EXHIBIT A

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January 15, 2025

Corrected Letter

Supervisor Kenny and Honorable Members of the Town Board
26 Orangeburg Road
Orangeburg, NY 10962

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 Supervisor Kenny and Honorable Members of the Town Board and 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 Databank, which is not permitted in the Light Industrial Office LIO zoning district.

There is no provision for a data center, as here, in the LIO zoning district as set forth in the Table of General Use Regulations, 43 Attachment 10.

There is no dispute on this point as set forth in the Orangetown Comprehensive Plan, which was adopted by the Town on October 10, 2023. As set forth at page 48 of the 2023 Comprehensive Plan the only zoning district in which data centers

are permitted is in the RPC-OP district. At page 69 of the Comprehensive Plan it proposes to expand data centers to the LIO zoning district, not as a permitted use as in the RPC-OP district, but only as a Conditional Use Permit.

As this Board well knows Article VIII of the Zoning Code provides general conditions and standards for Conditional Use Permits together with specific standards for every use defined as a Conditional Use Permit. Here, the Zoning Code provides for no Conditional Use standards for a data center. And that makes sense as there is nowhere in the present code for a data center as a conditional use. The only mention of conditional uses is only set forth in the Comprehensive Plan, AND NOT in the Zoning Code.

The Comprehensive Plan makes clear that it is merely a document which sets forth the aspirations and goals for the Town and does not include the zoning code. It states as follows at page 8: "Lastly, while a comprehensive plan may (and usually will) recommend changes to the town's zoning code to achieve the plan's stated goals, actual changes to the zoning code require a separate and distinct process. The comprehensive plan is a tool to guide development, but not an instrument to change existing laws and codes."

The bottom line is that as of this time there is no provision for a data center in the LIO zoning district. As it is not permitted in that district it is prohibited in that district, as confirmed in the Comprehensive Plan. If a data center was a permitted use in the LIO District why then would the Comprehensive Plan state a data center is only permitted in the RPC-OP district and that it should be expanded to the LIO district as a Conditional Use Permit.

In the Full Environmental Assessment Form, C.3.b, Databank falsely states that the data center is a permitted or conditional use in the LIO zoning district. It is not. It is also false that it is not a phased project, D.1.e. Databank is Phase II.[1]

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[1] Considering the disturbance of 13.50 acres of sensitive land and the answers set forth on the FEAF an EIS should be developed after the coordinated review proceeds. As this Board well knows the threshold for an EIS is quite low. 6 NYCRR 617.7(a)(1)(2): "(a) The lead agency must determine the significance of any Type I or Unlisted action in writing in accordance with this section. (1) To require an EIS for a proposed action, the lead agency must determine that the action may include the **potential** for at least

My analysis is entirely consistent with the December 20, 2024 Denial letter from the Rockland County Department of Planning.

Databank cannot ask this Board to review its project when it is not permitted in the LIO district and where there are no Conditional Use Permit standards to even evaluate the project pursuant to Article VIII of the Zoning Code. Accordingly, it is respectfully submitted that this Planning Board should cease any further review until Databank establishes that its proposed use is permitted or subject to a Conditional Use Permit in the LIO zoning district.

I further remind the Planning Board and the Town Board that Phase I was improperly approved as it appears that at the time that it was approved on January 11, 2023 and the Resolution was filed with the Town Clerk's Office on February 10, 2023 that the Zoning Code did not permit data centers in the LIO district. Indeed the aspirations of the Comprehensive Plan were not even enacted until approximately nine months later.

Additionally, as the Planning Board found at condition 14 of its January 11, 2023 Resolution, Phase II cannot be constructed because Phase I is using landbanked parking spaces which were to be used for Phase II. Databank cannot have it both ways as also found by the Rockland County Department of Planning at paragraph 7 of its December 2024 Denial letter.

It is submitted that the Town Board should rectify this error and immediately pull all building permits for Phase I and not issue any certificates of occupancy. New York State's Court of Appeals has made clear that there is no estoppel for municipal error and that the municipality at any time, no matter how much is built, has the right to correct the municipal error. Parkview Associates v. New York, 71 N.Y.2d 274 (Court of Appeals held that municipality always has the right to revoke a building permit issued in error and required the developer of a 31 story skyscraper to remove all stories above the 19th floor, that is, the removal of 12 built stories.) If the Town does not correct this error that means that it is stamping its approval on a use which is not permitted in the LIO district, and as to which there were no conditions to evaluate

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(Continued footnote)
one significant adverse environmental impact.
(2) To determine that an EIS will not be required for an action, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant." (Emphasis supplied).

it. The Town must not permit developers to build in zoning districts where the application is not permitted under the Zoning Code. To ignore this clear error would be a dereliction by the Town.

Respectfully,

Clifford L. Davis

EXHIBIT B

43 Attachment 10

Town of Orangetown
Table of General Use Regulations
(§ 3.11)
LIO District

[Amended 6-24-1991 by L.L. No. 7-1991; 7-16-2007 by L.L. No. 7-2007; 4-8-2014 by L.L. No. 2-2014]

(For use of table, see § 3.2)

1	2	3	4	5	6		7
District	Uses Permitted by Right	Uses by Special Permit	Conditional Uses by Planning Board	General Accessory Uses	Minimum Required Off-Street Parking Spaces		Additional Use Regulations (See Note 13)
LIO	1. Same as LO, except no executive conference lecture facilities.	Town Board 1. Same as LO. Zoning Board 1. Undertakers. 2. Sand pits, gravel pits, removal of top soil, and landfill and excavation operations not undertaken in connection with the construction of a building for which a building permit has been issued or the development of a subdivision in accordance with an approved plat thereof, as provided in § 4.32(C).	1. Public utility substations and pump stations, housed in buildings that harmonize with the character of the neighborhood and having adequate fences and other safety devices and landscaping and subject to performance standards procedure. 2. Commercial forestry as provided in § 4.32(D). 3. Manufacture of prototype products subject to performance standards procedure, § 4.12. 4. Light manufacturing uses, subject to performance standards procedure, § 4.12, and additional use requirements. 5. Satellite dish antennas. 6. Automobile sales and service agencies. 7. Same as LO No. 6 8. Indoor commercial tennis on sites of 3 acres or greater. 9. Individual fitness and training center, as provided in § 8.16	1. Same as LO.	Use	At Least 1 Parking Space for Each	1. Same as LO.
					1. Same as R-80	Same as R-80	
					2. Offices	Same as LO	
					3. Laboratories	Same as LO	
					4. Undertakers	2 employees, plus 5 spaces per chapel	
					5. Research facilities	Same as LO	
					6. Light manufacturing	2 employees or 300 square feet gross floor area	
					7. Child day-care centers	Same as LO	
					8. Indoor commercial tennis	400 square feet of indoor space or 4 persons of practical occupancy determined by the Planning Board based on the type of indoor commercial tennis use facilities and the likely patterns of usage	

43 Attachment 8

Town of Orangetown

Table of General Use Regulations
(§ 3.11)
LO District

[Amended 6-24-1991 by L.L. No. 7-1991; 6-11-2001 by L.L. No. 3-2001; 7-21-2003 by L.L. No. 2-2003; 3-23-2021 by L.L. No. 2-2021]

(For use of table, see § 3.2)

1	2	3	4	5	6		7
District	**Uses Permitted by Right**	**Uses by Special Permit**	**Conditional Uses by Planning Board**	**General Accessory Uses**	**Minimum Required Off-Street Parking Spaces**		**Additional Use Regulations (See Note 13)**
					Use	**At Least 1 Parking Space for Each**	
LO	1. Fire, police and community-owned ambulance stations, government offices and office buildings, town garages, municipal parking lots and similar public buildings and government uses. 2. Schools of general instruction. 3. Executive conference lecture facilities. 4. Business/professional office. 5. Research, experiment, and testing labs subject to performance standards procedures and additional use requirements.	**Town Board** 1. Airports and heliports. 2. High-tension transmission lines, accessory poles and towers, provided that all brush and cut timber are disposed of in accord with approved forestry practices. 3. Railroad/public utility rights-of-way. 4. Use of existing executive conference center facilities for catered affairs for the general public.	1. Public utility substations and pump stations, housed in buildings that harmonize with the character of the neighborhood and having adequate fences and other safety devices and landscaping and subject to performance standards procedure. 2. Telephone exchange. 3. Elevated standpipe and water tanks located at a distance from any lot line equal to the height of the structure. 4. Manufacture of prototype products subject to performance standards procedure, § 4.12. 5. Satellite dish antennas. 6. Child day-care centers with all parking and outdoor play areas complying with all required yards, as provided for in § 3.12.	1. Accommodations for caretaker, subject to § 5.228. 2. Heliports. 3. Storage of goods or equipment accessory to uses permitted in Columns 2 and 3, subject to additional use requirements. 4. Keeping, breeding, raising and maintaining of rodents and other animals and primates exclusively within the interior confines of a building for laboratory or research purposes, subject to performance standards procedures. 5. Waste incineration subject to § 4.32(F). 6. Keeping not more than 1 unoccupied trailer or commercial vehicle of not over 1,000 pounds' capacity, subject to § 6.1. 7. Accessory parking as permitted in § 6.1. 8. Accessory loading as permitted in § 6.2. 9. Any other similar accessory use not inconsistent with the uses permitted herein. 10. For any premises for sale or for rent, 1 temporary nonilluminated "for sale" or "for rent" sign not over 6 square feet in area, located at least 10 feet from any lot line. For parcels of land over 1 acre in area, such sign shall not be over 24 square feet in area. 11. 1 illuminated business sign equal or less than 30 square feet (1 side) or 60 square feet (2 sides) not less than 20 feet from any lot line, and not extending more than 18 feet high. Sign areas may be combined to form a single directory sign or part of the sign may be included in the directory sign and part on the establishment. 12. Incidental eating and drinking facilities serving employees and others using the facilities. All drinking facilities serving alcoholic beverages must have a restaurant liquor license issued by the New York State Alcohol Control Board. 13. Child day-care centers with all parking and outdoor play areas complying with all required yards, as provided for in § 3.12.	1. Same as R-80 2. Offices 3. Laboratories 4. Research facilities 5. Child day-care centers	Same as R-80 200 square feet of gross floor area 2 employees or 300 square feet of gross floor area 2 employees or 300 square feet of gross floor area Staff member, plus 1 parking space per 10 children	1. Same as R-80. 2. All offices, laboratories, manufacturing of prototype products, accessory storage and all accessory off-street loading berths shall be within completely enclosed buildings, and, in addition: (a) All areas not used for building or for accessory off-street parking shall be suitably landscaped and maintained in good condition. Screening shall be provided in the manner required by any board or town agency having jurisdiction, and prior to the issuance of the Building Permit, the proposed screening plans shall be submitted to and approved by any board or town agency having jurisdiction. (b) Entrances and exits shall be located only on a commercial street, improved to conform with the Town Board Specifications Ordinance, and shall be so located as to draw a minimum of vehicular traffic to and through residential streets. (c) No shipping or receiving of goods shall be carried on between 11:00 p.m. and 6:00 a.m., and any floodlighting shall be arranged so as to eliminate the glare of lights toward adjacent lots and streets. (d) Manufacturing of prototype products shall not utilize more than 25% of the building total floor area. 3. No parking is permitted in any required yard, unless permitted by any board or town agency having jurisdiction. This permission may be given at the time of site review, or at the time of the approval of a commercial subdivision or conditional use approval.

43 Attachment 12A

Town of Orangetown

Table of General Use Regulations
(§ 3.11)
RPC-OP District

[Added 3-28-2017 by L.L. No. 2-2017]

1	2	3	4	5	6		7
District	Uses Permitted	Uses Permitted by Special Permit	Conditional Uses by Planning Board	Accessory Uses	Minimum Required Off-Street Parking Spaces		Additional Use Regulations
RPC-OP	1. Data center 2. Business/professional office 3. Executive conference, lecture and training facilities	None	None	1. Public or private utility substations; pump stations. 2. Telephone exchanges. 3. Satellite dish antennas. 4. Child day-care centers. 5. Caretaker accommodations, within principal structure. 6. Storage of goods or equipment accessory to uses permitted in Columns 2 and 3, subject to additional use requirements. 7. Accessory loading, as approved by the Planning Board. 8. Accessory parking, as permitted by the Planning Board. 9. Such other and similar uses customarily accessory and subordinate to the uses permitted in Columns 2 and 3, and not inconsistent therewith. 10. Business signs, including wall signs, monument signs, top-of-building signs (not exceeding the height of the building), and other similar type signs, whether illuminated or nonilluminated, subject to approval of the Planning Board. 11. Incidental eating and drinking establishments for employees and others using the facilities. 12. Solar panels. 13. Generators and critical systems and equipment required for the operation of data centers and other permitted uses.	1. Data center	As set by the Planning Board as part of the site plan approval process.	1. All areas not used for building or for accessory off-street parking shall be suitably landscaped and maintained in good condition. Screening shall be provided in the manner required by the Planning Board. 2. No shipping or receiving of goods shall be carried on between 11:00 p.m. and 6:00 a.m., and any floodlighting shall be arranged so as to eliminate the glare of lights toward adjacent lots and streets. 3. No parking is permitted in any required yard, unless permitted by any board or Town agency having jurisdiction. This permission may be given at the time of site review, or at the time of the approval of a commercial subdivision or conditional use approval. 4. All drinking facilities serving alcoholic beverages must have a restaurant liquor license issued by the New York State Liquor Authority. 5. There shall be no parking within any required buffer.
					2. Business and professional office	1 space per 200 square feet of gross floor area or as set by the Planning Board.	
					3. Childcare	1 space per staff member plus 1 space per 10 children.	
					4. Executive conference, lecture and training facilities	Not less than 1 per 5 facilities people accommodated.	

EXHIBIT C

Rockland County
Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
Deputy Commissioner

December 20, 2024

Orangetown Planning Board
20 Greenbush Road
Orangeburg, NY 10962

Tax Data: 73.15-1-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 11/18/2024 **Date Review Received:** 12/03/2024

Item: ***Databank Orangeburg Phase 2 Site Plan (GML-24-0330)***

Site plan application for construction of Phase 2 of a data bank center on 24.3 acres of a 33.9-acre parcel in the LIO zoning district. The proposal comprises a one-story data center, administrative/office space, open equipment yard, an office addition to connect to the Phase 1 building, and an additional substation area in the northeast corner of the site. A total of 105 parking spaces will be provided. Variances are required for number of parking spaces and number of loading berths. Variances were approved for Phase 1 including number of parking spaces, number of loading berths, non-enclosed loading berths, and 100-foot buffer to an R-80 zoning district.
North side of Corporate Drive cul-de-sac

Reason for Referral:

County Highway Southern Depot

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

Recommend the Following Modifications

The Rockland County Planning Board and Planning Department were previously given opportunities to review Phase 1 of Databank Orangeburg. Our department provided numerous comments in our final GML Section 239 Review letter, dated January 3, 2023 including issues pertaining to the number of parking spaces, scale and energy usage of the proposal, and environmental constraints. The Orangetown Planning Board approved the Phase 1 site Plan on January 11, 2023. The applicant is now proposing Phase 2 of the data center, which will mirror the layout of Phase 1. The Rockland County Planning Board reviewed the application for Phase 2 at their meeting on December 12, 2024 and unanimously disapproved the application, citing the disruption of onsite wetlands, a high level of energy usage, lack of parking availability, and fire safety issues among their concerns. The Rockland County Planning Department offers the Orangetown Planning Board the following

comments regarding the Proposed Phase 2 Databank:

1 As stated in this department's GML Section 239 Review of January 3, 2023, "data centers" are only listed as a permitted use within the RPC-OP zoning district and are not given a definition within the Orangetown Zoning Code. According to the Orangetown Comprehensive Plan, adopted October 10, 2023, there are plans to allow data centers in the LIO district as a conditional use, among other districts. However, until a local law is officially adopted, this department remains unclear on how this proposal can be evaluated and permitted. In addition, the parking regulations applied to this development are those for offices and warehouses, whereas no definitive parking requirements exist in the zoning code for data centers. We urge the Planning Board to make a recommendation to Town Board to amend the Town's zoning code to establish a clear definition and regulations for data centers within the zoning districts suggested in the 2023 Orangetown Comprehensive Plan.

2 According to the FEAF, question D.2. (b) ii., the proposed action will fill 0.08 acres of ACOE wetlands and 0.16 acres of surface water onsite, and also impact 108 linear feet of a stream. This department discourages the filling of wetlands, as this can potentially affect the areas capacity for flood mitigation and damages and disrupts the local ecosystems. It is recommended that the Town protect these significant water resources and satisfactorily mitigate that the effects of the loss of wetland and stream. We furthermore recommend that the scale of this proposal be reduced to decrease the amount of filling required and additional protection of onsite resources are provided.

