

## Exhibit VIII.C.4.b (Suitability of Project Site):

*Submit as Exhibit VIII.C.4.b. a detailed analysis of the suitability of the proposed Project Site for the proposed Gaming Facility and the ways in which the proposed Gaming Facility supports revitalization, if applicable, and the proposed relationship of the Project Site to adjoining land uses and proposed land uses to ensure compatibility with those adjoining land uses.*

The location and the site proposed for the Hudson Valley Casino and Resort is arguably the most suitable site for gaming and entertainment development of this nature in the entire state of New York. This site scores extremely well in all of the most critical categories for selection of a location including: proximity, accessibility, visibility, compatibility, environmental quality, and of course, community revitalization. The following illustrate many of the inherent attributes and meaningful benefits offered by this location and property:

**Proximity:** As outlined in detail in our Market Analysis (see [Exhibit VIII.B.1](#)), the Hudson Valley Casino & Resort located in the Town of Newburgh is positioned centrally within many highly populated urban and suburban areas—offering this unique entertainment opportunity to millions of potential visitors. Though in the heart of the Hudson River Valley, the resort is a mere 68 minute drive from the George Washington Bridge, and even shorter from northern New Jersey.

**Accessibility:** The Casino site is located directly adjacent to the NY Thruway (I-87) running north/south, and Interstate 84 running east/west—one of the most familiar and traveled intersections in the state, merging travelers and visitors from New York City & North Jersey, Upstate & the Capital District, western New York & eastern Pennsylvania, and western Connecticut. In addition to the I-87 / I-84 interchange, the property is quickly and easily accessed from multiple exits along both Interstates bringing guests immediately to the resort via Rte. 17W, an important established commercial artery scheduled for improvements to accommodate traffic anticipated by future growth.

**Visibility:** The natural topography of the casino site is elevated approximately 100 feet above Interstate 87, and rises approximately 40 feet over Interstate 84. This dramatic land characteristic, combined with the sheer volume of travelers makes this site extremely visible to an enormous population. This highly visible opportunity, previously designated for a Big-Box Distribution center, will now present an exciting, attractive, and dynamic architectural complex equal to the expectations created by such an important location.

**Strategic Positioning:** The strategic location of the Hudson Valley Casino site offers two vitally important attributes that may not be immediately obvious, but are absolutely critical considerations:

1. Because of its relationship to two major intersections, this location is uniquely and strategically positioned -better than any other location—to attract and capture patronage (and resources) from out of state visitors currently visiting and spending at other out-of-state resort casinos. Consider the following examples:

- a. **Danbury, CT**                      Currently a 101 mile, 1 hr and 41 minute drive to Mohegan Sun, or a 1 hr and 45 minute drive to Foxwoods, both in Connecticut  
**Will be a 42 minute, single-highway trip to Hudson Valley C&R**
- b. **Waterbury, CT**                      Currently a 73 mile, 1 hr and 15 minute drive to Mohegan Sun, or a 1 hr and 45 minute drive to Foxwoods  
**Will be a 69 minute, single-highway trip to Hudson Valley C&R**
- c. **Newark, NJ**                              Currently a 118 mile, 2 hr drive to Atlantic City, NJ  
**Will be a 70 minute drive to Hudson Valley C&R**
- d. **Milford, PA**                              Currently a 65 mile, 1 hr and 10 minute drive to Mohegan Sun at Pocono Downs in Wilkes-Barre PA  
**Will be a 49 minute drive to Hudson Valley Casino & Resort**

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2. *Equally important*, given our site location, guests traveling north on the Thruway from the City or northern New Jersey seeking a resort gaming experience, when arriving at Harriman are afforded the opportunity to head northwest on Rte. 17 (an approximate 45 minute drive) to enjoy a Catskills experience, or continue north on I-87 to enjoy a Hudson Valley experience (24 minutes). Any gaming facility in the Harriman area virtually eliminates opportunities for choice—and will nearly entirely capture the market that may have desired to go to the Catskills region. Further, any gaming development further south will syphon gaming dollars from Empire City Casino in Yonkers.

**Compatibility:** In addition to the site being extremely accessible and highly visible, this use is extremely compatible with the existing community and environment.

1. The Project Site has been identified by Orange County as a “Priority Growth Area (PGA)” in their 2010 Comprehensive Plan. PGAs are areas where density and infrastructure investment are most appropriately focused with limited or no impacts to important agricultural land, open space or environmental resources. PGAs are typically located within public potable water and sewer service areas and suitable local zoning districts.
2. The Project Site is zoned within the Town of Newburgh’s Interchange Business (IB) District. The IB District permits retail, entertainment and light industrial uses subject to site plan review by the Planning Board. The Project is consistent with the permitted uses within the IB District. There are no land uses adjacent to the Project Site or within the immediate vicinity that would prohibit development within the defined areas.
3. The perimeter of the property has existing “buffering” that is conducive to this kind of development. Bounded on the north by Interstate 84, to the east by Interstate 87, to the west by an industrial park, and to the south by complimentary commercial development (Orange County Choppers, Hilton Garden Inn), the project will have built-in separations from existing or proposed residential, educational, religious, pedestrian, recreational or any potential non-compatible existing or future development.
4. Project Site is zoned within the Town of Newburgh’s Interchange Business (IB) District. The IB District permits retail, entertainment and light industrial uses subject to site plan review by the Planning Board. The Project is consistent with the permitted uses within the IB District. There are no land uses adjacent to the Project Site or within the immediate vicinity that would prohibit development within the defined areas
5. The existing site physical environmental characteristics are unexpectedly compatible with the scale of the proposed development. As illustrated in the Geotechnical Report and environmental analysis presented below, the property is defined by a large, contiguous acreage of upland areas that does not have any major engineering or environmental characteristics that would make development unattainable.
6. Community acceptance has been overwhelmingly positive as evidenced in public meetings and letters of support.

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**Revitalization Opportunity:** The Town of Newburgh has been identified as an area of profound unemployment and unfortunate prosperity, and in desperate need of economic stimulus and development. Relative to most other parts of New York, and most specifically the southern tier, Newburgh is clearly a town in need of the financial benefits afforded by the type and scale of this economic engine—the jobs it will provide, the careers it will nurture, the collateral development it will stimulate, and the visitors and revenues it will attract will be best contributed to an area like Newburgh.

**Stewart Airport Enhancement:** Stewart Airport is located immediately to the southwest of our resort offering mutual benefits and opportunities for all. The special nature and unique experience being offered by the Hudson Valley will undoubtedly attract a considerable number of out-of-town visitors, either for the entertainment experience or for business purposes. The airport will benefit from the increased volume through their facilities, and the Resort will benefit from the added visitors it will bring to the property.

**Environmental Quality:** The Project site is well suited for development. There are no environmental resources such as threatened and endangered species, floodplains, cultural resources or significant natural communities that would prohibit the proposed development on the Project Site. The project design will require some limited impacts to regulate wetlands and waterways near the outer edges of the project site. Mitigation is proposed to offset these impacts. The proposed impacts to some of the wetlands and waterways will need to be reviewed and approved through the issuance of appropriate permits from State regulatory programs. The design, construction and operation of the Project will address the environmental requirements discussed in this analysis and conform to all Federal, State, County and local environmental requirements.

An environmental analysis was undertaken to examine the project site for suitability of development by identifying any significant environmental conditions and resources on the project site which may be affected by the project and discussing potential environmental impacts to the environmental conditions and resources present at the project site and surrounds. Environmental information was obtained from available Federal, State, County and municipal government entities. For detailed descriptions of the findings of these investigations, see the following report:

### Environmental Analysis for Suitability and Compatibility

#### 1. Soils

Existing Conditions – Soils on the Project Site have been mapped by the Natural Resources Conservation Service (NRCS) ([Exhibit VIII. C.4.b. – Figure 1](#)). Well-drained soils are found in the higher elevations, while hydric soils are found in the lower elevations typically within mapped wetlands. The soil types found within the Project Site are as follows:

- Ab: Alden silt loam
- AC: Alden extremely stony soils
- Ca: Canandaigua silt loam
- ErB: Erie gravelly silt loam, 3 to 8 percent slopes
- ESB: Erie extremely stony soils, gently sloping
- MdB: Mardin gravelly silt loam, 3 to 8 percent slopes
- MdC: Mardin gravelly silt loam, 8 to 15 percent slopes

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- MNE: Mardin soils, steep
- Qu: Quarries
- UF: Udifluvents-Fluvaquents complex, frequently flooded

According to the New York State Department of Environmental Conservation (NYSDEC) Environmental Mapper program, the Project Site does not have any history of potential contamination on the majority of the site. No spills have been reported on or adjacent to the Project Site with the exception of; an active New York State Department of Environmental Conservation (NYSDEC) Spill Number (No. 9400263) is associated with the southwest portion of the Project Site, which is occupied by a gasoline filling station. Based on available information, this spill number is associated with subsurface impacted conditions identified during due diligence activities in 1994. No additional information was available. A Freedom Of Information (FOI) request was submitted to NYSDEC; however, we are awaiting NYSDEC's response. The Project Site is not within 2,000 feet of any site in the NYSDEC Environmental Site Remediation database. The property has no documented institutional or engineering controls for any remedial concerns.

