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September 4, 2025

Chairman Warren and Honorable Members of the
Town of Orangetown Planning Board
26 Orangeburg Road
Orangeburg, NY 10962

Re: Phase I and II Databank Orangeburg, Orangetown, NY

Dear Chairman Warren and Honorable Members of the Town of
Orangetown Planning Board:

I am counsel for David B. Rosen, 10 Buckingham Place, Old Tappan, NJ, 07675 and Chris Kielbiowski, 6 Buckingham Place, Old Tappan, NJ 07675, and several of their neighbors, all direct and adjacent neighbors to the Databank Phase I and II application ("Databank"), and who will be directly impacted by Databank. This letter is in opposition to the Databank Phase II application, which is not permitted in the Light Industrial Office LIO zoning district, and which was agreed could not be built pursuant to Condition 14 of the Planning Boards's January 11, 2023 approval of Phase I.

The Planning Board needs to advise Databank to withdraw its application with regard to Phase II as it was a condition of the approval of Phase I that Phase II could not be constructed.

A. The Planning Board Already
Determined That Phase II
Could Not Be Constructed

By Resolution, dated January 11, 2023, attached in part as

Exhibit A¹, the Planning Board **approved Databank Phase I subject to the precise condition that Phase II cannot be constructed** because Phase I is required to landbank 670 parking spaces which are in the precise location where Phase II was to be developed. The Planning Board condition at Condition 14 makes it clear that Databank understands that because it is receiving approval for Phase I, and Phase I requires landbanked parking spaces on the location that Phase II was to be developed, **that Phase II cannot be constructed:**

The landbanked parking spaces will be located where a second phase of the databank center was proposed in previous iterations of the site plan. The applicant must understand that with the proposed landbanked parking spaces, Phase II as formerly illustrated, cannot be constructed.

(Emphasis supplied).

Databank comes now before the Planning Board and states that it has no intention of landbanking any parking spaces and that even though it agreed NOT to build Phase II it requests the Planning Board to proceed with its application as if Condition 14 never existed and that there was no agreement that as to receive approval for Phase I, there can be no Phase II.

The Planning Board in the separate Phase II application cannot amend the Phase I approval.

It is unfathomable to believe that Databank with its myriad of professionals did not realize that it was giving up its rights to build Phase II. No conditions changed since the January 11, 2023 approval. Rather, I submit that Databank is trying to hoodwink the Planning Board. Databank would agree to anything to receive approval for Phase I. Once Phase I was approved Databank Phase II now says "never mind, we were just kidding that we would not build Phase II and no one needs landbanked parking spaces."²

1

For the Board's convenience the entirety of the January 11, 2023 approval of Phase I is attached hereto as Exhibit B. The critical condition is Condition 14 on page 17.

2

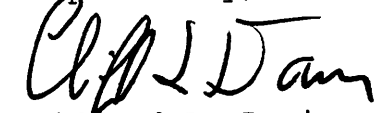
Databank fails to address that if there were no landbanked parking spaces that if the buildings were no longer to be used as data centers there would be no way to "repurpose" the structures without appropriate parking. That is not consistent with good

As Phase II cannot be constructed the application must be denied right now. This matter is just not that complicated. Databank must conform in all respects with the Phase I approval, which required there to be no Phase II.

B. The Phase II Application
Must Not Be Permitted to Go Forward

Databank should be required to keep to its word, no different than all applicants that come before the Planning Board. The matter should proceed no further. Phase I was approved by the Planning Board on the strict condition that Phase II would not be built. Databank must be told that it "understood" that the approval of Phase I meant there was to be no Phase II. The Planning Board needs to tell this Applicant when it places a condition on the approval that it means it, that it will enforce it, and Phase II cannot be constructed. Databank cannot be allowed to make a mockery of the Phase I approval by the Planning Board, and the review of its application of Phase II should cease. Accordingly, there is no need to retain AKRF and exhaust the valuable resources of the Planning Board and its staff to review an application that must be denied now.

Respectfully,


Clifford L. Davis

Encl.

urban planning.

EXHIBIT "A"

January 11, 2023
Page 17 of 27

Continuation of Condition #12...

3. Show the invert elevations for the inlet and outlet pipes of the existing stormwater management basin to remain located south of the new building.
4. Show the existing pipes in the area of the settling basin on the Grading and Drainage Plan (Drawing C-4.0).
5. Update the Grading and Drainage Plan (Drawing C-4.0) in the SWPPP with the current version that does not include the Phase 2 Data Center Expansion.
6. Show the existing off-site storm drainage system on Corporate Drive that creates the drainage divide at the southeast corner of subarea PR-1.
7. Verify the outlet of the Existing Pond 2 in the hydrologic model; the model shows a weir only as the outlet and the plans show an outlet pipe in addition to the weir.
8. Verify the outlet configuration of the 3' x 3' grate outlet for OCS-5 and OCS-60 in the hydrologic model. The model shows the outlet as a broad crested weir; verify the grate inlet of this structure has the capacity similar to a broad crested weir.

13. Along the emergency access road, the applicant shall plant alternating green giant arborvitae and spruce trees near the property line shared with 99 Hunt Road, Orangeburg (Section 73.15, Block 1, Lot 5), planted in a staggered fashion, 5 feet on center, minimum height at planting of 7' to 8', for approximately 200 feet to 250 feet along the property line. The Board estimated the number of trees should be at a minimum of 15 to 20 trees.

14. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- The land banked parking spaces will be located where a second phase of the databank center was proposed in previous iterations of the site plan. The applicant must understand that with the proposed land banked parking spaces, Phase II, as formerly illustrated, cannot be constructed.
- According to the Hudson River Natural Resources Mapper, the land banked parking is proposed on Federal Wetlands. A review must be completed by the United States Army Corps of Engineers and all required permits obtained.
- According to the letter from Kimley-Horn, dated December 1, 2022, a review has been completed by the Town of Orangetown Fire Inspector and fire access and maneuvering plan has been approved. A review shall also be completed by the Rockland County of Rockland Office of Fire and Emergency Services, or the Pearl River Fire Department to ensure that the site is designed in a safe manner and that there is sufficient access to, and maneuverability on, the site for emergency vehicles. This review should consider whether the site can accommodate fire equipment and whether there is adequate water (volume/fire flow) for firefighting purposes.

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TOWN OF ORANGETOWN

EXHIBIT "B"

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 1 of 27**

TO: Brian Quinn, One Blue Hill Plaza, 3rd Floor, Pearl River, New York
FROM: Orangetown Planning Board

RE: Databank Site Plan: The application of Tory Gotti, applicant for 2000 Corporate Drive, LLC, owner, for Final Site Plan Review at a site to be known as "Databank Orangeburg Site Plan", in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown. The site is located at 2000 Corporate Drive, Orangeburg, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 73.15, Block 1, Lot 19 in the LIO zoning district.