3 As previously stated, the site contains Federally regulated wetlands. An updated review must be completed by the United States Army Corps of Engineers and all required permits obtained.

4 If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for the discharge to fill in Waters of the U.S., then a Section 401 Water Quality Certification (WQC) will be required to verify compliance with State water quality regulations. Issuance of these certifications is delegated in New York State to the NYSDEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQC. Coverage under a Blanket requires compliance with all conditions for the corresponding Nationwide Permit. For more information and to view the DEC Blanket WQCs, please visit https://www.dec.ny.gov/regulatory/permits-licenses/waterways-coastlines-wetlands/protection-of-waters-program. A determination on Corps jurisdiction and a Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.

5 According to the Hudson Valley Natural Resources Mapper https://gisservices.dec.ny.gov/gis/hvnrm/ the subject site is part of a Known Important Area Terrestrial Animals. These are identified as areas of importance for sustaining known population of rare animals based on occurrence records form the New York Natural Heritage Program (NYNHP) database. Proactive planning that avoids or minimizes impact to the habitat of Important areas and maintains habitat connections for wildlife movement will contribute to the long-term biodiversity of the region. The Planning Board must consider the impacts of this large-scale development on the biodiversity of the area, specifically habitat fragmentation and the impact of the movement of species to and from and within these sensitive habitats. This department again recommends that the size and scale of this project be reduced due to the environmental constraints of the site. A pdf titled "An Approach for Conserving Biodiversity in the Hudson River Estuary Corridor" that identi?es voluntary, non-regulatory strategies for conserving wildlife and habitat in the region can be found at: https://hudson.dnr.cals.cornell.edu/library

6 A review must be completed by the New York State Department of Environmental Conservation, any comments or concerns addressed, and all required permits obtained.

7 On September 21, 2022, the Orangetown Zoning Board of Appeals (ZBA) granted the applicant approval of a parking variance to allow 69 spaces for Phase 1 with the condition that the applicant demonstrate that they can provide 671 land banked parking spaces. As we had previously stated to the Orangetown Planning Board in our January 3, 2023 GML 239 Review, these land banked parking spaces cannot be provided with the construction of Phase 2. The applicant is now planning on providing 105 of the 1,264

parking spaces required for Phases 1 and 2 together, and no land banked parking spaces. While it was acknowledged that data centers do not require a significant amount of parking spaces, the Rockland County Planning Board, at their December 12, 2024 meeting, has expressed concern about the inability to commit to this previously-approved condition by the ZBA. As previously indicated, we recommend that the proposal for Phase 2 be reduced in scale so that a lesser parking variance is required from the ZBA.

8 We request the opportunity to review the variances needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

9 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

10 A review must be completed by the County of Rockland Highway Department, all comments or concerns addressed, and all required permits obtained.

11 The Orangetown Fire Inspector must be satisfied that the conditions of their letter dated June 25, 2024 have been appropriately addressed by the applicant. In addition, the Rockland County Office of Fire and Emergency Services and the Pearl River Fire District shall have the opportunity to review the proposal to ensure that the site is designed in a safe manner and there is sufficient maneuverability on the site for emergency vehicles.

12 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 New York State Standards for Urban Erosion and Sediment Control.

13 There shall be no net increase in the peak rate of discharge from the site at all design points.

14 Question D.2.e.iv (page 6) of the FEIS indicates that plan minimizes impervious surface, use pervious material or collect and re-uses stormwater, however the SWPPP page 10 indicates that no vegetated swales are proposed, no rain gardens are proposed, pervious pavers were used for Phase 1 but there is no indication for their use in Phase 2. It appears that this question should be answered negatively, or alternatively to help reduce the impact of this development there should be a reduction of impervious surfaces, and green techniques such as permeable pavers, bioswales, rain gardens, and rainwater capture should be considered. For long term effectiveness of these improvements, it is recommended that the applicant review Chapter 5 "Green Infrastructure Practices" of the 2015 NYSDEC Stormwater Design Manual.

15 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 stormwater runoff as well as dust particles and debris.

16 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/good housekeeping.

17 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 Villages, Towns, 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 New York State Sanitary Code.

18 According to the DECInfo Locater https://gisservices.dec.ny.gov/gis/dil/ Lake Tappan is on the NYSDEC Waterbody 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." 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.

19 The size of the proposed improvements indicated in the project description on the FEAF are not consistent with those depicted on the site plan drawing. The FEAF states that Phase 2 will include a 145,000 square-foot data center with a 6,500 square-foot administrative office, while the site plan demonstrates that these improvements will be 146,480 square feet and 7,395 square feet, respectively. The application materials must be revised so that all information is consistent and accurate. In addition, the square footage of the proposed equipment yard should be labeled on the site plan drawing.

20 A Databank operating 24 hours a day, 7 days a week uses a significant amount of energy. The August 16, 2024, architectural drawings indicate that for Phase 2, five (5) data halls would be constructed. This is being proposed in addition to the five data halls constructed in the Phase 1 building. The FEAF dated November 13, 2024, question D.2. (k) estimates the annual electricity demand for operating the proposed action with "TBD." The Town should have a clear understanding of the energy demand created by this project, the ability of the local utility grid to service the project, including utility grid resilience, as well as the potential impacts on other local economic development projects. Measures should be taken to increase the resiliency of the project and to reduce the overall carbon footprint of the operation including the use of energy efficient equipment and servers.

There are other questions on the FEIS which the applicant should be able to provide answers to such the amount of fuel oil to be stored and solid waste generated.

21 This project presents an opportunity to advance the goals of the New York State Climate Leadership and Community Protection Act (the Climate Act) through the inclusion of the inclusion of on-site renewable energy. This development will result in an increase demand for energy and appears to pull that energy from the grid. Presuming the proposed commercial buildings will have flat roofs they may very well be conducive to the installation and use of solar panels. It is recommended that the potential use of on-site renewable energy be evaluated and strongly considered. Likewise, the building should be designed and constructed to maximize energy efficiency. Solar car ports can also be considered for the parking areas.

22 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.

23 The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate 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.

24 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.

25 The portion of the property outside of the area of disturbance shall remain uncleared and in its natural state per Section 21-25 of the Orangetown Code. This is especially important to preserve the remaining natural areas of the site and retain buffer between the data center and the residences to the south of the property.

26 The SWPPP states, on page 48 that all new vegetation will be native species however the list of species provided, included Norway Spruce, Siberian Spruce and Green Giant Arborvitae are not native to New York State. This department recommends 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 waterbodies. A pdf titled "Native Plants for Gardening and Landscaping Fact Sheets" that lists native species and the environments in which they can grow can be found on the New York State Department of Environmental Conservation's website: https://www.dec.ny.gov/get-involved/living-green/sustainable-landscaping.

27 All proposed signage shall conform to the sign ordinance in Chapter 31C of the Orangetown Code.

28 Retaining walls shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

29 Pursuant to New York State General Municipal Law (GML) Sections 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County's Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

30 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a County permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's report approving the proposed action or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
NYS Department of Environmental Conservation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Highway Department
Rockland County OFES
United States Army Corps of Engineers
Kimley-Horn Engineering
Pearl River Fire Department

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning is pursuant to and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions nor determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

EXHIBIT D

May 16, 2025

Douglas J. Schuetz, Acting Commissioner
Rockland County Department of Planning
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

RE: **General Municipal Law Review: Section 239 L and M Databank Orangeburg Phase 2 Site Plan (GML-24-0330)**

Dear Mr. Schuetz,

This letter is being submitted by Kimley-Horn Engineering and Landscape Architecture of New York, PC ("Kimley-Horn) on behalf of 2000 Corporate Drive LLC ("Applicant") in response to the review letter dated December 20, 2024, from the Rockland County Department of Planning for the above referenced project.

The comments below from the Rockland County Department of Planning are followed by responses numbered based on the comments in the review letter.

1. As stated in this department's GML Section 239 Review of January 3, 2023, "data centers" are only listed as a permitted use within the RPC-OP zoning district and are not given a definition within the Orangetown Zoning Code. According to the Orangetown Comprehensive Plan, adopted October 10, 2023, there are plans to allow data centers in the LIO district as a conditional use, among other districts. However, until a local law is officially adopted, this department remains unclear on how this proposal can be evaluated and permitted. In addition, the parking regulations applied to this development are those for offices and warehouses, whereas no definitive parking requirements exist in the zoning code for data centers. We urge the Planning Board to make a recommendation to Town Board to amend the Town's zoning code to establish a clear definition and regulations for data centers within the zoning districts suggested in the 2023 Orangetown Comprehensive Plan.

   Response: Acknowledged.

2. According to the FEAF, question D.2. (b) ii., the proposed action will fill 0.08 acres of ACOE wetlands and 0.16 acres of surface water onsite, and also impact 108 linear feet of a stream. This department discourages the filling of wetlands, as this can potentially affect the areas capacity for flood mitigation and damages and disrupts the local ecosystems. It is recommended that the Town protect these significant water resources and satisfactorily mitigate that the effects of the loss of wetland and stream. We furthermore recommend that the scale of this proposal be reduced to decrease the amount of filling required and additional protection of onsite resources are provided.

   Response: A Joint Permit application, dated 12/19/2024, has been filed with NYSDEC and USACE for review of the potential environmental impacts and compliance with relevant wetland regulations.

   USACE did not provide any comments on the project's pre-construction notification for coverage under Nationwide Permit 39; therefore, per a March 7, 2025 email, the project is authorized to proceed as proposed therein.

   NYSDEC provided a wetland jurisdictional determination on 4/3/2025, summarized as follows:

Feature	NYSDEC Jurisdictional Status	Classification
Basin 1	*Not regulated by NYSDEC pursuant to Article 24 of the ECL.*	*N/A*
Basin 2	*Not regulated by NYSDEC pursuant to Article 24 of the ECL.*	*N/A*
Wetland 1	*Regulated by NYSDEC pursuant to Article 24 of the ECL.*	*Class 1 - contiguous to fresh surface waters having a classification of A*
Wetland 2	*Regulated by NYSDEC pursuant to Article 24 of the ECL.*	*Class 2 - urban area defined by the United States Census Bureau*

In response to NYSDEC feedback, adjacent roadway and sidewalk widths have been reduced and a retaining wall is proposed to avoid and minimize aquatic resource impacts to the greatest extent practicable while meeting the project purpose, need and viability. Unavoidable impacts to wetlands and waters will be mitigated via enhancement or enlargement of remaining wetlands on site. Further review and correspondence with NYSDEC are on-going and a NYSDEC Freshwater Wetland/Protection of Waters Permit will be obtained before work in wetlands and waters commences. Refer to EAF Part 1, SWPPP, and Water Diversion Permit for additional information.

A Water Diversion Permit dated 03/03/2025 and revised 05/05/2025 as part of the site plan application resubmission to the Town of Orangetown.

3. As previously stated, the site contains Federally regulated wetlands. An updated review must be completed by the United States Army Corps of Engineers and all required permits obtained.

   Response: A USACE Approved Jurisdictional Determination (AJD) was issued for the site and remains valid until October 2027. Wetland 1 was determined to be a Water of the U.S. and jurisdictional under Section 404. Wetland 2 and both basins were determined to be non-jurisdictional features.

   USACE did not provide any comments on the project's pre-construction notification for coverage under Nationwide Permit 39; therefore, per a March 7, 2025 email, the project is authorized to proceed as proposed therein.

4. If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for the discharge to fill in Waters of the U.S., then a Section 401 Water Quality Certification (WQC) will be required to verify compliance with State water quality regulations. Issuance of these certifications is delegated in New York State to the NYSDEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQC. Coverage under a Blanket requires compliance with all conditions for the corresponding Nationwide Permit. For more information and to view the DEC Blanket WQCs, please visit https://www.dec.ny.gov/regulatory/permits-licenses/waterways-coastlines-wetlands/protection-of-waters-program. A determination on Corps jurisdiction and a Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.

   Response: A USACE AJD was issued for the site and remains valid until October 2027, as described above. USACE did not provide any comments on the project's pre-construction

notification for coverage under Nationwide Permit 39; therefore, per a March 7, 2025 email, the project is authorized to proceed as proposed therein. Therefore, the project will comply with the requirements to receive coverage under Nationwide Permit 39.

5. According to the Hudson Valley Natural Resources Mapper https://gisservices.dec.ny.gov/gis/hvnrm/ the subject site is part of a Known Important Area Terrestrial Animals. These are identified as areas of importance for sustaining known population of rare animals based on occurrence records form the New York Natural Heritage Program (NYNHP) database. Proactive planning that avoids or minimizes impact to the habitat of important areas and maintains habitat connections for wildlife movement will contribute to the long-term biodiversity of the region. The Planning Board must consider the impacts of this large-scale development on the biodiversity of the area, specifically habitat fragmentation and the impact of the movement of species to and from and within these sensitive habitats. This department again recommends that the size and scale of this project be reduced due to the environmental constraints of the site. A pdf titled "An Approach for Conserving Biodiversity in the Hudson River Estuary Corridor" that identifies voluntary, non-regulatory strategies for conserving wildlife and habitat in the region can be found at: https://hudson.dnr.cals.cornell.edu/library

   Response: Acknowledged.

6. A review must be completed by the New York State Department of Environmental Conservation, any comments or concerns addressed, and all required permits obtained.

   Response: Will comply. NYSDEC is being consulted regarding NYSDEC wetlands, as described above, and an application for wetland permit has been submitted. See also responses 3 and 4.

7. On September 21, 2022, the Orangetown Zoning Board of Appeals (ZBA) granted the applicant approval of a parking variance to allow 69 spaces for Phase 1 with the condition that the applicant demonstrate that they can provide 671 land banked parking spaces. As we had previously stated to the Orangetown Planning Board in our January 3, 2023 GML 239 Review, these land banked parking spaces cannot be provided with the construction of Phase 2. The applicant is now planning on providing 105 of the 1,264 parking spaces required for Phases 1 and 2 together, and no land banked parking spaces. While it was acknowledged that data centers do not require a significant amount of parking spaces, the Rockland County Planning Board, at their December 12, 2024 meeting, has expressed concern about the inability to commit to this previously-approved condition by the ZBA. As previously indicated, we recommend that the proposal for Phase 2 be reduced in scale so that a lesser parking variance is required from the ZBA.

   Response: The applicant acknowledges that a parking variance is required with ZBA approval based on the proposed use and limited parking demand for this facility. The project is not proposed to be reduced in size.

8. We request the opportunity to review the variances needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

   Response: Acknowledged.

9. A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

   Response: Will comply. Application will be made to RCDOH relative to Article XIX.

10. A review must be completed by the County of Rockland Highway Department, all comments or concerns addressed, and all required permits obtained.

    Response: The County of Rockland Highway Department reviewed Phase 1 on 6/7/2022 and determined "this project is out of the jurisdiction of this agency and has no further comments." The County of Rockland Highway Department was included on the distribution, however no response has been received as of this writing.

11. The Orangetown Fire Inspector must be satisfied that the conditions of their letter dated June 25, 2024 have been appropriately addressed by the applicant. In addition, the Rockland County Office of Fire and Emergency Services and the Pearl River Fire District shall have the opportunity to review the proposal to ensure that the site is designed in a safe manner and there is sufficient maneuverability on the site for emergency vehicles.

    Response: Acknowledged.

12. 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 New York State Standards for Urban Erosion and Sediment Control.

    Response: Will comply.

13. There shall be no net increase in the peak rate of discharge from the site at all design points.

    Response: Will comply. The stormwater pollution prevention plan (SWPPP) demonstrates no net increase in the peak rate of discharge from the site at all design points. Refer to Project SWPPP for additional information.

14. Question D.2.e.iv (page 6) of the FEIS *[FEAF]* indicates that plan minimizes impervious surface, use pervious material or collect and re-uses stormwater, however the SWPPP page 10 indicates that no vegetated swales are proposed, no rain gardens are proposed, pervious pavers were used for Phase 1 but there is no indication for their use in Phase 2. It appears that this question should be answered negatively, or alternatively to help reduce the impact of this development there should be a reduction of impervious surfaces, and green techniques such as permeable pavers, bioswales, rain gardens, and rainwater capture should be considered. For long term effectiveness of these improvements, it is recommended that the applicant review Chapter 5 "Green Infrastructure Practices" of the 2015 NYSDEC Stormwater Design Manual.

    Response: Green infrastructure practices and reduction of impervious surfaces were considered for the project, however no opportunities to implement these techniques were feasible due to the site constraints and project requirements. The EAF has been revised accordingly. It is noted that the project was designed using the updated 2025 General Permit Regulations.

15. 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 stormwater runoff as well as dust particles and debris.

    Response: Acknowledged.

16. 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/good housekeeping.