There are no known unique geological features on the Project Site as per the NYSDEC Environmental Mapper. No bedrock outcrops have been identified on the Project Site. Borings performed in the middle of the site as part of a preliminary geotechnical report identified bedrock approximately 35+ feet below existing grades.

Suitability Assessment - The upland portions of the Project Site does not contain any soil types that would prohibit development. Soils within the delineated wetland areas have groundwater near the surface and should be avoided during construction.

Potential Impacts and Mitigation Measures - During construction soil erosion and sediment measures would be implemented to control movement of soil off-site. The soil erosion and sediment control design would be completed in accordance with the latest edition of "New York State Standards and Specifications for Erosion and Sediment Control" (NYSSESC). A Stormwater Pollution Prevention Plan (SWPPP) would also be prepared and implemented during construction in accordance with the NYSDEC Construction Stormwater General Permit to address potential impacts to soils and water resources during construction of the Project.

### 2. Topography and Steep Slopes

Existing Conditions - The Project Site has grades generally ranging from about elevation 515 to elevation 365. The highest point of elevation of the Project Site is in the northwest corner at 515 feet above mean sea level (Exhibit VIII. C.4.b). The area topography decreases west toward Corporate Drive (to approximately 450 feet above mean sea level), east toward Interstate 87 (approximately 365 feet above mean sea level), and south toward state Route 17K (approximately 375 feet above mean sea level).

A steep slope analysis of the Project Site was prepared (Exhibit VIII. C.4.b. - Figure 2). Approximately 58 acres of the Project Site consists of slopes from 0 - 25% and 14 acres of the Project Site consists of slopes steeper than 25%.

Suitability Assessment - Steep slopes on both the east and west sides of the site present existing grades that will need to be carefully addressed through appropriate engineering grading and drainage designs.

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Potential Impacts and Mitigation Measures – Large cuts and fills will likely be required to facilitate construction of the Project. Retaining walls will likely be required to address vertical elevation changes for the Project design. Slope stability analysis will need to be performed on all vertical engineering solutions to ensure appropriate engineering measures are incorporated into the Project to address steep slopes.

### 3. Wetlands

Existing Conditions – A total of 9.02 acres of the site are comprised of wetlands and waters of the United States. Wetlands are present along the eastern site boundary and in the northwestern and southwestern portions of the site (Block 1, Lots 4.12, 69.25, and 54.1). Those wetlands and waters within Block 1, Lots 4.12 and 69.25 have been confirmed by the U.S. Army Corps of Engineers New York District (USACE) through a written Jurisdictional Determination (JD). Wetlands and waters on Block 1, Lot 54.1 include an emergent wetland and drainage ditch which has not been confirmed by USACE through a JD.

The USACE confirmed the extent of jurisdictional wetlands and waters of the United States on Block 1, Lots 69.25 and 4.12 through issuance of a JD. The USACE issued a letter dated May 10, 2011 confirming the extent of jurisdictional waters of the United States on these lots as shown on the drawing entitled “Matrix/Newburgh Property Newburgh Orange County New York – Wetland Delineation Plan,” prepared by Langan Engineering and Environmental Services, dated April 18, 2007 and last revised November 11, 2010 (Appendix B). The USACE confirmed that four (4) principal wetland areas on this portion of the site:

- Wetland H – 5.80 acres along Interstate Route 87
- Wetland A/B – 2.48 acres off Corporate Boulevard
- Wetland C/D – 0.09 acres downstream of Wetland A/B
- Wetland G – 0.05 acres along Interstate Route 87 ramp

The USACE letter states that Wetland I, 0.61 acres of an isolated wetland near New York State Route 17K, is not jurisdictional since this wetland feature does not meet the criteria of waters of the United States. The USACE jurisdictional determination is valid for a period of five (5) years from the date of the letter, or May 10, 2016.

Wetlands in the southwestern portion of the site (Lot 54.1) were delineated by Langan in April 2013. The wetlands include an emergent wetland and drainage ditch, which drain to a nearby waterway along Route 17K. This waterway is an Unnamed Tributary to Quassaic Creek.

At the State level, the NYSDEC has not mapped any state jurisdictional wetlands under their Freshwater Wetlands program on or near the project site ([Exhibit VIII. C.4.b. – Figure 3](#)). In addition, none of the wetlands onsite is larger than 12.4 acres in size; therefore, are not subject to regulation by the NYSDEC. The federal jurisdictional wetlands delineated on the property do not require an adjacent area (i.e., wetland buffer) under the State program.

Suitability Assessment – The project design generally avoids wetlands and waters on the Project Site; however, limited impacts to wetlands will occur to approximately 0.45 acres of wetlands and waters. Approximately 0.40 acres of wetlands located in the northeastern portion of the property will be impacted from the development. An additional 0.05 acres of waterway will be impacted along Route 17K for roadway improvements. These impacts will require a Department of the Army permit

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from the USACE and an Individual Water Quality Certification from the NYSDEC. The USACE has a series of Nationwide Permits that facilitate minor impacts to wetlands and waters of the United States to accommodate development. These include, but are not limited to, Nationwide Permit No. 7 for stormwater outfall structures, Nationwide Permit No. 12 for utility lines, Nationwide Permit No. 14 for road crossings, and Nationwide Permit No. 39 for limited impacts associated with commercial and institutional development. Individual permits are also available where proposed impacts to wetlands do not qualify for a Nationwide Permit. We anticipate that the Project will qualify for Nationwide Permit Nos. 7, 14 and 39. The NYSDEC approved Water Quality Certifications for these types of Nationwide Permits, but the acreage threshold limit of 0.25 acres for Nationwide Permit No. 39 will be exceeded for this project. Both a Water Quality Certification, for all impacts to wetlands and waters, and a Protection of Waters Permit for impacts to the waterway along Route 17K will be required from the NYSDEC.

Potential Impacts and Mitigation Measures - The Project will have approximately 0.45 acres of impacts to the wetlands and waters located on the Project Site and within the right-of-way for State Route 17K. All impacts to wetlands and waters of the United States will be mitigated in accordance with USACE and NYSDEC requirements. A waterway/wetland restoration project encompassing approximately 1.4-acres is proposed in the southeastern portion of the property where a former waterway has been piped between I-87 and Route 17K. Approximately 625 linear of currently piped waterway would be restored to a natural condition by removal of the pipe and regrading of the waterway alignment to develop a riparian wetland system along the restored waterway. The waterway/riparian corridor would be approximately 100 feet in width, resulting in a 1.4 acre restoration area.

### 4. Terrestrial Ecosystem

Existing Conditions - The majority of the subject site is currently undeveloped and contains various terrestrial ecological communities generally comprised of forested and grassland areas (Exhibit VIII. C.4.b. - Figure 4). Upland forest and grassland areas occupy approximately 65% (57.2 acres) and 24% (21.4 acres) of the site, respectively. The terrestrial ecological areas onsite are divided into various communities, classified according to the Ecological Communities of New York State - Second Edition prepared by the New York Natural Heritage Program (NYNHP) 2002. Forested areas onsite have been classified as successional northern hardwoods, successional southern hardwoods, and chestnut oak forest; grassland areas are classified as successional old field and rocky summit grassland (Exhibit VIII. C.4.b. - Figure 5).

#### *Successional Old Field*

Successional Old Field is identified by the NYNHP as a meadow dominated by forbs and grasses that occurs on sites that have been cleared and plowed (for farming or development), and then abandoned. Those areas onsite identified as Successional Old Field are located in the western portion of the site adjacent to the offsite cul-de-sac of Commercial Boulevard; in the southwestern portion of the site near Route 17K; in the northeastern portion of the site near I-87; and in the southeastern corner of the site near Route-17K and the I-87 on ramp (Exhibit VIII. C.4.b. - Figure 5). The areas mapped as Successional Old Field appear to have been altered by previous onsite and adjacent development including the development adjacent to Corporate Boulevard; I-84 and I-87 construction; and a piped stream in the southeastern portion of the site. These areas are generally dominated by various forbs and grasses and a limited number of trees and shrubs. Herbaceous vegetation in these areas is generally dominated by goldenrod (*Solidago spp.*), Queen-Anne's-lace (*Daucus corota*), common milkweed (*Asclepias syriaca*), quackgrass (*Agropyron sp.*), bedstraw (*Galium sp.*), aster (*Asteracea spp.*), and common reed

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(*Phragmites australis*). Trees and shrubs scattered throughout these areas are dominated by eastern red cedar (*Juniperus virginiana*), buckthorn (*Rhamnus cathartica*), Russian olive (*Elaeagnus angustifolia*), and Eastern cottonwood (*Populus deltoides*).

### Successional Northern Hardwoods

Successional northern hardwoods are identified by the NYNHP as a hardwood or mixed forest that occurs on sites that have been cleared or otherwise disturbed. Characteristic trees and shrubs include any of the following: quaking aspen (*Populus tremuloides*), bigtooth aspen (*P. grandidentata*), balsam poplar (*P. balsamifera*), paper birch (*Betula papyrifera*), or gray birch (*B. populifolia*), pin cherry (*Prunus pensylvanica*), black cherry (*P. serotina*), red maple (*Acer rubrum*), white pine (*Pinus strobus*), with lesser amounts of white ash (*Fraxinus americana*), green ash (*F. pensylvanica*), and American elm (*Ulmus americana*). Northern indicators include aspens, birches, and pin cherry.