Heard by the Planning Board of the Town of Orangetown at meetings held **November 9, 2022 and January 11, 2023** at which time the Board made the following determinations:

November 9, 2022

Thomas Warren, Chairman, recused himself from this hearing.

Brian Quinn, Lino Sciarretta, Gene Rowaldini, Ben Diskin, Tony Qurri and Daniel Lofesco appeared and testified.

The Board received the following communications:

1. Project Review Report dated October 26, 2022.
2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by Jane Slavin, R.A., A.I.A., Director, dated October 28, 2022.
3. Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated November 7, 2022.
4. An interdepartmental memorandum from the Bureau of Fire Prevention, Town of Orangetown, signed by David Majewski, Chief Fire Inspector, dated October 5 & 25, 2022.
5. Letter from Brooker Engineering, signed by Kenneth DeGennaro, P.E., dated October 24, 2022.
6. Letter from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, dated October 26, 2022.
7. Notice from Rockland County Highway Department, signed by Dyan Rajasingham, Engineer III, dated October 4, 2022.
8. Letters and a notice from Rockland County Department of Health, dated October 7, 2022, signed by Elizabeth Mello, PE.
9. Email from Orange & Rockland Utilities dated September 28, 2022 from Alfred Gaddi, PE.

TOWN OF ORANGETOWN
2023 FEB 10 A 11:37
TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 2 of 27**

10. A copy of a letter from the Department of Army, New York District, Corps of Engineers, to Max Ojserkis, Kimley-Horn, dated October 19, 2022.
11. A copy of a letter from New York State Department of Environmental Conservation to Ryan Merritt, Kimley-Horn, dated July 1, 2022.
12. A copy of an easement dated July 14, 1960 and a copy of a subdivision entitled "Salisbury Development Corp. Minor Subdivision, dated February 24, 1975.
13. Letter from O'Toole Scrivo, dated October 25, 2022, signed by Holly Schepisi
14. A copy of a letter from Lewis Goodfriend & Associates, dated September 27, 2022, signed by Matthew Murello, PE.
15. Letter from Donald Brenner, dated November 8, 2022, with attachments.
16. Copy of an Email from Brian Quinn dated November 9, 2022.
17. Email from Melody Fiore, dated November 8, 2022.
18. Email from Leslie Whatley, dated November 8, 2022.
19. Building Permit Referral to the Planning Board dated May 18, 2022 signed by Rick Oliver, Building Inspector.
20. Stormwater Pollution Prevention Plan prepared by Kimley-Horn, dated September, 2022.
21. Plans prepared by Kimley-Horn, last revision date of September 20, 2022:
 - C-0.0: Cover Sheet
 - C-0.1: Legend and General Notes
 - C-1.0: Zoning and abutters Plan
 - C-1.1: Existing Conditions
 - C-2.0: Building Demolition & Erosion Control Plan
 - C-2.1: Building Demolition & Erosion Control Details
 - C-3.0: Layout and Materials Plan
 - C-3.1: Vehicle Maneuvering (WB Truck)
 - C-3.2: Vehicle Maneuvering (Firetruck)
 - C-3.3: Site Plan – Phase I
 - C-4.0: Grading and Drainage Plan
 - C-5.0: Utility Plan
 - C-6.0: Erosion and Sediment Control Plan
 - C-6.1: Erosion and Sediment Control Details
 - C-6.2: Erosion and Sediment Control Details
 - C-7.0: Site Details
 - C-7.1: Site Details
 - C-7.2: Site Details
 - C-7.3: Site Details
 - LA-1.0: Landscaping Plan
 - LA-1.1: Landscaping Details
 - LT-1.0: Lighting Plan

TOWN OF ORANGETOWN
2023 FEB 10 A 11:37
TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

January 11, 2023

Page 3 of 27

22. Architectural Plans prepared by Highland Associates, dated August 26, 2022, last revised September 21, 2022:

A002-1: Masterplans

A003-1: Building Perspectives & Renderings

A004-1: Building Perspectives & Renderings

A005-1: Building Perspectives & Renderings

A100-1: First Floor Subfloor and Interior Fit Out Composite Plans

A201-1: Composite Overall Exterior Building Elevations

23. Letter from Kimley-Horn dated September 22, 2022.

24. Site Sound Level Analysis, dated April 22, 2022, prepared by Acentech.

25. Copy of ZBA#22-56, dated September 21, 2022; Parking, Number of Loading Berths, Exterior Loading Berths and Buffer, Approved with Specific Conditions.

Draft copy of ACABOR #22-56, Approved as Presented, dated November 3, 2022 and PB#22-36, Preliminary Site Plan Approval Subject to Conditions, dated July 13, 2022.

26. Email from Planning Board Member Andrew Andrews, dated November 8, 2022.

The hearing was then opened to the Public.

A motion was made to open the Public Hearing portion of the meeting by Kevin Farry and seconded by Michael McCrory and carried as follows: Thomas Warren - Chairman, recused; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, absent; Tara Heidger (alternate member), aye and Lisa DeFeciani, aye.

Public Comment:

Dave Rosen, 10 Buckingham Place, Old Tappan; raised concerns regarding the size of the project, what kind of buffers would be used, and Phase II of the proposed development.

Melanie Florie, 99 Hunt Road, Orangeburg, raised concerns regarding the electrical stations being proposed on the property closest to her property.

Jaqueline Florie, 93 Hunt Road, Orangeburg, requested that the Board look out for the New York residents and place the power station at another location on the site.

TOWN OF ORANGETOWN
FEB 10 A 11:37
TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 4 of 27**

Qu Fen, 34 Corrigan Way, Old Tappan, expressed concerns regarding the noise that would be created by the site.

James Coffey, 139 Hunt Road, Orangeburg, requested the Board to consider another location for the power station.

Vannes Lapin, 169 Western Highway, Orangeburg, read from her email that was provided to the Board.

Lauer Gerazi, 2 Buckingham Place, noted that the New Jersey residents will have an attorney to represent them.

There being no one else from the Public a motion was made by Michael McCrory and second by Kevin Farry and carried as follows: Thomas Warren - Chairman, recused; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, absent; Tara Heidger (alternate member) aye and Lisa DeFeciani, aye.

The applicant requested a CONTINUATION until the January 11, 2023 Planning Board Meeting.

January 11, 2023

Brian Quinn, Ben Diskin, Paul LeBlond, Lino Sciarretta, Tony Qurri, Dana Smith, Bob Munno, appeared and testified.

The Board received the following communications:

1. Project Review Report dated January 4, 2023.
2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by Jane Slavin, R.A., A.I.A., Director, dated December 21, 2022.
3. Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated January 9, 2023.
4. An interdepartmental memorandum from the Bureau of Fire Prevention, Town of Orangetown, signed by David Majewski, Chief Fire Inspector, dated January 4, 2023.
5. Letter from Brooker Engineering, signed by Kenneth DeGennaro, P.E., dated January 6, 2023.