Response: Acknowledged.

17. 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 Villages, Towns, 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 New York State Sanitary Code.

Response: The applicant will submit a water services application to Veolia Water to support the proposed project.

18. According to the DECInfo Locater https://gisservices.dec.ny.gov/gis/dil/ Lake Tappan is on the NYSDEC Waterbody 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." 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.

Response: Acknowledged. The Project SWPPP takes in to account water quantity and quality and no adverse impact to Lake Tappan is anticipated from the project.

19. The size of the proposed improvements indicated in the project description on the FEAF are not consistent with those depicted on the site plan drawing. The FEAF states that Phase 2 will include a 145,000 square-foot data center with a 6,500 square-foot administrative office, while the site plan demonstrates that these improvements will be 146,480 square feet and 7,395 square feet, respectively. The application materials must be revised so that all information is consistent and accurate. In addition, the square footage of the proposed equipment yard should be labeled on the site plan drawing.

Response: The EAF Part 1 and site plans are revised to show consistent and accurate information. The site plans are revised to include the square footage of the equipment yard.

20. A Databank operating 24 hours a day, 7 days a week uses a significant amount of energy. The August 16, 2024, architectural drawings indicate that for Phase 2, five (5) data halls would be constructed. This is being proposed in addition to the five data halls constructed in the Phase 1 building. The FEAF dated November 13, 2024, question D.2. (k) estimates the annual electricity demand for operating the proposed action with "TBD." The Town should have a clear understanding of the energy demand created by this project, the ability of the local utility grid to service the project, including utility grid resilience, as well as the potential impacts on other local economic development projects. Measures should be taken to increase the resiliency of the project and to reduce the overall carbon footprint of the operation including the use of energy efficient equipment and servers.

There are other questions on the FEIS[EAF] which the applicant should be able to provide answers to such the amount of fuel oil to be stored and solid waste generated.

Response: The applicant is in contact with Orange and Rockland Utilities for construction of a new 60MW substation onsite to power Phase 2. EAF response has been revised to include

estimated electrical demand as approximately 1,681,920,000 / kwh, based on 16mw for 5 halls @ 365/24 daily.

The EAF has been revised to include answers to the amount of fuel oil to be stored and solid waste generated.

21. This project presents an opportunity to advance the goals of the New York State Climate Leadership and Community Protection Act (the Climate Act) through the inclusion of the inclusion of on-site renewable energy. This development will result in an increase demand for energy and appears to pull that energy from the grid. Presuming the proposed commercial buildings will have flat roofs they may very well be conducive to the installation and use of solar panels. It is recommended that the potential use of on-site renewable energy be evaluated and strongly considered. Likewise, the building should be designed and constructed to maximize energy efficiency. Solar carports can also be considered for the parking areas.

    Response: The proposed data center requires the full use of the roof for essential electrical and mechanical equipment critical to its operation. As a result, there is no available space for rooftop solar installation. The limited size of the employee parking area makes a solar carport economically unfeasible, as the energy generated would provide only a negligible offset to the building's power needs.

22. 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.

    Response: Will comply, if permits are required.

23. The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate 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.

    Response: Will comply. All required documentation will be provided and registrations required will be undertaken.

24. 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.

    Response: Will comply. All registrations required will be undertaken.

25. The portion of the property outside of the area of disturbance shall remain uncleared and in its natural state per Section 21-25 of the Orangetown Code. This is especially important to preserve the remaining natural areas of the site and retain buffer between the data center and the residences to the south of the property.

    Response: Will comply.

26. The SWPPP states, on page 48 that all new vegetation will be native species however the list of species provided, included Norway Spruce, Siberian Spruce and Green Giant Arborvitae are not native to New York State. This department recommends 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 waterbodies. A pdf titled "Native Plants for Gardening and Landscaping Fact Sheets" that lists native species and the environments in which they can grow can be found on the New York State Department of Environmental Conservation's website: https://www.dec.ny.gov/get-involved/living-green/sustainable- landscaping.

Response: Comment noted. A review of the referenced native plant list has been undertaken and revisions made to the Landscape Plan to provide native plants.

27. All proposed signage shall conform to the sign ordinance in Chapter 31C of the Orangetown Code.

Response: Will comply.

28. Retaining walls shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

Response: Will comply.

29. Pursuant to New York State General Municipal Law (GML) Sections 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County's Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

Response: Acknowledged.

30. In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a County permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's report approving the proposed action or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Response: Will comply.

Please contact our office at (914) 368-9200 or dan.lofrisco@kimley-horn.com if you have any questions or require further information.

Sincerely,

KIMLEY-HORN ENGINEERING AND LANDSCAPE ARCHITECTURE OF NEW YORK, P.C.

Daniel LoFrisco, P.E.
Associate

EXHIBIT E

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Databank Orangeburg Phase 2		
Project Location (describe, and attach a general location map): 2090 Corporate Drive, Orangeburg, NY 10962 (Tax ID 73.15-1-19)		
Brief Description of Proposed Action (include purpose or need): The Proposed Action includes the planned Phase 2 of the existing Phase 1 data center campus. The Phase 2 expansion is on a 24.3-acre portion of the site which will include: a new 146,480 sf data center building with 7,395 sf of Administration/Office space; an open equipment yard (52,095 sf); a 7,906 sf office addition to connect to the Phase 1 building; and a substation area (72,812 SF) at the northeast corner of the site. The Phase 2 project includes utility improvements for water, sanitary, and electrical systems. The project proposes improvements to the stormwater management facilities including a new stormwater infiltration basin in the southeastern portion of the site, as well as landscape improvements throughout the limits of disturbance. Minor impacts to the existing stream along the southeastern property line are required to accommodate proposed stormwater improvements.		
Name of Applicant/Sponsor: Dan Lofrisco	Telephone: 914-368-9200 E-Mail: dan.lofrisco@kimley-horn.com	
Address: 60 East 42nd Street, Suite 1730		
City/PO: New York	State: NY	Zip Code: 10165
Project Contact (if not same as sponsor; give name and title/role): Tony Qorri, Databank	Telephone: 347 873 1480 E-Mail: DQorri@databank.com	
Address: 3110 N. Central Ave, Suite B-75		
City/PO: Phoenix	State: AZ	Zip Code: 85012
Property Owner (if not same as sponsor): (same as project contact)	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes☐No	Town Board: Watercourse Diversion Permit	Submitted March 3, 2025
b. City, Town or Village Planning Board or Commission ☑Yes☐No	Planning Board: Site Plan Review, SWPPP review	Submitted: December 2024
c. City, Town or Village Zoning Board of Appeals ☑Yes☐No	ZBA: Variance Review	To be submitted Summer 2025
d. Other local agencies ☑Yes☐No	Veolia Water: Water Connection	To be submitted Fall 2025
e. County agencies ☑Yes☐No	Rockland County Planning Board: Site Plan Approval; Sewer District 1: Discharge Approval	To be submitted Fall 2025
f. Regional agencies ☐Yes☑No		
g. State agencies ☑Yes☐No	NYSDEC: Oil Storage & Generator Air Prmt, Potential Wetland Prmt, Stream Disturbance Prmt	Wetland Permit Submitted: December 2024
h. Federal agencies ☑Yes☐No	USACE: nationwide permit 39, Section 404 Clean Water Act	Submitted: December 2024

i. Coastal Resources.

i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes☑No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐Yes☑No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes☐No

If Yes, identify the plan(s):

Hudson River Valley Greenway

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes☑No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance? ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
LIO (Light Industrial-Office District)

b. Is the use permitted or allowed by a special or conditional use permit? ☑ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes,
i. What is the proposed new zoning for the site?

C.4. Existing community services.

a. In what school district is the project site located? Pearl River Union Free School District

b. What police or other public protection forces serve the project site?
Rockland County Sheriff's Office, Orangetown Police Department

c. Which fire protection and emergency medical services serve the project site?
Pearl River Fire District, South Orangetown Ambulance Corps

d. What parks serve the project site?
Veterans Memorial Park, Independence Park, Temple Israel Memorial Park, German Masonic Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Industrial (data center)

b. a. Total acreage of the site of the proposed action? 33.93 acres
b. Total acreage to be physically disturbed? 12.67 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 33.93 acres

c. Is the proposed action an expansion of an existing project or use? ☑ Yes ☐ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % 36.1 Units: Acres

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed?
iv. Minimum and maximum proposed lot sizes? Minimum Maximum

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: 16-18 months
ii. If Yes:
- Total number of phases anticipated
- Anticipated commencement date of phase 1 (including demolition) month year
- Anticipated completion date of final phase month year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

f. Does the project include new residential uses? ☐Yes ☑No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? ☑Yes ☐No

If Yes,

i. Total number of structures 1

ii. Dimensions (in feet) of largest proposed structure: 30.8 ft height; 271.4 ft width; and 537.3 ft length

iii. Approximate extent of building space to be heated or cooled: 357,781* square feet *Includes Phase 2 only

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑Yes ☐No

If Yes,

i. Purpose of the impoundment: Infiltration Basin for stormwater management

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑ Other specify: Water runoff from impervious surfaces captured in storm inlets and piped to the infiltration basin

iii. If other than water, identify the type of impounded/contained liquids and their source.

iv. Approximate size of the proposed impoundment. Volume: 0.81 million gallons; surface area: 0.43 acres

v. Dimensions of the proposed dam or impounding structure: 7' height; 233' length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): Earth Fill

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐Yes ☑No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

If Yes:

i. What is the purpose of the excavation or dredging?

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards):
- Over what duration of time?

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe.

v. What is the total area to be dredged or excavated? acres

vi. What is the maximum area to be worked at any one time? acres

vii. What would be the maximum depth of excavation or dredging? feet

viii. Will the excavation require blasting? ☐Yes ☐No

ix. Summarize site reclamation goals and plan:

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☑Yes ☐No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): regulated wetlands as described in ACOE JD dated 10-19-22; NYSDEC regulated stream (Regulation: 865-5, Standard A, Classification A); regulated wetland as described in NYSDEC JD dated 4-3-25

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
The proposed action will fill 0.10 acre of NYSDEC wetlands, 0.02 acre of NYSDEC/ACOE wetlands, and 0.16 acres of surface water on site. A permit application will be submitted to the NYSDEC/ACOE for wetland disturbance. The proposed action will also impact 60 linear feet of a stream.

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☑No
If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☑No
If Yes:
- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: N/A
- if chemical/herbicide treatment will be used, specify product(s): N/A

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☑Yes ☐No
*Includes both Phase 1 and Phase 2
If Yes:
i. Total anticipated water usage/demand per day: 11,955* gallons/day
ii. Will the proposed action obtain water from an existing public water supply? ☑Yes ☐No
If Yes:
- Name of district or service area: Public water service, Veolia, NY
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes ☑No
If Yes:
- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes ☑No
If, Yes:
- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑Yes ☐No
*Includes both Phase 1 and Phase 2
If Yes:
i. Total anticipated liquid waste generation per day: 5,295* gallons/day
ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):
Sanitary wastewater (4,755 gpd); Mechanical drainage from humidifiers (540 gpd)

iii. Will the proposed action use any existing public wastewater treatment facilities? ☑Yes ☐No
If Yes:
- Name of wastewater treatment plant to be used: Orangetown Wastewater Treatment Plant
- Name of district: Orangetown Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☑No

  If Yes:
  - Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:
- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

7.8 Square feet or 7.8 acres (impervious surface)

33.9 Square feet or 33.9 acres (parcel size)

ii. Describe types of new point sources. building, sidewalk & roads, pavement, equipment yard, substation area

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

on-site stormwater management facilities

- If to surface waters, identify receiving water bodies or wetlands: Regulated wetlands as described in ACOE JD dated 10-19-22; NYSDEC regulated stream (Regulation: 885-5, Standard A, Classification A) and Lake Tappan; regulated wetland as described in NYSDEC JD dated 4-3-25
- Will stormwater runoff flow to adjacent properties? ☑Yes ☐No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☑Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:
- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend
☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing 840 Proposed 105 Net increase/decrease 735 Decrease

iv. Does the proposed action include any shared use parking? ☐Yes ☑No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

_____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☑No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☑No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☑No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☑Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action:
Approximately 1,681,920,000 / kwh, based on 16mw for 5 halls @ 365/24 daily

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):
Orange & Rockland

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☑Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 AM - 5:00 PM
- Saturday: 8:00 AM - 5:00 PM (if needed)
- Sunday: 9:00 AM - 5:00 PM (if needed)
- Holidays: N/A

ii. During Operations:

- Monday - Friday: 24/7
- Saturday: 24/7
- Sunday: 24/7
- Holidays: 24/7

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

Construction equipment will be used within the times required by the Town of Orangetown code

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

Lighting fixtures will be a combination of pole mounted (20 ft and 30 ft in height) and building mounted (20 ft in height) LED light fixtures, down-lit. Illumination will not impact surrounding properties.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☑ Yes ☐ No

If Yes:

i. Product(s) to be stored Fuel Oil Storage

ii. Volume(s) 71,300 Gal per unit time Year (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

Above ground belly tanks under proposed generators in equipment yards

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☑ Yes ☐ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: 3 tons per week (unit of time)
- Operation : 2 tons per month (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: Recycle all metal removals, recycle all cardboard removals
- Operation: Recycle all metal removals, recycle all cardboard removals

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: construction waste will be disposed of via daily removal via 10YD or 30YD containers
- Operation: waste resulting from normal operations will be disposed of via licensed private carter service

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☑ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☑ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	13.23	18.48	+5.25
• Forested	7.99	6.14	-1.58
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	-	-	
• Agricultural (includes active orchards, field, greenhouse etc.)	-	-	
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.16	0	-0.16
• Wetlands (freshwater or tidal)	0.67	0.55	-0.12
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: Landscaping/lawn	11.88	9.50	-2.38

c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☑ No

i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑ Yes ☐ No

If Yes,

I. Identify Facilities:

Brightview Lake Tappan - Senior Independent Living, Assisted Living, and Memory Care located approximately 620 ft north of site; Baseball fields directly to the north of the site (shared property line) - American Legion

e. Does the project site contain an existing dam? ☐ Yes ☑ No

If Yes:

i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____

iii. Provide date and summarize results of last inspection:

_____

_____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☑ No

If Yes:

I. Has the facility been formally closed? ☐ Yes ☐ No

- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

_____

_____

iii. Describe any development constraints due to the prior solid waste activities: _____

_____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

_____

_____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☑ No

If Yes:

i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No

☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____

☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____

☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

_____

_____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☑ No

If yes, provide DEC ID number(s): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

_____

_____

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☑ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? > 6.5 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☑ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

ReA: 0-3% slope	25 %
ReB: 3-8% slope	67 %
ReC: 8-15% slope	8 %

d. What is the average depth to the water table on the project site? Average: > 6.5 ft feet

e. Drainage status of project site soils:

☑ Well Drained:	98 % of site
☐ Moderately Well Drained:	% of site
☑ Poorly Drained	2 % of site

f. Approximate proportion of proposed action site with slopes:

☑ 0-10%:	93 % of site
☑ 10-15%:	7 % of site
☐ 15% or greater:	% of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑ Yes ☐ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 865-6 Classification A
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters Approximate Size 0.65 ac
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☑ No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐ Yes ☑ No

j. Is the project site in the 100-year Floodplain? ☐ Yes ☑ No

k. Is the project site in the 500-year Floodplain? ☐ Yes ☑ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☑ Yes ☐ No
If Yes:

i. Name of aquifer: Principal Aquifer

m. Identify the predominant wildlife species that occupy or use the project site:
typical urban species (bird, squirrel, raccoon, deer, etc.)

n. Does the project site contain a designated significant natural community? ☐ Yes ☑ No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☑ Yes ☐ No

If Yes:
i. Species and listing (endangered or threatened):

Bald Eagle coordination with NYSDEC in April 2024 determined that the nest is not active this season and that the January 1-September 30 time-of-year restriction can be lifted for construction within 330-660 feet from the former nest site without risk of disturbing breeding bald eagles. Monitoring for bald eagles on site will occur on a weekly basis from January 1 2025 to February 28 2025.