Successional northern hardwoods have been identified in the northwestern, southwestern, and southeastern portions of the site (Exhibit VIII. C.4.b. – Figure 5). Based on a review of historic aerial photographs, these areas were formerly cleared as part of the previous land use. Vegetation in these areas is dominated by paper birch (*Betula papyrifera*), red maple (*Acer rubrum*), red oak (*Quercus rubra*), blackberry (*Rubus sp.*), and multiflora rose (*Rosa multiflora*). Woody species are typical of a successional forest in that the majority is comprised of saplings or trees less than 4 inches dbh.

### Successional Southern Hardwoods

Successional southern hardwoods are identified by the NYNHP as a hardwood or mixed forest that occurs on sites that have been cleared or otherwise disturbed. Characteristic trees and shrubs include any of the following: American elm (*Ulmus americana*), slippery elm (*U. rubra*), white ash (*Fraxinus americana*), red maple (*Acer rubrum*), box elder (*Acer negundo*), silver maple (*A. saccharinum*), sassafras (*Sassafras albidum*), gray birch (*Betula populifolia*), hawthorns (*Crataegus spp.*), eastern red cedar (*Juniperus virginiana*), and choke-cherry (*Prunus virginiana*). Certain introduced species are commonly found in successional forests, including black locust (*Robinia pseudoacacia*), tree-of-heaven (*Ailanthus altissima*), and buckthorn (*Rhamnus cathartica*). Any of these may be dominant or co-dominant in a successional southern hardwood forest. Southern indicators include American elm, white ash, red maple, box elder, choke-cherry, and sassafras.

Successional southern hardwoods have been identified throughout the central portion of the site (Exhibit VIII. C.4.b. – Figure 5). Based on a review of historic aerial photographs, these areas were formerly devoid of forested vegetation. Vegetation in these areas is currently dominated by black locust (*Robinia pseudoacacia*), tree-of-heaven (*Ailanthus altissima*), red maple (*Acer rubrum*), sassafras (*Sassafras albidum*), and yellow birch (*Betula alleghaniensis*). Trees within this portion of the site typically vary from approximately 6 to 12 inches diameter at breast height (dbh).

### Chestnut Oak Forest

Chestnut oak forest is identified by the NYNHP as a hardwood forest that occurs on well-drained sites in glaciated portions of the Appalachians, and on the coastal plain. This forest type is similar to the Allegheny Oak Forest and is distinguished by fewer canopy dominants and a less diverse shrub layer and ground layer flora. Dominant trees are typically chestnut oak (*Quercus montana*) and red oak (*Q. rubra*). Common associates are white oak (*Q. alba*), black oak (*Q. velutina*), and red maple (*Acer rubrum*).

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Chestnut oak forest has been identified in the western portion of the site, along a west-facing slope ([Exhibit VIII. C.4.b. – Figure 5](#)). Vegetation in this area is dominated by chestnut oak (*Quercus montana*), red oak (*Quercus rubra*), red maple (*Acer rubrum*), and eastern red cedar (*Juniperus virginiana*). The understory is generally open with few shrub/herbaceous species present. Trees within this portion of the site typically vary from approximately 6 to 12 inches dbh with larger individuals scattered throughout.

### *Rocky Summit Grassland*

Rocky summit grassland is identified by the NYNHP as a grassland community that occurs on rocky summits and exposed rocky slopes of hills. Woody plants are sparse and may be scattered near the margin of the community. Small trees and shrubs at low percent cover include eastern red cedar (*Juniperus virginiana*) and red oak (*Quercus rubra*). Characteristic and dominant grasses include little bluestem (*Schizachyrium scoparium*), tufted hairgrass (*Deschampsia flexuosa*), poverty-grass (*Danthonia spicata*, *D. compressa*), and Indian grass (*Sorghastrum nutans*). Other grasses and sedges include Pennsylvania sedge (*Carex pennsylvanica*), big bluestem (*Andropogon gerardii*), and deer-tongue grass (*Panicum clandestinum*).

Rocky summit grassland has been identified in the south-central portion of the site at the peak of the topographic ridge that runs north to south through the central portion of the site ([Exhibit VIII. C.4.b. – Figure 5](#)). Vegetation in this area is generally dominated by little bluestem (*Schizachyrium scoparium*) and various other upland grasses (*Poa spp.*). Various shrubs are scattered throughout this area and include eastern red cedar (*Juniperus virginiana*) and multiflora rose (*Rosa multiflora*).

### *Unpaved Road/Path*

The NYNHP identifies an unpaved road/path as a sparsely vegetated road or pathway of gravel, bare soil, or bedrock outcrop. These roads or pathways are maintained by regular trampling or scraping of the land surface. Unpaved roads/paths are present in the northwestern portion of the site and in the southern portion of the site ([Exhibit VIII. C.4.b. – Figure 5](#)). These roads/paths are currently vegetated; however remain disturbed due to trampling and vehicular traffic.

Suitability Assessment – The terrestrial communities onsite are not identified as rare or protected open space that would prohibit development of the Project Site. Vegetation to be removed will be cleared and disposed of appropriately.

Potential Impacts and Mitigation Measures – The project design will occur in forested and grassland areas. The site is surrounded on all sides by existing development including I-87 to the east, I-84 to the north, Route 17K to the south and commercial/industrial development to the west; therefore, development of the site will not result in fragmentation of large tracts of undeveloped land or open space and is compatible with the surrounding land use. Landscaping of the remaining open space of the development will help to mitigate impacts to vegetation disturbed as part of the project development.

## 5. Wildlife Habitat

Existing Conditions – The majority of the site is currently undeveloped and comprised of forested and herbaceous uplands and emergent and scrub-shrub wetlands. A man-made pond situated on-line with a stream is present in the western portion of the site. With exception to a small swath of land located southwest of the site, the property is isolated from any other undeveloped property and surrounded on

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all sides by existing development. Surrounding development includes I-84 to the north, I-87 to the east, Route 17K to the south, and commercial/industrial development to the west.

Wildlife habitat onsite is typical of an undeveloped, previously disturbed property. The site provides suitable habitat for small populations of wildlife typical of the northeast which may include white-tailed deer, grey squirrel, groundhog, eastern cottontail, chipmunk, wild turkey, and various songbirds. Wetlands and water features may be utilized by various species of herpetofauna. As part of due diligence activities, multiple site observations were completed. During field visits, those species observed include white-tailed deer, grey squirrel, wild turkey, and various species of songbirds (red-winged blackbird, tree sparrow, chickadee, goldfinch, and American robin). The Project Site and adjacent areas do not provide any public lands used for hunting, trapping, fishing, or shellfishing.

Suitability Assessment - The Project Site does not contain any wildlife habitat that would prohibit development of the project. The Site is not associated with any protected open space or public hunting areas and remains an isolated property surrounded by existing development.

Potential Impacts and Mitigation Measures - The Project will impact a portion of the existing wildlife habitat provided onsite; however, those species utilizing the site are expected to relocate and utilize other undeveloped areas onsite and within close proximity to the site.

### **6. Threatened and Endangered Species Habitat**

Existing Conditions - According to a United States Fish and Wildlife Service (USFWS) Information, Planning and Conservation (IPaC) system review dated April 17, 2014, there are no critical habitats associated with threatened or endangered species on the Project Site. Five threatened and endangered species are noted to be considered in an effects analysis for site development. These species include: dwarf wedgemussel (*Alasmidonta heterodon*), small whorled pogonia (*Isotria medeoloides*), Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), and bog turtle (*Clemmys muhlenbergii*).

A New York State Department of Environmental Conservation (NYSDEC) Natural Heritage Program (NHP) report on Rare Species and Ecological Communities was generated for the Project Site on 21 May 2014. The report concludes that upland sandpiper (*Bartramia longicauda*) and associated breeding habitat has been documented at or near the Project Site, generally within 0.5 mile. In addition, Indiana bat (*Myotis sodalis*) (summer roost) has been documented within 1.5 miles of the Project Site.

A habitat suitability assessment was completed for each of these species based on the habitat requirements outlined in technical literature and agency documents. A presence/absence survey for upland sandpiper was completed onsite throughout May 2014. As outlined in the Protected Habitat and Species Assessment prepared by Langan, those species identified by the USFWS and the NYSDEC NHP are unlikely to be present onsite or utilize the site.

Suitability Assessment - Based on the results of the Protected Habitat and Species Assessment completed by Langan, the Project Site does not contain suitable habitat for threatened or endangered species that might impact the suitability of the Project Site for development.

Potential Impacts and Mitigation Measures - Based on the results of the Protected Habitat and Species Assessment completed by Langan, we do not expect the project to impact any threatened or

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endangered species or threatened or endangered species habitat.

### **7. Surface Waters**

Existing Conditions - The NYSDEC has mapped two unnamed tributaries (Stream 862-223) to Quassaic Creek on the Project Site (Exhibit VIII. C.4.b. - Figure 6). These two unnamed tributaries have a NYSDEC Surface Water Category Classification "A." Class A surface waters are a source of water supply for drinking, culinary or food processing purposes, primary and secondary contact recreation, and fishing (see regulatory citation). None of the surface water features on or near the Property are listed in the NYS water quality-impaired water bodies.