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

January 11, 2023

Page 5 of 27

6. Letter and Notice from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, dated January 3, 2023 and Jake Palant, dated December 12, 2022.
7. Notice from Rockland County Highway Department, signed by Dyan Rajasingham, Engineer III, dated October 4, 2022.
8. Letters from Rockland County Department of Health, dated November 29, 2022 and January 11, 2023, signed by Elizabeth Mello, PE.
9. Letter from Rockland County Sewer District No.1, dated December 8, 2022, signed by Joseph LaFiandra, Engineer II.
10. A copy of a letter from the New York State Department of Environmental Conservation, dated July 11, 2022, signed by Ellen Hart, Environmental Analyst, Division of Environmental Permits.
11. Emails from the New York State Department of Environmental Conservation, signed by Lisa Masi dated December 5 & 7, 2022.
12. Bald Eagle Nest Monitoring Proposal, prepared by Kimley-Horn, dated November 30, 2022, with attachments.
13. Site Sound Level Analysis – Revised, prepared by Acentech, dated November 30, 2022
14. Copy of an Easement prepared by The Great American Title Agency, Inc., dated November 9, 2022.
15. A letter from McCall Abstract Corp. dated November 9, 2022, signed by Jason Sweet, President, McCall Abstract Corp.
16. A response letter prepared by Kimley-Horn Engineering and Landscape Architects, dated December 1, 2022.
17. A copy of a letter to Ben Diskin, Databank Orangeburg from Highland Associates, Estimated Water/ Sanitary Flow Calculations, dated November 27, 2022.
18. Letter and photograph from Melody Fiore, area resident, dated January 8, 2023.
19. Email from Leslie Whatley, area resident, dated January 9, 2023.
20. Sound Report prepared by Lewis S. Goodfriend & Associates, dated January 10, 2023, from Holly Schepisi, of O'Tool - Scrivo, attorney representing a neighbor dated January 10, 2023.
21. Databank Topography Survey – Revised, prepared by Insite Engineering, Surveying and Landscape Architecture, dated November 8, 2022.

TOWN OF ORANGETOWN
FEB 10 A 11:37
TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 6 of 27**

22. Plans prepared by Kimley-Horn, last revision date of December 1, 2022:

- C-0.0: Cover Sheet
- C-0.1: Legend and General Notes
- C-1.0: Zoning and abutters Plan
- C-1.1: Existing Conditions
- C-2.0: Building Demolition & Erosion Control Plan
- C-2.1: Building Demolition & Erosion Control Details
- C-3.0: Layout and Materials Plan
- C-3.1: Vehicle Maneuvering (WB Truck)
- C-3.2: Vehicle Maneuvering (Firetruck)
- C-3.3: Site Plan – Phase I
- C-4.0: Grading and Drainage Plan
- C-5.0: Utility Plan
- C-6.0: Erosion and Sediment Control Plan
- C-6.1: Erosion and Sediment Control Details
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- C-7.0: Site Details
- C-7.1: Site Details
- C-7.2: Site Details
- C-7.3: Site Details
- LA-1.0: Landscaping Plan
- LA-1.1: Landscaping Details
- LT-1.0: Lighting Plan

The hearing was then opened to the Public.

A motion was made to open the Public Hearing portion of the meeting by Kevin Farry and seconded by Denise Lenihan and carried as follows: Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, aye; Tara Heidger (alternate member), absent and Lisa DeFeciani, aye.

Public Comment:

Melanie Florie, 99 Hunt Road, Orangeburg; raised concerns regarding the removal of trees along the property line and requested replacement trees be planted, at least 10 feet in height.

Leslie Whatley, 6 Buckingham Place, Old Tappan; reviewed the Sound Report and requested that the plans be changed in order to muffle the sounds coming from the site. Ms. Whatley presented a sound clip of the current sounds at the side.

TOWN CLERK'S OFFICE

FEB 10 A 11:37

TOWN OF ORANGETOWN

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 7 of 27**

Jacqueline Florie, 93 Hund Road, Orangeburg; expressed concerns regarding contamination of the well water in the area.

Dave Rosen, 10 Buckingham Place, Old Tappan; raised concerns regarding the sound attenuation at the site, suggesting a solid wall and raised questions regarding the Geoblock.

Holly Schepisi, attorney representing a neighbor to the site; raised concerns regarding the impact to Bald Eagles in the area, sound attenuation, and the number of generators to be located at the site.

There being no one else from the Public a motion was made by Michael McCrory and second by Kevin Farry and carried as follows: Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, aye; Tara Heidger (alternate member) absent and Lisa DeFeciani, aye.

REAFFIRMATION OF SEQRA

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering; and having heard from the following involved and interested agencies: Town of Orangetown Zoning Board of Appeals, Rockland County Sewer District #1, Rockland County Drainage Agency and having reviewed the drawings presented by the applicant's professional consultants; a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;

TOWN OF ORANGETOWN
2023 FEB 10 A 11:36
TOWN CLERK'S OFFICE

**January 11, 2023
Page 8 of 27**

- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Michael McCrory and seconded by Kevin Farry and carried as follows: Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, aye; Tara Heidger (alternate member), absent, and Lisa DeFeciani, aye, the Board made a Negative Declaration pursuant to SEQRA.

DECISION: In view of the foregoing and the testimony before the Board, the application was granted **Final Site Plan Approval Subject to the Following Conditions:**

TOWN OF ORANGETOWN
2023 FEB 10 A 11:38
TOWN CLERK'S OFFICE

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 9 of 27**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting."
2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. The applicant is seeking approval for Phase 1 at this time and must return to the Planning Board for approval of Phase 2.
4. IUC Performance standards review is required.
5. The Full EAF must be revised as follows;
Page 7: (1) hours of operation must be provided.
6. The applicant is reminded that no work can begin and no permit will be issued until all comments are met from the various agencies, all approvals are obtained, the Final Site Plan is stamped and the construction plans are reviewed and approved by the inspector
7. The generators will only be tested from 9:00 a.m. to 5:00 p.m. Monday through Friday. Only one generator will be tested at a time. The testing schedule shall be provided to the Town of Orangetown Office of Building, Zoning, Planning Administration and Enforcement.
8. The Project Review Committee recommends that a note be placed on the Site Plan that Geoblock access road must be maintained for all four seasons.
9. The Town of Orangetown Department of Environmental Management and Engineering reviewed the submitted information and offered the following comments/ recommendations:
 1. DEME is aware that the applicant has performed a more in-depth survey of the emergency access road area, specifically on the Town Sewer Department Hunt Road property – at its entrance onto Hunt Road. DEME required this due to the large number of existing utilities at the entrance and the applicant's intention of running a new utility duct bank in the existing easement, along the new fire access road. All of the plans and the SWPPP shall be updated to depict the actual locations for the existing utility lines as determined by the field investigation.