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☑ No

If Yes:
i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☑ No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☑ No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☑ No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☑ No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☑ No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☑ Yes ☐ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☑ Historic Building or District

ii. Name: Rockland Psychiatric Center

iii. Brief description of attributes on which listing is based:

two eligible buildings approximately 900 ft NE of site, eligible for listing due to architectural significance and association with Rockland Psychiatric Center

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☑ Yes ☐ No

If Yes:

i. Identify resource: Palisades Interstate Parkway

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Scenic Byway

iii. Distance between project and resource: 1.61 miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Alexa Sikoryak, AICP Date 11/13/2024; Revised 5/10/2025

Signature  Title Planning Consultant for Applicant

RECEIVED

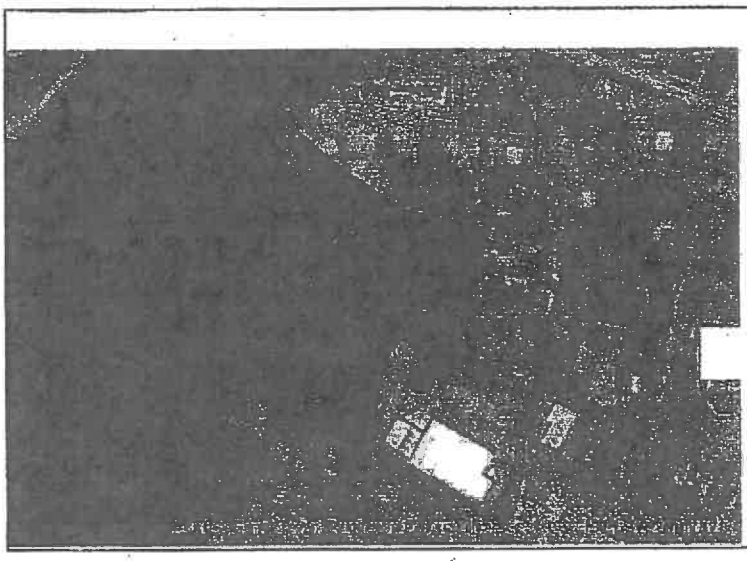
MAY 19 2025

TOWN OF ORANGETOWN
LAND USE BOARDS

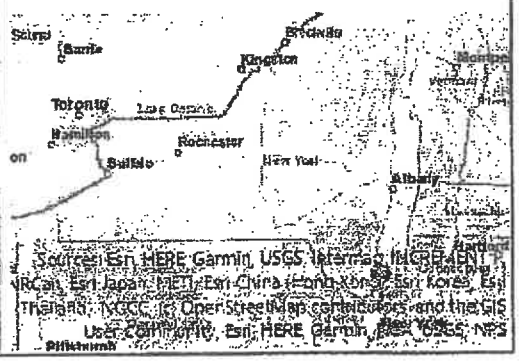
PRINT FORM

EAF Mapper Summary Report

Friday, May 17, 2024 2:14 PM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.1.i [Coastal or Waterfront Area]	No
B.1.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	865-5
E.2.h.iv [Surface Water Features - Stream Classification]	A
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.j. [100 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.

E.2.k. [500 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Bald Eagle
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

EXHIBIT F

6 NYCRR § 617.4

This document reflects those changes received from the NY Bill Drafting Commission through June 20, 2025

NY - New York Codes, Rules and Regulations > TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION > CHAPTER VI. GENERAL REGULATIONS > PART 617. STATE ENVIRONMENTAL QUALITY REVIEW

§ 617.4 Type I actions

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and requires the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.7(c) of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

(4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a state or local agency;

(5) construction of new residential units that meet or exceed the following thresholds:

(i) 10 units in municipalities that have not adopted zoning or subdivision regulations;

(ii) 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iii) in a city, town or village having a population of 150,000 persons or less, 200 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iv) in a city, town or village having a population of greater than 150,000 persons but less than 1,000,000 persons, 500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or

(v) in a city or town having a population of 1,000,000 or more persons, 1000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

(i) a project or action that involves the physical alteration of 10 acres;

(ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;

(iii) parking for 500 vehicles in a city, town or village having a population of 150,000 persons or less;

(iv) parking for 1,000 vehicles in a city, town or village having a population of more than 150,000 persons;

(v) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;

(vi) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area;

(7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;

(8) any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to *Agriculture and Markets Law, article 25-AA, sections 303* and *304*) and exceeds 25 percent of any threshold established in this section;

(9) any Unlisted action (unless the action is designed for the preservation of the facility or site), that exceeds 25 percent of any threshold established in this section, occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places (Volume 36 of the Code of Federal Regulations, Parts 60 and 63, which is incorporated by reference pursuant to section 617.17 of this Part), or that is listed on the State Register of Historic Places or that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to *sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law*;

(10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR Part 62 (which is incorporated by reference pursuant to section 617.17 of this Part); or

(11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

Statutory Authority

Section statutory authority:

Agriculture & Markets Law, § A25-AA. Section statutory authority: *Agriculture & Markets Law, § 303*. Section statutory authority: *Agriculture & Markets Law, § 304*

Statutory authority:

Environmental Conservation Law, §§ 3- 0301(1)(b), (2)(m) and 8- 0113

History

Renumbered 617.12 to be 617.4 on 9/20/95. Repealed and added 617.4 on 9/20/95. Amended 617.4 (b)(9) and (10) on 1/01/96. Amended 617.4(effective 01/01/19) on 7/18/18.

NEW YORK CODES, RULES AND REGULATIONS

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EXHIBIT G

43 Attachment 18

Town of Orangetown
Notes to Use and Bulk Tables
[Amended 5-23-2017 by L.L. No. 6-2017; 12-12-2023 by L.L. No. 14-2023]

Note 1: See also the following sections: Required front yards and maximum height: § 5.111; Corner lots, required yards, § 5.112. Lots divided by district boundary. § 5.12; Lots within twenty-five (25) feet of a district boundary: § 5.13; Courts: § 5.14; Spacing of buildings on same lot: § 5.15; Height of buildings within five hundred (500) feet of airports: § 5.16; Existing small lots: § 5.21; Permitted obstructions in required yards courts, usable open space: § 5.22; Permitted height exceptions: § 5.23; Buildings with nonconforming bulk: § 9.2.

Note 2: Where the side or rear lot line of a lot in CS, CC, CO, LO, LIO, LI or OP adjoins or lies within twenty-five (25) feet of any R District, the following buffers shall be required:

District	Required Buffer (feet)
LO, LIO, LI or OP	100
CS	15/50
CC	15/25
CO	15

The Planning Board may reduce by no more than fifty percent (50%) the side or rear yard requirement for the yard opposite the buffer for nonresidential uses in the LO, LIO, LI and OP Districts, except where the opposite yard abuts a residential district. All such uses shall conform to these buffer requirements. For the CS and CC Districts fifty (50) and twenty-five (25) feet, respectively, will be required for a conditional or special permit use. The buffer area shall only be used for planting, landscaping and screening to provide environmental compatibility of dissimilar uses.

Note 3: Notwithstanding the Bulk Regulations for Groups D, H, L, O, T, X, CC, EE, GG, PP, QQ and RR, certain uses in these groups are subject to additional bulk regulations specified as to each such use in the Use Table.

Note 4: In LO and LIO Districts, the floor area devoted to the manufacturing of prototype products may not exceed twenty-five percent (25%) of the total gross floor area of the building.

Note 5: (Reserved)[1]

Note 6: Required front yard depths in residential subdivisions in any residential district must comply with the zoning regulations as an average, provided that the following minimum depths are maintained, and that the averaging shall be computed in any single case for one (1) side of the street and between the two (2) nearest intersecting streets within the subdivision:

District	Minimum Front Yard Depth (feet)
R-80	40
R-40	40
R-22	35
R-15	25
RG	20

Note 7: Required front yards and maximum building heights are subject to § 5.111, with the designated street line being used as lot line.

Note 8: However, any residence not located in the same building as a use first permitted in LI must be separated from such use by at least 100 feet.

Note 9: None required, but if provided shall be at least twelve (12) feet wide.

Note 10: Where a lot line in an LO, LI or LIO District abuts a railroad right-of-way, the normally required rear or side yard may be reduced to twenty-five (25) feet, and the maximum building height shall apply for that portion of a building over twenty-five (25) feet in height.

Note 11: For existing small lots in LO and LIO, see § 5.24.

Note 12: In OP Districts, the Planning Board may permit an average of floor area ratios on individual plots, but the maximum floor area ratio on the entire tract shall not exceed forty- hundredths (0.40). All buildings shall be separated by at least seventy-five (75) feet or the height of the lowest building, whichever distance will provide the greater separation.

Note 13: In addition to the particular requirements, any board or town agency having jurisdiction may require fences, and other safety devices and adequate landscaping and screening. The landscaping and screening shall be approved by the board or town agency having jurisdiction prior to the issuance of the building permit. Such screening must provide an opaque screen during the entire year. A new use that is, in the opinion of the board having jurisdiction, sufficiently detrimental to adjoining and surrounding properties and which cannot be screened to protect the property values adjoining and surrounding the proposed use shall not be permitted, notwithstanding the provisions of the Use Table.

Note 14: Maximum land coverage shall not exceed seventy-five percent (75%), including buildings, parking, road and road widening. The open area shall be a minimum of twenty-five percent (25%). Parking area within a building will not be charged against the floor area ratio. In OP Districts, the percentages shall be sixty-five percent (65%) and thirty-five percent (35%), respectively. In LO Districts, W Groups, and MFR District, U Group, the percentages shall be fifty percent (50%) and fifty percent (50%), respectively. In LI Districts, the percentages shall be eighty percent (80%) and twenty percent (20%), respectively.

Note 15: In order to facilitate and encourage flexibility of design and development of land in such a manner as to promote its most appreciable use to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open land, the Planning Board may also permit a cluster development of not more than four (4) attached veterin housing or adult housing residences, provided that there shall be provided on the plat sufficient open land area (not required for other permitted uses) to provide the required floor area ratio and other bulk requirements that would be required if the detached residences were erected. However, such clustering shall not:

A. Result in an overall density in any development of more than five (5) units per acre.
B. Reduce the maximum floor area ratio per dwelling unit for any development below the requirements of § 3.12, Group N, Column 4, R-15 Districts, twenty-hundredths (0.20) per acre.
C. Reduce the usable open space requirements for any development below five hundred (500) square feet for each dwelling unit and one thousand (1,000) square feet for each dwelling unit with two (2) bedrooms. Such space shall have a minimum dimension of fifty (50) feet, except for one-bedroom, single-family dwelling units, which require a minimum dimension of twenty-five (25) feet
D. Reduce yard requirements on the periphery of any development below those established for the R-15 District.
E. Reduce the overall floor area ratio for any development below twenty-hundredths (0.20).

Note 16: As part of any minimum lot area requirement for residential uses, not more than fifty percent (50%) of any land under water, within a freshwater wetland, subject to flooding or within the one-hundred-year frequency floodplain, within easements or rights-of-way for sanitary or storm sewers, drainage, access or overhead utilities or with slopes (unexcavated) of over twenty-five percent (25%) shall be counted and within the designated street line of a road.

Note 17: The maximum density shall be as follows:

Number of Bedrooms in Unit	Units per Acre	Land Area Per Unit (square feet)
1	6.0	7,250
2	4.8	9,000
3 or more	4.0	10,750

Note 18: Not more than five (5) units per acre for adult housing on a minimum parcel size of five (5) acres and a maximum parcel size of seven (7) acres not separated by a road or right-of-way. The unit ratio shall be two (2) one-bedroom units and three (3) two-bedroom units per acre. The number of units permitted per acre shall be in compliance with all other R-15 bulk regulations. In no event, however, shall the number of adult housing units per acre exceed five (5). No special permit shall be permitted within five hundred (500) feet of any adult housing previously permitted.

Note 19: Lots within the LI District having a minimum lot area of 150 acres may contain multiple permitted uses on a single parcel.

[1] **Editor's Note: Note 5, which established exceptions to the minimum street frontage requirements, was repealed 5-14-1990 by L.L. No. 5-1990. This local law also provided that "any application predicated upon the provisions of Note No. 5 which has received pre-preliminary approval from the Planning Board on the date when this local law takes effect shall not be affected by this local law."**

EXHIBIT H

rom: Lewandowski, Paige M (DEC) <Paige.Lewandowski@dec.ny.gov>
Sent: Thursday, April 3, 2025 4:58 PM
To: Ojserkis, Max <Max.Ojserkis@kimley-horn.com>
Cc: LoFrisco, Dan <Dan.LoFrisco@kimley-horn.com>; Suddeth, Trent <Trent.Suddeth@kimley-horn.com>; Chen, Kitty <Kitty.Chen@kimley-horn.com>; Von Ohlsen, Bonnie <Bonnie.VonOhlsen@kimley-horn.com>; Romero Medina, Glennys A (DEC) <Glennys.Romeromedina@dec.ny.gov>; Werkmeister, Catherine <C.Werkmeister@kimley-horn.com>; Lewandowski, Paige M (DEC) <Paige.Lewandowski@dec.ny.gov>; dec.sm.R3.BEH <R3.BEH@dec.ny.gov>
Subject: RE: Wetland Permitting - Orangeburg, Rockland County

Hello,

I have reviewed the consultant jurisdictional determination submission for the 2000 Corporate Drive Redevelopment Project in the Town of Orangetown, Rockland County, NY. Wetlands 1 and 2 from the wetland delineation report prepared by Kimley-Horn and Associates, Inc. are regulated by NYS DEC pursuant to Article 24 of the Environmental Conservation Law (ECL). Basins 1 and 2 are *not* regulated by NYS DEC pursuant to Article 24 of the ECL.

The classification of Wetland 1 as Class 1 is accurate as it is contiguous to fresh surface waters having a classification of A. The classification of Wetland 2 as Class 2 is accurate as it meets the criteria of being within an urban area defined by the United States Census Bureau. I have summarized my findings in the table below:

Tax ID #:	Resource	Jurisdictional Determination	Classification
73.15-1-19	Basin 1	Not regulated by NYS DEC pursuant to Article 24 of the ECL.	n/a
	Basin 2	Not regulated by NYS DEC pursuant to Article 24 of the ECL.	n/a
	Wetland 1	Regulated by NYS DEC pursuant to Article 24 of the ECL.	Class 1 - contiguous to fresh surface waters having a classification of A
	Wetland 2	Regulated by NYS DEC pursuant to Article 24 of the ECL.	Class 2 - urban area defined by the United States Census Bureau

This determination is valid for five years, please keep a copy of this email for your records.

Thank you,

Paige Lewandowski *(she/her/hers)*
Biologist 1

New York State Department of Environmental Conservation

EXHIBIT I

6 NYCRR § 663.5

This document reflects those changes received from the NY Bill Drafting Commission through June 13, 2025

NY - New York Codes, Rules and Regulations > TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION > CHAPTER X. DIVISION OF WATER RESOURCES > SUBCHAPTER A. GENERAL > ARTICLE 1. MISCELLANEOUS RULES > PART 663. FRESHWATER WETLANDS PERMIT REQUIREMENTS

§ 663.5 Standards for issuance of permits and letters of permission

(a) A person proposing to conduct an activity that requires a permit or letter of permission, as described in section 663.4(d) of this Part, must meet the standards for permit issuance and receive a permit or letter of permission prior to commencing that activity. The burden of showing that the proposed activity will comply with the policies and provisions of the act and this Part rests entirely on the applicant.

(b) A letter of permission will be issued only if the commissioner has determined that the proposed activity will not substantially alter or impair the functions or benefits of a wetland. Those activities are identified as "LP" in section 665.7(g) of this Title, the statewide minimum land use regulations for freshwater wetlands, and as "L" in the activities chart in section 663.4(d). In granting a letter of permission, the commissioner must determine that the proposed activity complies with the limits of the activities as stated in the statewide minimum land use regulations contained in Part 665 of this Title.

(c) In granting, denying or modifying a permit, the commissioner shall apply the standards for permit issuance contained in subdivision (e) of this section in conjunction with the classification of the subject wetland as indicated on the official freshwater wetlands map filed by the department, and as established in Part 664 of this Title. In applying these standards, the commissioner will consider the effects of the proposed activity regardless of political boundaries.

(d) As shown in the chart in subdivision (e) of this section, a determination of compatibility and a weighing of need against benefits lost are the criteria for decisionmaking. The three tests for compatibility must be used for all activities listed in the minimum land use regulations and section 663.4(d) of this Part that carry a compatibility category of "C" or "N" as defined in Part 665 of this Title and in section 663.4(d). Activities and land uses not listed in the minimum land use regulations or in the procedures table in section 663.4(d) also must be evaluated using the three-part compatibility test. Activities designated as "L" in section 663.4(d) have been determined under the minimum land use regulations to be compatible and no further compatibility or weighing analysis need be performed before issuance of a letter of permission as defined in section 663.2(r). Activities identified as "E" are exempt and do not require either a permit or letter of permission. Exempt activities are included in section 663.4(d) to assist the department and applicants in determining regulatory procedures.

(1) When the three tests of compatibility given in the chart in subdivision (e) of this section are met, no other weighing standards need apply, regardless of the wetland's classification, and a permit, with or without conditions, may be issued for the proposed activity. In conjunction with the three-part test, the statewide minimum land use regulations or a local variance from them that has been duly adopted according to the provisions of Part 665 of this Title are the basis for determinations of compatibility.