One tributary of Stream 862-223 is located along the eastern edge of the Project Site and is piped underground for that portion that crosses the Project Site. This tributary starts out as part of the drainage network of I-87 and is piped through the Project Site to an outfall located south of Route 17k. A second tributary of Stream 862-223 is located along the western portion of the site. This tributary flows into a stormwater management pond located on the Project Site in the western portion of the Property. Both unnamed tributaries of Stream 862-223 flow downstream eventually into Quassaic Creek, which discharges to the Hudson River. The Project Site is located in the designated HUC12 Watershed 020200080502 (Exhibit VIII. C.4.b. - Figure 7).

Suitability Assessment - The Project Site does not contain any surface waters that would prohibit development of the Project. Improvements to Route 17K will require the culverting of approximately 200 linear feet of a waterway located at the southwestern corner of the property. The NYSDEC will regulate these construction activities within this watercourse under their Protection of Waters program.

Potential Impacts and Mitigation Measures - The development of the Project will require the culverting of approximately 200 linear feet of a waterway adjacent to Route 17K. Mitigation for this impact will be provided through an onsite water/wetland restoration project discussed in Section 3 above. Potential impacts from stormwater will be addressed through a stormwater management plan for the Project. Water quality and water quantity will be addressed through the requirements set forth by the NYSDEC Stormwater Management Design Manual and Town of Newburgh.

### **8. Groundwater**

Existing Conditions - The Project Site is not located over, or immediately adjoining, a primary, principal or sole source aquifer (Exhibit VIII. C.4.b. - Figure 8). Groundwater resources are present on the Project site and likely support wetland and surface water features that are present on the Property. Shallow groundwater has been observed in the wetland areas, while groundwater was not observed in the higher elevations of the Project Site during geotechnical investigation test pits and borings.

Suitability Assessment - The Project Site is not located over or near any sole source aquifer that would prohibit development within the defined areas. High groundwater tables associated with wetlands delineated on the Project Site limit the development potential of these areas of the Property.

Potential Impacts and Mitigation Measures - The Project Site does not contain any identified sole source aquifers; therefore, the Project will not occur in any groundwater recharge areas. The Project will have no environmental effects on any sole source aquifers on or near the Project Site.

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*Submit as Exhibit VIII.C.4.b. a detailed analysis of the suitability of the proposed Project Site for the proposed Gaming Facility and the ways in which the proposed Gaming Facility supports revitalization, if applicable, and the proposed relationship of the Project Site to adjoining land uses and proposed land uses to ensure compatibility with those adjoining land uses.*

### **9. Floodplains**

Existing Conditions – The Project Site is not located within a designated floodway, 100-year floodplain or 500-year floodplain. The Federal Emergency Management Agency (FEMA) has not mapped any floodplains on or near the property (Exhibit VIII. C.4.b. – Figure 9).

Suitability Assessment – The Project Site is suitable for development and will not impact any designated or mapped floodway, 100-year floodplain or 500-year floodplain.

Potential Impacts and Mitigation Measures – The Project Site is not located within a designated floodway, 100-year floodplain or 500-year floodplain; therefore, the Project will not occur in any floodway or floodplain. The Project will have no environmental effects on any floodway or floodplain on or near the Project Site. An appropriate stormwater management plan for the Project will mitigate any potential impacts the Project might have on downstream floodplain conditions.

### **10. Noise**

Existing Conditions – The Project Site is subject to noise produced from I-84, I-87, Route 17k and Stewart Airport. Automobile and truck traffic on the adjacent highways produces a constant audible noise on the Property, especially at the northern, eastern and southern edges of the Property. Typical noise levels for highways is 70 dBA (decibels using an A-weighted scale), while local roads with light traffic might be 50 dBA. Sound levels along roads are dependent on a wide range of factors such as volume, speed and types of vehicles, pavement material and weather. Stewart Airport produces intermittent noise associated with the airport's air traffic. Runway 27 directs airplanes over the Property. A noise exposure map prepared by the Port Authority for Stewart Airport shows day-night average sounds levels of 65 to 70 dBA in the southern portion of the Property due to aircraft takeoff and landing from runway 27 (Exhibit VIII. C.4.b. – Figure 10). This level of noise is similar to highway noise, but is intermittent based on the frequency of takeoff and landings. The airport also has two helipads for helicopters which also contribute to the type and level of noise in the local area.

Suitability Assessment – The presence of highways and airport traffic contribute to existing noise levels on the property. The Project does not propose any lands uses that are consider sensitive to noise levels such as hospitals, schools, day care centers or residential housing. Construction and operation of the Project will not lead to excessive noises given the current noise levels around the project site.

Potential Impacts and Mitigation Measures – The location of the Project next to regional highways and an internal airport will require consideration of noise attenuation measures in the design of the buildings, especially the hotel where guests will stay overnight and the building is elevated closer to the sound produced by aircraft. Noise attenuating measures for the hotel should include the use of double glazed windows to reduce interior noise and landscape screening near the roads and buildings to help reduce sound levels at the building level. During construction of the Project noise producing activities should be mitigated through appropriate hours of operation of noise producing activities in accordance with the Town of Newburgh ordinance.

### **11. Air Quality**

Existing Conditions – The Project Site currently does not have any sources of air emissions from human

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activities. Local land uses do not include any heavy industrial uses that might impact local air quality. Air quality emissions associated with the Project Area would mainly be from light industrial uses and vehicular emissions associated with the roadways.

Suitability Assessment - The Project Site is suitable for development from an air quality perspective.

Potential Impacts and Mitigation Measures - The Project will have mobile sources of air emissions during the construction phase and operation phase. Stationary sources such as portable power generators and crushers are anticipated during construction. Stationary sources such as boilers and emergency generators are expected during operation. As appropriate, these sources will obtain any necessary State air permits. Increase in traffic from the Project will likely require improvements to roadways to minimize localized air quality issues. The use of public transportation will also help to address these types of air quality issues.

### **12. Cultural Resources**

Existing Conditions - The Project Site is not mapped as containing any listed or nominated historic building, archaeological site or district by the New York State Board of Historic Preservation for inclusion on the State or National Register of Historic Places as mapped by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) (Exhibit VIII. C.4.b. - Figure 11). There are no existing structures on the Project Site. The Project Site is not mapped as being in or adjacent to an area designated as sensitive for archaeological sites on the archaeological site inventory.

Suitability Assessment - The Project Site does not contain any known cultural resources that might impact the suitability of the Project Site for development.

Potential Impacts and Mitigation Measures - The Project is anticipated to have no direct impacts to any cultural resources.

### **13. Land Use**

Existing Conditions - The majority of the Project Site is currently vacant undeveloped parcels within the Town of Newburgh. Several areas of wetlands have been identified on site as well as an unnamed pond and two unnamed tributaries. The Project Site also includes a property occupied by an existing gas station and attached carwash and convenient store. The existing land uses in the vicinity of the Project site consist of a mix of commercial, light industrial, residential and airport uses (Exhibit VIII. C.4.b. - Figure 12). Immediately to the west of the Project site are several parcels utilized for commercial uses including warehouse and distribution facilities. These uses are accessible via Corporate Boulevard. The Project Site is bounded to the immediate north by I-84 and to the immediate east by I-87.

Further west along Route 17K are several single-family homes. Past the commercial uses along Commercial Boulevard to the west is a residential neighborhood followed by an automobile auction dealership. Across Route 17K to the south are commercial uses including a hotel and motorcycle retail store. The Belknap Cemetery is also located south of the Project site across Route 17K. Stewart International Airport including the Stewart Air National Guard Base and Cessna Aircraft NE Service Center is a large land use located to the southwest of the Project site. East of the project site past I-87 along Route 17K are commercial uses including gas stations, hotels, retail stores and restaurants.

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To the north of the Project site, past I-84 is a residential neighborhood. To the northeast of the Project site, across both Interstate highways is a retail mall.

Suitability Assessment – The Project Site is zoned within the Town of Newburgh’s Interchange Business (IB) District. The IB District permits retail, entertainment and light industrial uses subject to site plan review by the Planning Board. The Project is consistent with the permitted uses within the IB District. There are no land uses adjacent to the Project Site or within the immediate vicinity that would prohibit development within the defined areas.

Potential Impacts and Mitigation Measures – The Project proposes a land use consistent with the existing permitted commercial uses within the vicinity. In addition, the location, orientation and design of the Project, will provide sufficient buffers from any adjacent land uses within the immediate vicinity.

### **14. Open Space and Recreation**

Existing Conditions – The Project Site is privately owned vacant land. There are no public open space or recreation amenities located on or adjacent to the Project Site. The Project Site does not contain nor is located near any registered National Natural Landmark. The Project Site is not located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) provided no comments regarding historic properties or historic districts in their letter since the property and immediately adjacent areas do not contain any listed properties or properties within a designated historic district.