TOWN OF ORANGETOWN
FEB 10 A 11:38
TOWN CLERK'S OFFICE

**January 11, 2023
Page 10 of 27**

Continuation of Condition #9...

2. Along with comment 1, a profile for the proposed new utility duct bank shall be provided with the plan set. This profile shall include all utility crossings utilizing the data (exact locations and elevations) collected by the applicant's surveyor from the field investigation performed.

3. The applicant still needs to comply with PB Decision #22-36, conditions:

33. Some proposed piping is missing from drawings C-4.0 & C6.0, e.g. 36-inch RCP from DMH-63A to existing settling basin. OCS-5 missing from profile on drawing C-4.3 structure. Profile Storm C-4 is mislabeled (most likely Storm C-2.) Some pipe lengths differ between plan and profile e.g. Storm C-4 lists 50 LF but drawing C-4.0 lists 35 LF, Storm A-1-B lists 73 LF and drawing C-4.0 lists 70 LF. All drainage information shall be coordinated between the plans and profiles. Lastly, all profiles shall show all utility crossings.

34. A post construction stormwater maintenance agreement (in accordance with NYSDEC Phase II regulations) for the proposed stormwater systems shall be submitted to DEMA and the Town Attorney's office for review and approval. Said agreement shall include a maintenance and management schedule, inspection checklists, contact person with telephone number, yearly report to be submitted to DEMA, etc.

37. A note shall be added to the plans stating that The Town of Orangetown Sewer Inspector shall be notified at least 48 hours in advance of any and all construction on or near existing and proposed sanitary sewer facilities. - Specifically, drawings C-0.1.

4. The revised SWPPP is under review. A formal review shall be sent to the applicant's engineer under separate cover. However, below is a tentative list of corrections/ additions needed to the SWPPP:

a.) The explanation provided in Section 1.5 and Appendix 11 for the proposed Limit of Disturbance insufficient. The explanation and the letter in Appendix 11 do not explain why phase I of the project requires a disturbance of 10 acres and phase 2 requires 6.5 acres of disturbance. The reason for only 2 phases shall be more fully explained within the SWPPP, Appendix 11 and the Sequence of Construction.

b.) The total area of disturbance (a.o.d.) shall be listed on drawings C-1.2, C-2.0, C-3.0, C-3.1, C-3.4, C-4.0 – C-5.0, C-6.0 & LA-1.0

c.) Table 2.1 in the SWPPP introduction shall be expanded to be more detailed in delineating impervious surfaces; e.g. pavement, building / roofing, etc.

d.) Drawing C-1.2 does not clearly indicate the existing drainage piping that is to be removed, nor does it show the extent of the 36-inch RCP drainage piping that is to remain. This shall be corrected.

e.) The Construction Phasing Plan, the SWPPP and the drawings shall more clearly explain and show how stormwater runoff will be directed to the proposed temporary sediment basins and how and where stormwater flow exiting the basins will go. This shall include drainage area mapping showing the separate (if applicable) drainage basins.

January 11, 2023

Page 11 of 27

Continuation of Condition #9...

- f.) As previously requested, the Construction phasing plan within the SWPPP shall list the acreage disturbed for each task in each phase.
- g.) The limit of disturbance (L.O.D.) shown on the drawings does not show the proposed removal of the existing sanitary force main or the installation of the new sanitary force main offsite and up Corporate Drive. This shall be corrected and the L.O.D. adjusted.
- h.) In connection with item 4g above, drawing C-1.2 notes that the existing sanitary pumping station force main is to be removed, however, the drawings C-1.1 & C-1.2 do not show the force main at all. This shall be corrected.
- i.) As per the NYSDEC-SMDM, all upstream areas (from the proposed infiltration basins) shall be completely stabilized before flow is directed to the practice (e.g. infiltration basins. Also, the basins themselves shall be completely stabilized before any upstream flow is directed to them. This must be clearly defined on the drawings, in the SWPPP, in the phasing/ Sequence of Construction, etc. Also, the drawings and SWPPP shall show and define where all stormwater flow from the new drainage system will flow until the infiltration basins are ready to accept stormwater flow.
- j.) The SWPPP shall thoroughly explain the proposed demolition process, when it will occur, the soil erosion and sediment control features that are to be used, when they will be installed, when they will be removed, how the demolition fits into the overall plan for the site, etc.
- k.) The demolition plan and sequencing shall be added to the project Construction phase section of the SWPPP.
- l.) Separate checklists for each and every proposed stormwater management facility (e.g. individual checklists for each porous pavement, infiltration basin forebay, infiltration basin, drainage manhole, catch basin, piping run, rip rap apron, etc.) as well as all of the proposed soil erosion and sediment control features shall be added to Appendix 7A.
- m.) Separate checklists for each and every proposed stormwater management facility (e.g. individual checklists for each porous pavement, infiltration basin forebay, infiltration basin, drainage manhole, catch basin, piping run, rip rap apron, etc.) as well as all of the proposed soil erosion and sediment control features shall be added to Appendix 7B.

TOWN CLERK'S OFFICE

2023 FEB 10 A 11:38

TOWN OF ORANGETOWN

January 11, 2023
Page 12 of 27

Continuation of Condition #9...

5. The test pit locations shown in Appendix 5A of the SWPPP do not coincide with the current post construction stormwater design (e.g. location of infiltration basin #2 not included.) Therefore, additional feasibility testing is required for this proposed basin location. As a reminder: as per the NYSDEC- SMDM (Appendix D) and NYSDEC – FAQs, the following testing regiment is required:

Initial Feasibility Testing:

1. One (1) field Perc test per 5000 SQFT of (infiltration) basin.
6. Because the project proposes to utilize infiltration basins, the applicant/ applicant's engineer is reminded that as per the NYSDEC- SMDM (Appendix D) and NYSDEC – FAQs, the following testing regiment is required for both infiltration basin locations:

Concept Design Testing:

2. A minimum of one (1) test pit/boring AND one (1) infiltration test for every 5000 SQFT of basin area, with no fewer than four (4) test pits/borings and four (4) infiltration tests per facility.
3. The Town will allow the use of the same hole for boring AND infiltration – *“provided that the test is being done at the proper depth and the soil in the bottom of the test pit hasn't been disturbed where the infiltration test will be performed”*
7. In connection with comments 5 & 6 above, Soil analysis, perc tests and determination of groundwater elevations shall be performed at all of the of the proposed post construction stormwater facility locations. These tests/ investigations shall be performed in the spring or fall when the ground water table is typically at its highest. These tests shall be performed **PRIOR** to this proposal receiving **Final Approval** to ensure the adequacy of the design. The information/ test results/ elevations shall be added and incorporated into the SWPPP. DEME shall be notified at least 48 hours in advance of these field tests/ investigations. Copies of all correspondence related to this issue shall be submitted to DEME.
8. Because the project proposes to utilize infiltration basins, the applicant's engineer is reminded that as per the NYSDEC-SMDM – *“The bottom of infiltration facility shall be separated by at least three (3) feet vertically from the seasonally high-water table or bedrock layer, as documented by on-site soil testing.”* All testing data related to this requirement shall be highlighted in Section 3.3 of the SWPPP with reference to Appendix

TOWN OF ORANGETOWN
2023 FEB 10 A 11:38
TOWN CLERK'S OFFICE

**January 11, 2023
Page 13 of 27**

Continuation of Condition #9...