(2) If the proposed activity cannot meet all three tests of compatibility or if it is identified as "X," incompatible, then, for a permit to be issued, the activity must meet each of the weighing standards listed in the chart in subdivision (e) of this section for the classification of the wetland that would be affected by the proposed activity.

(3) If it is determined that a written request for a letter of permission exceeds the thresholds identified in the items listed in sections 665.7(g) and 663.4(d), a letter of permission may not be issued. Instead the proposed action must be tested for compatibility using the three-part test in subdivision (e) of this section and a permit application must be processed pursuant to the act and this Part. If there is question or doubt as to whether any proposed activity being reviewed for compatibility with the three-part test in subdivision (e) meets any of the three parts of the test, the action must be treated as incompatible and the activity weighed according to the standards identified in subdivision (e).

(e) Standards for Permit issuance.

(1) Compatibility. These three tests are to be used to determine the compatibility of all activities identified as P(C) or P(N) in section 663.4(d) of this Part or for any actions not listed in section 663.4(d). If all three of the following tests are compatibility are met, no other weighing standards need be met, regardless of the wetland class. A permit, with or without conditions, may be issued for a proposed activity on a wetland of any class or in a wetland's adjacent area, if it is determined that the activity (i) would be compatible with preservation, protection and conservation of the wetland and its benefits, and (ii) would result in no more than insubstantial degradation to, or loss of, any part of the wetland, and (iii) would be compatible with public health and welfare.

(2) Weighing. These weighing standards must be applied to all activities identified as P(X) in section 663.4(d) of this Part, and to all those activities listed as P(C) of (N) in section 663.4(d) or not listed in section 663.4(d) that do not meet the three tests of compatibility listed in section 663.5(e)(1). If the proposed activity is listed as (X) or cannot meet the three tests for compatibility, then a permit may be issued only if the proposed activity meets each of the standards below for the class of wetland affected:

For wetland Classes I, II, III and IV, the proposed activity must be compatible with the public health and welfare, be the only practicable alternative that could accomplish the applicant's objectives and have no practicable alternative on a site that is not a freshwater wetland or adjacent area.

For wetland Classes I, II, and III, the proposed activity must minimize degradation to, or loss of, any part of the wetland or is adjacent area and must minimize any adverse impacts on the functions and benefits that the wetland provides.

For wetland Class IV, the proposed activity must make a reasonable effort to minimize degradation to, or loss of, any part of the wetland or its adjacent area.

Class I wetlands	Class II wetlands	Class III wetlands	Class IV Wetlands
Class I wetlands provide the most critical of the State's wetland benefits, reduction of which is acceptable only in the most unusual circumstances. A permit shall be	Class II wetlands provide important s wetland benefits, the loss of which is acceptable only in very limited circumstances. A permit shall be issued only	Class III wetlands supply wetland benefits, the loss of which is acceptable only after the exercise of caution and discernment. A permit shall be issued only if it is	Class IV wetlands provide some wildlife and open space benefits and may provide other benefits cited in the act. Therefore, wanton or uncontrolled degradation or loss of Class IV wetlands is

Class I wetlands	Class II wetlands	Class III wetlands	Class IV Wetlands
issued only if it is determined that the proposed activity satisfies a compelling economic or social need that clearly and substantially outweighs the loss of or detriment to the benefit(s) of the Class I wetland.	if it is determined that t the proposed activity satisfies a pressing economic or social need that clearly outweighs the loss of or detriment to the benefit(s) of the Class II wetland.	determined that the proposed activity satisfies an economic or social need that outweighs the loss of or detriment to the benefit(s) of the Class III wetland.	unacceptable. A permit shall be issued for a proposed activity in a Class IV wetland only if it is determined that the activity would be the only practicable alternative which could accomplish the applicant's objectives.

(f) Interpretation of some terms used in subdivision (e) of this section. (1) Public health and welfare. Those concerns include:

(i) consistency of the proposed activity with physical health, if necessary, as judged by health professionals; and

(ii) consistency with related Federal, State and local laws, regulations and policies.

If a proposed activity is inconsistent with physical health, or with any related laws, regulations and government policies, this would weigh against issuing a permit under the act until such conditions were met that would make the proposed activity consistent with these provisions.

(2) Only practicable alternative. A proposed activity is the only practicable alternative if no other is physically or economically feasible. This does not, however, mean that the most profitable or least costly alternative is the only feasible one nor that the least profitable or more costly alternative is the only feasible one.

(3) Economic and social need. When the economic and social need for the proposed activity is considered, the economic and social burden that would be imposed on the public shall be considered. The public economic and social burden may include: associated services, such as sewer systems, schools, and fire and police protection, necessitated by the proposed activity; prevention of contamination, flood or other damage to the proposed development on the wetland by methods such as channelization, alteration of land, alteration of water flow, draining or construction of dams, dikes or levees; and/or services and repairs, such as medical care, pumping, cleaning, dredging and emergency assistance as a result of contamination, flooding or other damage to the proposed development on the wetland. Nothing in this section precludes the consideration of any issue which must be addressed under the State Environmental Quality Review Act (article 8 of the Environmental Conservation Law).

(4) Specific Class I standards. (i) "... reduction of which is

acceptable only in unusual circumstances." Permits for the vast majority of activities that could not avoid reducing a benefit provided by a Class I wetland would not be approved. The word reduction means that this applies not just to the loss of any benefit, but to the partial loss or reduction of a benefit.

(ii) "... satisfies a compelling economic or social need..." The word compelling implies that the proposed activity carries with it not merely a sense of desirability or urgency, but of actual necessity; that the proposed activity must be done; that it is unavoidable.

(iii) "... clearly and substantially outweighs..." Clearly means that the need for the proposed activity must outweigh the loss of or detriment to the benefits in a way that is beyond serious debate. Substantially carries this further, in that not only must the need clearly outweigh the loss or detriment, but the margin of outweighing itself must be large or significant.

(5) Specific Class II standards. (i) "... loss of which is acceptable only in limited circumstances." Permits for most activities that could not avoid causing a loss of or detriment to a benefit provided by a Class II wetland would not be approved.

(ii) "... satisfies a pressing economic or social need..." Pressing should suggest that for the need to outweigh the loss of or detriment to a benefit of a Class II wetland, it must be urgent and intense, though it does not have to be necessary or unavoidable.

(iii) "... clearly outweighs..." means that the need for the proposed activity must outweigh the loss of or detriment to the benefits in a way that is beyond serious debate, although there does not have to be a large or significant margin between the need and the loss.

(6) Specific Class III standards. (i) "... loss of which is acceptable only after the exercise of caution and discernment." This means that permits could be issued for activities that could not avoid loss of or detriment to a benefit provided by a Class III wetland but only after careful evaluation.

(ii) "... satisfies an economic or social need..." The need for the activity is real and undeniable, though it does not have to be necessary, unavoidable, urgent or intense.

(iii) "... outweighs..." means that the need for the activity must outweigh the loss of or detriment to a benefit, but the balance in favor of the activity does not have to be beyond serious debate.

(7) Class IV standards. Permit issuance cannot be indiscriminate or unexamined for Class IV wetlands and still require consideration of loss of wetland values.

(g) Mitigation of impacts. (1) The applicant may suggest a proposal to enhance the existing benefits provided by a wetland or to create and maintain new wetland benefits in order to increase the likelihood that a proposed activity will meet the applicable standards for permit issuance. Such a proposal must meet the following provisions:

(i) the mitigation must occur on or in the immediate vicinity of the site of the proposed project;

(ii) the area affected by the proposed mitigation must be regulated by the act and this Part after mitigative measures are completed; and

(iii) the mitigation must provide substantially the same or more benefits that will be lost through the proposed activity.

(2) Any mitigation considered as part of a permit granted pursuant to this Part will be included as a condition on such permit and must be complied with as mandatory if other work is started or completed.

(3) If mitigation proposed does not totally compensate for lost values or benefits that would be lost by the proposed activity, then the net loss of benefits must be assessed. Any unmitigated net loss of wetland values must then be weighed according to standards contained in section 663.5 of this Part.

(h) A duly filed notice in writing that the State or any agency or political subdivision of the State is in the process of acquiring any freshwater wetland by negotiation or condemnation authorizes, but does not require, denial of any permit, but only if both the affected landowner and the local government have been so notified.

(1) The written notice must include an indication that the acquisition process has commenced, such as that an appraisal of the property has been prepared or is in the process of being prepared.

(2) If the landowner receives no offer for the property within one year of the permit denial, this ban to the permit lapses. If its negotiations with the applicant are broken off, the State or any agency or political subdivision must, within six months of the end of negotiation, either issue its findings and determination to acquire the property pursuant to *section 204 of the Eminent Domain Procedure Law* or issue a determination to acquire the property without public hearing pursuant to section 206 of the General Domain Procedure Law, or this ban to the permit lapses.

Statutory Authority

Section statutory authority:

Eminent Domain Procedure, § 204, § 206; Environmental Conservation Law, § A8

Statutory authority:

Environmental Conservation Law, §§ 3-0301, 24-1301

History

Added 663.5 on 5/20/80; amended 663.5 on 9/09/85.

NEW YORK CODES, RULES AND REGULATIONS

End of Document

EXHIBIT J

RESOLUTION OF THE BOROUGH OF OLD TAPPAN

RESOLUTION OPPOSING APPLICATION FOR "DATABANK ORANGEBURG PHASE 2 (LGA-4)"

WHEREAS, the Mayor and Council of the Borough of Old Tappan have become aware of an application for "DATABANK ORANGEBURG PHASE 2 (LGA-4)" on property known as Section 73.15, Block 1. Lot 19 in the Town of Orangetown, New York; and

WHEREAS, the proposal includes the construction of a data center as well as an electrical substation on the property; and

WHEREAS, the impact of the existing and proposed data centers on this property will require 80,000 to 90,000 MW of power or roughly the equivalent of 150,000 homes. With additional existing and proposed data centers in the area we feel it places a heavy burden on the existing electrical infrastructure; and

WHEREAS, with Data Center technology rapidly advancing it is possible that the existing designs will become immediately obsolete and will have unnecessarily caused irreversible environmental impacts; and

WHEREAS, the application includes a 70,000 square feet outdoor electrical substation which will add further industrial level electrical infrastructure to the site. Such massive infrastructure challenges the public's health whereas an understanding and concern is growing about the long-term health effects of ELS – Electrophoretic Light Scattering and increasing the potential precipitating or risk for amyotrophic lateral sclerosis and other illnesses; and

WHEREAS, Emergency Services, of which Old Tappan and Orangetown are both members, will be seriously challenged to extinguish a fire. Furthermore, the impact of a potential fire could add toxic chemicals to the reservoir which could make the reservoir unrecoverable

WHEREAS, the Lake Tappan watershed and buffer will be impacted by significant disturbance and will render the ecosystem services of these valuable lands ineffective, This disturbance will impact the local flora and fauna and reduce the water quality of Lake Tappan. The impact to Lake Tappan will bridge states and all people; and

WHEREAS, the Data Center will have a significant visual impact on adjacent shared viewsheds including adjacent residential uses, businesses and roadways; and

WHEREAS, the sound will emanate from each Data Center created by a proposed 60 AC units on the roofs and will degrade the quality of life and will interrupt both people and wildlife; and

WHEREAS, Data Centers are not a permitted use in the Orangetown's LOI zone at the time of original application submission; and

WHEREAS additional impervious coverage adjacent to a connected watershed will impact everyone downstream; and

WHEREAS, the visual and noise impacts are unknown, and should the power go out there will be 24 generators running to keep 120 HVAC units working.

NOW THEREFORE be it resolved by the Mayor and Council of the Borough of Old Tappan that the Borough and its residents strongly oppose "DATABANK ORANGEBURG PHASE 2 (LGA-4)" project; and

BE IT FURTHER RESOLVED that copies of this Resolution be delivered to the Town of Orangetown, the Town of Orangetown Planning Board, U.S. Congressman Michael Lawler, Rockland County Executive Edwin J. Day, Legislator Thomas Diviny and Veolia Environmental Services

The within Resolution was duly adopted by the Borough Council at a meeting on March 3, 2025.

Jean M. Donch, Borough Clerk

NAME	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
Binaghi			X			
Boyce	X		X			
Gwon			X			
Marti			X			
Massaro		X	X			
Yhu						X

EXHIBIT K

Data Center Fires: A Detailed Breakdown with 22 Examples

By Mary Zhang - October 27, 2023

A data center employs advanced fire protection systems and implements comprehensive prevention, detection, and suppression strategies to mitigate potential fire hazards. Despite these measures, data center fires – while seemingly infrequent, with only a few major incidents occurring every year across thousands of facilities worldwide – present a significant threat that should not be dismissed.

Data center fires occur in specialized buildings equipped with power and cooling infrastructure that are used to house computer servers and network equipment. These fires are caused by factors including electrical failures, overheating lithium-ion batteries, inadequate maintenance, and human error.

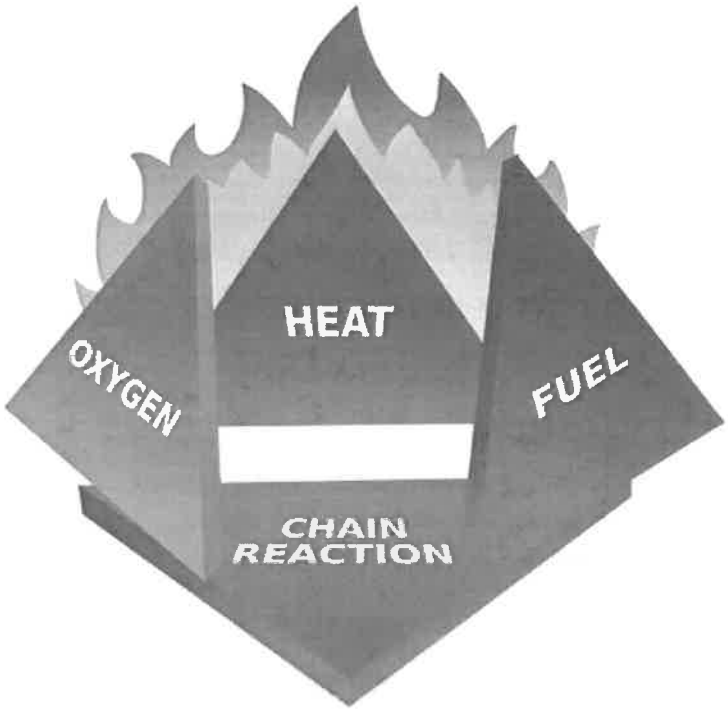
The impact of data center fires extends beyond immediate physical damage to the facility and equipment, often resulting in substantial downtime required to restore operations. This downtime, frequently lasting several hours, assumes that the servers and other critical IT equipment are not irreparably damaged by fire, heat, soot, or water, which can further delay recovery. From a business standpoint, these incidents can cost data center operators anywhere from $250,000 to over $500,000 per hour of outage, underscoring the considerable economic impact of fires in these facilities.

Dive deeper into the world of data center fires, where Dgtl Infra will explore not only the common causes but also recount **22 significant incidents** that have shaped the industry. With our in-depth analysis on fire protection, prevention, detection, and suppression techniques currently employed in data centers, you will gain invaluable knowledge about safeguarding this critical infrastructure. Continue reading to understand the real-world implications of data center fires and arm yourself with strategies to prevent and handle these catastrophic events.

Table of Contents

Data Center Fires – An Overview

In data centers, as with any environment, four elements are essential to ignite a fire: **fuel**, **heat**, **oxygen**, and a **chemical chain reaction** known as combustion.



Fuel – Data Center Fires

Data centers contain a variety of combustible materials, a situation exacerbated by the increasing use of plastic in ancillary equipment and materials. These potential fuel sources can be grouped as follows:

- **Electronic Equipment:** items such as servers (which utilize printed circuit boards), routers, switches, power supplies, batteries, and wiring insulation are all capable of fueling fires in a data center. Their combustible components, including plastic casings, electrical wiring, transformers, and capacitors, can ignite under certain conditions
- **Infrastructure Materials:** fire risks are posed by the significant quantities of cabling, cabinet enclosures, backboards, and flooring and ceiling panels made from combustible materials. Non-fire-resistant thermal or acoustic insulation can also contribute to a fire
- **Storage Materials and Furnishings:** paper documents and cardboard boxes, often used for storage or transport of data center equipment, can serve as fuel in a fire. Moreover, many data centers have control rooms or offices furnished with desks, chairs, and other items that could potentially act as fuel sources

Heat – Data Center Fires

Data centers generate heat through the operation of extensive electronic equipment, such as servers, with **temperature** representing the intensity of this heat. While specific setup

and cooling systems can result in variability in data center temperatures, the industry organization ASHRAE recommends an optimal operational temperature range between 64.4°F (18°C) and 80.6°F (27°C) – a range typically perceived as mild to warm by humans.