There are several open space areas within a five mile radius of the Project Site (Exhibit VIII. C.4.b. – Figure 13). The nearest open space resources are the Algonquin Powder Mill Park, a municipal park in the Town of Newburgh, and the Cronomer Hill County Park, a county park in the County of Orange. Both of these parks are adjacent to one another and located approximately two miles to the northeast of the subject property beyond I-84 and I-87. Further north, surrounding Chadwick Lake in the Town of Newburgh, is the municipal-owned Chadwick Lake Park. Approximately two miles south of the Project Site is the New Windsor Historic Parklands, which is a municipal park in the Town of New Windsor. Additionally there are protected water supply lands surrounding Lake Washington and Silver Stream Reservoir in the Town of New Windsor. These water supply lands are approximately two miles southeast of the Project Site past Stewart International Airport and I-87. Further southeast are several small parks located in the downtown areas of the City of Newburgh and the Town of New Windsor. Approximately four miles to the west of the Project Site, past Stewart International Airport is the Stewart State Forest, which is state-owned parkland.

The Hudson River is located approximately four miles to the east Project Site. The lands along the banks of the Hudson River are identified as open space resources with high and highest classifications (Exhibit VIII. C.4.b. – Figure 14).

Suitability Assessment – The Project Site does not contain nor is located within any open space or recreational lands, National Natural Landmarks, or designated river corridors the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666. The absence of public opens spaces and recreational lands on the Project Site offers a suitable area for potential development.

Potential Impacts and Mitigation Measures – The Project Site does not provide any open space or

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recreational lands. The nearest open space resources and recreational land have been identified within a five mile radius. The Project Site is physically isolated from these resources; therefore, the Project will have no environmental effects on any open space or recreational lands on or near the Project Site.

### **15. Significant Natural Community**

**Existing Conditions** – According to the NYSDEC Environmental Mapper, the Project Site does not contain any designated significant natural community (Exhibit VIII. C.4.b. – Figure 15). Furthermore the project is not located within any natural community, which designates areas within a 1/2 mile of significant natural communities.

**Suitability Assessment** – The Project Site does not contain any significant natural community that would prohibit development.

**Potential Impacts and Mitigation Measures** – The Project Site does not contain any significant natural community; therefore, the Project will not occur in any significant natural community. The Project will have no environmental effects on any significant natural community on or near the Project Site.

### **References**

Environmental Resource Mapper. New York State Department of Environmental Conservation.  
<<http://www.dec.ny.gov/imsmaps/ERM/viewer.htm>>

Langan. 2008. Preliminary Geotechnical Feasibility Study. Matrix Distribution Park. April 15, 2008.

Orange County Comprehensive Plan: Strategies for Quality Communities. Orange County Planning Board. Adopted April 11, 2003. Updated June 2004 and October 2010.

Ricondo & Associates, Inc. 2012. Stewart International Airport Noise Exposure Mapping 2010. Prepared for The Port Authority of NY & NJ.

Town of Newburgh Comprehensive Plan Update. Saccardi & Schiff, Inc. October 2005.

## **Exhibit VIII.C.4.b (Suitability of Project Site):**

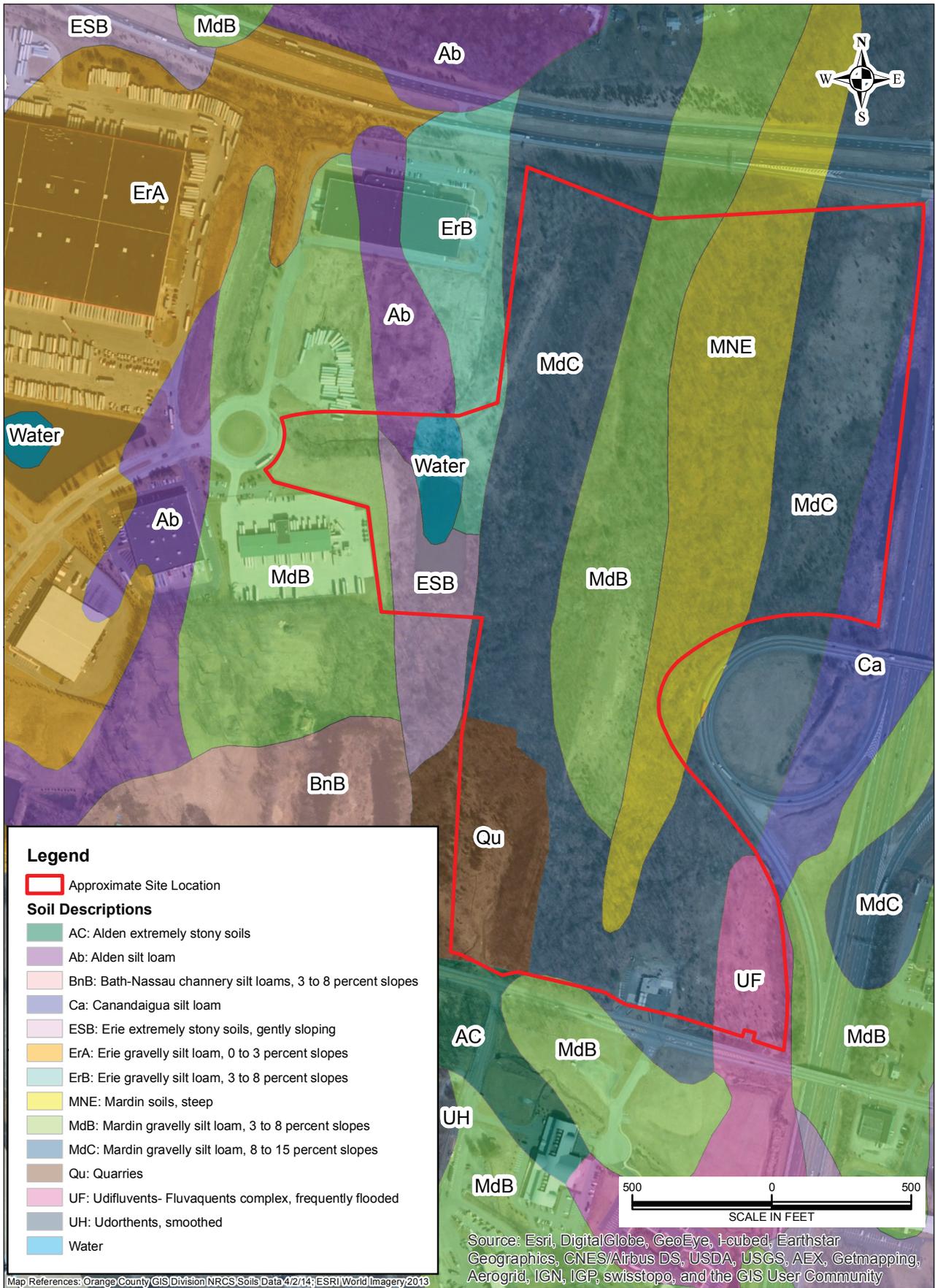
*Submit as Exhibit VIII.C.4.b. a detailed analysis of the suitability of the proposed Project Site for the proposed Gaming Facility and the ways in which the proposed Gaming Facility supports revitalization, if applicable, and the proposed relationship of the Project Site to adjoining land uses and proposed land uses to ensure compatibility with those adjoining land uses.*

### List of Figures

- Exhibit VIII. C.4.b. - Figure 1 Soils Map
- Exhibit VIII. C.4.b. - Figure 2 Steep Slope Analysis
- Exhibit VIII. C.4.b. - Figure 3 NYSDEC Freshwater Wetlands Map
- Exhibit VIII. C.4.b. - Figure 4 Land Cover Map
- Exhibit VIII. C.4.b. - Figure 5 Vegetative Land Cover Map
- Exhibit VIII. C.4.b. - Figure 6 NYSDEC Surface Waters Map
- Exhibit VIII. C.4.b. - Figure 7 Watershed Map
- Exhibit VIII. C.4.b. - Figure 8 NYSDEC Aquifer Map
- Exhibit VIII. C.4.b. - Figure 9 FEMA Map
- Exhibit VIII. C.4.b. - Figure 10 Noise Exposure Map
- Exhibit VIII. C.4.b. - Figure 11 Cultural Resources Map
- Exhibit VIII. C.4.b. - Figure 12 Current Land Use Map
- Exhibit VIII. C.4.b. - Figure 13 Protected Open Space Map
- Exhibit VIII. C.4.b. - Figure 14 Open Space Resources Map
- Exhibit VIII. C.4.b. - Figure 15 NYSDEC Significant Natural Communities Map

### List of Drawings

For Topographic Survey Drawings, please refer to Exhibit VIII.C.1.c, Description of Land.