9. Because the project proposes to utilize infiltration basins, the applicant's engineer is reminded that as per the NYSDEC-SMDM, Section 6.3.7 the infiltration basins shall be designed to meet the Cold Climate Design Considerations.

10. The following standard design details for the proposed infiltration basins are missing and shall be added to the plans: underdrains with level control valves (*contrary to the applicant's engineer's letter of 12/1/22 – the under drains and valving are required for both maintenance and cold climate design compliance*), cleanouts along underdrain (with top and invert elevations), emergency spillways (which is separate from the outlet control structure), 1 foot of freeboard at emergency spillways, etc.

11. The 12-foot wide stabilized maintenance path for Infiltration Basin 32 is insufficient and unacceptable. The path that is shown only goes to the inlet piping. The stabilized maintenance path needs to provide access around the entire basin including access to all of the critical components of the basin, including the outlet structure, the berm between the forebay and the main pond, etc. Contrary to the applicant's engineer's letter of 12/1/22, no detail for the proposed stabilized maintenance path has been added to the drawings. A detail for same shall be added to the drawings.

12. Cross sections for the proposed emergency fire access road, at 25-foot intervals (every 25 feet) shall be provided with the drawings. The cross sections shall clearly show all proposed improvements (e.g. road, duct bank, curbing, signage, etc.) as well as property lines, existing and proposed grading, etc.

13. It is still unclear which existing drainage features (catch basins, piping, etc.) are to be removed and are to remain. All Drawings, especially C-1.2, C-2.0, C-4.0 to C-4.4, C-5.0, & C-6.0 shall clearly show and label the drainage features that are to remain and that are to be removed.

14. It is unclear on drawing C-4.0 exactly what the "Wall Outlet" is connection to and how that connection will be made. The applicant's engineer's letter of 12/1/22 makes reference to a detail on drawing C-8.2 however, no detail is on the drawing.

15. Each drainage structure unique ID name/ number shall be added to drawing C-4.1

16. All piping outlets shall show flared end sections or equivalents, e.g. exhaust piping from DI-3, Outlet 81, etc.

TOWN OF ORANGETOWN
2023 FEB 10 A 11:38

TOWN OF ORANGETOWN

TOWN OF ORANGETOWN

**January 11, 2023
Page 14 of 27**

Continuation of Condition #9...

17. The piping that carries rain from the roof leaders, to the proposed drainage system, increase in size however no detail is provided, nor are these connections identified on the plans or profiles, e.g. incoming roof leader piping to DMH-30A, incoming roof leader piping to DI-3, etc. Details and calls outs for these transitions, shall be given on the plans and profiles.

18. The outlet structures for the proposed infiltration basins are shown as just pipes ending on the profiles. The outlet structures shall be depicted as such on the profiles.

19. The *New York State Standards and Specifications for Erosion and Sediment Control* (November 2016 – AKA “Blue Book.”) allows for three types of sediment traps. The plans and SWPPP shall show which type(s) of sediment traps are being proposed and provide all specific detail for the specified traps. The sizing calculations for each of the proposed temporary sediment basins shall give their required cleanout height (as actual depth plus elevation), their maintenance, etc. This information shall be summarized in Section 4 of the SWPPP and the backup calculations shall be provided in a separate Appendix. A reference to the appendix where the calculations for each can be found, shall be added to the narrative as well. The cleanout heights for each of the sediment basins shall be added to the drawings.

20. The sizing of the temporary sediment basins shall be done utilizing the Temporary Sediment Basin Design Data Sheet, found on page 5.24 of the *New York State Standards and Specifications for Erosion and Sediment Control* (November 2016 – AKA “Blue Book.”)

21. The sediment marker details shall be revised to show a red mark or other clearly visible physical marking on each sediment depth marker reflecting the correct cleanout height.

22. The inlet protection details on drawing C-7.2 show 4 different methods of inlet protection but all 4 measures have the same symbol. This is not in compliance with the *New York State Standards and Specifications for Erosion and Sediment Control* (November 2016 – AKA “Blue Book.”) The proper and specific symbol for each of the inlet control measures shall be added to the details. Also, the specific proposed inlet control method shall be shown on all soil erosion and sediment control drawings.

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TOWN OF ORANGETOWN

**January 11, 2023
Page 15 of 27**

Continuation of Condition #9...

23. Sanitary calculations have been provided but have not been prepared by a New York State Licensed Professional Engineer. The calculations are unclear and incomplete. The calculations shall specify if any process/ "cooling" water is proposing to be discharged into the proposed sanitary system. The calculations do not provide a breakdown of how the average daily sanitary usage (gpd) was derived. Also, the calculations state that "no irrigation planned at this time". The applicant and the applicant's engineer are advised/ reminded that no irrigation water may enter the sanitary system. Revised calculations shall be submitted for review and approval.

24. Design calculations, prepared by a New York State Licensed Professional engineer, for the proposed private sanitary pumping station shall be provided for review and approval. The calculations shall demonstrate compliance with 10-State Standards as well.

25. The applicant's engineer is reminded that a permit from the Rockland County Health Department may be required for the proposed new sanitary pumping station and connection to the Town's system.

26. Copies of all correspondence (including any and all approvals) with the New York State Department of Environmental Conservation, Veolia Water Company, U.S. Army Corps. of Engineers, the Rockland County Drainage Agency, Rockland County Health Department, etc., in connection with this site plan, shall be supplied to the Planning Board and DEME, prior to signing the map.

10. The Town of Orangetown Bureau of Fire Prevention offered the following comments:

Site Plan Review:

1. It appears that the Geoblock access road may be the primary Fire Department access based on its location. The Fire Code does not delineate between primary and secondary access. Fire Apparatus Access Roads are all seen as primary access. The Geoblock access road should be installed with curbing for road delineation and snow removal.
2. A map note shall be placed on the Site Plan that Geoblock access road must be maintained for all four seasons.