Nonetheless, recent trends in data centers are contributing to higher operating temperatures. Key among these trends are increased power density and the implementation of hot aisle containment strategies:

- **Power Density:** as more powerful servers are packed into the same or smaller spaces, the power density (amount of power consumed per square foot of floor space) is increasing, leading to more heat being generated within the same data center space. A growing share of hyperscale data centers, operated by companies like Amazon Web Services (AWS), and workloads driven by artificial intelligence (AI) and machine learning (ML) are pushing power densities in data centers higher. Consequently, this can lead to ambient temperatures in server racks exceeding 80°F (26.7°C)
- **Hot Aisle Containment:** this strategy focuses on encapsulating the hot exhaust air emitted from servers within enclosed hot aisles of data centers. This arrangement ensures the separation of this heated air from the cooler air circulating in the rest of the data center, leading to higher temperatures within the contained hot aisle section of a data center – often reaching more than 100°F (37.8°C)

With temperatures increasing due to greater power density and hot aisle containment strategies, more heat is inevitably generated within data centers. This extra heat not only poses challenges to ventilation and cooling systems, but also raises the risk of reaching ignition points for the various combustible equipment and materials, termed 'fuel', found within data centers.

Oxygen and Chemical Chain Reaction – Data Center Fires

Oxygen is an essential component in data center fires, serving as a key element in the chemical chain reaction of combustion, one of the four prerequisites for a fire to occur. Combustion is the rapid reaction between fuel (in this case, equipment and materials in the data center) and oxygen, leading to the production of heat, light, and various byproducts. This cycle sustains the fire as long as there is enough fuel and oxygen available.

When electronic equipment and materials combust, they generate a variety of gases, which are referred to collectively as smoke. This smoke includes corrosive gases like hydrogen cyanide (HCN) and hydrogen chloride (HCl). These gases are not only harmful to humans but also extremely damaging to a server's printed circuit boards.

Causes of Data Center Fires

The main causes of data center fires generally fall into the following categories: electrical failures, overheating lithium-ion batteries, inadequate maintenance, and human error.

Electrical Failures

Electrical failures are the most common cause of data center fires. These failures can stem from overloaded circuits, malfunctioning equipment, or defective wiring, each capable of generating sufficient heat to ignite a fire when in proximity to combustible materials.

Among these failures, two phenomena stand out due to their propensity to instigate fires:

- **Electrical Surges:** brought on by sudden and excessive voltage increases, electrical surges can lead to circuit overloads, generating intense heat. Should such surges infiltrate equipment not built to withstand high voltages, such as an uninterruptible power supply (UPS), the risk of sparking a fire elevates
- **Arc Flashes:** these are electrical discharges provoked by low-impedance connections within the electrical system. The high-intensity flash produced during an arc flash can easily ignite surrounding materials and equipment, especially in environments rich in fuel sources, such as data centers

Lithium-ion Batteries

Lithium-ion batteries, utilized for backup power in data center uninterruptible power supply (UPS) systems, can pose a significant fire risk due to their high energy density. These lithium-ion batteries are often installed in racks and embedded within rack-mounted UPS systems to ensure backup power during a main power failure. As such, they are frequently positioned near the **servers** that they are designed to protect. In certain hyperscale data centers, lithium-ion batteries may be stored in designated **rooms** housing extensive battery banks, which are employed to store excess renewable energy derived from wind and solar farms.

Should these batteries overheat or suffer damage, they may enter a state known as **thermal runaway**, a scenario in which a temperature increase triggers a self-perpetuating reaction, escalating the temperature further. In such circumstances, batteries may ignite and even explode, leading to an uncontrollable spread of fire between cells, across battery packs, and potentially even battery cabinets, particularly if spaced inappropriately.

Given their smaller footprint, cost-effectiveness, ease of maintenance, and extended lifespan, lithium-ion batteries are increasingly prevalent in data centers, compared to lead-acid batteries. However, it is worth noting that lithium-ion batteries present a more substantial fire risk than their lead-acid counterparts, which implies a potential increase in severe data center fire incidents.

Inadequate Maintenance

Failing to regularly clean and maintain key components like servers, power supplies, and cooling systems can lead to overheating and subsequent fire incidents in data centers. Dust, particularly conductive dust, can accumulate on these components, potentially causing short circuits or overheating that might ignite a fire.

Human Error

Mistakes made during critical tasks such as the installation of lithium-ion batteries, maintenance of HVAC systems, or daily operational procedures can result in conditions conducive to a fire in data centers. This can range from improperly connecting electrical or data cables, to not following established safety protocols such as maintaining adequate clearance around heat-emitting equipment.

Examples of Major Data Center Fires

Over the time period from 2014 to 2023, Dgtl Infra has identified **22 instances of major data center fires** or explosions. These unfortunate incidents involved companies and buildings such as Khawaja Tower, Windstream, Proximus, Digital Realty, Global Switch, Maxnod, Cyxtera, QTS, Comcast, SK Group, Google, Equinix, Cyber Data Center

International, WebNX, OVHcloud, Telstra, AT&T, Markley, Colt DCS, BT Group, Apple, and Samsung.

Company Involved	Date	Location	Region
Khawaja Tower	October 2023	Dhaka, Bangladesh	Asia-Pacific
Windstream	September 2023	Lincoln, Nebraska	U.S.
Proximus	August 2023	Brussels, Belgium	Europe
Digital Realty	May 2023	Los Angeles, California	U.S.
Global Switch	April 2023	Paris, France	Europe
Maxnod	March 2023	Ain, France	Europe
Cyxtera Technologies	February 2023	Boston, Massachusetts	U.S.
QTS Data Centers	November 2022	Piscataway, New Jersey	U.S.
Comcast Corporation	November 2022	Centennial, Colorado	U.S.
SK Group / Kakao	October 2022	Seoul, South Korea	Asia-Pacific
Google	August 2022	Council Bluffs, Iowa	U.S.
Equinix	January 2022	Madrid, Spain	Europe
Cyber Data Center	December 2021	Jakarta, Indonesia	Asia-Pacific
WebNX	April 2021	Ogden, Utah	U.S.
OVHcloud	March 2021	Strasbourg, France	Europe
Telstra	August 2020	London, England	Europe
AT&T	October 2018	Richardson, Texas	U.S.
Markley Group	June 2018	Boston, Massachusetts	U.S.
Colt DCS	July 2015	Milan, Italy	Europe
BT Group	June 2015	Belfast, Northern Ireland	Europe
Apple	May 2015	Mesa, Arizona	U.S.
Samsung	April 2014	Seoul, South Korea	Asia-Pacific

Khawaja Tower – Dhaka, Bangladesh Data Center Fire (2023)

In October 2023, a significant fire broke out in the Khawaja Tower located on Bir Uttam AK Khandaker Road in the Mohakhali neighborhood of Dhaka, Bangladesh. The fire, which lasted for over 15 hours before being extinguished, started on the 12th and 13th floors of the building. The tower, standing 14 stories tall, hosted two major data centers operated by NRB Telecom and Dhakacolo. These facilities were vital, connecting to multiple internet gateways and exchanges and servicing hundreds of internet service providers (ISPs).

The fire inflicted varying degrees of damage. While some equipment was burned, other parts remained mostly unscathed. Damaged cables and a necessary electricity cut-off resulted in service disruptions. As a direct outcome of this incident, approximately 40% of Bangladesh's 12.1 million broadband users faced outages. Additionally, close to 20% of the

nation's 120 million mobile internet subscribers experienced disruptions in both data and voice services.

Regrettably, the fire wasn't just detrimental to equipment and services. It claimed three lives and resulted in at least 10 injuries. The root cause of the blaze has not been officially stated. However, the situation was exacerbated by the presence of numerous combustible materials and an apparent lack of a comprehensive safety plan for the building, despite the presence of some fire extinguishers.

Windstream – Lincoln, Nebraska Data Center Fire (2023)

In September 2023, a fire broke out at Windstream's data center located at 1440 M St in downtown Lincoln, Nebraska, resulting in $200,000 worth of damage. The incident severely disrupted 911 services in multiple Southeast Nebraska counties for several hours during the night.

Source: Downtown Lincoln Association.

The fire originated from a water leak in the electrical control room, triggering a minor explosion. This explosion caused a transformer to short-circuit, disabling power to three switches in the building. Although an on-site backup generator briefly restored power, it too malfunctioned, leaving the data center dependent on its battery backup.

Faced with these challenges, Windstream's technical team had to shut down one of the three switches, affecting 911 connectivity in Nebraska's Adams, Gage, Otoe, and Saunders Counties. Other counties in the Southeast region might have also experienced service interruptions. Fortunately, there were no reported injuries. Firefighters successfully put out the fire using dry chemicals and CO_2 extinguishers.

Proximus – Brussels, Belgium Data Center Fire (2023)

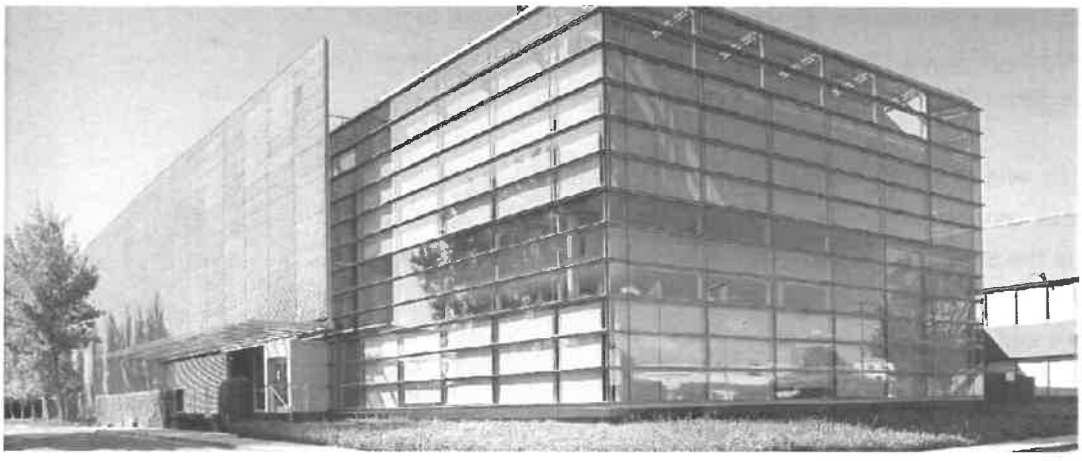
In August 2023, a fire erupted at the Netcenter Evere data center, which is operated by Proximus, Belgium's largest wireless carrier and fixed broadband provider. Located in Evere, a northeastern suburb of Brussels at Rue Carli, 1140, the facility experienced a significant disruption.

Source: *Proximus.*

Firefighters managed to control the fire within 90 minutes, allowing the data center to resume normal operations. However, the incident led to a temporary outage that affected emergency phone services. Specifically, the emergency numbers 112 – *for firefighters and ambulances* – and 101 – *for police* – were unavailable for less than 30 minutes. Proximus is currently investigating the cause of the outage.

Digital Realty – Los Angeles, California Data Center Fire (2023)

In May 2023, Digital Realty, one of the world's largest data center providers, experienced a significant fire incident at its Los Angeles LAX12 facility, located at 2260 East El Segundo Boulevard in El Segundo, California. The fire, which originated in a specific rack, prompted a shutdown of two suites within the two-story, 132,000 square foot facility, which supports 7.45 megawatts of UPS power capacity. This incident considerably disrupted the data center's operations. One suite was restored within hours, however another remained out of commission for several days.

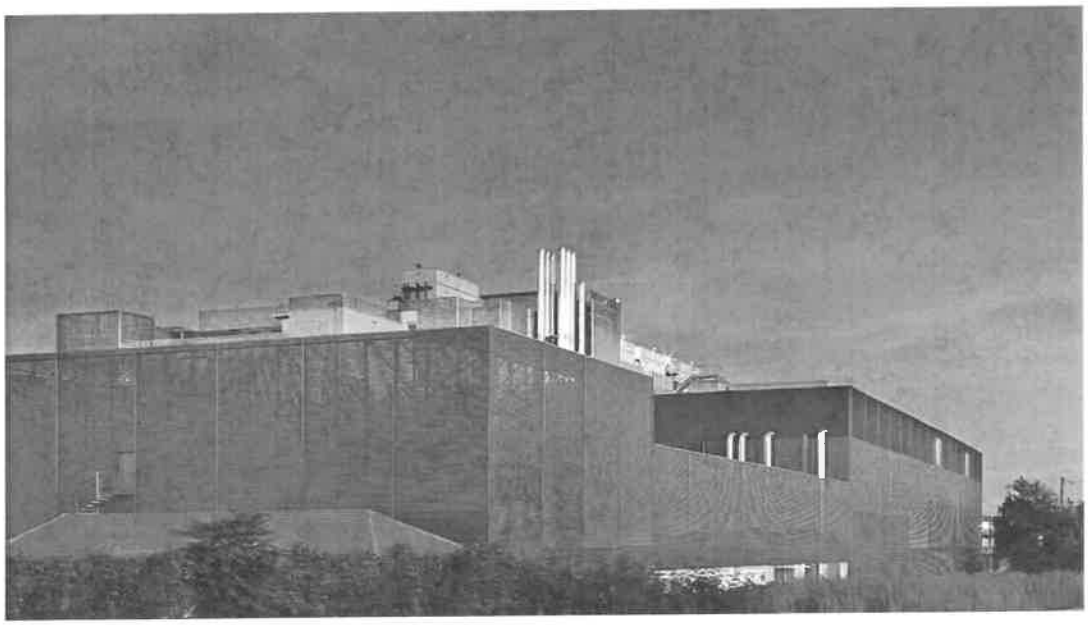


Source: *Digital Realty.*

The fire triggered the sprinkler system in the colocation space, resulting in water damage to many servers. This damage was particularly severe for Evocative, a managed services provider that operates under the brand Krypt and holds assets from the former VPLS and INAP banners. Despite ongoing investigations, the exact cause of the fire remains undetermined.

Global Switch – Paris, France Data Center Fire (2023)

In April 2023, Global Switch, a major data center operator in Europe and Asia-Pacific, experienced a fire at its Paris East and Paris West data centers located at 7-9 Rue Petit in Clichy, France, a suburb in the northwestern region of Paris. The facility, which consists of six floors with 555,612 square feet (51,618 square meters) of gross space and 59 MVA of current and planned capacity, faced disruption for 4 hours and 30 minutes due to a fire in its battery room.



Source: Global Switch.

The fire was triggered by a water leak resulting from a cooling system water pump failure, which was linked to an issue in the data center's air conditioning system. The water from the leak infiltrated the battery room, instigating a fire upon contact with the battery components.

While the fire was contained to the battery room, the incident resulted in significant data loss for Google Cloud's europe-west-9 region, which resides in Global Switch's Paris data centers. This region suffered an infrastructure failure that affected several Google Cloud services, particularly in the europe-west9-a zone. Initially, the water leak had only affected a part of europe-west9-a, but a subsequent fire required the entire zone, along with a portion of the europe-west9-c zone, to be temporarily powered down.

Maxnod – Ain, France Data Center Fire (2023)

In March 2023, a fire occurred at the Maxnod Datacenter, operated by Adeli, in Saint-Trivier-sur-Moignans, Ain, France. Spanning 8,611 square feet (800 square meters), the facility sustained significant damage that necessitated a complete reconstruction of the building. The equipment within the data center was also completely destroyed.

Source: Twitter @huguesdelamure.

Regrettably, one firefighter sustained minor injuries during the incident. The cause of the fire was traced back to the battery room of the facility's solar panels, believed to have been ignited by a lithium-ion battery. The fire also resulted in extensive damage to the data center's fiber optic cables, impacting local fiber-to-the-home (FTTH) services.

Cyxtera – Boston, Massachusetts Data Center Fire (2023)

In February 2023, Cyxtera Technologies, a retail colocation provider, experienced a fire at its Boston BOS1 Campus located at 580 Winter Street in Waltham, Massachusetts. The data center, which boasts 16 megawatts of utility power across 40,500 square feet of raised floor space, underwent a disruption that lasted several hours.

Source: Waltham Newswatch.

The incident originated from an electrical arc flash in the data center's power room, which caused an explosion that destroyed a battery cabinet. The force of the explosion was such that it blew the doors off the battery cabinet. Smoke was subsequently reported inside the data center, traced back to the damaged electrical equipment.

Although the building structure remained undamaged, the resulting smoke and explosion prompted the local fire department to enforce a shutdown of power at the site for safety reasons, leading to an evacuation of the building. This power cut inadvertently caused data loss for Oracle's NetSuite service, a customer of Cyxtera, with approximately 30 minutes of data being lost during the recovery process.