SLOPES TABLE		
SLOPE	AREA (AC)	COLOR
0% TO 25%	73.1	Green
≥ 25%	15.4	Red



## STEEP SLOPE ANALYSIS FIGURE 2

**Exhibit  
VIII.C.4.b**





**LAND COVER MAP  
FIGURE 4**

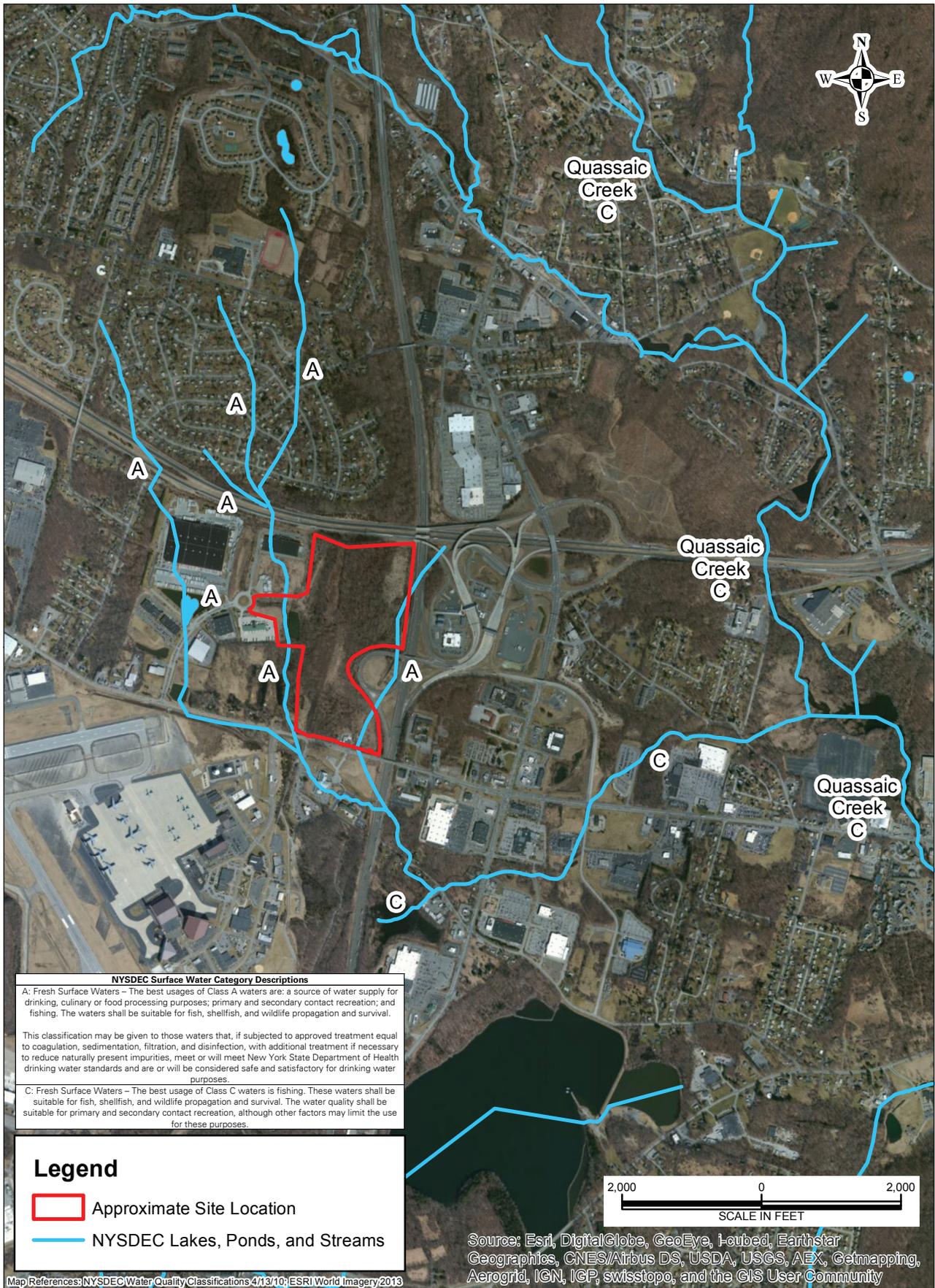
**Exhibit  
VIII.C.4.b**

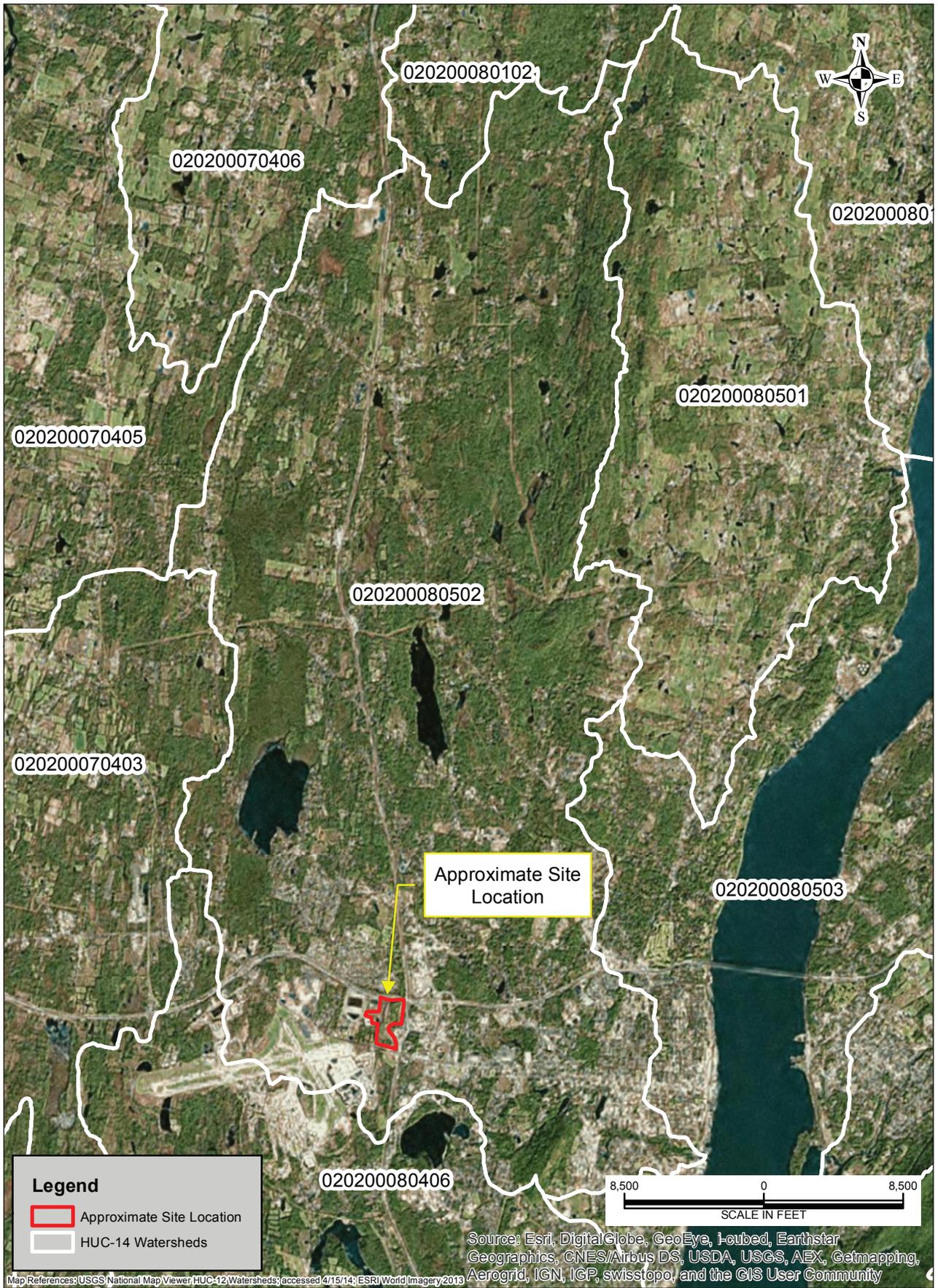


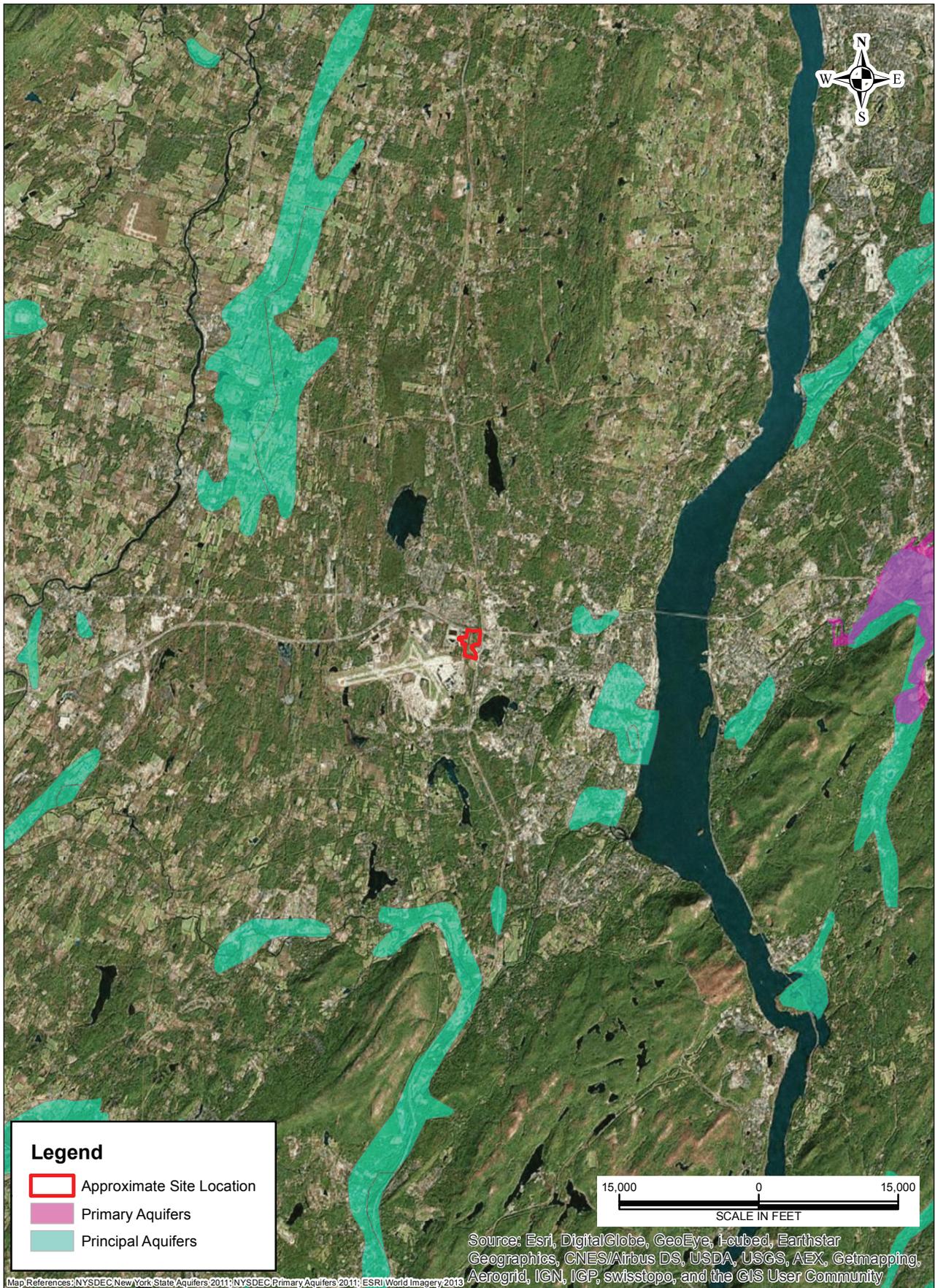