Construction plans should include the following information:

- Installation of a NFPA 13 compliant sprinkler system
- Installation of a fire alarm system to the NFPA 72 standard
- Installation of a key lock box
- Emergency Responder Radio Coverage within the building 2020 NYS IFC 510.1

11. The emergency roadway will be Geoblock with 6-inch curbing on the sides, dipping in towards the site.

TOWN OF ORANGETOWN
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**January 11, 2023
Page 16 of 27**

12. Drainage Review – Brooker Engineering

The application has demonstrated mitigation of potential significant adverse impacts with respect to stormwater runoff. Brooker Engineering, the Planning Board's Drainage Consultant therefore recommends the Databank Orangeburg Site Plan be approved for drainage subject to the following:

Project Description

This is the third drainage review report for this project; the last review was dated October 24, 2022. The proposed project consists of redevelopment of a largely developed office building facility on a 33.93-acre parcel on Corporate Drive. The property abuts the corporate limits with New Jersey along the southern property line of the site. The Phase 2 construction previously proposed has been removed for the current application. The application now proposes a net reduction of 1.1 acres of impervious areas from 10.4 acres to 9.3 acres (impervious plus gravel ground cover) while keeping the proposed infiltration stormwater management basins. Stormwater runoff flows southeast toward a swale at the southeast corner of the site. The SWPPP provides hydrologic modeling and drainage calculations that demonstrate a reduction in peak stormwater discharge rates. The hydrologic models show a reduction in 100- year peak discharges at the southeast corner from 87.75 cfs to 32.87 cfs and a reduction in 10-year peak runoff rates from 27.87 cfs to 1.7 cfs. Two new stormwater infiltration basins are provided to attenuate peak runoff rates to below existing conditions levels. The hydrologic modeling correctly selects the hydrologic point of interest as the swale to the south and accurately delineates the drainage subareas in the model and includes areas of off-site runoff that travel through the site. Soil testing has been provided that supports the initial assumed percolation rate of one inch in 30 minutes.

Project Comments

1. As per the October 24, 2022 and July 13, 2022 drainage review reports, the applicant shall show to whom the existing 40 feet wide drainage easement is in favor of along the discharge point from the stormwater management systems.
2. As per the July 13, 2022 drainage review report, the application shall verify if there are any existing drainage easements off site to the south. Show the drainage pattern off site and the ultimate discharge point of this drainage system to Lake Tappan. Clarify the drainage pattern at the southeast corner of the property, abutting the off-site property of "Now or formerly Jian-Qiang & Qi Fan".

2023 FEB 10 10:33 AM
TOWN OF ORANGETOWN
TOWN CLERK'S OFFICE

January 11, 2023
Page 17 of 27

Continuation of Condition #12...

3. Show the invert elevations for the inlet and outlet pipes of the existing stormwater management basin to remain located south of the new building.
4. Show the existing pipes in the area of the settling basin on the Grading and Drainage Plan (Drawing C-4.0).
5. Update the Grading and Drainage Plan (Drawing C-4.0) in the SWPPP with the current version that does not include the Phase 2 Data Center Expansion.
6. Show the existing off-site storm drainage system on Corporate Drive that creates the drainage divide at the southeast corner of subarea PR-1.
7. Verify the outlet of the Existing Pond 2 in the hydrologic model; the model shows a weir only as the outlet and the plans show an outlet pipe in addition to the weir.
8. Verify the outlet configuration of the 3' x 3' grate outlet for OCS-5 and OCS-60 in the hydrologic model. The model shows the outlet as a broad crested weir; verify the grate inlet of this structure has the capacity similar to a broad crested weir.

13. Along the emergency access road, the applicant shall plant alternating green giant arborvitae and spruce trees near the property line shared with 99 Hunt Road, Orangeburg (Section 73.15, Block 1, Lot 5), planted in a staggered fashion, 5 feet on center, minimum height at planting of 7' to 8', for approximately 200 feet to 250 feet along the property line. The Board estimated the number of trees should be at a minimum of 15 to 20 trees.

14. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- The land banked parking spaces will be located where a second phase of the databank center was proposed in previous iterations of the site plan. The applicant must understand that with the proposed land banked parking spaces, Phase II, as formerly illustrated, cannot be constructed.
- According to the Hudson River Natural Resources Mapper, the land banked parking is proposed on Federal Wetlands. A review must be completed by the United States Army Corps of Engineers and all required permits obtained.
- According to the letter from Kimley-Horn, dated December 1, 2022, a review has been completed by the Town of Orangetown Fire Inspector and fire access and maneuvering plan has been approved. A review shall also be completed by the Rockland County of Rockland Office of Fire and Emergency Services, or the Pearl River Fire Department to ensure that the site is designed in a safe manner and that there is sufficient access to, and maneuverability on, the site for emergency vehicles. This review should consider whether the site can accommodate fire equipment and whether there is adequate water (volume/fire flow) for firefighting purposes.

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TOWN OF ORANGETOWN

**January 11, 2023
Page 18 of 27**

Continuation of Condition #14...

- The applicant must comply with the conditions of the Rockland County Health Department's letter dated November 29, 2022.
- The applicant must comply with the conditions of the New York State Department of Environmental Conservation's letter dated July 11, 2022.
- For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction, as indicated in their letter of October 7, 2022.
- Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the NYS Standards for Urban Erosion and Sediment Control.
- There shall be no net increase in the peak rate of discharge from the site at all design points.
- The Planning Board shall be satisfied that the implementation of the Stormwater Pollution Prevention Plan (SWPPP) ensures that construction will not induce a negative impact on the lake Tappan Reservoir from dust particle and debris.
- The Planning Board shall be satisfied that the SWPPP and stormwater discharges comply with the state and local Municipal Separate Storm Sewer System stormwater management program including post-construction runoff control and pollution prevention/ food housekeeping.
- Water is a scarce resource in Rockland County; thus, proper planning and phasing of this project are critical to supplying the current and future residents of the Towns, Villages, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the NY State Sanitary Code.
- According to the DEC Info Located <https://gisservices.dec.ny.gov/gas/dil/> Lake Tappan is on the NYSDEC Water body inventory Priority Waterbodies list. The DEC fact sheet on Lake Tappan states "Water supply uses of Lake Tappan are thought to be threatened due to the considerable amount of urban, residential, and commercial development in the watershed, resulting (from) nonpoint source runoff and possible other discharges." Since data centers use large amounts of water for cooling, technologies that minimize water use should be considered and used. The health of Lake Tappan and the health of the watershed should be carefully taken into consideration in the approval and construction of this facility.

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TOWN OF ORANGETOWN

**PB#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

January 11, 2023

Page 19 of 27

Continuation of Condition #14...

- A Databank operating 24 hours a day 7 days a week uses a significant amount of energy. The March 11, 2022 architectural drawings indicate that in each phase (5) 4 MW data halls will be constructed, yet the FEAF dated April 20, 2022, D.2. (k) does not provide an estimate of annual electricity demand for operating the proposed action. The Planning Board shall be satisfied that it has a clear understanding of the energy demand for this project and what that may mean for the local utility grid. Additionally, measures should be taken to reduce the overall carbon footprint of the operation including the use of energy efficient equipment and servers.
- The applicant must obtain any necessary permits from the New York State Department of Environmental Conservation's Division of Air Resources for the proposed Generators.
- The applicant must provide as-built drawings and other documentation to the New York State Department of Environmental Conservation, Region 3, that illustrates the design and installation, as per code, of the petroleum bulk storage tanks for the proposed generators. These tanks must also be registered with them.
- By State Law, the applicant must register with the local fire inspector using Form 209U for the proposed chemical bulk storage materials (batteries). In addition, under the Superfund Amendments and Reauthorization Act (SARA) – Title 3, the applicant must register with the Rockland County Fire Training Center.
- The Planning Board shall be satisfied with the site sound level analysis, dated April 22, 2022, prepared by Acentech, adequately addresses noise concerns associated with the facility and will not result in a negative impact to the site neighbors nor to the environment and wildlife, such as nearby nesting bald eagles. The site must comply with the provisions of the local noise ordinance in Chapter 22 of the Orangetown code. The planning board shall be satisfied that it has a clear understanding of any potential vibration impacts that may result from the construction and operation of this facility.