QTS – Piscataway, New Jersey Data Center Fire (2022)

In November 2022, QTS Data Centers faced a fire incident at their Piscataway Data Center located at 101 Possumtown Road in Piscataway, New Jersey. Notably, the fire was reported not in the operational data center but on the roof of a two-story, 90,000 square foot data center extension, which was under construction at the time.

Source: New Market Fire Department.

The incident occurred when several pallets of roofing material, stored on the roof for future installation, caught fire. The blaze was successfully extinguished within about two hours. Importantly, the fire did not cause any damage to the data center's equipment, and it did not disrupt data center operations or cause any customer disruption. Furthermore, no injuries were reported as a result of the fire.

Comcast – Centennial, Colorado Data Center Fire (2022)

In November 2022, Comcast Corporation experienced a fire at their data center located at 7059 S Potomac Street in Centennial, Colorado. The fire originated in the generator room, which houses essential equipment, but was contained within this area, preventing extensive damage to the main data center building, a 60,000-square-foot facility supporting 2.7 megawatts of IT load.

The fire caused several hours of disruption, impacting mainly Comcast's internal applications. Fortunately, no casualties or injuries were reported. Despite the disruption, the cause of the fire was not reported, highlighting the often complex and opaque nature of data center fire incidents.

SK Group / Kakao – Seoul, South Korea Data Center Fire (2022)

In October 2022, the SK C&C data center operated by SK Group, one of South Korea's largest conglomerates, was disrupted for approximately eight hours due to a fire. The

incident occurred at the 720,105-square foot (66,900-square meter) facility located in the Pangyo Techno Valley in Seongnam-si, near the capital city of Seoul, South Korea.

The fire reportedly started in a battery room in the building's third basement and is believed to have been triggered by a lithium-ion battery.

This data center fire significantly impacted **SK Group's** own systems, as well as the IT infrastructure supporting **Kakao**, a South Korean internet company. In particular, the incident affected KakaoTalk, the most popular messaging and single sign-on platform in South Korea. As a result, KakaoTalk had to shut down 32,000 servers, causing disruptions to their integrated mobile payment system, transport application, gaming platform, and music service, all of which are used by millions.

Additionally, the outage affected **Naver**, the leading internet platform in South Korea, known as the country's equivalent to Google. Naver reported disruptions to its online search, shopping, media, and blogging services.

Despite the extensive disruption from the data center fire, no casualties or injuries were reported.

Google – Council Bluffs, Iowa Data Center Explosion (2022)

In August 2022, a serious incident occurred at Google's Council Bluffs Southlands data center located at 10410 Bunge Avenue in Council Bluffs, Iowa. This incident, resulting from an internal error, involved an electrical arc flash that led to an explosion at a substation near the main data center building, which spans a massive 2.9 million square feet.

Source: Google.

At the time of the arc flash, three electricians were working on an electrical box. The sudden event caused severe burns to all three workers, who were immediately transported to the

hospital. Although an arc flash is not technically a fire, it can generate enough heat to ignite materials, potentially leading to a fire.

READ MORE: Google Cloud's Data Center Locations

Equinix – Madrid, Spain Data Center Fire (2022)

In January 2022, Equinix, the world's largest data center provider, faced a fire incident at its Equinix MD2 IBX data center, situated at Calle Valgrande 6 in Alcobendas, Spain, a suburb in the northeastern region of Madrid. The incident resulted in a brief interruption in power supply, but fortunately, no injuries were reported.

The fire reportedly began in a basement area where the data center's transformers are located. This caused an accumulation of smoke in the power room, which then filled the facility's garage area. Despite the disruption, the physical structure, comprising 53,378 square feet (4,959 square meter) of colocation space, remained largely unharmed, and normal operations were soon resumed.

Cyber Data Center – Jakarta, Indonesia Data Center Fire (2021)

In December 2021, Cyber Data Center International (CDCI) encountered a significant fire at its data center, located on the second floor of the Cyber Building 1, at Jl. Kuningan Barat Raya No.8 in the sub-district of Mampang Prapatan in South Jakarta, Indonesia. The fire reportedly originated from an explosion of certain servers, suspected to be due to a short circuit. This incident caused substantial physical damage to both the interior and exterior of the building.

Tragically, two people lost their lives due to smoke inhalation during the incident. The fire disruption extensively affected various services in Indonesia that were run out of the facility, including those of stockbrokers, digital applications and payments, hosting services, game portals, internet service providers (ISPs), news sites, and government services, demonstrating the wide-ranging impacts of such incidents on the digital ecosystem.

WebNX – Ogden, Utah Data Center Fire (2021)

In April 2021, WebNX's Ogden Data Center located at 119 N 600 W in Ogden, Utah, underwent a lengthy outage caused by a catastrophic failure in an emergency backup generator, which caught fire during a city-wide power disruption. The incident took place when the data center's backup generators were automatically activated to compensate for the City of Ogden's power loss. Unfortunately, one of these generators malfunctioned and caught fire, triggering the data center's fire suppression protocol.

Source: WebNX.

The fire caused emergency services to cut power to the entire 100,000 square foot facility, leading to a full shutdown of the data center and prolonged outages for its customers, which included Ogden City and other service providers. While the fire did not inflict any direct damage on customer servers, some servers did incur water damage as firefighters battled to extinguish the generator fire.

OVH – Strasbourg, France Data Center Fire (2021)

In March 2021, a catastrophic fire broke out at one of OVHcloud's four data centers in Strasbourg, France. The blaze completely destroyed the European cloud service provider's SBG2 data center, a 2-megawatt facility that housed around 30,000 servers. It also caused partial damage to the neighboring SBG1 facility, which was subsequently decommissioned and dismantled.

The data center fire spread rapidly within minutes, leading to the total destruction of SBG2's main server, with backups also lost in the blaze. The incident, which is estimated to have cost OVHcloud over €105 million, affected approximately 65,000 customers. Many experienced significant service interruptions, and the incident resulted in permanent data loss for numerous companies.

The fire originated in an energy room that housed electrical equipment. Reports indicated that a failure in one of the two uninterruptible power supply (UPS) systems was the cause. More specifically, lithium-ion batteries and inverters used in the UPS were implicated in igniting the fire. These components were further heated by the UPS fire, resulting in a rapid spread of the flames.

The fire escalated quickly due to several contributing factors. These included the lack of an automatic fire extinguishing system, a delayed electrical cutoff, and a building design that

inadvertently facilitated the fire's spread. Furthermore, the building's wooden ceiling, rated to resist fire for only an hour, and two inner courtyards acting as fire chimneys exacerbated the situation.

As a consequence of the fire, OVHcloud was required to cut off electricity to the entire site, which led to the closure of all four Strasbourg data centers. Fortunately, no human or bodily injuries were reported.

Telstra – London, UK Data Center Fire (2020)

In August 2020, Telstra, Australia's largest wireless carrier and fixed broadband provider, experienced a fire incident at their London Hosting Centre (LHC) located at 6 Greenwich View Place at the Isle of Dogs in London, England. The LHC, which contains 1,800 racks and comprises 114,248 square feet of white space, suffered damage in a small part of a supply room on the third floor due to the fire.

Source: Cherryman.

The fire was initiated by a faulty uninterruptible power supply (UPS) which caused the circuit breakers connected to the bus bar to trip. Fortunately, there were no injuries reported in connection with the incident.

AT&T – Richardson, Texas Data Center Fire (2018)

In October 2018, AT&T faced several hours of service disruption due to an undetermined electrical fire at their switching station located at 1666 Firman Drive in Richardson, Texas. The electrical fire, confined to an electrical room within the 54,024-square-foot facility, inflicted significant damage on both the primary and backup electrical systems.

The fire started at a power switch, impacting the AT&T U-verse service for customers throughout the North Texas area. Despite the disruption and equipment damage, no casualties or injuries were reported in the incident.

Markley – Boston, Massachusetts Data Center Fire (2018)

In June 2018, Markley Group's 1 Summer Street data center in Boston, Massachusetts experienced a small fire. The incident occurred on the 8th floor of the building, where the uninterruptible power supply (UPS) systems were housed, in the 920,000 square foot facility.

Source: Twitter @drb2991 and @aaron_kravitz.

The fire triggered the building's sprinkler system, leading to rooms containing UPS systems and large batteries filling with electrical arcs, smoke, and water. The fire affected multiple carriers in the Boston area, including Windstream and CenturyLink, as well as a data center operated by the Massachusetts Institute of Technology (MIT).

Colt DCS – Milan, Italy Data Center Fire (2015)

In July 2015, Colt Data Centre Services (DCS) experienced a fire at their Milan Lancetti Data Centre located at Viale Vincenzo Lancetti, 23 in Milan, Italy. The incident, caused by overheating in the building's power infrastructure and utility power supply outages, resulted in a disruption that lasted approximately nine hours.

Source: Gazzetta Adda.

The facility, which boasts a power capacity of 4 MVA (megavolt amperes) across 17,222 square feet (1,600 square meters), underscores the complexities of maintaining fire safety in data centers.

BT – Belfast, Northern Ireland Data Center Fire (2015)

In June 2015, BT Group experienced a fire at the BT Telephone House, located at 45-75 May Street in Belfast, Northern Ireland. The incident occurred due to an accident affecting the power supply to a communications room on the fourth floor. Although the fire was extinguished swiftly, service providers based at the site faced several hours of challenges as they sought to restore operations.

Source: BBC News NI.

In line with established procedures, the power was quickly cut off when the fire was detected. However, this action resulted in damage to the power distribution units (PDUs) when power was suddenly restored. PDUs, devices that distribute electrical power to servers and other IT equipment in a data center, are susceptible to tripping when subjected to abrupt or excessive power changes. Despite the connectivity and power loss, the data center floors were not directly affected by the fire.

Apple – Mesa, Arizona Data Center Fire (2015)

In May 2015, a fire incident occurred at Apple's operationally-controlled Mesa, Arizona Data Center located 3740 S Signal Butte Road in the Greater Phoenix area. This data center was a former factory of GT Advanced Technologies, one of Apple's suppliers who had filed for bankruptcy.

The data center, which spans 1.3 million square feet, experienced a fire on its roof. The fire was traced back to the solar panels on the roof, highlighting the risks associated with the integration of renewable energy sources in data center infrastructure.

READ MORE: Apple's Data Center Locations – Enabling Growth in Services

Samsung – Seoul, South Korea Data Center Fire (2014)

In April 2014, a fire outbreak at Samsung's SDS ICT Gwacheon Center, located at 1-21 Byeolyang-dong in Gwacheon, South Korea, near the capital city of Seoul, caused

considerable disruption and damage. The fire originated on the 4th floor, causing the interior and exterior of the building to burn.

The outage, which lasted several hours, led to disruptions across several Samsung services. These included Samsung.com, Samsung Pay, and devices like Smart TVs that relied on Samsung's servers for operation. One staff member suffered minor injuries from falling debris as the fire caused portions of the four-story building's façade to fall off.

Fire Protection in Data Centers

Fire protection in data centers refers to the comprehensive set of measures, systems, and practices implemented to prevent, detect, and suppress fires within a data center. In the following sections, we will detail the three categories of fire protection systems:

- **Fire Prevention in Data Centers:** these are methods and technologies used to minimize the likelihood of a fire starting
- **Fire Detection in Data Centers:** involves technologies that aim to identify fires at the earliest possible stage
- **Fire Suppression in Data Centers:** once a fire is detected, these systems work to control and extinguish it

Fire Prevention in Data Centers

The goal of fire prevention in data centers is to protect the crucial data and IT equipment stored and operated within these facilities from fire hazards, as well as to delay the spread of fire from an adjacent space to ensure human safety. This allows time for orderly evacuation and gives firefighters an opportunity to contain the fire, preventing extensive damage.

Strategies for Fire Prevention in Data Centers

Several specific strategies exist for fire prevention in data centers to ensure optimal protection and business continuity:

- **Housekeeping Practices:** implementing stringent housekeeping practices, such as keeping the data center clean from dust and free from flammable clutter, can mitigate accidental fires. This includes the removal of non-essential furnishings, paper, or other combustible materials that pose fire risks
- **Temperature Monitoring:** employing real-time temperature monitoring to control heat, one of the primary instigators of fire, is crucial. Ensuring proper airflow and the maintenance of HVAC systems contributes to a safer environment
- **Battery Rooms:** designing the data center to house lithium-ion batteries in a separate room is advisable. The layout should also consider distancing battery cabinets to prevent or limit the spread of a major fire. Constructing fire-resistant compartments in battery rooms further mitigates the risk of facility-wide outages
- **Regular Maintenance:** regular inspections and maintenance of critical infrastructure, such as electrical equipment and HVAC systems, are vital. This proactive approach reduces the risk of electrical fires triggered by faulty or aging equipment
- **Proper Cable Management:** instituting a cable management plan for Ethernet, fiber optic, power, and patch cables can prevent electrical shorts and fires. This includes organizing cables neatly, conducting regular inspections, and timely replacement of frayed or damaged cables

Fire Detection in Data Centers

The primary objective of fire detection in data centers is to promptly identify and respond to fire-related incidents, thereby mitigating risks associated with costly equipment damage, irretrievable data loss, and significant operational disruption. These systems also prioritize personnel safety, alerting individuals to potential fire hazards promptly to enable swift evacuation or appropriate action.

Upon detection of heat, smoke, or fire within a data center, the fire detection system triggers a connected fire alarm system. Occupants of the facility are then alerted via audible alarms and visual signals, with the system often designed to automatically notify emergency services. These early warning signals are crucial, as they can identify a fire incident in a data center before it escalates into a life-threatening situation or causes significant infrastructure damage.

Types of Fire Detection Systems

Data centers employ an array of fire detection systems, each with their unique capabilities, benefits, and potential limitations, to ensure comprehensive fire protection.

Smoke Detectors

Smoke detectors, particularly spot-type photoelectric or ionization smoke detectors, are the frontline defense in many data centers. Their popularity stems from their affordability, reliability, and adjustable sensitivity levels. However, these detectors might not detect a fire originating from electrical equipment promptly enough to prevent damage due to their

initial low sensitivity level. Furthermore, their performance may deteriorate over time as dirt and dust accumulate on the sensor.

Heat Detectors

Heat detectors can be an effective alternative or complement to smoke detectors, especially in data center areas where smoke detection is impractical, like particularly dusty environments or rooms with below-freezing temperatures. These devices are calibrated to detect a swift rise in temperature, a hallmark of a fire.

Air Sampling Systems

Air sampling systems, also known as aspirating smoke detectors, offer a highly effective approach to early fire detection in data centers. By actively drawing in and analyzing air for combustion particles, these systems often provide early warnings of a fire. These systems use one of three detection methods: standard fire detection (SFD), early warning fire detection (EWFD), and very early warning fire detection (VEWFD). In data center applications, the latter two – EWFD or VEWFD – are usually preferred. The term VESDA, which stands for Very Early Smoke Detection Apparatus, is now used generically to refer to all air sampling smoke detection systems.

Gas Detectors

Gas detectors play a critical role in identifying gases that could signify a fire risk, such as hydrogen emitted by certain types of batteries during the charging process. Although battery rooms in data centers are typically well-ventilated to prevent hydrogen buildup, the installation of additional hydrogen detection can offer an extra layer of safety.

Video Detection

Video detection systems, leveraging advanced video analytics, can detect fire signs in real-time, such as visible smoke or specific flame colors. By providing this additional layer of detection, video systems enhance the robustness of a data center's fire detection strategy.

Fire Suppression in Data Centers

The goal of fire suppression in data centers is to promptly contain and neutralize fires to prevent the loss of data, damage to costly hardware and infrastructure, and to ensure uninterrupted service. Moreover, fire suppression aims to safeguard human life by reducing the risk of fire-related injuries and fatalities. If a fire grows beyond the occupants' ability to control, an automatic fire suppression system can extinguish or control the fire until the fire department arrives and completes the extinguishment.

Types of Fire Suppression Systems

Fire suppression systems are vital for ensuring safety and protection in data centers. They utilize a range of methods, including water-based sprinklers, gas-based systems, inerting agents, and chemical extinguishers. Despite the range of options, data center operators

frequently favor gas-based fire suppression systems due to their proven effectiveness in server rooms and around sensitive electrical equipment.

Wet Pipe Sprinkler Systems

Building codes often mandate wet pipe sprinkler systems based on the building's size and function. Water, being readily available, relatively inexpensive, and excellent at absorbing heat, has been a traditional choice for fire suppression. However, water's inherent electrical conductivity introduces the risk of damaging active IT equipment, making it less suitable for data centers.