# VEGETATIVE LAND COVER MAP

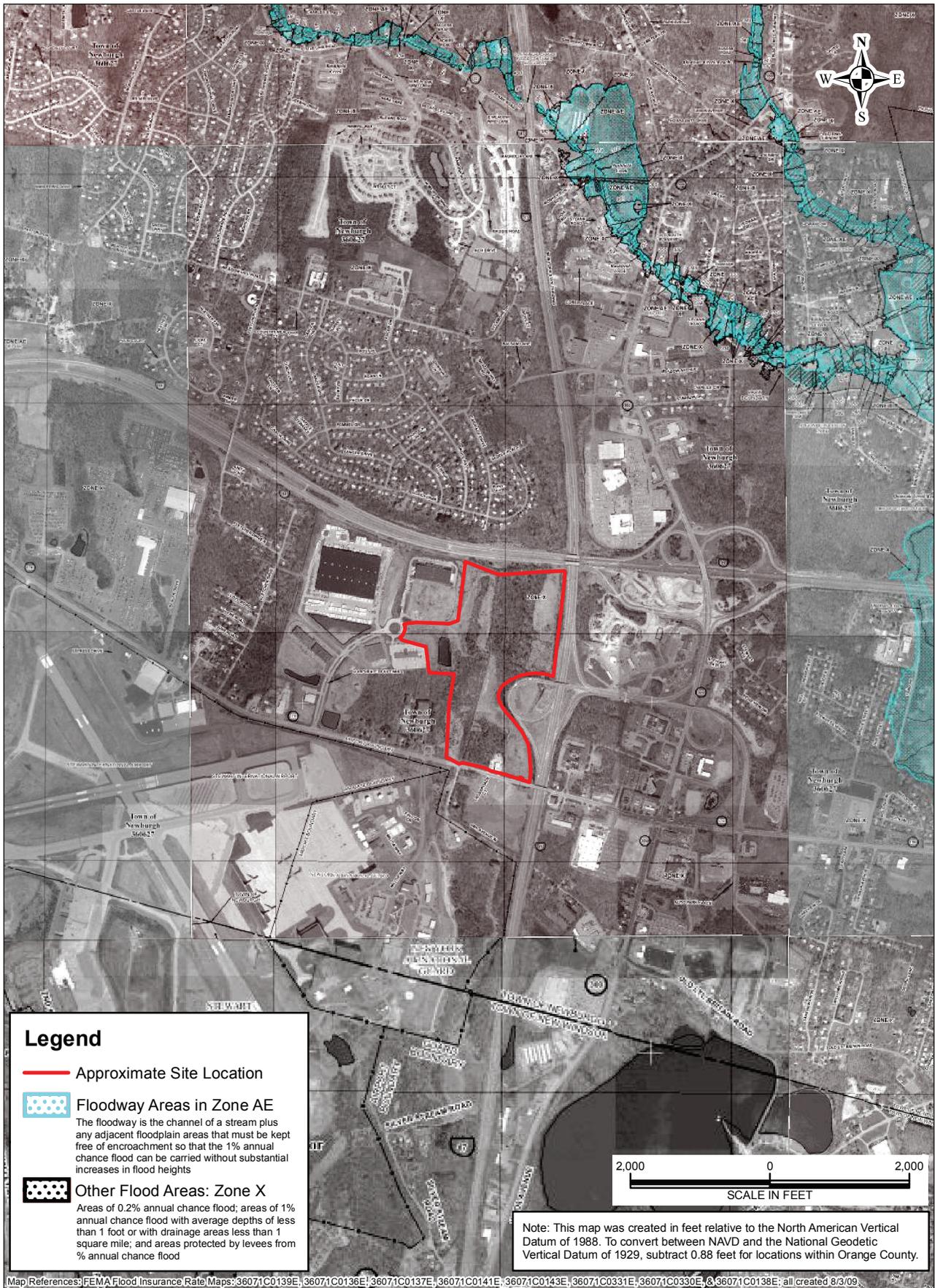
## FIGURE 5

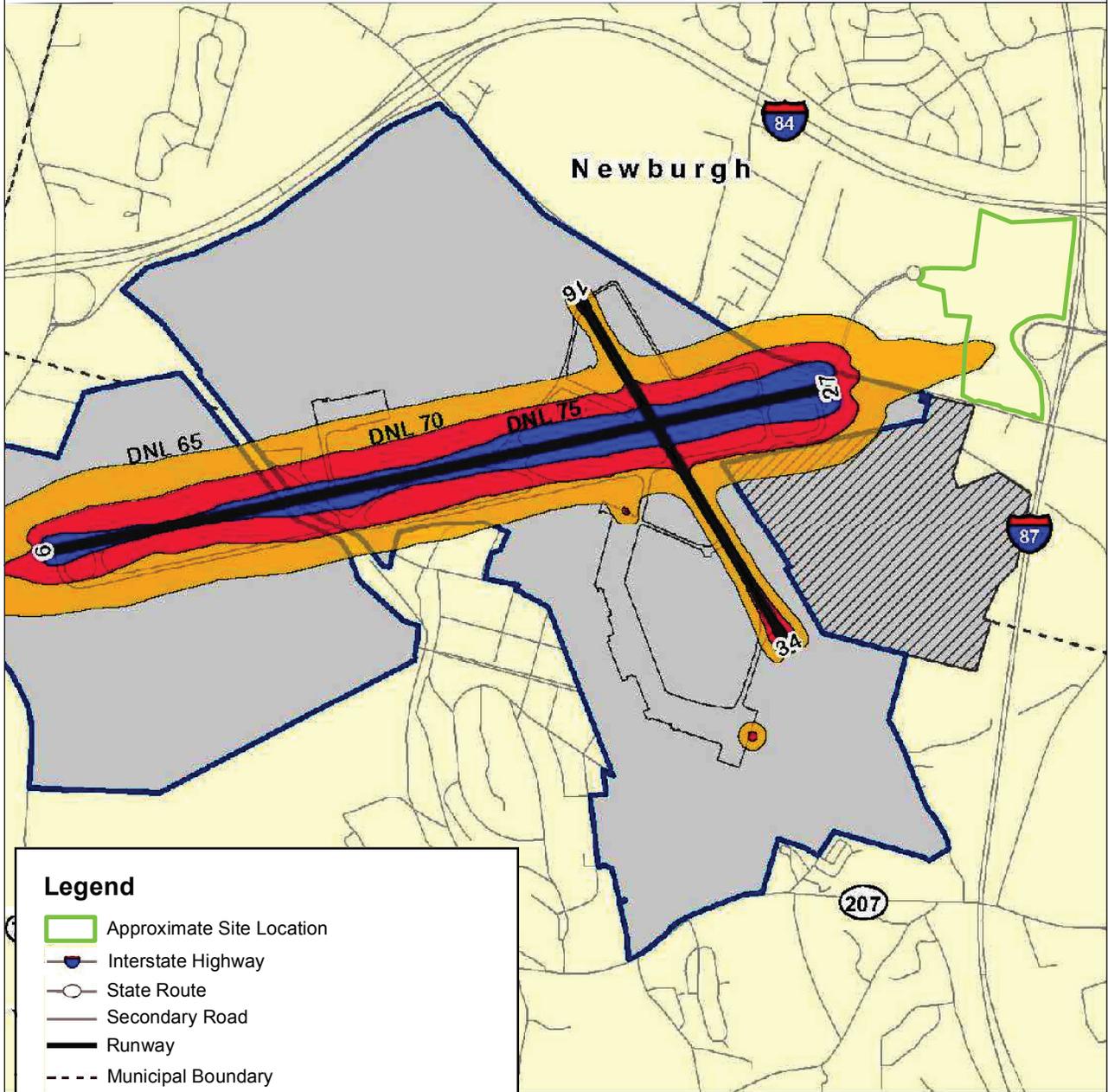
**Exhibit VIII.C.4.b**











**Legend**

- Approximate Site Location
- Interstate Highway
- State Route
- Secondary Road
- Runway
- Municipal Boundary
- Airport Property
- 105th Airlift Wing New York Air National Guard

Noise Exposure Ranges

- DNL 65 - 70
- DNL 70 - 75
- DNL 75+



Map References: 2010 Noise Exposure Map from 'Stewart International Airport Noise Exposure Mapping - 2010' report prepared by Ricondo & Associates, Inc., Sep. 2012

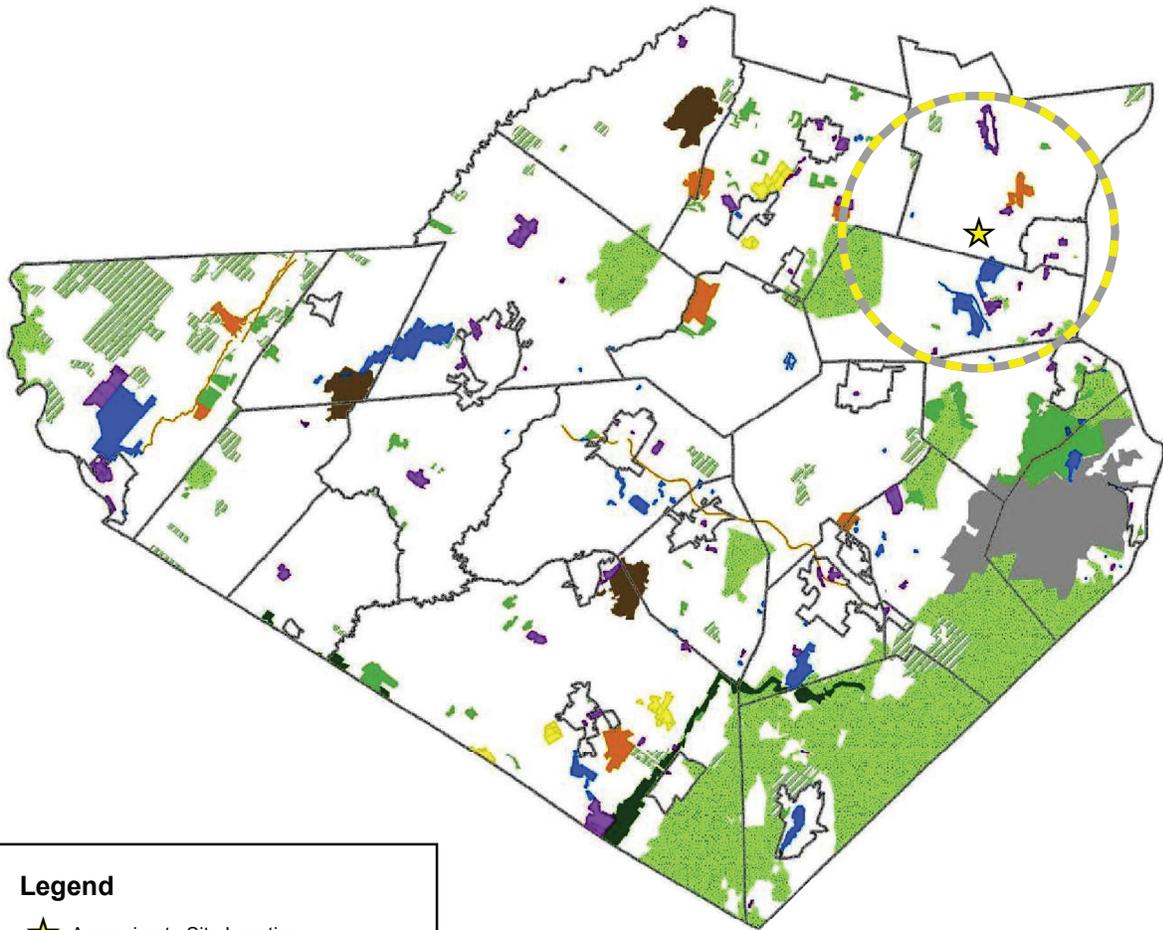


# NOISE EXPOSURE MAP FIGURE 10

**Exhibit  
VIII.C.4.b**

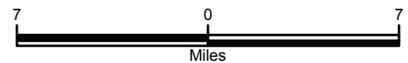






**Legend**

-  Approximate Site Location
-  5 Mile Buffer
-  Privately Protected Open Space
-  Municipal Parks
-  Municipal Water Supply Lands
-  County Parkland
-  State Lands
-  State-funded PDR Farms
-  Other Federally-Owned Land
- Temporarily Protected
  -  West Point Military Academy
  -  County-Owned Reservoir Lands
  -  NYS DEC Term Easement (480[a])



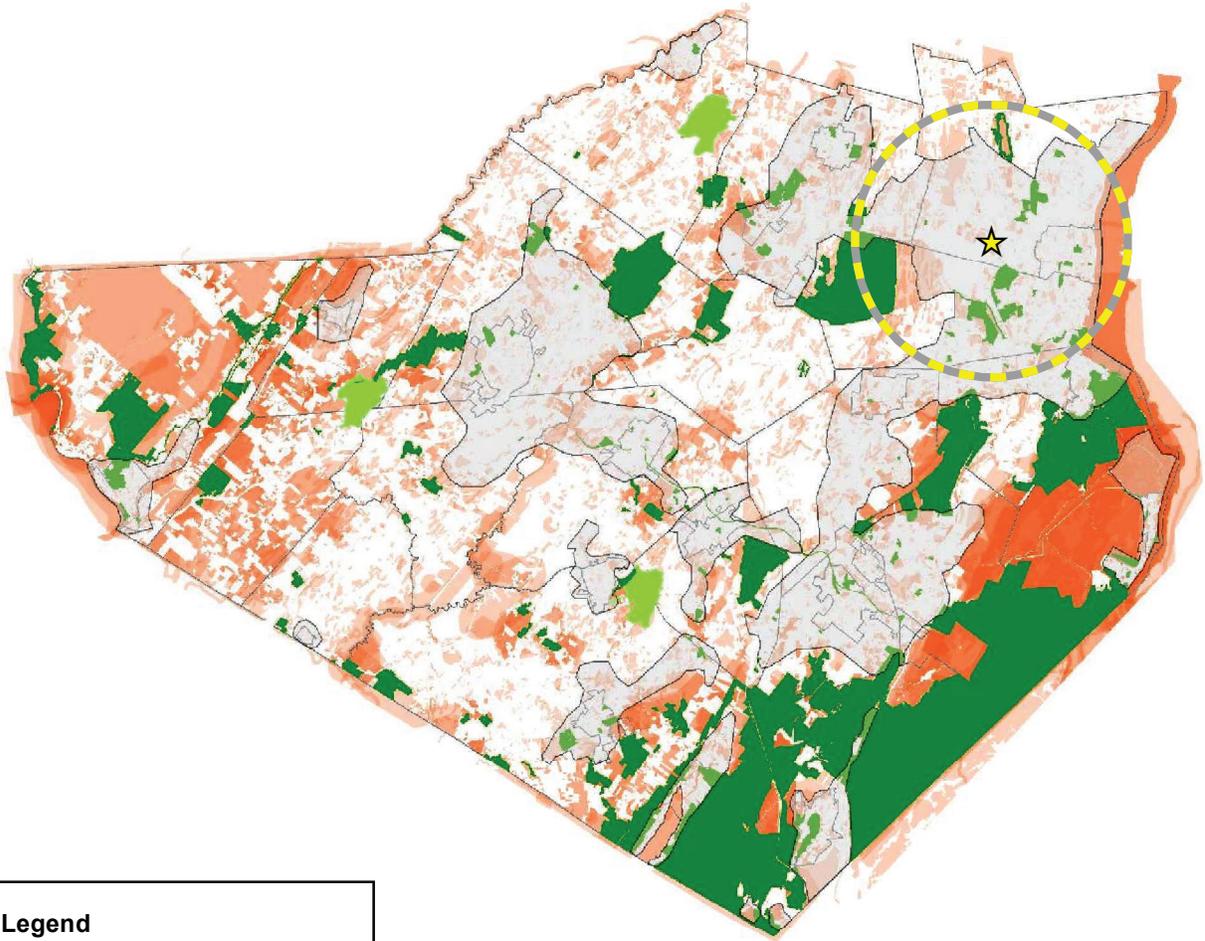
Map References: Orange County Planning Department, Open Space Plan 2004



**PROTECTED OPEN SPACE MAP  
FIGURE 13**

**Exhibit  
VIII.C.4.b**

PERKINS EASTMAN - LANGAN - THORNTON TOMASETTI - JAROS BAUM & BOLLES - CLEO DESIGN



**Legend**

- ★ Approximate Site Location
- 5 Mile Buffer
- Priority Growth Areas
- County-Owned Reservoir Lands
- Permanently Protected Open Space

Open Space Resource Value

- Moderate
- High
- Highest



Map References: Orange County Planning Department, Open Space Plan 2004



# OPEN SPACE RESOURCES MAP

## FIGURE 14

**Exhibit VIII.C.4.b**