TOWN OF ORANGETOWN
2023 FEB 10 A 11:35
TOWN CLERK'S OFFICE

**January 11, 2023
Page 20 of 27**

Continuation of Condition #14...

- The Planning Board shall be satisfied with the proposed Deicing Management Plan and that the use of the calcium magnesium acetate (CMA) is an acceptable, environmentally safe deicing alternative to salt.
- Consistent with the Rockland County Solid Waste Management Plan, DEME urges the re-use and recycling of construction and demolition waste to the greatest extent possible during demolition of existing buildings.
- We recommend that the applicant use plants that are native to New York for the proposed landscaping to help preserve and promote biodiversity. Native plants are better adapted to the local climate and soils, making them easier to care for, and result in the need for less fertilizer pesticides, and use of water. They also have deeper root systems that help prevent erosion and increased runoff into local water bodies. A pdf titled "Native Plants for Gardening and Landscaping Fact sheets" that lists native species and the environments in which can grow can be found on NYSDEC website.
- According to the Hudson Valley Natural Resources Mapper, the subject site is part of a "Known Important Areas for Rare Terrestrial Animals." The NY Natural Heritage program identifies these specific locations where rare animals have been observed, as well as additional habitat needed to support animal populations. This includes areas which may be used by rare animals for breeding, nesting, feeding, roosting, or over-wintering; and areas that support the ecological processes critical to maintaining the habitats of these rare animal populations. Proactive planning that avoids or minimizes impact to the habitat quality of important areas and maintains habitat connections for wildlife movement will contribute to the long-term survival of rare animal species and their associates.
- All proposed signage shall conform to the sign ordinance in Chapter 31 of the Orangetown Code.
- Retaining walls shall be designed by a NYS Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by a NYS P.E.
- This project presents an opportunity to advance the goals of the NY's Climate Leadership and Community Protection Act (CLCPA), through the inclusion on onsite renewable energy. The CLCPA or Climate Act which was signed into law in 2019, set a goal of reducing greenhouse gas emissions by 85% from 1990 levels by 2050. This development will be resulting an increase demand for energy and proposed to pull that energy from the grid. It appears based on the graphic provided of the proposed building that there are flat roof areas that may be conducive to the installation and use of solar panels. It is recommended that the potential use of onsite renewable energy be evaluated and strongly considered based on Article XVII of the Orangetown Town Code. Likewise, the buildings should be designed and constructed to maximize energy efficiency.
- The orientation of the building facades on Sheet A202-1 must be labeled.

TOWN OF ORANGETOWN

DEPT. OF PLANNING

ORANGETOWN, NY

**January 11, 2023
Page 21 of 27**

15. The Rockland County Department Health (RCDOH) has received plans for review and at this time grant approval solely for compliance with Article 19 of the Rockland County Sanitary Code (Mosquito Control), other agency approvals are needed:

- Application is to be made to RCDOH for sanitary sewer extension approval. Sewer capacity analysis is to be included.
- Application is to be made to RCDOH for water main extension approval.

16. The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.

17. Orange and Rockland reviewed the submitted information and found that at the request of the owner, O&R will be retiring the main and services feeding the property.

18. The New York State Department of Environmental conservation (DEC or Department) received the initial pre-application materials on March 30, 2022 and April 15, 2022. According to those materials and subsequent submissions and discussions with the Department, the proposal involves the demolition of an existing office park and, in later phases, the construction of an approximately 222,500 square foot office building and data center at 2000 Corporate Park Drive in Orangeburg, New York, Based on DEC review of the submitted materials, the following determinations were offered.

Article 11 Incidental Take

The project area is within screening distance of known occurrences of bald eagles, a State-listed threatened species. It has been determined that an Article 11 Endangered and Threatened Species Incidental Take Permit is not required for the proposed demolition and Phase 1 work. This determination of no jurisdiction is contingent on the following:

1. Conformance with the plans and narrative contained in the April 15, 2022 submission to DEC for this Project.
2. All Phase 1 work would take place 330 feet or more away from the bald eagle nest location.
3. DEC approval will be required to continue Phase 1 work past January 1, 2023. A monitoring plan must be submitted to Lisa Masi of the DEC Bureau of Wildlife via email (lisa.masi@dec.ny.gov) by November 1, 2022 for review if Phase 1 work would continue past 1, 2023. No work beyond this date is authorized without written approval from DEC Wildlife state.

If modifications are proposed to the above reference scope of work, please contact DEC for additional review.

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TOWN OF ORANGETOWN

**January 11, 2023
Page 22 of 27**

Continuation of Condition #18...

Note that this determination of no jurisdiction is limited to Phase 1 work. Work for Phase 2 (some of which falls within 330 feet of the bald eagle nest tree) will require approval from DEC Wildlife staff. Please submit a monitoring plan relative to the Phase 2 work to Lisa Masi of DEC Bureau of Wildlife via email (lisa.masi@dec.ny.gov) for review. A separate determination is required for whether Phase 2 work requires an Article 11 Incidental Take permit.

Article 15, Title 5-Protection of Waters

An unnamed tributary to Hackensack Creek (Class A, Water Index # NJ-1e) runs through the southern portion of the property. Class "A" streams fall into the category of protected streams and a Protection of Waters permit is required to physically disturb the bed or banks (up to 50 feet from stream) of any streams identified as protected. According to materials submitted and discussions during a pre-application meeting with the Department on May 4, 2022, no disturbance is proposed to the bed or banks of this water course.

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollution associated with the project. In addition, if any changes are made to the design plans that may result in disturbance to the bed or banks of this watercourse, please contact the Department to determine if a permit will be required.

If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for discharge to fill in Waters of the U.S., then a 401 Water Quality Certification (WQC) will be required. Issuance of these certifications is delegated in New York State to DEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQCs, please visit <https://www.dec.ny.gov/permits/6546.html>. A determination on Corps jurisdiction and Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.

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APPROVED FOR PERMIT

January 11, 2023
Page 23 of 27

Continuation of Condition #18...