Dry Pipe Pre-action Systems

Dry pipe pre-action systems are a fire suppression option that mitigates the risk of accidental water discharge, thus protecting sensitive electronics in data centers. Unlike wet pipe systems, these systems use pressurized air or nitrogen, only releasing water when a separate fire detection system triggers the pre-action valve. This design minimizes accidental water damage to electronic equipment, making it well-suited for data centers.

Water Mist Systems

Water mist systems, a modern alternative to traditional sprinkler systems, cause much less water damage. They operate by atomizing water to a droplet size of no larger than 0.04 inches (1 millimeter). This results in efficient heat transfer between hot gases and water droplets, absorbing a large amount of heat with a relatively small amount of water. Despite their effectiveness in data halls, equipment rooms, subfloors, and in-cabinet fire suppression systems, any accumulated water mist could potentially harm electronic equipment.

Clean Agent Systems

Clean agent systems disperse a gaseous fire suppressant that leaves no residue and does not harm electronic equipment. Popular agents include FM-200 and Novec 1230, which disrupt the combustion process by displacing oxygen, removing heat, and breaking the chain reaction of fire. Their properties, such as being electrically non-conductive and leaving no residue, make them an attractive option for data center fire suppression.

Inert Gas Systems

Inert gas systems lower the oxygen level in the room to a point where fire cannot burn, while still maintaining a breathable atmosphere for humans. These systems primarily use gases such as argon, carbon dioxide, and nitrogen, with Argonite and Inergen being popular blends in inert gas systems. They are particularly effective in battery energy storage systems where water damage and post-fire cleanup are significant concerns.

Other Fire Suppression Systems

Additional fire suppression systems, such as Emergency Power Off (EPO) systems and handheld fire extinguishers play a crucial role in data centers. An EPO system can shut off

electricity to the data center during a fire, preventing the spread of electrical fires and safeguarding the environment for firefighters. On the other hand, portable fire extinguishers can serve as the initial response to a small, controllable fire. Extinguishers containing clean agents or carbon dioxide are most common in data centers.

Mary Zhang

Mary Zhang covers Data Centers for Dgtl Infra, including Equinix (NASDAQ: EQIX), Digital Realty (NYSE: DLR), CyrusOne, CoreSite Realty, QTS Realty, Switch Inc, Iron Mountain (NYSE: IRM), Cyxtera (NASDAQ: CYXT), and many more. Within Data Centers, Mary focuses on the sub-sectors of hyperscale, enterprise / colocation, cloud service providers, and edge computing. Mary has over 5 years of experience in research and writing for Data Centers.

EXHIBIT L

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.

EXHIBIT M

MINUTES
ZONING BOARD OF APPEALS
September 21, 2022

MEMBERS PRESENT:	DAN SULLIVAN, CHAIRMAN MICHAEL BOSCO PATRICIA CASTELLI ROBERT BONOMOLO, JR. THOMAS QUINN BILLY VALENTINE	
ABSENT:	NONE	
ALSO PRESENT:	Deborah Arbolino, Denise Sullivan, Anne Marie Ambose,	Administrative Aide Deputy Town Attorney Official Stenographer

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman. Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS	DECISIONS	
NEW ITEMS:		
DATABANK 2000 Corporate Drive Blauvelt, New York 73.15 / 1 / 19; LIO zone	NUMBER OF PARKING SPACE VARIANCE APPROVED WITH SPECIFIC CONDITION EXTERIOR LOADING BERTH VARIANCE APPROVED	ZBA#22-56
CILIBRASI 136 Constitution Drive Orangeburg, New York 74.17 / 1 / 27; R-22 zone	FRONT YARD VARIANCE APPROVED	ZBA#22-57
ST. DOMIMICS FAMILY SERVICES 500 Western Highway Blauvelt, New York 74.06 / 3 / 1; R-40 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND REAR YARD AND PARKING SPACE VARIANCES APPROVED FOR LOT 1.11 FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT AND PARKING SPACE VARIANCES APPROVED FOR LOT 1.12	ZBA#22-58
MAZUREK 21 Blair Court Tappan, New York 77.15 / 3 / 11; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#22-59
GUILIO'S RESTAURANT 150-154 Washington Street Tappan, New York 77.11 / 1 / 56.1; CS zone	FRONT YARD VARIANCE VARIANCE APPROVED	ZBA#22-60

MC CLOSKEY 262 South Boulevard Upper Grandview, New York 66.17 / 1 / 23; R-22 zone	ACCESSORY STRUCTURE DISTANCE TO PRIMARY STRUCTURE VARIANCE APPROVED	ZBA#22-61
DOMOZICK 50 Kirchner Drive Tappan, New York 77.08 / 3 / 92; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#22-62
SOUTH CORNER PLAZA 2 Route 340 Orangeburg, New York 74.11 / 2 / 47; CC zone	REAR YARD.BUILDING HEIGHT, LOADING BERTH, AND ROUTE 303 OVERLAY VARIANCES APPROVED WITH SPECIFIC CONDITION	ZBA#22-63

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQR Regulations § 617.6 (b)(3) the following application: 1021 Route 9W Site Plan Critical environmental area, 1021 Route 9W, Upper Grandview, NY 71.09 / 1 / 19; R-22 zone; Tappan Fire District Site Plan-Western Highway, 300 Western Highway, Tappan, NY 74.18 / 2 / 35; R-15 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.
There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: September 21, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

PARKING , NUMBER OF LOADING BERTHS, EXTERIOR LOADING BERTHS AND BUFFER VARIANCES APPROVED WITH SPECIFIC CONDITION

To: Brian Quinn
1 Blue Hill Plaza (3rd floor)
Pearl River, New York 10965

ZBA #22-56
Date: September 21, 2022
Permit #BLDC-1236--22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-56: Application of Databank Orangeburg Site Plan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Section 3.11, Column 6 (Parking: 739 spaces required, 70 proposed) Column7 refers to LO District Column 7 #2 (Loading berths shall be within completely enclosed buildings: two (2) exterior loading berths are proposed); from Section 6.4 (minimum loading berths required is 11 and 2 are proposed) and from R-80 notes to bulk table #2 (Buffer required is 100' feet does not exist to existing building). The premises are located at 2000 Corporate Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 19, LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney, Lino Sciarretta, Attorney, , Ben Diskin, P.E., and Paul Lablond, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Databank Orangeburg" dated January 27, 2022 with the latest revision date of 07/28/ 2022 not signed or sealed by Kimley Horn Engineering and Landscaping Architecture of New York PC. (22 pages).\
2. Plan labeled "Composite Overall Exterior Building Elevations dated 06/10/ 2022 by Kimley Horn not signed or sealed. (1 Page)
3. "Preliminary Basis of Design" , architectural drawings, prepared by Highland Associates, Inc. dated March 11, 2022.
4. Cover letter dated August 2, 2022 to Cheryl Coopersmith (2pages signed by Michael W. Junghans, P.E., Kimley Horn.
5. Memorandum dated July 8, 2022 from Jane Slavin. RA., Director, OBZPAE. (1 page)
6. Full environmental assessment form Part I prepared by Kimley-Horn dated April 20, 2022.
7. Letter from New York State Department of Environmental Conservation dated July 11, 2022 regarding the identified eagle's nest. (3 pages0
8. Planning Board Decision #22-36 dated July 13, 2022.
9. Site Sound Level Analysis dated April 22, 2022 signed by Joseph F. Horesco, INCE Board Certified, Acentech. (8 pages)
10. Color picture and map attachments Exhibit A-1, A-2, and B.(4 pages)
11. A letter dated September 19, 2022 from Rockland County Planning Department signed by Douglas J. Schuetz, Acting Commissioner of Planning.
12. An e-mail from Shajan Thottakara, P.E Rockland County Drainage Agency stating this project is out of their jurisdiction.
13. A letter dated September 6, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
14. A letter dated June 28, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior public Health Engineer.
15. A letter in opposition dated September 19, 2022 from O'Toole Scrivo signed by Holly Schepisi, Esq., representing the Old Tappan neighbors.(3 pages)
16. An e-mail dated September 19, 2022 from Leslie Whatley 6 Buckingham Court, Old Tappan, NJ in opposition. (4 pages with attachments)

17. An e-mail dated September 19, 2022 from David B. Rosen , 10 Buckingham Place Old Tappan.
18. Sign off from Rockland County Highway Department dated 08/18/2022 by Dyan Rajasingham, stating the project is not in their jurisdiction.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on July 13, 2022 (PB# 22-36) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Brian Quinn testified that they appeared before the Planning Board on July 13, 2022 and received a preliminary approval and a Neg. Dec. for SEQRA; that the applicant was issued a demolition permit and there are no violations on the property; that the letters that were read into the record from neighbors in New Jersey that state that they did not receive proper notice, should be made aware that they have no standing; that the application was properly noticed and by law the New Jersey residents do not have standing; that the building is already demolished and they are working on recycling parts of the building; that the variances being requested are similar to those that were granted for the Bloomberg building; that this Board has granted variances for outdoor loading berths for 155 Corporate Drive several times; that they were granted for Subaru Distribution Center, and earlier this month the Board granted a variance for outdoor loading berths for Asahi Refining; that they have 69 parking spaces; that John Giardiello, the previous director of the building department made the determination that a data center is permitted in the LIO zone and Jane Slavin's letter dated July 8, 2022 references that this is how Bloomberg was referred; that the back part of the property has the exact same buffer; that the westerly line abuts the reservoir; and the northern side they allowed parking in the buffer; and that they are only seeking approval for Phase I of the project; that Phase II is not be requested.

Tony Qorri, VP of Construction DataBank, testified that the data center has very few employees; that the reduced parking is still more than the will need; that they will have six data center technicians and one manager on site and there may be three or four employees on the customer side; that at max there will be fifteen employees; that after the construction is complete they estimate approximately one truck per week and minimal traffic; that the data center use has less intensity than office or warehouse; that if the building was re-purposed they would have to go back in front of the Board; that Verizon used the first of two circuits; there is a third circuit that will give 50% more power from O & R, that would be six to ten years down the road if ever; that cooling equipment for the data halls will include rooftop condensing units distributed across the roof, and rooftop units (RTU) to provide conditioned air to the administrative areas of the building; that additional emergency generator set up for back-up power to the building will be located in enclosures at grade in a mechanical yard on the east side of the building; that these generators will be located in acoustical enclosures and the walls of the equipment yard will be considered acoustically transparent, similar to the majority of the roof screen.

Ben Diskin, Engineer, Kimley Horn, for the project testified that there is 830 feet to the nearest building; that Phase I is 45,000 sq. ft. that the existing substation is two-loading; that there are two detention basins designed for the site; that they are reducing the impervious surface development by 25%; that the water run-off is being reduced; and that they could definitely show on the plan where the required parking could be land banked without building it.

Public Comment:

Leslie Whatley, 6 Buckingham Court, Old Tappan, New Jersey testified that she owns property on the south edge of the proposal; that she is a commercial real estate professional with experience with the development of data centers; that notice was not made to the New Jersey abutting properties and even if they do not have to tell us, it would make good neighbors to do so; that her property is one acre; that the proposed building is massive; that the commercial equipment yards are huge and it is not clear what will be in them; that the containment walls are louvered and the noise will bounce off he water of Lake Tappan; that the noise at the site has been unbearable during the demolition; that there is a chance of a fire hazard due to dry conditions in the woods; damage to the wetlands and on the southeast side there is a chance to damage the eagles nest; that Phase II should end here and now; and the applicants should be good neighbors and sit and talk to all the residential neighbors that the project is going to affect.

Dave Rosen, 10 Buckingham Place, Old Tappan, New Jersey, testified that his letter was read into the record; that he has concerns about the sprawl of the project; that the way the variances are written is unclear; that he objects to Phase II being shown on the plans and it should be shut down; that the size of the building should be reduced; that the determination should be deferred to a future meeting because the interested neighbors have hired an outside engineer to dispute the applicants site sound level analysis.

Melodie Fiori, 99 Hunt Road testified that she abuts the Orangetown Sewer Department and Verizon; that there are a number of Orangetown residents residing in that are for over 50 years; that NYNEX bulldozed her property and it took two years and two attorneys to get the shed they built on my property removed; that families live here; that advancement in technology is great but it should not be at the expense of residents that pay their taxes; that she is concerned about her well water and the environment; and she agrees that Phase II should have to be removed from the plan if it is not being considered as part of the application.

Kiera Burtch, 73 Hunt Road, testified that the house has been in her family since 1955; that she e also owns 67 Hunt Road; that she has concerns about the additional parking covered with blacktop and what is being done about positive run -off and negative run-off; that the oil from the generators can be a problem for the water company; that she is concerned about the woods and the buffer and the lighting; that when Brightview was built they had to do water trenches; that she is concerned about the noise and that she heard the Little League Fields are partly on this property.

Dan Sullivan, Chairman, stated that the owner of the property has the right to use their property and can stop the use by the Little League any time they choose.

Ju Fan, 34 Corringan Way, Old Tappan, New Jersey, testified that she lives behind the Bloomberg Data Center and that the noise is very loud and has been terrible from the site; that 65 dBA is laughter at the property line; that the noise is much louder than that; the noise is unbearable; that the applicant should find a way to avoid so much noise; the noise is way louder in winter when the trees are bare than during the summertime.

Kathy Quinn Fabel, 14 Stuart Court, Old Tappan, New Jersey, testified that she takes offence to the comments that New Jersey residents have no standing; that the majority of your neighbors are CFO's of large corporations and the applicant should take note; that they are encroaching on our properties enjoyment; that in the early 2000's they were noticed for Bloomberg and worked out compromises; that the Bloomberg Data Center is loud; there is buzzing noise and smoke and helicopters landing; that the sound , smoke very little impact; that minimal setbacks should be considered ; that the eagle nests and impact on the water is a concern; that no plans should show Phase II if it is not being considered; that Databank should be a good neighbor; and that no variances should be granted.

Leslie Whatley asked the Board to wait for her attorney to show up; that she was five minutes away. The board accommodated her and took a five-minute recess.

Holly Schepisi, Attorney, O' Toole Scrivo, testified that she has concerns regarding the 200' radius for neighbors not including the New Jersey neighbors; that her clients have concerns regarding the acoustical study that was done and asked the Board to wait for the report from the engineer that the neighbors hired before they make a decision; that they have concerns regarding the open equipment yards and no conditions on what is going to be placed there; that the applicant should have a condition that no heavy equipment other than what was presented should be permitted, decibel units at maximum permit could be pushed over the threshold; and they have additional concerns about the outdoor loading docks and noise generated from them; and she thanked the Board for their courtesy.

Dan Sullivan, Chairman, stated that the Board has approved other outdoor loading docks in Town and that he would like the applicant to show that they can landbank the required amount of parking spaces for Phase I; and that he does not want them constructed.

James Coffey, 139 Hunt Road, Pearl River testified that Phase II should not be considered.

The Chairman asked if anyone else in public wanted to speak; hearing none he made a motion to close the public portion of the hearing, which motion was seconded by Mr. Quinn and carried unanimously.

Brian Quinn, Attorney for the applicant, further testified that the application received preliminary approval and a neg.dec. for SEQRA on July 13, 2022; that the application was properly noticed; that he walked the property and saw the location of the eagle's nest and it was not occupied at the time; and that they are not working close to it; that they will show the 69 parking spaces and an area that the rest of the required parking spaces could be banked on the plans without actually constructing the spaces.

Lino Sciarretta, Attorney for the applicant, testified that the noticing of the hearing was proper and reflects what is required by law; that all the neighbors were considered and even the neighbors without legal standing were given the opportunity to speak; that as far as the environmental issues go that the neighbors keep bringing up, the Planning Board issued a preliminary approval and a neg dec on July 13, 2022 and they would appreciate the Board overriding comment #1 of the Rockland County Department of Planning letter dated September 19, 2022.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:
After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested number of parking spaces, number of loading berths, exterior loading berths and buffer variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.

2. The requested number of parking spaces, number of loading berths, exterior loading berths and buffer variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

4. The requested number of parking spaces, number of loading berths, exterior loading berths and buffer variance is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested number of parking spaces, number of loading berths, exterior loading berths and buffer variances are APPROVED; and FURTHER RESOLVED to override comment #1 of the Rockland County Department of Planning letter dated September 19, 2022 because the Board has requested and the applicant has agreed to show on the plan an area that can landbank all the required parking spaces (# of spaces) less the 69 spaces that shall be provided and have been approved; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

Permit #BLDC-1236-22

The foregoing resolution to approve the application for the requested number of parking spaces, number of loading berths, outdoor loading berths and buffer variances are APPROVED and to override comment #1 of the Rockland County Department of Planning letter dated September 19, 2022 because the Board has requested and the applicant has agreed to show on the plan an area that can bank all the required parking spaces minus the 69 spaces that shall be provided; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: September 21, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-M.M.
TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
FILE ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR