breakfast operations, single family detached dwellings, a group home, a religious place of worship, a restaurant, a firehouse, and agricultural operations. The Planning Board has reviewed all general standards for a Special Use Permit, all individual standards associated with Special Use Permit, and performance standards for nonresidential uses, and the Applicant has met or will meet same in order to ensure that the proposed project does not have a significant impact on existing land uses. As the project proposes a change of use, it requires that all bulk requirements applicable to the RAG-4 zoning district be met for the new use. It has been determined that an existing barn in the northwest corner of the site projects 7.5 feet into the required 75-foot front yard setback and as such, required an area variance. The Zoning Board of Appeals opened a public hearing on the variance on November 16, 2016, and has expressed that the proposed area variance will not have a significant impact on the environment. As the Planning Board is the lead agency for the proposed action, it must render a SEQRA determination prior to the Zoning Board of Appeals issuing the de minimus variance. Based on the foregoing, the proposed project is not anticipated to have a significant impact on land use or zoning. The Special Use Permit will have its own standards and requirements to ensure the facility complies with the individual standards for a country inn, and otherwise meets the general standards for a Special Use Permit.

2. **Community Character and Visual Resources.** The project site is situated on a “town scenic road” as per the Town of Shawangunk Open Space Inventory. The proposed project will convert a project site which presently is unoccupied, and was used previously as a greenhouse and landscape nursery, into a country inn. The proposed country inn will include repurposed buildings on the site. As required by the standards for country inns, the appearance of the country inn shall be compatible and consistent with the appearance of residences in its immediate neighborhood. As part of the application submission, the Applicant submitted photos of existing residences in the area (August 15, 2016 submission). The Applicant also submitted renderings, exterior elevations and perspectives of the proposed facilities (August 15, 2016).
3. **Cultural Resources.** The proposed project is not adjacent to a property listed or eligible for listing on the National Register of Historic Places or State Register of Historic Places. The site is not located within an archaeologically sensitive area. The project site has been disturbed previously with the construction and operation of a commercial greenhouse business. The Applicant has conducted a cultural resource screening analysis as required by the procedures for issuance of a SPDES general permit for construction activities, and no further consultation with the NYS Office of Parks, Recreation and Historic Preservation, State Historic Preservation Office, is required. No impacts to cultural resources is anticipated.
4. **Noise.** The Applicant’s designer, Mapos, submitted a Sheet entitled “Planning Board Site Analysis – Sound” (Sheet A-002c) which indicated the noise levels that would emanate from the site during operations. The Applicant represents that the assumptions behind the noise levels presented on the map are based on OSHA Technical Manual Section III: Chapter 5, Part II(B)(5), where the manual sets out the typical sound levels of familiar noise sources. Noise abatement will be addressed during site operations by maintaining that no amplified sound, including but not limited to music, will be permitted outside of any venue buildings. Improvements to the interior of site buildings are proposed to dampen amplified sound from migrating off site. As per the project narrative, acoustic paneling, sound insulation, and similar materials will be installed. Other techniques will include directional placement of speakers. The open-air court will be utilized for patron gatherings as a portion of the onsite activities—such activities will not include amplified sound. Permanent noise monitors will be installed at multiple locations along the property boundary to insure that the noise generated from site operations remains within performance standard limits, and any limit that may be imposed by the Special Use Permit, including limits to hours of operation. The Applicant has represented that a Model 831-INT Docking Station, or equivalent, will be installed to monitor noise. The project will be required to comply with the noise performance standards set forth in Section 177-44.D of the Town Zoning Law, which will be a continuing obligation to operate the country inn and associated activities. The Special Use Permit shall incorporate measures to monitor and revisit the conduct of the operations, as necessary, to ensure noise levels comply with the performance standards. Prior to issuing a Special Use Permit, the Applicant will furnish updated noise modeling based on the final plan for operation of the facility. Consistent with 177-44.E of the Zoning Law., no building

permit shall be issued until the Applicant has demonstrated satisfactorily compliance with the noise performance standards. Based on the foregoing, no significant adverse impact to ambient noise levels is anticipated.

5. **Fiscal Impact.** The Payment in Lieu of Taxes ("PILOT") agreement was reviewed with the Town Board and opened for public comment prior to final approval. The Applicant represents that the Ulster County IDA assured the Town Board during that process that the fiscal impact to the Town is minimal and is offset by benefits delivered from the project. Specifically, the Applicant represents that the PILOT agreement will ensure that at all times, the project site will generate no less in property tax revenue than is currently received from the project site.
6. **Critical Environmental Area (CEA).** The project site is not located within a critical environmental area. The project will not impact any CEA.
7. **Agricultural Resources.** The project site is not in agricultural use. Impacts to agricultural resources will not occur. The proposed project is within 500 feet of existing agricultural operations, but will not have an impact on those uses. An agricultural note will be added to the Site Plan to disclose to prospective visitors to the site the types of activities typically associated with agricultural operations.
8. **Traffic and Transportation.** The proposed action maintains frontage on Bruynswick Road which is a County Road (CR7). In a letter dated August 8, 2016, the Ulster County Department of Public Works indicated that the County has responsibility for all details of access to a county road as per Section 136 of Highway Law. The DPW inspected the relocation of the access and found it acceptable for a minor roadway as shown on the Site Plan. With regard to sight distance to the left upon exiting the proposed access, a sight easement area must be shown on the plan and no obstructions will be permitted to maintain approximately 500 feet visibility. Minimum site distances requirement have been reviewed onsite by the DPW, based on the area speed limit, and it has been determined these requirements will be met at the proposed location. The landscape plan indicates "turf" only will be allowed in this area; the site easement area must be specifically identified and added to the Site Plan. The proposed commercial entrance to serve the site has been reviewed and found to be acceptable for the curb cut location - the entrance's specific design and construction is still subject to DPW approval and will be coordinated during final Site Plan review. As per an email communication from Kim DuFresne, Senior Engineering Aide at the UCDPW, a traffic study was determined to not be required based on the existing levels of service on Bruynswick Road. During large attendance events, the Applicant will provide a flagger to control traffic movements into and out of the property.

The Shawangunk Valley Fire District submitted a memorandum to the Planning Board dated November 10, 2016. A Shawangunk Fire Commissioner, Roger Rascoe, states that the fire district will defer to the Licensed Design Professional to ensure that the site turning radii

and access is compliant with the NYS Fire Code. As shown on the plan, fire apparatus access has been provided with appropriate radii to be within a minimum of 150' from all structure. The fire district has also indicated that the fire company will respond to all emergencies to the best of its abilities. Based on the foregoing, no impact related to emergency service access is anticipated.

The Special Use Permit shall incorporate measures to monitor and revisit traffic levels and parking demand, if necessary, to ensure the facility does not have any significant adverse impact on traffic operations in the project vicinity. Based on the foregoing, it is not anticipated that there will be a significant adverse impact on traffic.

9. Energy. The proposed project will introduce demand for energy. The action is proposed to be served by electric, ground mounted solar panels, and propane to be supplied from a 1,000 gallon tank which will be buried in a location adjoining the open air court. The filling valve for the proposed propane tank will be protected by a bollard or other means. The facility will be served by ground-mounted solar panels as shown on the Site Plan, to the extent same are permitted by the Town Zoning Law and any regulations applicable at the time of installation. Electricity will be supplied by Central Hudson. No impacts associated with the provision of energy are anticipated.

10. Water Supply. Due to the commercial nature of the proposed use with public consumption of onsite potable water, a Public Water Supply (PWS) approval will be required by the UCDOH: The site will fall under a Transient Non-Community Public Water System (TNCPWS) permit. The Applicant's engineer provided the Planning Board with proposed load calculations on submitted load calculations to the Ulster County Department of Health on September 7, 2016. Daily water demand, based on total fixtures, is estimated to be 100.4 water supply fixture units, which converts to 43.5 gallons per minute. Based on the load estimate calculated for wastewater, the estimated water demand is 1,175 gallons per day (gpd), with an assumed design flow of 1,200 gpd. Recovery yield of the new well will be used to determine the level of reserve storage necessary to meet peak water demand. Reserve storage shall be via storage tanks to be buried, or housed in an existing building onsite to keep it from being visible from public view. Supplemental potable storage will allow the site to meet peak demand while amortizing the well draw from the aquifer to mitigate any impact to neighboring properties' supply. Aside from periodic "topping off" of the swimming pool, any substantial filling of the proposed swimming pool will be achieved through trucking in water (i.e. when opening the pool for the season).

Based on an email from Anthony Puccio, Assistant Public Health Engineer, UCDOH concurs with the load calculation: The UCDOH has indicated that raw water quality data must be tested as per NYSDOH Part 5 regulations, Tables 8B, 8C, 8D, 9B, 9C, 10 and 11, with some specific chemicals excluded. Additional testing will be required for ultraviolet treatment systems. Based on the data submitted to the Planning Board, and representations made by

the Ulster County Health Department and the Applicant, no impact to water supply is anticipated.

Any existing wells that will not be utilized as part of the proposed use must be abandoned in accordance with New York State Department of Health, Bureau of Water Supply Protection, Individual Water Supply Wells – Fact Sheet #4, Decommissioning Abandoned Wells.

11. **Septic Systems.** The site is proposed to be served by an onsite wastewater treatment system. Due to the calculated design loading based on the proposed use, the system will require a NYS Department of Environmental Conservation (DEC) SPDES Permit for subsurface discharge. As loading is less than 10,000 gallons per day, the local UCDOH will provide review and approval of the system on behalf of the DEC. The preliminary system proposes to utilize secondary treatment through underground sand filtration prior to dosing of an absorption mound. The system has been sized to accommodate amortization of the load over the week, as the system will receive peak loading during weekend events. The preliminary system size is also based upon the existing soil conditions and ability to treat the filtered effluent. Based on an email from Anthony Puccio, Assistant Public Health Engineer, UCDOH concurs with the load calculation. The Town engineering consultant, in an email dated November 4, 2016, has concluded that based on review of the preliminary Site Plan, that wastewater will be managed and treated so that no significant adverse impact... will result.
12. **Land disturbance.** The proposed project will result in the disturbance of 3.92 acres of property associated with a former commercial greenhouse operation. Disturbances will be limited to the areas shown on Map Sheets C104 of the plan set. The SWPPP provides detailed measures which will be installed to ensure that soil erosion and sedimentation is minimized. With these measures in place, no significant adverse impact from land disturbance activities is anticipated. Further, all areas that are not dedicated to buildings or impervious surfaces will be landscaped in accordance with the landscape plan included as Sheet C105. No significant adverse impacts are anticipated.
13. **Stormwater Management.** As the commercial project proposes approximately 3.92 acres of ground disturbance during construction, a SPDES General Permit for Construction Activities (GP-0-15-002) will be required. The Site Plan includes post-construction extended detention ponds to ensure stormwater runoff is not discharged from the site at a greater rate than the preconstruction condition. The system utilizes primarily open drainage systems for conveyance. A draft Stormwater Pollution Prevention Plan (SWPPP) has been developed for the project and provided to the Town Engineer for review. As the site falls within the Town MS4, the final design and SWPPP document will be coordinated with the Town Engineer to meet all requirements set forth in the NYSDEC Stormwater Management Design Manual (2015), including the green infrastructure requirements for runoff reduction volumes.

The Town engineering consultant reviewed the draft SWPPP and his comments are contained in a letter dated September 30, 2016. The Applicant's engineer submitted additional information to address comments set forth in that review letter. The Town engineering consultant, in an email dated November 4, 2016, has concluded that based on review of the draft SWPPP and additional information, stormwater from the developed site is being managed so there will be no to a small impact resulting from stormwater.

NYSDEC regulations require that a copy of the SWPPP and NOI be filed with the Town Board. A copy of the approved SWPPP and the Notice of Intent (NOI) shall also be filed with Town Planning Board and Town Stormwater Officer and no construction shall occur until such time that said filings are made.

All requirements of Section 177-81 of the Town Zoning Law shall be adhered to, including but not limited to establishment of a stormwater management agreement as part of the Special Use Permit.

14. Solid and Hazardous Waste. As per the Site Plan and EAF Part 3, all solid waste dumpsters to serve the site are proposed to be housed inside the large existing barn in the northwest corner of the site. This will mitigate visual and odor impacts attributed to solid waste management.

The EMC observed old vehicles, a 275 fuel tank, a dumpster and scattered trash on the site. Also, below the pond there is a mound which appears to have been an old dump as the EMC observed saw mattresses and scattered toys. It is uncertain what else might be buried there and said materials must be removed. The existing debris that has been dumped in the rear (southern) portion of the site will be removed as a condition of the purchase of the property by the Applicant. No miscellaneous solid waste will remain around the site at the time of construction. Best management practices will be employed during the demolition and construction phase to ensure that construction waste is managed and disposed of properly.

Mr. Posey, a principal of the contract vendee who will be purchasing the property to operate the proposed country inn, indicated that his agreement to purchase the property from the current owner requires that the current owner remove all debris. During the public hearing, a member of the public familiar with the operation of the greenhouse site stated that pesticides had been disposed of on the site. The Applicant has stated that soil testing will be conducted as part of the closing associated with purchase of the property. The Applicant shall furnish all results of said testing to the Planning Board, and this Negative Declaration is based on the representation that the site soils do not exceed NYSDEC or NYSDOH standards for any soil constituents.

15. Flora and fauna. In a letter dated June 15, 2016, the NYSDEC indicated that the potential existed for the Henslow sparrow and Upland sandpiper (both New York State threatened

species) to be present in the project area. In addition, the U.S Fish and Wildlife Service (USFWS), in correspondence dated June 15, 2016, indicated that the following federally listed species were potentially present in the project area: Indiana bat (endangered), Northern Long-Eared bat (threatened), and Bog turtle (threatened). Various migratory bird species were also identified in the USFWS report as potentially being present. The Shawangunk EMC visited the site on August 26, 2016, and have concluded that the proposed project would not impact the abovementioned species or habitat supportive of same. Much of the land has been previously disturbed by operation of a former commercial greenhouse operation. The proposed project is not anticipated to have a significant impact on flora or fauna.

16. Wetlands. The onsite wetlands were delineated by Taconic Engineering personnel on August 10, 2016, and the delineation has been reviewed by the Town EMC. The existing irrigation ponds are considered to be wetland in nature, as they meet the requirements set forth in the Army Corps of Engineers (USACE) Wetland Delineation Manual (1987) and the Northcentral and Northeast Regional Supplement (2012). A total of 0.075 acres of impacts are proposed to onsite wetlands, including the ponds, which will require a Nationwide Permit from the USACE. Impacts have been minimized to the extent that compensatory mitigation will not be required (less than 0.1 acres of wetland impact). The proposed project will not have a significant adverse impact on on-site wetlands.

**NOW, THEREFORE, BE IT RESOLVED that:**

1. The Planning Board determines that the action as proposed will not have a significant adverse effect upon the environment as proposed and an environmental impact statement will not be required.
2. That this resolution shall be deemed a notice of determination of non-significance issued pursuant to 6 NYCRR Part 617 and Article 8 of the Environmental Quality Review Act, and the Planning Board secretary is hereby directed to file and circulate this Notice in accordance with the requirements of Part 617.

Resolution offered by Member Todd Widmark, seconded by Member Heather Post, adopted on a vote of 7 ayes, 0 nays, 0 member abstaining.

Dated: December 6, 2016

Contact Person: Mr. Mark Watkins, Chairperson  
Town of Shawangunk Planning Board  
PO Box 247  
Wallkill, New York 12589  
(845) 895-3356

This Negative Declaration is to be filed with all involved agencies.