SPDES General Permit (GP-0-15-002) for Stormwater Discharge from Construction Activities

As project activities will disturb, either temporarily or permanently, over 1 acre of land, the project sponsor must obtain coverage under the current SPDES General Permit (GP-0-15-002) for Stormwater Discharge from construction Activities, and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. For information on stormwater and the general permits, see the DEC website. Authorization for coverage under the SPDES General Permit is not granted until the Department issues all other necessary DEC permits.

General

DEC determination does not relieve you of any requirements under any other applicable laws which may exist. You are advised to contact all appropriate Federal, State, and/or local agencies for any approvals that may be required. Other permits from DEC or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and you should, therefore, verify the need for permits if your project is delayed or postponed. More information about DEC permits may be found at www.dec.ny.gov, under "Regulatory" then "Permits and Licenses."

19. The New York State Department of Environmental Conservation offered the following comments:

After conferring with the appropriate DEC Staff, DEC can confirm that the monitoring plan should remain in place as discussed, even in light of the recent observations of the nest falling out of the tree. The Conservation Plan for Bald Eagles in New York as well as the National Bald Eagle Management Guidelines, call for protecting the area around the nest for 5 years post last activity or three full breeding seasons after a nest has fallen out of a tree.

The language in the State Conservation plan reads as follows:

Consistent with federal guidelines, unoccupied or alternate nest sites also need to be protected from long-term disturbance with buffers, and should be considered part of the breeding territory (Table 5, (Page 37). Alternate nests are frequently used in subsequent years. Intact nests will be considered active for a period of five years after the last use. When nests are destroyed by natural events, the area will continue to be protected for up to three complete breeding seasons. (Page 32).

The Federal plan also includes the five-breeding-season protection for alternate nests and the recommendation to continue to protect a site even if a nest falls. The nest could be rebuilt during the nesting season.

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TOWN OF ORANGETOWN
PLANNING BOARD

**January 11, 2023
Page 24 of 27**

Continuation of Condition #19...

For this territory, which was first documented in 2013, the nest was active through the 2020 breeding season. Since 2020, the nest was inactive in 2021, and inactive again in 2022. The recent observation of the nest falling out of the tree starts a three-breeding season window for protection. If no new activity is observed over the next three breeding seasons, restrictions and protections can be relaxed, in line with the State Conservation Plan and the National Bald Eagle Management Plan recommendations. Barring new activity, that would mean the site continues to be protected through the 2025 breeding season.

The question the monitoring seeks to answer is if the nest/ territory will be active this breeding season, and this question still needs to be answered to allow work to start before the end of the breeding season. This monitoring would also add to the record regarding inactivity over complete breeding seasons.

With the new absence of a focal point (the nest), the monitoring area should be the general area around the old nest tree. Buffers would remain the same as currently indicated (based on the nest tree). Photographs can be of the general area being monitored to show any changes, or lack of changes.

20. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Board Decisions prior to signing the final plans.

21. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

22. TREE PROTECTION: The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10-foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
 - One (1) foot radius from trunk per inch DBH
 - Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
 - Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.

SEAL OF THE TOWN OF ORANGETOWN
PLANNING BOARD
JAN 11 2023

**B#22-58: Databank Site Plan
Town of Orangetown Planning Board Decision
Final Site Plan Approval Subject to Conditions**

Permit #BLDG-1236-22

**January 11, 2023
Page 25 of 27**

Continuation of Condition #22...

- Light Impacts Only – Installation of $\frac{3}{4}$ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

23. All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

24. Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

25. The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

26. If the applicant, during the course of construction of any required public improvements or private sanitary or storm sewer improvements, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant (or the applicant's engineer) shall submit their recommendations as to the special treatment or design modification to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's (applicant's engineer's) recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's (applicant's engineer's) disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Federal Wetlands - U.S. Army Corps of Engineers).

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**January 11, 2023
Page 26 of 27**

27. Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

28. Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

29. The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

Override

The Board made motions to override Conditions #1, #19 and #22 of the January 3, 2023 letter from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, for the following reasons:

" #1. As requested by the Zoning Board of Appeals, the applicant is proposing 671 land banked parking spaces in addition to the 69 standard parking spaces, which is illustrated on Sheet LB-1.0 of the site plan drawings. While these land banked parking spaces are intended to satisfy the minimum parking requirement, they will also increase the total number of parking spaces on the site 972%, thus significantly increasing the amount of pavement used on the lot. Part of our department's initial recommendation was to reduce the size of the building so that fewer parking spaces would be required, rather than just adding the required parking. Since the size of the building was not decreased, we strongly recommend that the land banked spaces be constructed in phases based upon the need for additional parking, thus avoiding an unnecessary amount of impervious surface area. It is furthermore recommended that the land banked parking area use permeable pavers."

The Board held that the site cannot be further developed without returning to the Planning Board for review and approval of the site plan.

**A motion to override the condition was made and moved by Andrew Andrews and seconded by Denise Lenihan and carried as follows:
Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Andrew Andrews, aye; Kevin Farry, aye;
Lisa DeFeciani, aye; Kevin Farry, aye, Tara Heidger, (alternate member), absent and Michael McCrory, aye.**

2023 JAN 11 PM 4:00

ORANGE TOWN PLANNING BOARD

MEETING MINUTES

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Page 27 of 27**

Overrides Continue....

"#19. The Planning Board shall be satisfied that the proposed snow storage areas are sufficient for a parking area of this size. It must be assured that there is no loss of available parking, specifically since the site provides significantly less than the minimum required number of parking spaces."

The Board held that the site plan shall be revised to note a third area for snow banking,

A motion to override the condition was made and moved by Andrew Andrews and seconded by Denise Lenihan and carried as follows:
Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Andrew Andrews, aye; Kevin Farry, aye; Lisa DeFeciani, aye; Kevin Farry, aye, Tara Heidger, (alternate member), absent and Michael McCrory, aye.

"#22. The landscaping plan on Sheet LA-1.0 of the site plan drawings only illustrates the northern portion of the site where initial development is to be constructed but does not take into consideration the land banked parking spaces. We recommend that the landscaping be revised to indicate that in the event that the land banked parking is developed, it shall be supplemented with tall evergreen landscaping to mitigate its visual and auditory impacts on the residential properties to the south of the site."

The Board held that the site cannot be further developed without returning to the Planning Board for review and approval of the site plan.

A motion to override the condition was made and moved by Andrew Andrews and seconded by Denise Lenihan and carried as follows:
Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Andrew Andrews, aye; Kevin Farry, aye; Lisa DeFeciani, aye; Kevin Farry, aye, Tara Heidger, (alternate member), absent and Michael McCrory, aye.

The foregoing Resolution was made and moved by Kevin Farry seconded by Andrew Andrews and carried as follows: Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Andrew Andrews, aye; Kevin Farry, aye; Lisa DeFeciani, aye; Kevin Farry, aye, Tara Heidger, (alternate member), absent and Michael McCrory, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: January 11, 2023


CHERYL COOPER
TOWN CLERK
ORANGE COUNTY, FLORIDA